

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

3	UNITED STATES OF AMERICA,)	
4	Plaintiff,)	
5	vs.)	CRIMINAL CASE NO. CCB-17-106
6	DANIEL THOMAS HERSL and)	
7	MARCUS ROOSEVELT TAYLOR,)	
	Defendants.)	
	_____)	

Thursday, January 25, 2018
Courtroom 1A
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE
(AND A JURY)

VOLUME II

For the Plaintiff:

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Reported by:

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1 For the Defendant Daniel Hersl:

2 William B. Purpura, Jr., Esquire
3 Thomas W. Rafter, Esquire

4 For the Defendant Marcus Taylor:

5 Christopher C. Nieto, Esquire
6 Jenifer Wicks, Esquire

7 Also Present:

8 Special Agent Erika Jensen, FBI

9 TFO John Sieracki

10 Matthew Kerrigan, Government's Trial Technician

11 Crystal Panas, Defense Paralegal

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P R O C E E D I N G S

(10:03 a.m.)

THE COURT: Good morning, everyone. You can be seated, please.

All right. Are we ready to resume testimony?

MR. WISE: We are, Your Honor.

THE COURT: Okay.

MR. PURPURA: Yes. Thank you.

THE COURT: Can we have the witness.

Counsel, I'm going to need to stop at about quarter of -- between quarter of and 10 of 1:00 just for the lunch break today.

(Jury entered the courtroom at 10:05 a.m.)

THE COURT: Welcome back, everyone. You can be seated.

I think we're going to be continuing, Mr. Wise.

MR. WISE: Thank you, Your Honor.

THE CLERK: Mr. Ward, you're still under oath.

THE WITNESS: Yes, ma'am.

MAURICE WARD, GOVERNMENT'S WITNESS, PREVIOUSLY SWORN.

DIRECT EXAMINATION (CONTINUED)

BY MR. WISE:

Q. Mr. Ward, you've testified about a number of people. And I want to show you, just to start, a series of photographs. These are going to be FBI-1 through 7.

~~WARD DIRECT~~

1 **MR. WISE:** If I could have FBI-1 first.

2 **BY MR. WISE:**

3 **Q.** Who's this, Mr. Ward?

4 **A.** Mr. Hersl.

5 **MR. WISE:** And if I could have FBI-2.

6 **BY MR. WISE:**

7 **Q.** And who's that?

8 **A.** Mr. Taylor.

9 **MR. WISE:** And FBI-3.

10 **BY MR. WISE:**

11 **Q.** Who's that?

12 **A.** Mr. Jenkins.

13 **Q.** And FBI-4?

14 **A.** Mr. Gondo.

15 **Q.** And FBI-5?

16 **A.** Mr. Rayam.

17 **Q.** And FBI-6?

18 **A.** Mr. Hendrix.

19 **Q.** And FBI-7?

20 **A.** That's me.

21 **MR. WISE:** And, Your Honor, just for the record, I
22 believe on Wednesday I had played -- Session 2591 was the audio
23 call I played, and that was from FBI-8. I'm not sure I
24 actually said that that's the exhibit that the audio call came
25 from.

~~WARD DIRECT~~

1 **THE COURT:** All right.

2 **BY MR. WISE:**

3 **Q.** Now, Mr. Ward, I want to direct your attention to May of
4 2015.

5 Did you participate in the search of the home of someone
6 named Paul Jones, who also went by Pedro?

7 **A.** Yes, sir.

8 **Q.** And who wrote that search warrant?

9 **A.** Detective Taylor.

10 **Q.** And what, if anything, did you and Detective Taylor do
11 prior to Detective Taylor writing the search warrant for
12 Mr. Jones' home?

13 **A.** First, we did a trash run on the location.

14 **Q.** What's a trash run? Could you explain that to the jury.

15 **A.** It's when you go to a location, a target house, the person
16 you're investigating, and you pretty much take their trash and
17 you go through it to see if you can find paraphernalia for like
18 narcotics and things like that.

19 **Q.** And when you and Mr. Taylor did the trash run -- well,
20 where did you do the trash -- describe how that happened.
21 Describe what the trash run looked like.

22 **A.** We got Mr. Jones' address, went to the location at night,
23 went into the backyard, pulled the trash out, took it to a
24 location, and went through it.

25 **Q.** What did you find, if anything?

~~WARD DIRECT~~

1 A. I believe it was marijuana residue and things like that.

2 Q. In the trash?

3 A. In the trash, yes.

4 Q. And then what happened?

5 A. Well, what we recovered from the trash was later
6 submitted, and then a warrant was obtained.

7 Q. At some point did you learn something about that
8 trash run, I guess, prior to the warrant being presented to the
9 judge?

10 A. Yes; that the location that we pulled trash from wasn't
11 the right house. It was the wrong location.

12 Q. So it wasn't Mr. Jones' house?

13 A. No.

14 Q. And how did you learn that?

15 A. During a follow-up.

16 Q. And who was with you when you were doing the follow-up?

17 A. Myself and Detective Taylor.

18 Q. And did you and Detective Taylor talk about the fact that
19 the trash wasn't from Mr. Jones' home where the marijuana
20 residue had been found?

21 A. Yes, sir.

22 Q. And so did you -- what happened then?

23 A. Well, I told -- I said I wasn't going to do the warrant
24 because it was primarily my -- my investigation, but
25 Detective Taylor said he would do it; he didn't care.

~~WARD DIRECT~~

1 Q. So what was then actually presented to the judge?

2 A. A warrant for the wrong -- I mean for the right address
3 but the trash -- the evidence wasn't right. It was wrong.

4 Q. And what was the basis in the warrant for going into
5 Mr. Jones' house?

6 A. I did observations. It was a trash run. It was all for
7 narcotics.

8 Q. So was the fact that the trash had actually been pulled
9 from the wrong house told to the judge?

10 A. Yes, sir.

11 Q. But how -- was it -- was that disclosed? I mean, was the
12 judge told that you all pulled trash from the wrong house or
13 did the warrant say the trash had come from Jones' house?

14 A. The warrant said that it came from Mr. Jones' house.

15 Q. So was that true?

16 A. No, sir.

17 Q. And I think you said you didn't want to do the warrant at
18 that point?

19 A. Yes, sir.

20 Q. But Detective Taylor did?

21 A. Yeah, he said he would do it.

22 Q. And did he?

23 A. Yes, sir.

24 Q. And then was there a search at Mr. Jones' house?

25 A. Yes, there was. We executed a search warrant at

~~WARD DIRECT~~

1 Mr. Jones' house.

2 Q. And what was found at Mr. Jones' house, if you remember?

3 A. I know it was a couple guns, and I think like some heroin
4 or some cocaine, I believe.

5 Q. And was Mr. Jones subsequently arrested?

6 A. Yes, he was.

7 Q. I want to switch topics now. I think this will be my last
8 topic, Mr. Ward.

9 At some point did you learn that you and other members of
10 the Gun Trace Task Force were under investigation?

11 A. Yes.

12 Q. And we -- I'll break this up. But, first, who did you
13 learn that from? Who all did you learn that from?

14 A. The first person was our supervisor, Sergeant Jenkins.
15 He --

16 Q. And what did he tell you?

17 A. One day he advised us that Rayam and Gondo were under
18 federal investigation for stealing and selling drugs.

19 Q. And who did he -- who was with you when he told you that?

20 A. It was me, Taylor, and Hendrix.

21 Q. And how, if any -- or how did he tell you, if he did, how
22 he had learned that?

23 A. He told us he -- it was -- we were at the in-service at
24 the academy one day, and he had bumped into a former partner of
25 his, Sergeant Guinn or Ginn -- I'm not sure how to pronounce

~~WARD DIRECT~~

1 his last name -- he said told Jenkins that two federal agents
2 had approached him that day to question him about Gondo and
3 Rayam about them supposedly stealing drugs and reselling it on
4 the streets.

5 Q. Were Gondo and Rayam there when he told you this?

6 A. No.

7 Q. Do you know if he also told them what he had learned?

8 A. No, he didn't tell them.

9 Q. Was that the only time Sergeant Jenkins told you he had
10 learned that the Gun Trace Task Force was under investigation?

11 A. To my memory, yes.

12 Q. Were there other members of the Gun Trace Task Force who,
13 after Sergeant Jenkins told you this, also told you that they
14 had learned the task force was under investigation?

15 A. Yes; Taylor did also.

16 Q. And what did Taylor tell you?

17 A. He told me he met with a source one day from
18 Internal Affairs that told him that -- that they were
19 investigating our overtime; they were tracking our phone; they
20 had trackers on our cars and things like that.

21 Q. And I think you said this on Wednesday, but what's --
22 where is Internal Affairs? Is that part of the Baltimore
23 Police Department or the -- what agency is that part of?

24 A. Yes. It's part of the Baltimore City Police Department.
25 It's like the police who investigate the police.

~~WARR~~ ~~CROSS~~

1 Q. Okay. Did anyone else, after Jenkins and Taylor told you
2 this, tell you that they had learned that the
3 Gun Trace Task Force was under investigation?

4 A. No. Those were the only two that told me.

5 MR. WISE: Nothing further, Your Honor.

6 THE COURT: All right. Thank you.

7 Mr. Nieto.

8 MR. NIETO: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. NIETO:

11 Q. All right. So just to piggyback on what Mr. Wise had just
12 asked you, you just testified with regards to a conversation
13 you had with Jenkins about an investigation into Rayam and
14 Gondo; correct?

15 A. Yes, sir.

16 Q. Okay. And you said that it was Sergeant Guinn or Ginn who
17 told him?

18 A. Yes, sir.

19 Q. All right. Now, did Sergeant Jenkins tell you this via
20 e-mail?

21 A. No. Face-to-face conversation.

22 Q. Okay. So he didn't text you. He didn't write you a
23 letter. This was an actual conversation that you guys had;
24 right?

25 A. Yes.

~~Ward~~ ~~Cross~~

1 Q. But you don't know how to pronounce that sergeant's name?

2 A. No. I can spell it for you. G-I-N-N. I don't know --

3 Q. Right. I know. It's as if you'd seen the name written
4 down, and no one had actually said the name to you; right? I
5 mean, that's why you don't know how to pronounce the name.

6 A. No, 'cause I've heard it pronounced different, so I'm not
7 sure if it's "Guinn" or "Ginn."

8 Q. So which way did Jenkins pronounce it to you?

9 A. I don't recall the exact way he pronounced it to me.

10 Q. Okay. So your inability to pronounce the name has nothing
11 to do with just seeing it written. It just has to do with
12 other people pronouncing it differently?

13 A. Correct.

14 Q. But you don't remember how Sergeant Jenkins pronounced it
15 when he told you this piece of information?

16 A. No.

17 Q. Now, sir, you had met with federal agents and the
18 prosecutors to my left on more than seven occasions since April
19 of last year; is that right?

20 A. I believe so, yes.

21 Q. Take a moment and think about it, if you could recall the
22 number of times you met with them.

23 A. I couldn't tell you the exact amount. It was several
24 occasions though.

25 Q. It was several; right? More than five?

~~WARR~~ ~~CROSS~~

1 A. Possibly, yes.

2 Q. And that's just in terms of you providing information and
3 cooperating; right?

4 A. Yes, sir.

5 Q. And that's not even considering the -- sort of the trial
6 prep; right? 'Cause I'm assuming you met with these agents to
7 prepare your testimony for today.

8 A. Yes, sir.

9 Q. And for earlier this week?

10 A. Yes, sir.

11 Q. How many times did you go through the questions and
12 answers that you were going to provide to this jury this week?

13 A. Repeat that question, please.

14 Q. Fair enough.

15 How many times did you meet with federal agents and
16 prosecutors to go through your testimony?

17 A. Maybe twice.

18 Q. Twice; right? Recently --

19 A. Yes, sir.

20 Q. -- right?

21 'Cause you started meeting with them back in April or
22 March of 2017.

23 A. Yes, sir.

24 Q. Okay. I'm not trying to trick you up. Just say the
25 answers if you know them, all right?

~~WARD~~ ~~CROSS~~

1 So -- and part of the whole process of prepping you for
2 your answers is that you come across more credible; right?

3 **A.** I believe so.

4 **Q.** Right. Because you've testified in court before, this
5 isn't the first time you've done that; right?

6 **A.** Yes, sir.

7 **Q.** Right. So they want to go through the questions and the
8 answers so there's some fluidity with your responses.

9 **A.** That was a question?

10 **Q.** Yes, sir. Is that correct?

11 **A.** Yes, sir.

12 **Q.** Right. And that's important for you, too, because
13 Judge Blake is the one who's going to be sentencing you when
14 this is all said and done; right?

15 **A.** Yes, sir.

16 **Q.** And you want her to believe that you're credible and that
17 you're substantially assisting this investigation; isn't that
18 correct?

19 **A.** Yes, sir.

20 **Q.** All right. Now, have you ever lied on the witness stand
21 before?

22 **A.** Yes, sir.

23 **Q.** How many times?

24 **A.** I'm not sure of the exact answer, number of that.

25 **Q.** Can you guess?

~~WARD~~ ~~CROSS~~

1 A. Several times.

2 Q. "Several" meaning more than five?

3 A. Possibly, yes.

4 Q. More than ten?

5 A. No, I don't think so.

6 Q. All right. So a half dozen, something like that?

7 A. Yes.

8 Q. You've come into court -- I'm assuming state court?

9 A. Yes, sir.

10 Q. Federal Court or no?

11 A. No.

12 Q. All right. So in state court. And the oath that they
13 give you in state court is the same oath they give you -- that
14 they gave you this week; right?

15 A. Yes, sir.

16 Q. Okay. And do you remember what that oath is?

17 A. Not exactly, no.

18 Q. Right.

19 So do you remember which cases they were in which you lied
20 under oath in court?

21 A. Would have been cases in the Gun Trace Task Force.

22 Q. I understand that, sir.

23 Do you remember any of those cases in particular?

24 A. No, sir.

25 Q. Any of the names of the defendants?

~~WARD~~ ~~CROSS~~

1 **A.** No, sir, not off the top of my head no.

2 **Q.** Do you remember the name of the prosecutors involved in
3 the case?

4 **A.** Yes; Mr. -- ASA Kropp, yes.

5 **Q.** Okay. And is that --

6 **A.** That's one of the -- that's a State's Attorney. I'm
7 sorry. He was one of the State's Attorneys.

8 **Q.** Is that in relation --

9 **THE COURT:** Wait. One at a time, please.

10 **MR. NIETO:** I'm sorry, Your Honor.

11 **THE COURT:** Go ahead.

12 **BY MR. NIETO:**

13 **Q.** Assistant State's Attorney Kropp?

14 **A.** Yes, sir.

15 **Q.** Okay. Is that the Demetrius Brown/Oreese Stevenson
16 motions hearing?

17 **A.** Yes.

18 **Q.** You testified at that?

19 **A.** No.

20 **Q.** Okay. But you had lied to him?

21 **A.** Yes.

22 **Q.** All right. Who else had you lied to?

23 **A.** I can't name them off the top of my head, sir.

24 **Q.** Too many to remember?

25 **A.** No. I just can't remember.

~~WARD~~ ~~CROSS~~

1 Q. Okay. Now, after you were arrested in this case, you
2 were -- how were you arrested? Let's go through that. How
3 were you arrested, do you remember?

4 A. For this case right here?

5 Q. Yes, sir.

6 A. We were called down to Internal Affairs to give a
7 statement, arrested.

8 Q. And I'm sorry. I don't mean to interject.
9 Have you been arrested in other matters?

10 A. No, sir.

11 Q. Okay. So in this particular case, how did they arrest
12 you?

13 A. I don't understand what you're asking, sir.

14 Q. Fair enough.

15 They called you down to Internal Affairs; right?

16 A. Yes. That's what I said, sir, yes.

17 Q. Yes. Right. Now, there wasn't an actual meeting with any
18 Internal Affairs officers at that point, was there?

19 A. No, sir.

20 Q. No. But it was not an ambush, but they set you up to show
21 up so that they could arrest you?

22 A. Yes, sir.

23 Q. Okay. And do you know -- is that your understanding
24 that's what happened with the other members of the task force?

25 A. Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. All right. Now, when you were arrested -- and do you
2 remember what date that was?

3 A. March the 1st.

4 Q. March the 1st. Okay.

5 And then you were appointed an attorney?

6 A. Yes, sir.

7 Q. All right. And he's in the courtroom today; right?

8 A. Yes, sir.

9 Q. Over my right shoulder in the corner (indicating)?

10 A. Yes, sir.

11 Q. All right. And you met with him and you discussed the
12 case?

13 A. Yes, sir.

14 Q. And you had an opportunity to receive and review the
15 indictment; right?

16 A. Yes, sir.

17 Q. All right. Now, the indictment laid out the accusations.
18 It gave specific instances of what the Government said you
19 broke the law.

20 Do you remember reviewing that?

21 A. Yes, I remember looking at it, yes.

22 Q. Yeah. And it was like 15 to 20 pages, maybe. I mean
23 there was a lot there; right?

24 A. Yes.

25 Q. And after you reviewed the indictment, you had an initial

~~WARR~~ ~~CROSS~~

1 appearance?

2 **A.** Yes, sir.

3 **Q.** And that's when you came to court and they explained to
4 you what the charges were, made sure you had an attorney.

5 Do you remember that?

6 **A.** Yes, sir.

7 **Q.** And then the Government sought to keep you detained while
8 this case was pending?

9 **A.** Yes, sir.

10 **Q.** And you asked for, through your attorney, a detention
11 hearing; right?

12 **A.** Well, it was automatic -- one was automatically given to
13 us.

14 **Q.** Oh, that's fair. So you didn't ask for a detention
15 hearing. You just had a hearing as to whether you could be
16 released while this case was pending; right?

17 **A.** Yes.

18 **Q.** Okay. And do you remember when that detention hearing
19 was?

20 **A.** I believe it was March the 2nd, the day after we got
21 arrested.

22 **Q.** Right. So very close in time to when you got arrested,
23 you had your detention hearing; right?

24 **A.** Yes.

25 **Q.** And your attorney stood up and advocated for you and

~~WARD~~ ~~CROSS~~

1 explained why you should go home?

2 **A.** Yes.

3 **Q.** All right. And then the Government, was it Mr. Hines or
4 was it Mr. Wise who stood up at that hearing?

5 **A.** Mr. Wise.

6 **Q.** Mr. Wise. So Mr. Wise stood up, and he further outlined
7 the information they had about this investigation.

8 Do you remember that?

9 **A.** Yes.

10 **Q.** And you were seated in the same courtroom listening to
11 Mr. Wise explain all the ways in which you broke the law.

12 Do you remember that, sir?

13 **A.** Yes, sir.

14 **Q.** Okay. And so you were detained?

15 **A.** Yes, sir.

16 **Q.** All right. Now, you were not housed in Baltimore City,
17 were you?

18 **A.** No, sir.

19 **Q.** Okay. And, in fact, you are currently -- you were moved
20 to Howard County, as I believe the questions have been posed;
21 right?

22 **A.** Yes.

23 **Q.** Okay. And you're no longer at Howard County?

24 **A.** No, sir.

25 **Q.** You're much further away from Baltimore City?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. A few hours, to say, at least; right?

3 A. Possible, yes.

4 Q. Approximately; right?

5 And you have a family?

6 A. Yes.

7 Q. All right. And I'm sure coming to visit you can't be easy
8 for them?

9 A. They make it, so . . .

10 Q. Right. I mean it can't be easy because it's a long drive
11 to get to you; right?

12 A. It's a drive, yes.

13 Q. It's a drive. Well, it's a couple-hour drive; right?

14 A. Yes.

15 Q. One way. So it's even more hours coming back --

16 A. Yes.

17 Q. -- is that fair to say?

18 A. Yes, sir.

19 Q. Not to mention they have to see you in custody, behind
20 bars?

21 A. Yes, sir.

22 Q. All right. That's difficult?

23 A. Yes, sir.

24 Q. All right. And you know this, of course; right?

25 A. Yes, sir.

~~Ward~~ ~~Cross~~

1 Q. All right. Now, the -- as part of your agreement, you
2 signed -- strike that.

3 So after all of these things happened, right, you decided
4 to sit down with the Government and explain to them what was
5 going on; is that fair to say?

6 A. Yes, sir.

7 Q. Okay. And that happened the first time in April?

8 A. I believe so.

9 Q. April 19th, approximately; does that sound right to you?

10 A. It's possible, yes.

11 Q. Right. So a good six weeks after you had been arrested?

12 A. Yes.

13 Q. All right. You decided to sit down and talk with the
14 gentleman and lady to my left; right?

15 A. Yes, sir.

16 Q. All right. Now, during that session, they give you some
17 paperwork to give you some protection; right?

18 Do you remember signing the proffer agreement?

19 A. Yes.

20 Q. Okay. And that proffer agreement says: We're not going
21 to use any of this against you so long as you tell us the
22 truth?

23 A. Yes, sir.

24 Q. Okay. And they also say that if you are not 100 percent
25 truthful, if you withhold information, if you minimize your

~~WARD~~ ~~CROSS~~

1 role or try to protect anyone, deal's off; right? That was
2 your understanding of the agreement?

3 **A.** Yes, sir.

4 **Q.** Okay. And you had an attorney there to help explain it to
5 you?

6 **A.** Yes, sir.

7 **Q.** In fact, Mr. Wise then explained it to you before you
8 started talking, even though you had already gone through it
9 with your attorney?

10 **A.** Yes, sir.

11 **Q.** All right. Now, the definition of "truth," right, as to
12 if you are not truthful with us, that's the Government who
13 makes that determination; isn't that right?

14 **A.** Yes, sir.

15 **Q.** Okay. So if you say something that you believe to be the
16 truth and the Government or the agents disagree with you,
17 you're the one who's out of luck; right?

18 **A.** Yes, sir.

19 **Q.** Now, in your plea agreement that you had entered and
20 signed a few months later -- right? Do you remember that?

21 **A.** Yes, sir.

22 **Q.** All right. Now, there's a stipulation of fact. There's a
23 rundown that they say: You are admitting these are the facts
24 that the Government could prove if this case had proceeded to
25 trial.

~~WARD~~ ~~CROSS~~

1 Do you remember that document?

2 **A.** Yes, sir.

3 **Q.** Okay. Now, you didn't -- or you weren't consulted with
4 the crafting of that language, were you?

5 **A.** It was reviewed, yes.

6 **Q.** Fair enough. It was reviewed with you, right, printed
7 out, sent to your attorney as a letter; right?

8 **A.** Yes.

9 **Q.** Now, you didn't write the statement of facts, did you?

10 **A.** No, sir.

11 **Q.** The Government wrote the statement of facts.

12 **A.** Yes, sir.

13 **Q.** All right. Did you make any changes?

14 **A.** No, sir.

15 **Q.** Okay. So you had accepted or had to accept what they were
16 saying were the facts of this case; otherwise, you get nothing?

17 **A.** Well, I didn't have to accept it, but . . .

18 **Q.** Oh, well, what would happen if you didn't accept it, sir?

19 **A.** I probably would have had to go to trial.

20 **Q.** Probably had to go to trial. And you didn't want to go to
21 trial?

22 **A.** No.

23 **Q.** Not to mention the fact you had already sat down with them
24 three times and told them everything you knew; right?

25 **A.** Yes.

~~WARD~~ ~~CROSS~~

1 Q. Right. So you had to essentially sign that or get more
2 time; is that fair to say?

3 A. Yes, sir.

4 Q. And you didn't want more time, did you?

5 A. No, sir.

6 Q. You didn't want the time that the guidelines recommend,
7 did you?

8 A. That's correct.

9 Q. Or do you now? You still don't?

10 A. No, I don't.

11 Q. Right. And as part of the agreement, as long as you
12 testify to the truth as they define it, you will get a lesser
13 sentence; isn't that correct?

14 A. Yes, sir.

15 Q. All right. Now, have you ever heard a cooperator
16 testifying at a federal trial and not getting a lower sentence
17 than what that person would ordinarily get if they had remained
18 silent?

19 A. That's a question I can't answer. I'm not very familiar
20 with it.

21 Q. Okay. But you've never heard of that happening?

22 A. No, neither way, no.

23 Q. Okay. So you've never heard of someone testifying at a
24 federal trial and getting more time than if they had just said
25 nothing? You never heard that?

~~WARD~~ ~~CROSS~~

1 **A.** Correct.

2 **Q.** And you never heard it the inverse; right?

3 **A.** Correct.

4 **Q.** Which is somebody not testifying, someone not cooperating,
5 and somehow getting a better sentence than a cooperator; you've
6 never heard about that either?

7 **A.** No, sir.

8 **Q.** All right. So you had testified earlier this week that
9 the maximum sentence you are facing in this case is 20 years;
10 is that your understanding?

11 **A.** Yes, sir.

12 **Q.** All right. But you don't expect to get that, do you?

13 **A.** I don't know what to expect.

14 **Q.** You don't know what to expect?

15 **A.** No, sir.

16 **Q.** Are you familiar with the guidelines, sir?

17 **A.** Yes. The guidelines are 20 years. Yes.

18 **Q.** The guidelines are for 20 years?

19 **A.** Well, my maximum time I could be sentenced to is 20 years,
20 yes.

21 **Q.** Right. I understand this is part of the -- this is part
22 of the trial prep to answer these questions.

23 **MR. WISE:** Objection, Your Honor.

24 **THE COURT:** Sustained.

25 **BY MR. NIETO:**

~~WARD~~ ~~CROSS~~

1 Q. What I'm asking you, sir, is: Do you understand the
2 guidelines in this case?

3 A. No, sir.

4 Q. All right. Because it was part of your plea agreement;
5 right? You reviewed the plea agreement. That's what you said;
6 right?

7 A. Yes, sir.

8 Q. And you reviewed it with your attorney?

9 A. Yes, sir.

10 Q. And you have an offense level. Do you know that
11 terminology?

12 A. Yes, sir.

13 Q. Right?

14 And then based on your criminal history, the guidelines
15 give you roughly a recommended sentence.

16 A. Yes, I know what you're talking about now, yes, sir.

17 Q. Now, of course, that's not binding on the Court. It's one
18 of the factors Judge Blake would have to consider. That's your
19 understanding too; right?

20 A. Yes, sir.

21 Q. So what does the guidelines recommend for you without your
22 cooperation?

23 A. I don't have that in front of me, so I'm not sure of it.

24 MR. NIETO: Court's indulgence.

25 BY MR. NIETO:

~~WARD~~ ~~CROSS~~

1 Q. 87 to 108 months; does that sound about right to you?

2 A. Possibly, yes.

3 Q. It's about seven to nine years.

4 Would it help you to look at your plea agreement?

5 A. Yes.

6 Q. All right.

7 MR. NIETO: Court's indulgence.

8 (Counsel conferred.)

9 MR. NIETO: May I approach, Your Honor?

10 THE COURT: Sure. You're having this marked just for
11 identification?

12 MR. NIETO: Yeah, just for identification. I guess at
13 this point in time it would be Defense Taylor 1.

14 BY MR. NIETO:

15 Q. All right. Mr. Ward, do you recognize this document?

16 A. Yes.

17 Q. And is that your signature on this document?

18 A. Yes, it is.

19 Q. Now, is this the plea agreement that you signed and
20 entered into with the U.S. Attorney's Office?

21 A. Yes, it is.

22 Q. Okay. In the interest of time, let's just skip to -- take
23 a look at this, if you'd like (indicating).

24 I want you to have a greater understanding of what I'm
25 talking about.

~~WARD~~ ~~CROSS~~

1 Do you understand it, sir?

2 **A.** Yes.

3 **MR. NIETO:** Okay. If I may approach again,

4 Your Honor, briefly, just only for identification.

5 (Counsel conferred.)

6 **MR. NIETO:** Your Honor may we approach?

7 **THE COURT:** Sure. Sorry.

8 (Bench conference on the record:

9 **THE COURT:** First of all, what is it that you wanted
10 to show him?

11 **MR. NIETO:** Oh, it's just the guidelines, Your Honor.

12 **THE COURT:** The guidelines matrix?

13 **MR. WISE:** We had the same issue in the last trial.

14 Mr. Bonsib wanted to put the guidelines matrix in front of the
15 witness. The foundation needs to be laid as: Does he know --
16 has he seen the guidelines matrix? Does he know anything about
17 how it's calculated?

18 What happens time and time again is the witnesses
19 don't. And it gets sort of garbled as to what they could get,
20 what they couldn't get, why -- and it just -- it becomes the
21 lawyer testifying, you know, a symposium on the guidelines.

22 **MR. NIETO:** Your Honor, my focus here is only because
23 of the insinuations that he may receive 20 years.

24 **MR. WISE:** Not insinuations.

25 **MR. NIETO:** In reality, that's sort of a legal,

1 realistic standpoint. And I would like there to be some
2 clarification because I am presuming, as all CJA attorneys
3 would review the guidelines and what the advisory guidelines
4 would recommend before cooperation so that he has a sense as to
5 where that is.

6 Mr. Enzinna, I'm sure, reviewed that with him. If I'm
7 mistaken about that, that's okay. I've given him a number as
8 to where he would fall in the guidelines pre-cooperation. He's
9 not sure.

10 I don't want there to be some suggestion that I'm
11 putting words in his mouth, and I'm just trying to take him
12 through that in an appropriate and hopefully expeditious
13 fashion.

14 So insofar as I can streamline it or there's more of a
15 foundation that needs to be laid, I have no problem doing that.

16 **THE COURT:** I just don't -- we don't know yet whether
17 he even looked at those or what he was told about the
18 guidelines. I mean, the plea agreement itself, I'm not sure it
19 even comes to a final offense level that doesn't actually
20 subtract the three from the thirty-two, and it certainly
21 doesn't say exactly what the guidelines are.

22 Now, sure, I would assume, as you're assuming, that
23 normally his lawyer would have given him some idea. And I
24 think that's a fair question of what he's facing under the
25 guidelines, and then do you expect to get, you know, even less

1 than that?

2 But there's no promises and all --

3 **MR. NIETO:** Right, of course.

4 **THE COURT:** -- the familiar thing. But if you can do
5 it without actually showing him the matrix, I think that's
6 better. But if you think that's necessary, let's get some of
7 that foundation of whether he's actually even seen them.

8 And which one were you reading off, by the way, to get
9 to the 87 to 108?

10 **MR. NIETO:** That was my calculation that I had
11 previous -- I wasn't just looking at my notes. I had reviewed
12 that earlier. And I --

13 **THE COURT:** Where is that matrix?

14 **MR. NIETO:** The --

15 **THE COURT:** Somebody bring it?

16 **MR. NIETO:** No, Your Honor. I left it at the table.

17 **THE COURT:** Okay.

18 **MR. NIETO:** The 87 to 108 was my calculation based on
19 the 32 months, putting him at a 29 and his Criminal History
20 Category --

21 **THE COURT:** Category I.

22 **MR. NIETO:** That's my understanding. That's what my
23 notes say. So that's why I thought he would say "yes." And
24 when he said he didn't --

25 **MR. WISE:** I think he did actually say "yes." That's

~~WARR~~ ~~CROSS~~

1 the other thing. Yeah, he agreed with it, so I don't know that
2 we need to --

3 **MR. NIETO:** Oh, then we can move on.

4 **THE COURT:** Okay.

5 **MR. NIETO:** Keep things moving.

6 **THE COURT:** Thank you.

7 **MR. NIETO:** Thank you, Your Honor.)

8 (Bench conference concluded.)

9 **THE COURT:** Just rephrase that.

10 **BY MR. NIETO:**

11 **Q.** All right. Sir, so you recognize and understand this plea
12 agreement; correct?

13 **A.** Yes, sir.

14 **Q.** And this is the one that you signed?

15 **A.** Yes, sir.

16 **Q.** Okay. And you reviewed with your attorney the guidelines
17 for this case?

18 **A.** Yes, sir.

19 **Q.** And you reviewed with him the federal guideline matrix
20 that talked -- that gives you all the numbers?

21 **A.** Yes, the chart, yes.

22 **Q.** Right, and that -- the chart. And so do you remember if
23 you were right around seven to nine years for the guideline
24 range?

25 **A.** Yes, sir.

~~Ward~~ ~~Cross~~

1 Q. Okay. Now, that's, of course, before you cooperate;
2 right?

3 A. Repeat it again.

4 Q. Fair enough. The seven- to nine-year range, that's what
5 you're facing if you just plead guilty; right?

6 A. Yes.

7 Q. Now, when you cooperate, you -- that number drops.

8 A. Possibly, yes.

9 Q. Possibly. It's your expectation that it's going to drop?

10 A. It's my hope, yes.

11 Q. Right. If everyone here believes you're telling the truth
12 and not minimizing anything; right?

13 A. Yes, sir.

14 Q. All right. But you were not charged with 924(c), were
15 you?

16 A. What is that, sir?

17 Q. That's fair enough.

18 You weren't charged with the use of a firearm in the
19 commission of a crime of violence, were you?

20 A. I'm not sure, sir.

21 Q. Did you plead to it, sir?

22 A. If it's in the paperwork, most likely, yes.

23 Q. Okay. I can show it to you again. But do you remember
24 saying that you are pleading to Count 1, which is just the
25 racketeering conspiracy?

~~WARD~~ ~~CROSS~~

1 A. Yes.

2 Q. Okay. So you did not plead to the gun possession in
3 furtherance of a crime of violence?

4 A. I guess so, yes, sir.

5 Q. That wasn't even on your indictment, was it?

6 A. I can't remember my indictment at all.

7 Q. You can't remember your indictment?

8 A. Not the whole indictment word for word, no, sir.

9 Q. But the charges?

10 A. No, sir.

11 Q. Okay. So let's go back.

12 Prior to being on the Gun Trace Task Force, you were part
13 of VCID and SES; right?

14 A. Yes, sir.

15 Q. Now, VCID is Violent Crimes Initiative Department or
16 something to that effect?

17 A. Section, Division, yes.

18 Q. Yeah, something like VCIS, VCID.

19 And then there's the SES; right? What does the SES stand
20 for?

21 A. Special Enforcement Section.

22 Q. Special enforcements. Now, you obviously were not alone;
23 there were other people in these units?

24 A. Yes, sir.

25 Q. Citywide; right?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. All right. And you were not necessarily pigeonholed in a
3 certain area of the city?

4 A. No. They had us in certain -- certain districts at one
5 time.

6 Q. Right. But you could come and go into different parts of
7 the city as the investigations took you; right?

8 A. Correct.

9 Q. Okay. And you were focused at that point in time on
10 getting guns and bad people off the street; is that fair to
11 say?

12 A. Yes, sir.

13 Q. As were everyone else in those units?

14 A. Yes, sir.

15 Q. Correct?

16 And you would -- as an investigative technique, right, the
17 detectives and the police officers in those units would
18 commonly use traffic stops, for example, as a means of getting
19 certain targets stopped or off the streets or to be able to
20 search them; isn't that fair to say?

21 A. Yes.

22 Q. Right. So it would be common for someone from VCIS or
23 from SES to pull over someone that they believed might be dirty
24 for a seat belt violation; right?

25 A. Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. Or rolling through a stop sign or not using their blinker,
2 something like that?

3 A. Yes, sir.

4 Q. Now, those are relatively ticky-tack offenses, but it's
5 perfectly legal and it's recommended that you do that to help
6 further your investigation; right?

7 MR. WISE: Objection, Your Honor. The "perfectly
8 legal" question is not something he's capable of answering.

9 BY MR. NIETO:

10 Q. Per your understanding, sir, pulling someone over for a
11 minor traffic offense that they committed is a justifiable way
12 to stop a vehicle; is that correct?

13 A. Yes, sir.

14 Q. Right. Okay. So you legally -- I'm sorry. Strike that.
15 You would appropriately pull over a vehicle or other
16 people in these units, and maybe you'd see something in plain
17 view like drugs or guns. That's a possibility; right?

18 A. That's a possibility, yes.

19 Q. Right?

20 Or maybe they -- the guys in the car would look so nervous
21 or they would give you some sort of criminal indicators that
22 you and other members of the police force are trained to
23 decipher to give you additional reasons to maybe search the
24 car, that's fair to say; right?

25 A. Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. All right. And -- or you might smell marijuana, which
2 would be a reason to search the car?

3 A. Yes, sir.

4 Q. Sometimes they'll even consent. You say, "Do you mind if
5 we look in the car?"

6 And they'll say, "No. Go ahead." And you find things;
7 right?

8 A. Yes, sir.

9 Q. Now, those things aren't planted. You find these things;
10 right?

11 A. That's correct.

12 Q. Right. Now, you -- I mean, I don't know. When you were
13 working there, did you have a citation book for like traffic
14 tickets?

15 A. Yes, we had a citation book, yes.

16 Q. Right. But that wasn't your -- you weren't there to
17 enforce traffic laws, were you?

18 A. No, sir.

19 Q. Right. You were there to find drugs and guns and arrest
20 these dangerous people in Baltimore City?

21 A. Yes.

22 Q. And you could use traffic stops as a means of doing that;
23 that's correct?

24 A. Yes, sir.

25 Q. All right. Now, you know, per your experiences, was it

~~WARR~~ ~~CROSS~~

1 common or was it something that you saw that members of VCID or
2 VCIS or SES, these types of detectives, would make small
3 arrests, you know, for a marijuana possession, maybe from a
4 traffic stop, maybe not, and then instead of bringing these --
5 the accused to Central Booking to be processed and wait for
6 their court date, they bring them to the barn; right? Are you
7 familiar with that? Did you see that happen?

8 **A.** Yes.

9 **Q.** Right. Now, the barn, it's a -- sort of a satellite
10 police station off of Pimlico; is that about right?

11 **A.** You're correct.

12 **Q.** Right. So the barn's just a term that's thrown around,
13 but it's not a barn; right? It's an actual police station?

14 **A.** Yes, sir.

15 **Q.** Okay. And so it would be common or in your experience,
16 you saw it happen, you would arrest somebody for something
17 small and then bring them there for what is called debriefing;
18 right? You heard that term?

19 **A.** Yes, sir.

20 **Q.** Right. And debriefing is essentially an interrogation;
21 correct?

22 **A.** Yes, sir.

23 **Q.** Right. So if you can arrest somebody for drug possession,
24 small amounts, and you can bring them to the satellite police
25 station, maybe they will give you a gun or they will give you

~~Ward~~ ~~Cross~~

1 information that can lead to a more significant arrest and
2 investigation; is that fair to say?

3 **A.** Yes, sir.

4 **Q.** And that was commonly used; correct?

5 **A.** Yes, sir.

6 **Q.** And as far as you know, there's nothing wrong with that,
7 is there?

8 **A.** Correct.

9 **Q.** Now, you would work in a plainclothes capacity; right?

10 **A.** Yes, sir.

11 **Q.** Now, would you be dressed the way you're dressed now?

12 **A.** No, sir.

13 **Q.** No. Right. I mean, the -- you weren't driving around in
14 police cars.

15 **A.** No, no, sir.

16 **Q.** They were rental vehicles; right?

17 **A.** Yes.

18 **Q.** Sort of four-door but small sedans, oftentimes?

19 **A.** Yes. Yes.

20 **Q.** And part of that is that you want to blend in; right?

21 **A.** You can say that, but the whole city knew what type of
22 vehicles we drove and so we weren't really blending in.

23 **Q.** That's fair.

24 But you're not going into bad neighborhoods in a
25 black-and-white police car, are you?

1 A. No, sir.

2 Q. You're not going into these bad neighborhoods with the
3 blue and red lights flashing, are you?

4 A. No, sir.

5 Q. So there's an attempt to be covert about it. You don't
6 want everyone to know you're the police; otherwise, they're not
7 going to do anything in front of you. That's fair to say?

8 A. Yes, sir.

9 Q. Right. And so that's why they have unmarked vehicles;
10 right?

11 A. Yes, sir.

12 Q. That's also the same reason why you guys wouldn't wear
13 police uniforms; correct?

14 A. Yes, sir.

15 Q. Now, there is -- I mean, you're right. It's odd to see
16 four grown men in a four-door Dodge Neon driving around
17 West Baltimore; right? That stands out a little bit?

18 A. Yes, sir.

19 Q. Right. But there's still -- you guys do things to try to
20 offset that; is that fair to say?

21 A. I don't understand what you're saying.

22 Q. Well, did you, for example, you know -- and I don't know
23 if this is true, but had you -- were you aware or did you ever
24 see detectives put like baseball hats in the back windshield to
25 make it look like a more normal car? Did you ever hear that?

~~WARD~~ ~~CROSS~~

1 A. No.

2 Q. Did you ever hear of like putting teddy bears or doing
3 different things so that at first blush, it wouldn't look like
4 an undercover police officer?

5 A. No, sir.

6 Q. Did you do anything like that --

7 A. No, sir.

8 Q. -- to avoid detection?

9 A. No, sir.

10 Q. Okay. Now, with your outfits, right, I mean, the sort of
11 de facto plainclothes police officer uniform is oftentimes
12 jeans and running sneakers; is that fair to say?

13 A. It's 50/50.

14 Q. 50/50; right? I mean, when it's warm, it's shorts. But
15 you always have sneakers on; right?

16 A. Yes.

17 Q. Not like the sneakers that you're wearing today; correct?

18 A. No, sir.

19 Q. Right. And you wouldn't wear shoes, the likes of which
20 I'm wearing (indicating). You'd have sneakers because you may
21 have to run --

22 A. Yes, sir.

23 Q. -- right?

24 And so guys will notice if a group of four men are going
25 around with jeans and running sneakers. They might think that

~~Ward~~ ~~Cross~~

1 they're the police; right?

2 **A.** Yes.

3 **Q.** Okay. So you want -- you're trying to blend in as best
4 you can because you don't want people to identify you as police
5 officers before you can do your job; is that fair?

6 **A.** Yes, sir.

7 **Q.** Okay. And there's a term, they call undercovers knockers;
8 right? Have you heard that term?

9 **A.** Yes, sir, I've heard it.

10 **Q.** And so if you drive into an area and you hear someone yell
11 "knockers," what does that mean to you?

12 **A.** They alerting us -- the area that the police are there.

13 **Q.** Right. And if you're the police, that means you've been
14 identified?

15 **A.** Yes.

16 **Q.** What happens, in your experience, when someone yells
17 "knockers" when police are in the area?

18 **A.** Everybody's on standstill and trying to find out where the
19 knockers are at, the police.

20 **Q.** Right. Nobody does anything; right?

21 **A.** Some people might walk away, but no one really does
22 anything.

23 **Q.** Right. Drug dealing ceases for that brief time; right?

24 **A.** Yes.

25 **Q.** Or people just leave the area because police are there?

~~WARD~~ ~~CROSS~~

1 A. Correct.

2 Q. Okay. Now, you specifically were interested in joining
3 the Gun Trace Task Force because the hours were better and
4 there was unlimited overtime; correct?

5 A. No.

6 Q. That's not true?

7 A. No.

8 Q. Well, you didn't have to work weekends with the task
9 force; right?

10 A. No.

11 Q. Right. And there were eight-hour days; correct?

12 A. Yes.

13 Q. So you didn't tell the agents that part of the benefit of
14 joining this group was the unlimited overtime and the better
15 hours?

16 A. That was with the SES unit.

17 Q. That was with the SES unit?

18 A. We initially were SES, and then we were just merged with
19 Gun Trace.

20 Q. Okay. So --

21 A. I didn't apply to be in Gun Trace.

22 Q. So the SES is -- I'm sorry.

23 So SES is sort of like the precursor to the
24 Gun Trace Task Force; right?

25 A. There is SES. The side I was on was enforcement. Then

~~Ward~~ ~~Cross~~

1 there's the Gun Trace Task Force, which is like the
2 investigative side.

3 **Q.** Okay. So you joined the SES because of the unlimited
4 overtime and because you didn't have to work weekends?

5 **A.** Well, no. I joined Jenkins' squad because of that, not
6 the SES.

7 **Q.** Okay. All right. And you were working with Hendrix,
8 Ivery, and Suiter in the undercover squad; right?

9 **A.** No, sir.

10 **Q.** No? Did you work with Hendrix, Ivery, or Suiter at any
11 point?

12 **A.** Yes; different times, yes, I worked with them.

13 **Q.** Different times, okay. And you had a longstanding working
14 relationship with Hendrix, didn't you?

15 **A.** I just met Hendrix when I joined Jenkins' squad.

16 **Q.** And when was that?

17 **A.** It was in 2015, I believe.

18 **Q.** Okay.

19 **A.** 2014, 2015.

20 **Q.** But you guys were friends?

21 **A.** Once I got to know him, yes.

22 **Q.** You guys knew each other's families?

23 **A.** Eventually, yes.

24 **Q.** Right. Spent time together?

25 **A.** Yes.

~~WARD~~ ~~CROSS~~

1 Q. All right. When you were incarcerated in Howard County
2 Detention Center, you spoke with him?

3 A. Yes.

4 Q. You discussed the case with him?

5 A. No, not really.

6 Q. Not really?

7 A. No.

8 Q. Or not at all?

9 A. No, not really, no.

10 Q. Well, what does that mean, "not really"?

11 A. That mean we didn't sit down every day and talk about the
12 case. We tried to keep our minds off of it.

13 Q. Okay. But you did talk to him about it?

14 A. Yeah, of course. When we first got arrested, yes, we did
15 talk about it. But --

16 Q. And that, of course, all -- you discussed the case with
17 him prior to meeting with the federal agents in March?

18 A. Yes.

19 Q. Or April; right?

20 All right. Now, as you testified initially,
21 Detective Taylor was not part of the squad, was he?

22 A. Originally, no.

23 Q. Correct.

24 So it was you, Jenkins, right, your friend Hendrix, that
25 was the group?

~~WARD~~ ~~CROSS~~

1 A. Yes.

2 Q. All right. And then Detective Taylor started off because
3 he was working overtime with you guys?

4 A. Yes, sir.

5 Q. Okay. And he was a fast runner; is that fair to say?

6 A. Yes, sir.

7 Q. And not to mention his motion-sickness issues, but he
8 would sit in the front seat because he was the guy who would
9 inevitably be the one tasked with chasing suspects; right?

10 A. Yes, sir.

11 Q. Okay. So he caught many of the people that he chased;
12 right?

13 A. Yes, sir.

14 Q. Okay. And that's an invaluable aspect to the work that
15 you're doing; isn't that fair to say?

16 A. Yes, sir.

17 Q. So it's -- and maybe -- I don't want to put words in your
18 mouth. Would you agree that it's common in your line of work
19 for targets or suspects to run when they detect police?

20 A. Is it common?

21 Q. Would you say it's common, sir?

22 A. No.

23 Q. Does it happen?

24 A. It happens, yes.

25 Q. Does it happen often?

~~WARD~~ ~~CROSS~~

1 A. No, not often.

2 Q. Not often?

3 A. Unless they're -- unless they're being chased.

4 Q. Unless they're being chased. Okay.

5 So a rental car filled with police officers not in uniform
6 drive into an area, and you guys get out of the car to
7 investigate crime. You're telling me that those individuals
8 don't run?

9 A. No, not all times, no.

10 Q. Not all the time. Okay.

11 But, you know, part of the reason that you're wearing
12 sneakers is because you've got to run sometimes; right?

13 A. Yes.

14 Q. It doesn't happen so infrequently that you can get by
15 wearing regular dress shoes, can you?

16 A. Correct.

17 Q. Okay. And obviously the point of this group, the point of
18 what you were doing even before the Gun Trace Task Force, is to
19 get guns off the street; that fair to say?

20 A. Yes, sir.

21 Q. And that's dangerous work, isn't it?

22 A. Yes, sir.

23 Q. All right. Many of the people you are targeting are armed
24 with weapons; right?

25 A. Yes, sir.

1 Q. And they've got criminal histories for crimes of violence.
2 That's common or you've seen that happen?

3 A. Yes.

4 Q. All right. They've been arrested before, often, as I
5 said, for crimes of violence, sometimes for drug distribution;
6 right?

7 A. Yes.

8 Q. You don't know what you're walking into, do you?

9 A. No, sir.

10 Q. So you've got to be prepared for the worst-case scenario?

11 A. Yes, sir.

12 Q. All right. In fact, there was an officer -- and officers
13 can obviously get hurt in this line of work --

14 A. Yes, sir.

15 Q. -- right?

16 So there was an Officer McCauley, who I believe who had
17 actually injured his wrist during a foot chase and an eventual
18 takedown at one point in time; right?

19 A. Yes, sir.

20 Q. Was he in the Gun Trace Task Force, or was he SES?

21 A. That was SES.

22 Q. That was SES. Okay.

23 Now, of course, as part of your job and as part of what
24 the detectives are doing, much of the work you have is not
25 focused on patrolling some of the better parts of the city, is

~~WARD~~ ~~CROSS~~

1 it?

2 **A.** No, sir.

3 **Q.** Right. You're not targeting Roland Park or Fells Point,
4 some of those nicer areas; right? You're focused on where
5 violent crimes happen; right?

6 **A.** Yes, sir.

7 **Q.** And you patrol those areas often and repeatedly?

8 **A.** Yes, sir.

9 **Q.** So you'll start to see some of the same individuals on the
10 same street corners; right?

11 **A.** Yes.

12 **Q.** And maybe you'll go up to them under some ruse to be able
13 to get their identification so that you know who they are;
14 right?

15 **A.** I don't understand what you mean by "ruse."

16 **Q.** All right. So you can go up to -- per your understanding,
17 right, you can go up to a group of guys or some guy that's sort
18 of loitering on the corner and ask him for his identification;
19 right?

20 **A.** Yes, sir.

21 **Q.** And you can try to identify who that person is?

22 **A.** Yes, sir.

23 **Q.** And once you take that identity, well, then you can go and
24 investigate; is that fair to say?

25 **A.** Yes, sir.

~~WARR~~ ~~CROSS~~

1 Q. You can run him through, figure out if he's got a rap
2 sheet; right?

3 A. Yes, sir.

4 Q. Run him through to see if he has any open warrants,
5 anything like that?

6 A. Yes, sir.

7 Q. You have these central databases in the police department
8 which will tell you if you're members of a gang or if there's
9 some particular issues of note; is that fair to say?

10 A. Yes, sir.

11 Q. Right. And so then if you patrol these areas often and
12 repeatedly and you see that same gentleman, you know a little
13 bit more about him than you did initially; right?

14 A. Yes, sir.

15 Q. All right. Now, when you're doing this work, you develop
16 a sense about the people you're targeting; is that fair to say,
17 or is that too open-ended?

18 A. Yeah. I don't understand what you mean by "sense."

19 Q. That's poorly constructed. Okay.

20 So you're trained, both through the police department and
21 through everyday work, to notice things about their person or
22 about their pockets or about the way they walk that regular
23 laypeople may not understand; right?

24 A. Yes, sir.

25 Q. Right. You're trained to identify signs of someone being

~~WARD~~ ~~CROSS~~

1 armed; right?

2 **A.** Yes, sir.

3 **Q.** Because for the most part, for the most part, you don't
4 have people just walking down the street with a gun in their
5 hand, waving it out in the open (indicating), are there?

6 **A.** Correct.

7 **Q.** Right. So they'll have it in their hoodie pockets.
8 They'll have it in their dip area; right? Which is the
9 waistband area; right?

10 **A.** Yes, sir.

11 **Q.** They'll have it in their pockets, or they'll use a stash.
12 Like they'll hide it behind a tree. Or they'll put it in a
13 stash house; right? Which is another area like a building
14 where they can stash things; right?

15 **A.** Yes, sir.

16 **Q.** Right. So you're trained to be able to look at these
17 people and see, oh, this pocket's hanging a little bit lower
18 than this one. That's a sign to me, as a police officer, that
19 they may be armed; right?

20 **A.** Possibly, yes.

21 **Q.** Possibly; right? And that -- and then you can go forward
22 with your investigation; correct?

23 **A.** Yes, sir.

24 **Q.** In fact, there's case law -- are you familiar -- were you
25 trained on the case law on how to determine if someone's armed

~~WARD~~ ~~CROSS~~

1 or not?

2 **A.** Yes, we've had training on case law, yes.

3 **Q.** Right. Exactly. So you can stay within the boundaries of
4 the law while you do your investigations; right?

5 **A.** Yes, sir.

6 **Q.** And that's not just you, Mr. Ward. That is the police
7 department; right? And the other detectives working in these
8 same force -- these same squads; right?

9 **A.** Yes, sir.

10 **Q.** Okay. And obviously the identification of these clues,
11 they're very important for you, number one, to determine if
12 it's going to be an arrest, but also, number two, to make sure
13 that you are safe; right?

14 **A.** Yes, sir.

15 **Q.** Okay. Because people in Baltimore City often, who are
16 carrying guns or are selling drugs, will do things to avoid
17 arrest; right?

18 **A.** Yes, sir.

19 **Q.** Sometimes they might even be on probation; right?

20 **A.** Yes, sir.

21 **Q.** So there's an added penalty if they get arrested; correct?

22 **A.** Yes, sir.

23 **Q.** Or God forbid they're on parole, which means they're
24 technically still serving a sentence, so they've got even more
25 to lose; right?

~~WARD~~ ~~CROSS~~

1 **A.** Yes, sir.

2 **Q.** So they're trying to avoid detection; they're trying to
3 avoid arrest; and they're trying to avoid going to jail; is
4 that fair to say?

5 **A.** Yes, sir.

6 **Q.** Now, through you and the squad's work, you are targeting
7 drug dealers and violent criminals; right?

8 **A.** Yes, sir.

9 **Q.** Okay. Now, you would not and you did not, the four of
10 you, roll up on Grandma or Grandpa, who are just sitting on a
11 park bench, unless you had some reason to believe that they
12 were involved in some criminal activity; right?

13 **A.** Yes, sir.

14 **Q.** Now, you would use other investigative tools to your
15 advantage. So, for example, you would locate and surveil, for
16 lack of a better phrase, like a head shop; right? Do you
17 remember doing that?

18 **A.** Say it again.

19 **Q.** Like a head shop?

20 **A.** A head shop?

21 **Q.** Head, like where they sell bongos and rolling papers and
22 stuff like that. Did you ever do that?

23 **A.** No.

24 **Q.** Did you ever go to one of the gun ranges like on the
25 outskirts of the city?

~~WARD~~ ~~CROSS~~

1 **A.** Did I personally do it? No.

2 **Q.** But you're aware of that technique; right?

3 **A.** Yes.

4 **Q.** Because when you go to the gun ranges, you have to sign in
5 and you've got to use your ID; right?

6 **A.** Yes, sir.

7 **Q.** And so it's real simple for a police officer or a
8 detective to go get the list of who was there and just see
9 whether or not they have criminal convictions; correct?

10 **A.** Yes, sir.

11 **Q.** Because with a criminal conviction that carries a penalty
12 more than a year, you're not allowed to possess a firearm, are
13 you?

14 **A.** No, sir.

15 **Q.** And that's both a state and a federal offense, isn't it?

16 **A.** Yes, sir.

17 **Q.** So it's easy arrests because guys will do that, won't
18 they?

19 **A.** Yes, sir.

20 **Q.** All right. Now, what about the -- what are herbal stores
21 that will sell drug-packaging materials; are you aware of
22 those?

23 **A.** Yes, sir.

24 **Q.** Okay. And so in those particular locations, they sell
25 large quantities of gelcaps and packaging materials that are

~~WARR~~ ~~CROSS~~

1 oftentimes used by drug dealers; right?

2 **A.** Yes, sir.

3 **Q.** And so you can go to a place like that, and you can take a
4 look at it and you can observe who comes and goes; right?

5 **A.** Yes, sir.

6 **Q.** And that's something that you guys actually did; right?

7 **A.** Correct.

8 **Q.** Called The Joint; do you remember that place?

9 **A.** Yes, sir.

10 **Q.** Okay. And so you had a standing agreement or
11 understanding with the owners of that store; right?

12 **A.** No, I didn't.

13 **Q.** You didn't, but did the squad?

14 **A.** I believe just Jenkins.

15 **Q.** All right. What was that understanding as best you knew?

16 **A.** If someone went in there he believed was like a drug
17 dealer, when they came out, he could call the storeowner and
18 they would tell him what -- what the individual purchased.

19 **Q.** Right. 'Cause the storeowner doesn't want that stuff
20 happening in his store or her store, does he?

21 **A.** No, sir.

22 **Q.** So you could use these types of legal and acceptable,
23 acceptable investigation tactics, right, to continue your
24 investigations to get search warrants and to arrest pretty much
25 people doing bad things in the city; right?

~~WARR~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. Okay. Now, you had talked about -- and maybe this was
3 when you were in SES. I'm not sure 'cause the notes are
4 unclear.

5 But when you first started on the sixth floor at the
6 Baltimore Police Department headquarters, was that with the
7 Gun Trace Task Force or was that prior?

8 A. That was before.

9 Q. That was before. Right.

10 And some days, as a group, you guys would come in at 8:00
11 or 9:00 a.m. and work until 3:00 in the morning; right?

12 A. No, I don't ever recall coming in at 8:00 a.m. in the
13 morning and staying that late.

14 Q. Okay. So you never told the federal agents that you guys
15 would get there at 8:00 or 9:00 and work until 3:00 a.m. the
16 next morning?

17 A. I don't recall doing that.

18 Q. Do you remember saying that some officers slept in their
19 offices or in their cars rather than driving all the way home?

20 A. One person did that.

21 Q. Do you remember who that was?

22 A. Sergeant Jenkins.

23 Q. Right. And, of course, this isn't easy work, is it?

24 A. Say it again.

25 Q. This isn't easy work, is it?

~~WARD~~ ~~CROSS~~

1 A. No, sir.

2 Q. Okay. So in the Gun Trace Task Force, the driver of the
3 vehicle was Jenkins?

4 A. Yes.

5 Q. Right. And then Detective Taylor sat in the front seat.
6 You and your friend Mr. Hendrix are in the back; right?

7 A. Yes.

8 Q. Okay. And I think you had said that, you know, Mr. --
9 Detective Taylor lacked some of the experience that the other
10 guys on the task force had; is that fair to say?

11 A. Yes, sir.

12 Q. All right. He was the youngest?

13 A. Yes, sir.

14 Q. All right. In fact, I believe Jenkins would often fill
15 out his, you know, search-and-seizure warrants in his name
16 because he didn't know how to do it?

17 A. He would assist him, yes.

18 Q. Right. Okay. Now, you had testified the other day about
19 this door pop technique.

20 Do you remember that?

21 A. Yes, sir.

22 Q. Okay. If you could, just explain again what the door pop
23 technique was.

24 A. It was when we pulled up on a crowd of individuals and you
25 would pop the door hard as you could to make it seem like you

~~WARD~~ ~~CROSS~~

1 were aggressively getting out to make someone run.

2 **Q.** Okay. But isn't it true, sir, that when the car would
3 pull up on people, Detective Taylor would pretend like he was
4 talking on the radio?

5 **A.** Sometimes, yes.

6 **Q.** Sometimes; right? Well, because you didn't say that
7 earlier, but I know that's what you had told the federal
8 government --

9 **MR. WISE:** Objection, Your Honor.

10 **THE COURT:** Sustained.

11 **BY MR. NIETO:**

12 **Q.** Right. So Detective Taylor would pretend that he was
13 talking on the radio sometimes; right?

14 **A.** Yes, sir.

15 **Q.** And he would call out a description of a person in the
16 group and then act like he was acknowledging that he had ID'd
17 that person?

18 **A.** Say it again.

19 **Q.** That's fair enough.

20 Detective Taylor would pretend he was talking on the radio
21 and would call out a description of a person in the group and
22 then act like he was acknowledging that he had identified that
23 person?

24 **A.** Yes.

25 **Q.** Right? That happened?

~~WARD~~ ~~CROSS~~

1 A. Yes.

2 Q. Right. And that would give the impression that dispatch
3 had sent you guys looking for someone in particular?

4 A. Yes.

5 Q. Okay. And then Detective Taylor would start to get out of
6 the car. You guys would see if anybody ran?

7 A. Yes.

8 Q. Okay. And so if somebody ran and if they looked like they
9 were holding something in their waist that could be a gun, you
10 guys would give chase; correct?

11 A. Yes, sir.

12 Q. Now, sometimes you guys would approach when you were out
13 and about as a group, right, and that was acceptable?

14 A. Approach, you mean by approach as a group?

15 Q. Right. So if you are driving and you see someone who's
16 showing signs of being armed, you guys would get out of the
17 car, the four of you; right? It wasn't all door pops, was it?

18 A. No. That's true. Yes.

19 Q. Right. Okay. All right.

20 So, like I said, maybe someone's holding their side a
21 little more than the other or walking with a decided limp that
22 looks like they're trying to prevent a gun from swinging in
23 their pockets; you know what I'm talking about?

24 A. Yes, sir.

25 Q. Okay. So as a police officer, is it your understanding

~~WARR~~ ~~CROSS~~

1 that you were allowed and it's acceptable to use some deception
2 during your investigations?

3 **A.** Yes.

4 **Q.** Right. In the same manner in which you were arrested;
5 right?

6 **A.** Yes.

7 **Q.** They misled you to get you to come to IAD so you could be
8 arrested?

9 **A.** Yes.

10 **Q.** They didn't go to your house. They didn't arrest you at
11 work. They didn't roll up on you when you were on the street;
12 right? They were able to use that subterfuge to apprehend you;
13 is that true?

14 **A.** Yes, sir. Yes, sir.

15 **Q.** And that's done lots of times for safety purposes; right?

16 **A.** Yes, sir.

17 **Q.** And additionally, like, it would be acceptable if you
18 arrest two people in the same car and there's a gun in the
19 center console, right, and you bring them back to the satellite
20 office for debriefing?

21 Are you following me so far?

22 **A.** Yes, I'm following you.

23 **Q.** All right. Now, it would be acceptable for you to go to
24 Suspect A and say, "Suspect B told us all about it. He's
25 puttin' the gun all on you. You better tell us what's really

~~WARD~~ ~~CROSS~~

1 going on." Right? Even if Suspect B never said that, you can
2 do that; right?

3 **A.** Yes.

4 **Q.** Right? And then that's going to elicit a response from
5 Suspect A, who's going to say, "No, no, no. It's his gun."
6 And you can do that back and forth to them to either get
7 incriminating statements or information that's going to help in
8 prosecution; isn't that true?

9 **A.** Yes, sir.

10 **Q.** And that's acceptable; correct?

11 **A.** Yes, sir.

12 **Q.** And you're within your rights to do that as a police
13 officer, aren't you?

14 **MR. WISE:** Objection, Your Honor.

15 **THE COURT:** I think he's already answered the
16 question.

17 **BY MR. NIETO:**

18 **Q.** All right. Now, you know through your -- what was that,
19 13 years of experience, 14 years of experience?

20 **A.** 13.

21 **Q.** -- 13 years of experience that despite catching somebody
22 redhanded with a gun or drugs, they can still say that that
23 didn't happen; right?

24 **A.** Yes, sir.

25 **Q.** Right. And so it's, as we've talked about in your direct,

~~WARR~~ ~~CROSS~~

1 jail calls are recorded; correct?

2 **A.** Yes, sir.

3 **Q.** So if someone's locked up and detained, every call they
4 make from the facility, it's all on tape; and you're allowed to
5 listen to them, aren't you?

6 **A.** Yes, sir.

7 **Q.** In fact, there's a warning before the calls that say, "All
8 calls are monitored and may be listened to"?

9 **A.** Yes.

10 **Q.** Make sure, legally speaking, they're okay; right?

11 **A.** Yes.

12 **Q.** And so it's common in an investigation or prior to a trial
13 for the prosecution or the detectives to listen to jail calls;
14 right?

15 **A.** That's something I can't answer. I don't think --
16 everybody doesn't do that.

17 **Q.** Right. Not everybody?

18 **A.** Yes.

19 **Q.** Did you ever do it?

20 **A.** Yes.

21 **Q.** Right. Did you see other detectives do it?

22 **A.** Yes.

23 **Q.** Are you aware of prosecutors who would ask detectives to
24 do it?

25 **A.** Yes.

~~WARD~~ ~~CROSS~~

1 Q. Are you aware of prosecutors doing it themselves?

2 A. Yes.

3 Q. Right. And so when you listened to these calls, the guys
4 on the phone aren't necessarily telling the truth, are they?

5 A. Correct.

6 Q. Right. They're talking to their girlfriends or to their
7 family members or to their friends, and they're not saying
8 necessarily what you know to be true; is that fair?

9 A. Yes, sir.

10 Q. Right. Their mom calls; they're not going to tell them
11 they got caught with a gun. They're going to say, "The cops
12 planted it on me." You've heard that?

13 A. Yes.

14 Q. Right? Or they call to their girlfriend, and they're
15 going to mislead or try to deflect or not answer or say, "Oh,
16 no, they never saw me throw the gun." You've heard that kind
17 of stuff; right?

18 A. Yes, sir.

19 Q. But those would be, obviously, lies; right?

20 A. Yes, sir.

21 Q. Right.

22 All right. So in any given night, I believe you had said
23 that this particular task force could pull up on a slow night
24 25 different groups of people; right?

25 A. 20, yes.

~~WARD~~ ~~CROSS~~

1 Q. 20. Okay.

2 And that there might be at least ten foot chases?

3 A. Approximately, yes.

4 Q. Approximately. On a fast night, maybe even more like 50
5 pullups and who knows how many get-out-and-run events; right?

6 A. Yes.

7 Q. So it is by definition a running-and-gunning-type
8 operation?

9 A. Yes.

10 Q. All right. And when the task force was able to catch the
11 individuals who were dirty -- I mean, they had drugs or guns on
12 them -- that was usually because of Detective Taylor's speed;
13 right?

14 A. Yes, sir.

15 Q. Now, the unit -- did you guys win any awards?

16 A. Yes, we got an award.

17 Q. You got an award; right? Again, in October of 2016,
18 right, Lieutenant O'Ree with the ATF Task Force had applauded
19 the efforts you guys were making as a group.

20 Do you remember that?

21 A. I don't think it was O'Ree.

22 Q. What type of awards had you received?

23 A. I think it was a deputy commissioner's pen we got.

24 Q. Right. Because in 2016, at least in October, your team
25 had made 110 arrests for handgun violations and had seized 132

~~WARD~~ ~~CROSS~~

1 illegal handguns in the city; is that about right?

2 A. That sounds about right.

3 Q. Those are pretty good numbers, aren't they?

4 A. Yes, sir.

5 Q. Now, do you remember when the Freddie Gray riots happened?

6 A. Yes, sir.

7 Q. When was that, sir?

8 A. Oh, I remember -- I don't remember the exact month. I'm
9 sorry.

10 Q. Okay. But you remember the riots; right?

11 A. Yes, sir.

12 Q. That was a bad time for Baltimore, wasn't it?

13 A. Yes, sir.

14 Q. Now, after those riots, Sergeant Jenkins told the
15 commissioner that he was using unlimited overtime and
16 slash days to keep you guys motivated; is that true?

17 A. Yes, sir.

18 Q. Right. And at that time, of course, as I said, it was a
19 bad time for Baltimore; right? There was public distrust. The
20 police felt, I think, a little overworked and underpaid, maybe
21 marginalized; is that fair to say?

22 A. Yes, sir.

23 Q. Morale was low, probably lowest you've seen it since you
24 started working there?

25 A. All correct, yes.

~~WARD~~ ~~CROSS~~

1 Q. Yeah. And violence is increasing. Murder rate is at
2 almost one death a day in the city.

3 Do you remember that?

4 A. Yes, sir.

5 Q. Okay. In fact, it was a political nightmare. You had the
6 State's Attorney, Ms. Mosby, going on and on about how police
7 are terrible. You have the Police Commissioner try and defend
8 the work you're doing.

9 THE COURT: Sustained.

10 BY MR. NIETO:

11 Q. You couldn't put a price on keeping those guns off the
12 streets, could you?

13 MR. WISE: Your Honor --

14 THE COURT: Sustained.

15 BY MR. NIETO:

16 Q. So after Jenkins told the commissioner about the unlimited
17 overtime and slash days, the commissioner told him to keep the
18 task force working and to do what he had to do; right?

19 A. I'm not sure if he said that.

20 Q. Do you remember Jenkins telling you that?

21 A. I remember the conversation, but I'm not exactly sure that
22 that was the ending words of it.

23 Q. But that was the gist of it?

24 A. Yes.

25 Q. Right. Now, Jenkins was the sergeant?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. Right. So he's the more senior member of the task force?

3 A. He's a supervisor.

4 Q. He's a supervisor. Okay. So you had to follow his lead?

5 A. Yes.

6 Q. All right. If he gave orders or whatever his command is,
7 you were asked to fall in line; right?

8 A. Yes.

9 Q. So he was essentially the leader of the group?

10 A. Pretty much.

11 Q. Right. And so he had the authority, as we discussed, to
12 give you days off if he thought that were appropriate; right?

13 A. Yes, he did.

14 Q. Right. Okay. So let's go back a little bit, then.

15 So it was your testimony this week that you had witnessed
16 Jenkins take drugs during the time he was working and not
17 submit them to Evidence Control; correct?

18 A. Yes, sir.

19 Q. And you did nothing to stop it, did you?

20 A. No, sir.

21 Q. And you lied in your statements of probable cause; right?

22 A. Yes, sir.

23 Q. And you signed reports for Jenkins, but you didn't go to
24 any higher-ups to report what he was doing, did you?

25 A. No, I didn't.

~~WARD~~ ~~CROSS~~

1 Q. 'Cause you were profiting from it; is that fair to say?

2 A. Yes, sir.

3 Q. Both the crimes that you, yourself, were personally
4 committing as well as that that Jenkins did; right?

5 A. Yes.

6 Q. In fact, you and your friend Hendrix had agreed not to
7 tell Jenkins when drugs are recovered.

8 Do you remember that?

9 A. And Taylor also, yes.

10 Q. Right. And that was so that you could still submit them
11 and write them into the reports without him knowing.

12 A. I would say we were going to submit 'em and write 'em in a
13 report.

14 Q. Okay. Now, there was -- I think you had referenced a
15 conversation on the eighth floor of the police department
16 between Jenkins and when he was on the phone.

17 Do you remember that?

18 A. Yes.

19 Q. Now, Detective Taylor wasn't present for that, was he?

20 A. No, he wasn't.

21 Q. And so you heard him talk about what seemed like he was
22 going to sell the marijuana?

23 A. Yes, sir.

24 Q. And then Jenkins came out and saw you?

25 A. Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. Okay. Now, you guys had been working together for some
2 time at that point?

3 A. Yes.

4 Q. All right. He didn't tell you, "Oh, yeah, I'm selling the
5 weed on the side," did he?

6 A. No, sir.

7 Q. All right. Do you remember what he told you?

8 A. That night, that conversation?

9 Q. Yeah.

10 A. I believe he told me that he gives it to Shawn --
11 Sergeant Edwards on K9 so he can train the dogs.

12 Q. Okay. So he gave you an explanation that, for all intents
13 and purposes, was probably a lie; right?

14 A. Yes, sir.

15 Q. All right. Okay. Now, you had talked a little bit on
16 your direct about the Belvedere Towers, that marijuana bust.

17 Do you remember that?

18 A. Yes, sir.

19 Q. And you had said that after the bust, that you had -- with
20 the group, you had walked into the woods to split up the money?

21 A. Yes, sir.

22 Q. Right. But there really wasn't a need to get out of the
23 car to do that, was there?

24 A. I mean, we could have probably, yeah, split the money in
25 the car. But --

~~WARD~~ ~~CROSS~~

1 Q. Right.

2 A. -- it was Jenkins' idea to go back in the woods.

3 Q. Go back in the woods, I mean, it seems a bit like
4 overkill, isn't it?

5 A. It's better safe than sorry.

6 Q. So the theory is that it would be safer to leave your
7 phone and vests in a car and then walk into the woods with some
8 duffel bags?

9 A. Yes.

10 Q. That was safer than just splitting it up in the car?

11 A. It's not like we in the hunting grounds and we going to
12 get shot or something like that. It was woods in a residential
13 area.

14 Q. Right. But the whole idea was to not -- not to invoke
15 suspicion; correct?

16 A. Yes.

17 Q. That's why you guys didn't have the vests on?

18 A. Correct.

19 Q. 'Cause apparently there was a concern that the residents
20 in the area were going to see three or four police officers
21 walking into the woods with duffel bags. You guys didn't want
22 that?

23 A. Correct.

24 Q. So it's better, I guess, three or four guys to walk into
25 the woods with duffel bags without police vests?

~~Ward~~ ~~Cross~~

1 A. I believe so.

2 Q. That's the plan?

3 A. Yes.

4 Q. That's the plan?

5 A. Yes.

6 Q. And the theory of leaving the phones in the car is so that
7 it couldn't be tracked?

8 A. That's what he told me, yes.

9 Q. Right. But it's not like you walked a mile away from the
10 car, did you?

11 A. No, sir.

12 Q. In fact, you could still see the car from where you went?

13 A. Yes, sir.

14 Q. Right. Okay.

15 And you had also said that after the dispersion of the
16 money in the woods, that Jenkins left the bag there?

17 A. Yes.

18 Q. Okay. Do you know if the bag was ever recovered?

19 A. No, sir.

20 Q. No, you don't know; or, no, it wasn't recovered?

21 A. No, it wasn't recovered.

22 Q. How do you know it wasn't recovered?

23 A. That's what I was told; it wasn't recovered.

24 Q. Who told you that?

25 A. The agents did a follow-up.

~~WARD~~ ~~CROSS~~

1 Q. Oh, okay. So the agents are providing you information
2 about the investigation that's going forward?

3 A. Yes.

4 Q. Okay. So there's nothing, then, to corroborate the "cash
5 in the woods" story other than your word; right?

6 A. Yes.

7 Q. You also said that, I guess, afterwards you guys went to a
8 strip club; is that right?

9 A. Yes, sir.

10 Q. Okay. And you thought it would look suspicious to have
11 cash in a strip club.

12 Do you remember telling the agents that?

13 A. The amount of money we had, yes.

14 Q. The amount of money, not just cash in general?

15 A. Yes.

16 Q. Well, you didn't take any of the cash, did you?

17 A. No.

18 Q. You left it in a bag?

19 A. Correct.

20 Q. Never touched it again?

21 A. Never touched it again.

22 Q. In fact, you just left it with Jenkins?

23 A. Yes, sir.

24 Q. So Jenkins, who, according to your testimony, is operating
25 on a honor system -- or maybe a dishonor system is probably a

~~WARD~~ ~~CROSS~~

1 better way to call it -- with other people that are doing the
2 same thing, right, taking money?

3 **MR. WISE:** Your Honor, I'm just confused.

4 **MR. NIETO:** Fair enough, Your Honor.

5 **BY MR. NIETO:**

6 **Q.** So let me make sure I understand this correctly. You
7 thought: I'm going to leave the money in the trunk, which was
8 \$5,000, and that was your testimony?

9 **A.** Yes, sir.

10 **Q.** Do you know where that money ended up?

11 **A.** No.

12 **Q.** Well, \$5,000 probably still isn't in the trunk right now,
13 is it?

14 **A.** No, sir.

15 **Q.** And it was left in the bag?

16 **A.** Yes, sir.

17 **Q.** Who had that bag?

18 **A.** Sergeant Jenkins.

19 **Q.** Okay. So Sergeant Jenkins probably has your money?

20 **A.** Probably, yes.

21 **Q.** Right?

22 You don't think it would have arose some suspicion with
23 Jenkins if you don't take that money?

24 **A.** No.

25 **Q.** I mean, according to your testimony, you guys are

~~Ward~~ ~~Cross~~

1 operating on the same wavelength here; right? Like, he can
2 trust you to steal this money because he knows you steal money
3 too; right?

4 **A.** Yes, sir.

5 **Q.** But you don't take this money?

6 **A.** Correct.

7 **Q.** And that's not an issue for Jenkins?

8 **A.** No, sir.

9 **Q.** In fact, everything just keeps going afterwards the same
10 way it was before?

11 **A.** I wouldn't say the same way. It kind of got worse, but --

12 **Q.** All right. In your own words, it even got worse; right?

13 **A.** Yes.

14 **Q.** So despite the fact you didn't take the money, he still
15 felt comfortable with you on that unit?

16 **A.** Yes.

17 **Q.** Did you think that it would help your cause by telling the
18 federal agents that you didn't take the money?

19 **A.** No.

20 **Q.** You didn't think so at all; right?

21 **A.** No, sir.

22 **Q.** So you're not trying to minimize your actions there at
23 all, are you?

24 **A.** No, sir.

25 **Q.** Okay. Now --

~~WARD~~ ~~CROSS~~

1 **MR. NIETO:** Court's indulgence.

2 **BY MR. NIETO:**

3 **Q.** You know, we talked a little bit about the Stevenson stop.
4 I sat there and I listened to you testify with specificity on
5 the three addresses that you guys were able to pull up or that
6 Mr. Stevenson provided.

7 Do you remember that?

8 **A.** Yes.

9 **Q.** Okay. And do you remember what those addresses were?

10 **A.** One of them was Heathfield. It was one on Fulton and
11 Presstman. And it was his mother's address.

12 **Q.** Right. Now, it's been almost two years since that
13 incident; right?

14 **A.** Approximately, yes.

15 **Q.** Yeah. And you've made hundreds of arrests, 150, 150
16 arrests since then?

17 **A.** Numerous arrests, yes. I'm not sure of the number.

18 **Q.** Numerous, that's fair.

19 But you remember the specifics of that information, fairly
20 offhanded comment, but you were able to remember the streets
21 and the addresses?

22 **A.** Yes.

23 **Q.** And that's not because that information was provided to
24 you, was it, during your proffer sessions?

25 **A.** No, sir.

~~WARD~~ ~~CROSS~~

1 Q. Did you remember those specific addresses and street names
2 when you first met with agents back in April of 2017?

3 A. I believe so, yes.

4 Q. And you told them that information at that time?

5 A. Yes.

6 Q. So that wasn't information that was gleaned during your
7 trial prep sessions, were it -- was it?

8 A. No.

9 Q. Okay. You had also -- this might be sort of going back to
10 the Belvedere Towers; right? You were able to testify about
11 each of these individuals' appearances?

12 Do you remember that?

13 A. Yes.

14 Q. You were able to talk about their height, their build,
15 where they worked; right?

16 You had even given the agents possible directions on where
17 they could go to find these guys.

18 Do you remember that?

19 A. Yes.

20 Q. You told 'em they were like -- they owned body shops or
21 auto shops, and you gave them particular areas of the city
22 where that's oftentimes where they would work.

23 Do you remember doing all that?

24 A. Yes.

25 Q. So that didn't bear any fruit, though, did it? I mean,

~~WARD~~ ~~CROSS~~

1 they didn't find any of these guys?

2 **A.** I'm not sure.

3 **MR. WISE:** I don't know if this witness can answer as
4 to what --

5 **THE COURT:** He said he didn't know.

6 **MR. NIETO:** All right. Okay.

7 **BY MR. NIETO:**

8 **Q.** Now, Mr. Stevenson --

9 **THE COURT:** Mr. Nieto, I'm sorry to interrupt. Just
10 let me know when you have a good breaking point, unless you're
11 almost done.

12 **MR. NIETO:** No, but we can break now if it's okay with
13 the Court.

14 **THE COURT:** Okay. All right. Ladies and gentlemen,
15 we're going to take a mid-morning stretch, and then we'll
16 continue.

17 (Jury left the courtroom at 11:18 a.m.)

18 (Recess taken.)

19 **THE COURT:** All right. You can be seated, please.

20 One other scheduling thing. I will need to stop
21 around 4:30 today for something else I've got.

22 **MR. NIETO:** And at 12:45 is for the afternoon;
23 correct?

24 **THE COURT:** 12:45 or -- between 12:45 and 12:50; but
25 yes.

(Jury entered the courtroom at 11:34 a.m.)

THE COURT: All right. You can be seated, please.

THE CLERK: Mr. Ward, you're still under oath.

THE WITNESS: Yes, ma'am.

THE COURT: Mr. Nieto.

MR. NIETO: Thank you, Your Honor.

BY MR. NIETO:

Q. All right, sir. Let's talk a little bit about Oreese Stevenson. Okay? Do you remember testifying about him earlier this week?

A. Yes, sir.

Q. Okay. Now, Mr. Stevenson is a drug dealer; right?

A. Yes, sir.

Q. Okay. And it's a fairly large -- I'm sorry.

And there was a large-scale drug dealer that actually went to court for him in the city.

Do you remember that?

A. Yes, sir.

Q. Okay. And Mr. Stevenson had been mentioned in a news article as having been involved in a large-scale distribution organization.

Do you remember that?

A. Yes, sir.

Q. Okay. Now, obviously Jenkins was focused on going after the big fish in the investigation; all right? But there was no

~~WARD~~ ~~CROSS~~

1 doubt --

2 **MR. WISE:** Your Honor, I'd just -- the statement about
3 what Jenkins --

4 **THE COURT:** Right.

5 **MR. WISE:** -- was interested in is -- he's not
6 testified to that.

7 **THE COURT:** If you'd like to make it a question, if
8 you think it's something he has knowledge of, or we can just
9 rephrase it.

10 **MR. NIETO:** Of course.

11 **BY MR. NIETO:**

12 **Q.** Sir, in your conversations with Jenkins, did you get the
13 impression that he was trying to go after the big fish in that
14 organization?

15 **A.** Yes.

16 **Q.** Okay. And so you had, through your investigation and what
17 you learned, did you have any doubts that Stevenson was a
18 large-scale drug dealer?

19 **A.** Yes.

20 **Q.** You had some doubts?

21 **A.** Oh, you said did I have some doubts? Oh, no, sir. No.
22 I'm sorry.

23 **Q.** No doubts. Okay.

24 So you participated in the Stevenson traffic stop; right?

25 **A.** Yes.

~~WARD~~ ~~CROSS~~

1 Q. And I suppose, technically speaking, it's not really even
2 a traffic stop, is it, because the car wasn't moving?

3 A. Correct.

4 Q. Right. So it's a stationary vehicle, do you remember?

5 A. Yes, I remember.

6 Q. And then the gentleman with the backpack gets in the car;
7 right?

8 A. Yes, sir.

9 Q. And then Mr. Stevenson throws the backpack in the back of
10 the car when you guys show up; right?

11 A. No, that wasn't true.

12 Q. No, that wasn't true?

13 A. That was part of the lie that we put in the probable
14 cause, that he threw the backpack.

15 Q. No throwing of the backpack?

16 A. No throwing of the backpack. The backpack was just laying
17 in the back of the minivan.

18 Q. So it was just the backpack, then?

19 A. Yes.

20 Q. Okay. And the windows were tinted; right?

21 A. Yes.

22 Q. Okay. Because -- my apologies. You had testified earlier
23 this week that you guys would lie about seat belts and tinted
24 windows and that there was no basis for these stops. But in
25 this particular case, there was tinted window in the car;

~~Ward~~ ~~Cross~~

1 right?

2 **A.** Yes. The windows were tinted, yes.

3 **Q.** Right. And it was too dark for you to see inside to see
4 the drugs or the money, wasn't it? Right?

5 **A.** Yes, sir.

6 **Q.** Do you understand what -- I'm sorry. I'm -- my tongue's
7 all over the place.

8 You had to open the door to be able to see the contraband;
9 right?

10 **A.** Yes, I had to open the door to see it, yes; the back door.

11 **Q.** You couldn't see through the windows because they were
12 tinted?

13 **A.** Yes, sir.

14 **Q.** Tinted to a point that you couldn't see through them?

15 **A.** No, not visibly. We can see through it. It -- the tint
16 was dark, but we would still see through the vehicle to see who
17 was in there.

18 **Q.** Right. You could see who was in there, but you could not
19 see the contraband without opening the door?

20 **A.** Oh, no, 'cause it was in the backpack laying on the
21 ground. Even if the window was untinted, it was in the
22 backpack; we wouldn't be able to see it.

23 **Q.** Wasn't there also a bag of money?

24 **A.** Yes.

25 **Q.** And that was at the foot of the front-seat passenger,

~~WARD~~ ~~CROSS~~

1 Mr. Brown?

2 **A.** Yes, but it wasn't recognized that it was money. It was
3 still in a container. So unless we had to open the car to go
4 in there, physically open up the box to see there was money in
5 there, that would be the only way we knew it was money.

6 **Q.** Okay. So you opened the door. Which door did you open?

7 **A.** I opened the --

8 **Q.** What door did you open to --

9 **A.** The back door behind the passenger.

10 **Q.** Behind the passenger?

11 **A.** Yes.

12 **Q.** So the backpack that the passenger had was in the
13 backseat?

14 **A.** No. It was in the front seat.

15 **Q.** But you went through the back door to see it?

16 **A.** No. The drugs you're talking about?

17 **Q.** What was in the backpack, sir?

18 **A.** It was two backpacks.

19 **Q.** Okay.

20 **A.** It was a backpack with drugs in it, and it was a backpack
21 with the money in it.

22 **Q.** Which backpack did Mr. Brown have when he got into the
23 vehicle?

24 **A.** The one with the money.

25 **Q.** That was in the front seat?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. So you just happened to stumble upon a bag of drugs in the
3 backseat?

4 A. Yes, sir.

5 Q. And you didn't see the bag getting thrown in the back by
6 Mr. Stevenson?

7 A. It didn't.

8 Q. It didn't happen at all?

9 A. No, it didn't.

10 Q. You -- how do you know it didn't happen at all?

11 A. Because we discussed the incident before he typed
12 everything up, and that was something that Jenkins came up
13 with, saying that we saw him throw the backpack in the back.

14 Q. Okay. All right. So during your conversation or
15 during -- you arrest these gentlemen, right, for the contraband
16 found in the car?

17 A. Yes, sir.

18 Q. Okay. And Stevenson starts cooperating?

19 A. Yes, sir.

20 Q. Right? 'Cause Jenkins wants to find out who his source of
21 supply is?

22 A. Yes.

23 Q. Moving up the chain; right?

24 A. Yes, sir.

25 Q. And Stevenson provides some information?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. Right. He also provided information about what he had in
3 his house and where he lived; right?

4 A. Yes, sir.

5 Q. But he wasn't telling the truth about where he lived?

6 A. Correct.

7 Q. Right. So even though he was cooperating, trying to get
8 himself out of trouble, he was still lying to protect
9 himself --

10 A. Yes, sir.

11 Q. -- right?

12 So you guys were able to discern actually where he lives,
13 and then you go there; right?

14 A. Yes, sir.

15 Q. Okay. And there was a concern that somebody, either
16 Mr. Stevenson or someone, was going to alert Mr. Stevenson's
17 family that the police were coming to the house; right?

18 A. Yes.

19 Q. And Mr. Stevenson had told you there were going to be
20 drugs in the house?

21 A. He didn't tell me, no. He spoke to Sergeant Jenkins and
22 Hendrix.

23 Q. Okay. So Hendrix heard him say, "There are drugs, guns,
24 and money in my house"?

25 MR. WISE: Objection, Your Honor. I think Hendrix has

~~WARD~~ ~~CROSS~~

1 to testify to that, not Mr. Ward.

2 **THE COURT:** Well, you'll have to find out whether this
3 witness heard it or not or was told it.

4 **BY MR. NIETO:**

5 **Q.** Did Jenkins or Hendrix tell you about their conversation
6 with Mr. Stevenson?

7 **A.** Yes. Jenkins did, yes.

8 **Q.** Okay. And Jenkins told you that that's what Stevenson
9 told him, that there were drugs, guns, and money in the house?

10 **A.** Yes.

11 **Q.** That's the whole reason why you're going to go there;
12 right?

13 **A.** Yes, sir.

14 **Q.** If he had told you he had nothing, you may not have gone.
15 Right?

16 **A.** We still -- we still would have went.

17 **Q.** You still would have gone to the house?

18 **A.** Yes.

19 **Q.** Okay. The real one or the fake one?

20 **A.** Both of 'em.

21 **Q.** Okay. Now, did you -- did you hear -- did you see any
22 neighbors come out on Jonquil, on that street when you were
23 arresting Mr. Brown and Mr. Stevenson?

24 **A.** Yes. Mr. Brown's baby's mother's family.

25 **Q.** All right. And do you remember what they said to you?

~~WARD~~ ~~CROSS~~

1 **MR. WISE:** Your Honor, we're getting into hearsay now,
2 what the neighbor said.

3 **MR. NIETO:** Not offered for the truth of the matter,
4 Your Honor. It's for the influence that it had on you.

5 **BY MR. NIETO:**

6 **Q.** Did you hear what she said?

7 **A.** No, I don't remember.

8 **Q.** Do you remember her saying, "I'm going to call
9 Mr. Stevenson's family. I'll let your people know you got
10 locked up"?

11 Do you remember that?

12 **A.** Possibly she said that.

13 **Q.** Possibly?

14 **A.** Yeah. I don't recall.

15 **Q.** Well, if you don't recall, how is it possible, sir?

16 **A.** 'Cause that's something she could have said.

17 **Q.** Okay. So you're guessing. You have no idea?

18 **A.** I said I don't recall, so I just said, possible, that's
19 something she could have said.

20 **Q.** Okay. But then obviously there's a concern that somebody
21 at the Stevenson house will know that police are coming; right?

22 **A.** Yes, sir.

23 **Q.** And the concern is that they're going to destroy or remove
24 contraband from the house; right?

25 **A.** Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. Because it's one thing to get caught in a car with the
2 backpack of drugs, but it's something very different to have
3 your house contain kilos and guns; right?

4 MR. WISE: Your Honor, I'm just -- I'd object to the
5 form of the question. It's one thing; it's the other. I'm not
6 sure what that means.

7 THE COURT: Well, overruled. If the witness can
8 answer it.

9 THE WITNESS: Can you repeat the question, please.

10 BY MR. NIETO:

11 Q. Yeah, that's fine.

12 So in terms of the charges that could be placed against
13 somebody, right, to be arrested with a bag of drugs in a car,
14 there's charges for that; right?

15 A. Yes, sir.

16 Q. But there could be additional charges for contraband found
17 in their house --

18 A. Yes, sir.

19 Q. -- right?

20 So there's an incentive for Mr. Stevenson's family,
21 friends, or whomever, to remove that contraband from the house
22 so you guys don't find it?

23 A. Yes, sir.

24 Q. That's why you guys sent someone from the
25 Northeast District?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. To make sure that nobody went in and out of the house --

3 A. Yes, sir.

4 Q. -- and destroyed evidence?

5 A. Yes, sir.

6 Q. Right? Okay.

7 So you guys arrive, and I thought you said on direct that
8 Jenkins had made up the fact that there was a young man in the
9 backyard that had -- that's seeming to come from the house to
10 create this exigency to enter the house; is that true?

11 A. Yes, sir.

12 Q. So there was nobody in the backyard?

13 A. No, sir.

14 Q. No one?

15 A. No one.

16 MR. NIETO: Court's indulgence.

17 BY MR. NIETO:

18 Q. And when you met with federal agents on April 19th of
19 2017, in attempts to better your situation, you started --

20 MR. WISE: Objection, Your Honor. An attempt to
21 better his situation? I don't --

22 THE COURT: Overruled.

23 BY MR. NIETO:

24 Q. Do you remember meeting with agents on April 19th, 2017?

25 A. I believe so, yes.

~~WARD~~ ~~CROSS~~

1 Q. Right. You were there to cooperate?

2 A. Yes.

3 Q. Why are you cooperating?

4 A. Say it one more time.

5 Q. Why are you cooperating?

6 A. To try to receive a lesser sentence.

7 Q. Okay. So in an attempt to get a lesser sentence, if I'm
8 quoting you correctly, you met with agents. And you talked
9 about how Detective Taylor called out on the radio that someone
10 was running from the back of the house.

11 Do you remember telling them that?

12 A. Yes.

13 Q. Is that true?

14 A. Yes, but it was part -- all of us together, that was the
15 hoax that we came up with.

16 Q. So when they -- when you told them they weren't able to
17 catch the person who ran from the back of the house, that's
18 just -- that was just the lie that had been told and not
19 actually true?

20 A. Correct.

21 Q. Okay. And Detective Taylor wasn't sure if the person came
22 out of the house --

23 **THE COURT:** A little slower. A little slower. A
24 little slower.

25 **MR. NIETO:** Of course, Your Honor.

~~WARD~~ ~~CROSS~~

1 **BY MR. NIETO:**

2 **Q.** And so you told them Detective Taylor was not sure if the
3 person came out of the house but was a hundred percent sure
4 that they were in the backyard. That was part of the lie too?

5 **A.** Yes.

6 **Q.** So Detective Taylor didn't lie and say that the person
7 came out of the house, which would give you
8 exigent circumstances to enter; in part a lie, he's like, Oh, I
9 don't know if he really came from the house.

10 That's what your testimony is?

11 **A.** Yeah.

12 **THE COURT:** I'm confused.

13 **MR. WISE:** Yeah, I am too, Your Honor.

14 **MR. NIETO:** I know. I'm sorry, Your Honor. That was
15 terrible.

16 **BY MR. NIETO:**

17 **Q.** Okay. So if you know, as part of this ruse or as part of
18 this lie, why would Detective Taylor say he wasn't a hundred
19 percent sure this person came from the house?

20 **MR. WISE:** Your Honor --

21 **THE COURT:** Sustained.

22 **MR. WISE:** Yeah.

23 **BY MR. NIETO:**

24 **Q.** All right. And then Detective Taylor, you told them that
25 Detective Taylor estimated the age of the person to be between

~~WARD~~ ~~CROSS~~

1 18 and 25, and that never happened either?

2 **A.** Say it one more time.

3 **Q.** Detective -- Detective Taylor estimated the age of this
4 fictitious person to be between 18 and 25.

5 Do you remember saying that?

6 **A.** Yes.

7 **Q.** Okay. But that was a fabrication made by Jenkins at the
8 time of the Stevenson search warrant house; right?

9 **A.** That was all a plan when we first got to the location to
10 gain exigent circumstances to go inside the house.

11 **Q.** Okay. So there was nobody, then, in the backyard?

12 **A.** No, sir.

13 **Q.** No one's child, no 12- or 15-year-old kid who was in the
14 back of the house? None of that?

15 **A.** No, sir.

16 **Q.** All right. Now, you had said that you were left alone at
17 the house, right?

18 **A.** Yes.

19 **Q.** And Jenkins, Hendrix, and Detective Taylor went to get a
20 search warrant.

21 Do you remember doing that?

22 **A.** Yes, sir.

23 **Q.** All right. And you had said in your testimony that you
24 were -- you thought that was odd, and you were concerned that
25 they were going to split up money that they had gotten

~~Ward~~ ~~Cross~~

1 previously without sharing it with you?

2 **A.** That wasn't my concern about them splitting up the money.

3 I just said that it was odd that you usually leave one

4 detective at a house to hold the house. You usually -- usually

5 leave more than one --

6 **Q.** Right.

7 **A.** -- for a big house and that.

8 **Q.** Right. I'm sorry. Maybe I misunderstood you from the

9 other day.

10 I thought you said, "I thought it was weird they left, and

11 I was concerned they were going to split up the money and cut

12 me out."

13 **A.** No, that wasn't my exact words, no.

14 **Q.** No, not exact words; but that was what you said, right, or

15 no?

16 **A.** All that was in the context, but it wasn't -- that wasn't

17 how I said it. I was not concerned about the money. I was

18 concerned about being in the house by myself.

19 **Q.** Right.

20 **A.** That was my concern.

21 **Q.** Right. And you were a little put out because you were the

22 senior member of the group and you're left at the house by

23 yourself?

24 **A.** Yes.

25 **Q.** Right. Okay.

~~WARR~~ ~~CROSS~~

1 And Jenkins said that he wanted to take Detective Taylor
2 in order to teach him about writing warrants; right?

3 **A.** Yes.

4 **Q.** Okay. So staying at the house waiting for the warrant by
5 yourself was beneath someone of your stature; is that what
6 you're saying?

7 **A.** No, I'm not saying that at all. It's just not safe.

8 **Q.** Okay. 'Cause -- did you tell the agents that you were
9 concerned about being there because it was unsafe, or did you
10 tell them you were a little put out because you were the senior
11 member of the group?

12 **A.** No, that wasn't -- it wasn't safe.

13 **Q.** Okay. So isn't it true that Detective Taylor stayed
14 upstairs with Mr. Stevenson's girlfriend and/or mother near the
15 living room while the warrant was getting executed?

16 **A.** Yes.

17 **Q.** Okay. And it's true that, in fact, he was told by Jenkins
18 to come downstairs because the evidence had been found and they
19 needed him to record it; right?

20 **A.** Say that one more time.

21 **Q.** Isn't it true that Detective Taylor was, in fact, told by
22 Jenkins to come downstairs to the basement because the evidence
23 was recovered and they needed to videotape it?

24 **A.** Which evidence? You talking about the safe or you talking
25 about the drugs?

~~WARD~~ ~~CROSS~~

1 Q. All of it.

2 A. He told everyone to come downstairs.

3 Q. Okay. Now, you had -- when you had met with agents
4 previously, you had told them in April of last year that you
5 were the one who recorded the video. Do you remember telling
6 them that?

7 A. Yes.

8 Q. Okay. And then in a subsequent meeting with them, you
9 told them, "I'm not really sure who recorded the video. Could
10 have been me. It could have been somebody else."

11 Do you remember doing that?

12 A. Yes, sir.

13 Q. Then you said, "Oh, it was Detective Taylor who did the
14 recording"; correct?

15 A. Yes, sir.

16 Q. And that's what you had said the other day; right?

17 A. Yes, sir.

18 Q. But you had told federal agents, not once but twice, in
19 both the spring and winter of last year, that it was you who
20 recorded the video. But that's not true.

21 A. Yes, sir.

22 Q. I mean, that's -- that's a detail I would think you would
23 remember; right? You would remember videotaping the opening of
24 the safe, wouldn't you?

25 A. It's possible you -- I could forget it, I mean . . .

~~Ward~~ ~~Cross~~

1 Q. I guess it's possible to forget, sir. But you remember
2 the three addresses that Mr. Stevenson gave, right --

3 A. Yes.

4 Q. -- with specifics? You remember that, but you don't
5 remember who actually videotaped it?

6 A. Correct.

7 Q. Okay. Now, you had testified that after the Stevenson
8 incident, everybody went to Detective Taylor's basement and
9 split up the money; right?

10 A. Yes, sir.

11 Q. Okay. And you, of course, you threw away your money?

12 A. Yes, sir.

13 Q. Okay. You tossed it into the woods by your house; is that
14 correct?

15 A. It's not actually woods. It's like a little path you walk
16 through. You cut through the woods, and you go to another
17 residential area.

18 Q. When you say "we," who do you mean we walked through the
19 woods?

20 A. I say we?

21 Q. Was it just you or --

22 A. Well, I was by myself. I was by myself.

23 Q. No, no, I understand, sir. But is that path traversed by
24 more than just you? Do other people use it?

25 A. Yes.

~~WARD~~ ~~CROSS~~

1 Q. Are you in an apartment complex, or are you a standalone
2 home?

3 A. Townhomes.

4 Q. Townhomes?

5 A. Townhomes, yeah.

6 Q. So anyone in that area can go up or down that path?

7 A. Yeah. It's like a big field you go through; then it's
8 like a pathway you cut through the woods, and it leads to
9 another residential area.

10 Q. Okay. So where did you put the bag, then? Are you on
11 that path or in the woods near it? Where did you put it?

12 A. I don't recall what I did with the bag.

13 Q. You don't recall where you put the bag?

14 A. No.

15 Q. A bag of \$20,000; right?

16 A. I didn't -- I dumped the money out of the bag. I didn't
17 toss the whole bag. I dumped the money out of the bag.

18 Q. You just dumped \$20,000 in cash on a path --

19 A. Yes, sir.

20 Q. -- near a wooded area?

21 A. It wasn't a wooded area. It was a residential area. I
22 cut through the wooded area.

23 Q. So \$20,000 just blowing around in the breeze?

24 A. Pretty much, yes, sir.

25 Q. Was it wrapped with rubber bands?

~~Ward~~ ~~Cross~~

1 **A.** Yes, it was still in rubber bands, yes, the way I received
2 it.

3 **Q.** Oh, so it wouldn't be blowing around in the breeze, then,
4 would it?

5 **A.** I mean, it could still blow if the wind is strong enough,
6 but I didn't stick around to see.

7 **Q.** So you just took a bag with \$20,000 in cash, dumped it on
8 a path, and walked away?

9 **A.** Well, I didn't dump it like that. Kind of chucked it,
10 tossed it, but yes.

11 **Q.** Chucked it?

12 **A.** Yes.

13 **Q.** And just left?

14 **A.** Yes, sir.

15 **Q.** Did you hear anything else about that money ever?

16 **A.** I never did a follow-up on it, no.

17 **Q.** No. Didn't hear anyone in the neighborhood scream like,
18 "Oh, my God, I just found 20 grand in cash"?

19 **A.** No. It's two separate -- two separate areas. So I don't
20 really frequent that side of the residential area, so . . .

21 **Q.** Okay. So you didn't keep the money?

22 **A.** No, sir.

23 **Q.** You didn't hide the money?

24 **A.** No, sir.

25 **Q.** You just dumped it on a path?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. Okay. Now, when Mr. Stevenson went to Circuit Court for
3 his motions hearing, you didn't go; right?

4 A. No, sir.

5 Q. You said your aunt had passed?

6 A. Yes, sir.

7 Q. Did she?

8 A. No, sir.

9 Q. Okay. So you lied about your family member dying so you
10 didn't have to go to court?

11 A. Yes, sir.

12 Q. Okay. Let's talk about Raytawn Benjamin.

13 Now, Mr. Benjamin, you remember that incident; right?

14 A. Yes, sir.

15 Q. Okay. Now, a gun was recovered; correct?

16 A. Yes, sir, a gun was recovered.

17 Q. Gun wasn't planted?

18 A. No, sir.

19 Q. He was on the streets of the city with a gun; correct?

20 A. Yes, sir.

21 Q. Okay. Now, you testified earlier this week that
22 Detective Taylor gave you a hundred or \$200 a few minutes after
23 the arrest.

24 Do you remember saying that?

25 A. Yes, sir.

~~Ward~~ ~~Cross~~

1 Q. Okay. You testified that Detective Taylor searched
2 Mr. Benjamin a second time and had taken cash that was never
3 submitted?

4 A. Yes, sir.

5 Q. Okay. Now, you knew Mr. Benjamin from before, right, from
6 prior interactions?

7 A. No, not me, no.

8 Q. You didn't know him?

9 A. No. Taylor knew him. He's from the Southern District. I
10 don't frequent down that area.

11 Q. Okay. So you didn't say to him -- or you didn't call him
12 Mr. Benjamin when he was arrested?

13 A. I don't believe so, no. And if I was, I was just probably
14 being respectful calling him Mr. Benjamin.

15 Q. I'm sorry. If you --

16 A. If I called him Mr. Benjamin --

17 Q. If you did call him Mr. Benjamin, it was because you were
18 being respectful?

19 A. Yes, called him his name, yes.

20 Q. Okay. Now, when you were again interviewed by the federal
21 agents on this case, now it's a little bit later in the year.
22 Now it's March -- I'm sorry, June 14th of 2017 they asked you
23 about this incident.

24 Do you remember that?

25 A. Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. Okay. And I'm sure you went over it in your trial prep
2 sessions last month; correct?

3 A. Yes, sir.

4 Q. All right. Now, you told them in June of last year you
5 did not recall money being stolen from Benjamin.

6 Do you remember saying that?

7 A. Yes, sir.

8 Q. Okay. You also told the agents and the federal
9 prosecutors that you never received any stolen money from
10 Mr. Benjamin?

11 A. Yes, sir.

12 Q. But your testimony this week is not that?

13 A. Yes, sir.

14 Q. All right. So let's go on to Mr. Whiting. Okay? You had
15 talked a little bit about Mr. Whiting on Tuesday, and you had
16 testified that the amount of money that was stolen was
17 approximately \$10,000; right?

18 A. Approximately, yes.

19 Q. Okay. Now, when we talk approximately, we're not talking
20 about \$23,000, are we?

21 A. No.

22 Q. No. We're not talking about \$23,970, are we?

23 A. No.

24 Q. No. We're talking roughly 10 grand?

25 A. Approximately.

~~WARD~~ ~~CROSS~~

1 Q. That's your testimony; right?

2 And as far as you knew, no one took a computer --

3 A. No.

4 Q. -- right?

5 No one took video game controllers?

6 A. No.

7 Q. No one took Jordan sneakers?

8 A. No.

9 Q. No one took video games?

10 A. No.

11 Q. Now, there was a K9 unit that was called at one point.

12 Do you remember that?

13 A. No, sir, I don't remember that.

14 Q. Do you remember the K9 being called by the vehicle?

15 A. Yes. Yes, sir.

16 Q. Okay. So there was a -- the K9 unit, and that's
17 essentially a police officer handler that's got a dog that's
18 trained to smell either drugs or guns or whatever the training
19 might be; right? Is that what a K9 unit is?

20 A. Yes, sir.

21 Q. Okay. Now, did you see the dog take anything?

22 A. No, sir.

23 Q. Right. Did you see the handler take anything?

24 A. No, sir.

25 Q. Now, when the raid of the house happened, was Mr. Whiting

~~WARD~~ ~~CROSS~~

1 home or no?

2 **A.** He was home.

3 **Q.** He was home. Okay.

4 Now, through your time at the task force, it was your
5 impression that Jenkins wanted to keep Gondo and Rayam away
6 from you, Detective Taylor, and Hendrix; right?

7 **A.** Say it one more time.

8 **Q.** It was your impression that Jenkins wanted to keep Gondo
9 and Rayam away from you, Hendrix, and Detective Taylor?

10 **A.** Yes, that's what he initially said, yes.

11 **Q.** And you didn't contact Internal Affairs when you realized
12 that Gondo and Rayam were criminals, did you?

13 **A.** No.

14 **Q.** After -- and I think you had talked a little bit about
15 Ronald Hamilton; right? That was the Westminster
16 search warrant, the one in Carroll County?

17 Do you remember that?

18 **A.** Yes.

19 **Q.** All right. Now, after that warrant was executed, Jenkins
20 told you, Clewell, Hendrix, and Detective Taylor that you guys
21 could go; right?

22 **A.** Yes, sir.

23 **Q.** Jenkins told you that he would take care of the overtime
24 slips; right?

25 **A.** Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. So he would write up the overtime slips and sign 'em, get
2 that taken care of from that incident?

3 A. Yes, sir.

4 Q. Generally, the slips, the overtime slips that would be
5 completed, they'd be completed for people that weren't actually
6 present or there to sign it; right?

7 A. Yes.

8 Q. And so somebody, whomever, would sign those forms for that
9 other officer?

10 A. Yes, sir.

11 Q. Now, there was actual overtime put in on the Hamilton
12 case; right? I mean, you guys were working late into the
13 evening.

14 A. Which case was that?

15 Q. That's the Carroll County.

16 Let me -- did you execute a search warrant at
17 Mr. Hamilton's house in Westminster, Carroll County, Maryland,
18 during the hours of 8:00 to 4:00 p.m.?

19 A. Did I? No, I didn't.

20 Q. Okay. Between 9:00 and 5:00?

21 A. No, I didn't.

22 Q. No. It was dark out; right? It was nighttime?

23 A. I didn't execute a warrant in Westminster.

24 Q. Okay. Now, overtime sheets are submitted when people do
25 work overtime; right?

1 **A.** Yes, sir.

2 **Q.** Okay. And there's often -- when you submit your overtime
3 sheets, it's not as if you get paid for that overtime the next
4 day; right?

5 **A.** Correct.

6 **Q.** It's got to get processed, and it can take a couple of
7 weeks for that to be reflected in your paycheck; right?

8 **A.** No. As long as you get it in a timely manner, it's like a
9 deadline. It should be on your check. If you get it on the
10 day after, then it would take a couple of weeks.

11 **Q.** Okay. So it can take a couple weeks, depending on when
12 they're submitted?

13 **A.** Yes.

14 **Q.** Okay. So, for example, you could work overtime the first
15 week of January; but depending on when it's submitted, your
16 paycheck may not reflect that until the end of January or maybe
17 even the beginning of February; right?

18 **A.** That's correct.

19 **Q.** Okay. Now, you told agents that you never worked a full
20 shift.

21 **A.** Yes.

22 **Q.** Okay. Now, Jenkins was responsible for determining
23 overtime; right? And he would dictate the hours that you guys
24 would work?

25 **A.** Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. And he instituted slash days in the unit.

2 A. Yes, sir.

3 Q. Now, he was your supervisor. He was the sergeant. He was
4 running the show.

5 A. Yes, sir.

6 Q. And Jenkins told you and everyone that if they got a
7 certain number of guns off the street, you get a day off as a
8 reward; right?

9 A. Yes, sir.

10 Q. And that was the order from your supervisor?

11 A. Yes, sir.

12 Q. In fact, as we had talked about, Jenkins had told the
13 commissioner about how he kept you guys motivated; right?

14 A. Yes, sir.

15 Q. And as you said, I think on Tuesday you said Jenkins was
16 in control of all that. Do you remember saying that?

17 A. Yes, sir.

18 Q. Now, Jenkins would routinely twist stories around; is that
19 fair to say?

20 A. True.

21 Q. Right. So he'd tell you one thing but then maybe tell
22 Hendrix something else?

23 A. Yes, sir.

24 Q. Right?

25 And he was convincing the way he did it?

1 **A.** Yes, sir.

2 **Q.** And that's -- for example, that K9 example, right, he just
3 sort of came right out with the K9 example. I was talking with
4 Sergeant Edwards about that, but you didn't think that was
5 true; right?

6 **A.** Correct.

7 **Q.** But it's a pretty good response being caught coming right
8 out of the office; right?

9 **A.** Yes, sir.

10 **Q.** Now, Jenkins didn't tell you or the squad everything he
11 was doing.

12 **A.** No, sir.

13 **Q.** And he would lie to other officers about what he was
14 doing; right?

15 **A.** I don't know if I can answer that. I'm not sure.

16 **Q.** Okay. He told people what he thought they needed to know.
17 He would talk to you and tell you things that he thought you
18 needed to know; right?

19 **A.** Yes.

20 **Q.** Now, on Tuesday the Government had presented to you a
21 duffel bag, and you had identified that positively as the
22 duffel bag that you had seen in Jenkins' van. Do you remember
23 that?

24 **A.** Yes, sir.

25 **Q.** Okay. Now, were there one or two bags in his van?

1 **A.** It was two.

2 **Q.** There were two.

3 And the two bags that you saw, were those -- were those
4 specifically those bags?

5 **A.** Yes, sir.

6 **Q.** Okay. Now, when he needed to access one of those bags to
7 get into, I think you said it might have been
8 Detective Taylor's car, did he open up both bags or just the
9 one that had the pry bar?

10 **A.** Both of 'em.

11 **Q.** He opened up both?

12 **A.** Yes.

13 **Q.** Okay. And you were able to see all of the contents
14 contained within it?

15 **A.** Most of it, yes.

16 **Q.** Okay. Did you -- did it have a police vest in the bag?

17 **A.** At the time, no.

18 **Q.** Well, do you know why there was a police vest, then, in
19 the bag on Tuesday?

20 **A.** That must have been in there, I guess, when they were
21 seized.

22 **Q.** So when you saw it and you said, Yeah, this is the stuff
23 that I saw, that vest wasn't in there?

24 **A.** The day -- no.

25 **Q.** No. Okay. Now, Paul Jones, we talked a little bit about

1 him today. Remember that case?

2 **A.** Yes, sir.

3 **Q.** Okay. Now, you never discussed with the federal agent or
4 the prosecutors anything about that case until November 8th;
5 right?

6 **A.** If that's the date on the paper. I'm not good with --

7 **Q.** You had met with agents for about six months, and you
8 never brought this case up, did you?

9 **A.** No.

10 **Q.** They brought it to you?

11 **A.** Yes, sir.

12 **Q.** And they started asking you about it?

13 **A.** Yes, sir.

14 **Q.** And then you remembered it, and you started talking to
15 them about it; right?

16 **A.** Yes, sir.

17 **Q.** Okay. So take me back.

18 Was any money taken from Mr. Jones?

19 **A.** To my knowledge, no.

20 **Q.** No. And you would know because you submitted money in
21 that case; right?

22 **A.** I don't think I submitted the money that day.

23 **Q.** You remember recovering money from the house?

24 **A.** I probably recovered money, but doesn't mean I'm the one
25 that submitted it.

~~WARD~~ ~~CROSS~~

1 Q. Well, surely in your preparations, you guys -- you and the
2 agents talked about the Jones situation, didn't you?

3 A. Yes.

4 Q. Right?

5 And they showed you some paperwork about the case?

6 A. Incident report, yes.

7 Q. Incident report. All right.

8 And did you see like the search-and-seizure warrant and
9 the return?

10 A. No. I just saw the incident report.

11 Q. Ah, okay. So they didn't really prep you for this, did
12 they?

13 MR. WISE: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MR. NIETO:

16 Q. So you -- you remember recovering and submitting \$233
17 taken from the master bedroom of that search-warranted house?

18 A. I don't remember submitting it. I remember recovering it.

19 Q. Oh, so you did recover money from the house now. You
20 remember that?

21 A. Yes.

22 THE COURT: That's what he said before.

23 MR. NIETO: Right.

24 BY MR. NIETO:

25 Q. But you don't remember the amount?

~~WARD~~ ~~CROSS~~

1 A. No, I don't.

2 Q. You didn't take any money from him?

3 A. No, I didn't.

4 Q. Okay. Now, you had said that you had determined that the
5 trash was pulled from a -- the wrong area?

6 A. The wrong house, yes.

7 Q. How did you figure that out?

8 A. We did, I guess, pre -- pre -- pre-raid. We went through
9 the area before we obtained the warrant and all that.

10 Q. Well, you're the one who pulled the trash; right?

11 A. Me and Taylor.

12 Q. Right. Who got the trash can?

13 A. I don't know exactly who -- who pulled the trash.

14 Q. Okay. Where was the trash pulled from?

15 A. The house number, you're asking me?

16 Q. Yeah.

17 A. I don't know what house number it was pulled from, but it
18 wasn't Mr. Jones' house.

19 Q. How do you know it wasn't his house?

20 A. Because when we went through there later on in the
21 daytime, we found his house.

22 Q. I'm a little confused.

23 Did you know his house before the trash run was done? Did
24 you know the address?

25 A. Yes, we did.

~~WARD~~ ~~CROSS~~

1 Q. Okay. And it's got an alley in the back; right?

2 A. Yes, sir.

3 Q. And the houses are up on a little bit of a hill; correct?

4 A. Yes.

5 Q. I know you remember this, don't you?

6 A. Yes.

7 Q. Okay. So there's fenced-in backyards; correct?

8 A. Yes, sir.

9 Q. And they're numbered and labeled.

10 A. Not all of 'em.

11 Q. Not all of 'em.

12 So where did you find this trash can that you thought
13 belonged to that house?

14 A. In the -- it was at the wrong house. It wasn't Mr. Jones'
15 address.

16 Q. On the same block? In the same city? In the same state?
17 Where did you find it, sir?

18 A. In the same block, sir.

19 Q. On the same block. In that alley?

20 A. Yes.

21 Q. Now, you had said you saw Mr. Jones or, as you called him,
22 Pedro -- right? Where did you get that name from?

23 A. I knew it. Somebody told me that information.

24 Q. Okay. A confidential informant?

25 A. You could say that, yes, a source.

1 Q. A source. Okay.

2 So they had provided you information about this individual
3 selling drugs on that block, and that's why you went there;
4 right?

5 A. No, they didn't -- they didn't provide me information with
6 it. I witnessed with my own eyes.

7 Q. So what were you doing there?

8 A. I was meetin' somebody.

9 Q. Who?

10 A. A friend.

11 Q. Who?

12 A. A friend who used to work for the police department.

13 Q. Who?

14 A. A Detective Young.

15 Q. Okay. So while you were there meeting Detective Young,
16 what were you doing meeting Detective Young there?

17 A. He was a friend, so I was just meeting there to talk to
18 him.

19 Q. Just a social visit?

20 A. Social visit, yes.

21 Q. Did he live there?

22 A. No. His father lived there in the block.

23 Q. On the block. Okay.

24 And so you had seen -- let me put it this way, all right:

25 So did the confidential source explain to you that Pedro is not

~~WARD~~ ~~CROSS~~

1 a small-time dealer?

2 **A.** Yes.

3 **Q.** Okay. And that he only deals with exclusive clientele in
4 which they call and order up what they want to be purchased by
5 phone and meet at a location, usually on Collins Ave.?

6 **A.** Yes.

7 **Q.** Okay. And that's true?

8 **A.** Yes.

9 **Q.** And you were able to use the database to positively
10 identify him as Mr. Jones.

11 Do you remember doing that?

12 **A.** Yes, sir.

13 **Q.** Okay. Now, armed with this information, you set up to
14 monitor that area; is that true?

15 **A.** Yes, sir.

16 **Q.** Okay. And that's why you were there on this social
17 occasion with this other detective, and you were able to see
18 him make hand-to-hand transactions; right?

19 **A.** No. I think you're going at it backwards. The whole
20 thing --

21 **Q.** Okay. Take me through it, then.

22 **A.** The whole thing started because I went to go visit this
23 other detective. That's when I observed hand-to-hand
24 transactions by Mr. Jones. That led me to go into the
25 investigation.

~~WARD~~ ~~CROSS~~

1 Q. So you did see the hand-to-hands then?

2 A. Yes.

3 Q. But you didn't put that in the search warrant?

4 A. I'm not sure. I don't have the search warrant in front of
5 me.

6 Q. Do you remember putting it in the search warrant?

7 A. I can't recall.

8 Q. It would be an important piece of information to put in
9 there, don't you think?

10 A. Yes.

11 Q. Right. In your experience, it would help establish he's a
12 drug dealer; right?

13 A. Yes, sir.

14 Q. That's something that the Court would want to know if
15 they're going to authorize you to enter his house; right?

16 A. Yes, sir.

17 Q. Okay. Have you had a chance to look at the search warrant
18 at all?

19 A. No, sir.

20 Q. Okay. Did you see it before it was submitted?

21 A. No, sir.

22 Q. Okay. Okay. So after you saw Jones selling drugs, that's
23 when you started up this investigation. And you were able to
24 identify his address as -- well, you might remember the
25 address. Do you remember the address?

~~WARD~~ ~~CROSS~~

1 **A.** I believe it was 32 Upmanor.

2 **Q.** Precisely right. Do you remember that from your own
3 recollection or because they told you?

4 **A.** My own recollection.

5 **Q.** Okay. So you remember that address. But you don't
6 remember where you got the trash, do you?

7 **A.** No.

8 **Q.** Okay. So you had been to that house?

9 **A.** To pull the trash?

10 **Q.** No, no, no. As part of your investigation; right? I
11 mean, you were there. Did you -- did you go to that house to
12 surveil it?

13 **A.** Yes.

14 **Q.** Okay. And it's sort of at the corner of the block, right?

15 **A.** Yes.

16 **Q.** So it's actually sort of like this -- it kind of looks
17 like a Franken-house. It's kind of split in half. One is one
18 color, and the other one is a different color.

19 Do you know what I'm talking about?

20 **A.** I don't remember the color of the house.

21 **Q.** You don't remember the color of the house?

22 **A.** No.

23 **Q.** But in the back in the alley, that is where the trash
24 would be recovered; correct?

25 **A.** Yes, sir.

1 Q. Now, was it out for pickup, or did you pull it out of the
2 backyard?

3 A. Took it out of the backyard.

4 Q. Was it up against the fence, or did you have to enter into
5 the property to get it?

6 A. You have to reach over into the property to get it.

7 Q. But you were able just to reach over and pull it out?

8 A. Yes.

9 Q. Okay. But you're convinced it's the wrong house?

10 A. Yes.

11 Q. But you can't remember the address from where you pulled
12 it, can you?

13 A. No, sir.

14 Q. All right. Now, when you searched the house, do you
15 remember what you guys recovered?

16 A. Not exactly. I know it was some handguns, drugs.

17 Q. Right. And do you remember Mr. Jones making any
18 statements?

19 A. No, I don't remember.

20 Q. Well, do you remember talking about this incident with the
21 agents and remembering these things or no?

22 A. Say it one more time.

23 Q. That's fine. That's fine.

24 Okay. So you had told the agents on November 8th, 2017,
25 that you didn't take any money during the incident?

~~WARD~~ ~~CROSS~~

1 A. Yes.

2 Q. And you don't remember money being seized?

3 A. Yes, sir.

4 Q. Right. But you very well could have seized money, but you
5 just don't recall?

6 A. Yes, sir.

7 Q. All right. But you remember that Mr. Jones complained
8 that he didn't have a chance to fire the guns that had been
9 seized that day?

10 A. I remember that now, I recall.

11 Q. You remember that; right?

12 A. Yes.

13 Q. Do you remember him complaining about any money having
14 been taken?

15 A. No.

16 Q. No.

17 **MR. NIETO:** Court's indulgence.

18 **BY MR. NIETO:**

19 Q. Okay. Do you know Ivan Potts?

20 A. Ivan Potts, yes, I'm familiar with it, yes.

21 Q. How are you familiar with Mr. Potts?

22 A. It was an arrest we made.

23 Q. I'm sorry?

24 A. An arrest.

25 Q. Right. He's suing you; right?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. Okay. So he's suing you for \$1.5 million for an illegal
3 arrest; correct?

4 A. I'm not sure of the amount.

5 Q. Okay. And you have an attorney, and you've spoke to him
6 about that?

7 A. Not yet, no.

8 Q. Okay. And so are you aware of the allegations placed
9 against you?

10 A. Yes.

11 Q. Okay. So did you use excessive force with Mr. Potts?

12 A. No, sir.

13 Q. Did you hit him with a baton in any way?

14 A. No, sir.

15 Q. Did anyone plant a gun on him?

16 A. No, sir.

17 Q. Now, it was you, Hendrix, and Jenkins; right?

18 A. Yes, sir.

19 Q. Okay. So in that particular instance, nothing was done
20 wrong?

21 A. Correct.

22 Q. Okay. So Mr. Potts is just trying to, what, take
23 advantage of the situation?

24 MR. WISE: Objection, Your Honor.

25 THE COURT: Sustained.

~~WARD~~ ~~CROSS~~

1 **BY MR. NIETO:**

2 **Q.** Have you been sued by other individuals based on your
3 involvement in the Gun Trace Task Force?

4 **A.** To my knowledge, no.

5 **Q.** Have other people been coming, trying to get out from
6 underneath convictions because you were involved in the
7 arrests, if you know?

8 **A.** That I know of, no.

9 **Q.** Okay. So you became a police officer in 2003?

10 **A.** Yes, sir.

11 **Q.** So for the past 13 or 14 years, how many years would you
12 say that you were a professional liar?

13 **MR. WISE:** Your Honor, I'm just going to -- I'm going
14 to object to the "professional liar."

15 **THE COURT:** Sustained.

16 **MR. NIETO:** I'm sorry. That was poor.

17 **BY MR. NIETO:**

18 **Q.** Okay. So, sir, you spent one year in the
19 District Stabilization Unit; right?

20 **A.** Yes, sir.

21 **Q.** And then three or four years with the Western District
22 patrol, sort of on the streets; right?

23 **A.** Yes, sir.

24 **Q.** And you weren't stealing or lying or submitting false
25 affidavits or perjuring yourself or doing anything during that

~~WARD~~ ~~CROSS~~

1 time right?

2 **A.** No, sir.

3 **Q.** So sort of happened after you got into VCID and SES?

4 **A.** You can say that, yes.

5 **Q.** Right. So for the better part of a decade,
6 professionally, you've been lying; right?

7 **A.** Yes, sir.

8 **Q.** Yes or no, sir?

9 **A.** Yes, sir, I have.

10 **Q.** So you've lied on affidavits; correct?

11 **A.** I don't think so.

12 **Q.** Never lied on an affidavit?

13 **A.** I don't think I lied on a search warrant, no.

14 **Q.** But you lied on statements of probable cause --

15 **A.** Yes, sir.

16 **Q.** -- right?

17 You lied to prosecutors?

18 **A.** Yes, sir.

19 **Q.** Right. You killed off an aunt, apparently, to get out of
20 going to court; that was a lie?

21 **MR. WISE:** Objection, Your Honor.

22 **THE COURT:** Sustained.

23 **BY MR. NIETO:**

24 **Q.** You lied to Assistant State's Attorney Kropp about a death
25 in your family to avoid going to work --

~~WARD~~ ~~CROSS~~

1 **A.** Yes, sir.

2 **Q.** -- right?

3 And you lied to them about what happened in these
4 instances; correct?

5 **A.** Yes, sir.

6 **Q.** And you lied to the citizens who you arrested about what
7 was going on?

8 **A.** Yes, sir.

9 **Q.** And you lied to your family; right?

10 **A.** Yes, sir.

11 **Q.** And you've sort of tacitly lied to the police department
12 by not informing them about what Jenkins was doing?

13 **A.** Yes, sir.

14 **Q.** Okay.

15 **MR. NIETO:** Nothing further, Your Honor.

16 **THE COURT:** All right. Thank you.

17 Mr. Purpura?

18 **MR. PURPURA:** Thank you, Your Honor.

19 CROSS-EXAMINATION

20 **BY MR. PURPURA:**

21 **Q.** Mr. Ward, good afternoon, sir.

22 **A.** Good afternoon, sir.

23 **Q.** Mr. Ward, what seems like a long time ago Mr. Wise was
24 asking you questions this morning, and he started with
25 Paul Jones.

~~WARD~~ ~~CROSS~~

1 Do you remember that?

2 **A.** Yes, sir.

3 **Q.** And that was -- who was the affiant on that warrant?

4 **A.** Detective Taylor.

5 **Q.** And you -- and according to your testimony, you and
6 both -- Detective Taylor came to the realization that this was
7 the wrong trash pull; it was not related to that house; is that
8 correct?

9 **A.** Yes, sir.

10 **Q.** And so the proper procedure would have been to go back and
11 rewrite a warrant and see if there's sufficient probable cause
12 and present it to a judge; is that correct?

13 **A.** Yes, sir.

14 **Q.** But that's not what happened; is that correct?

15 **A.** That's correct.

16 **Q.** But according to you, you both knew that there was
17 information which was probably not accurate in that warrant at
18 that time; is that correct, sir?

19 **A.** Yes, sir.

20 **Q.** But you didn't steal any money; you didn't take any money;
21 and that was not your intent when you went in that house; is
22 that correct, sir?

23 **A.** That's correct.

24 **Q.** Your intent to go in that house was to take guns and drugs
25 off the streets; is that correct, sir?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. And that's what you did on that particular day; is that
3 correct?

4 A. Yes, sir.

5 Q. Mr. Wise also asked you this morning about the -- were you
6 forewarned about the coverup? Do you remember those questions?

7 A. Yes.

8 Q. And you received information from Detective or
9 Sergeant Jenkins; is that correct?

10 A. Yes, sir.

11 Q. And present with you, I think, was two other police
12 officers, but not Mr. Hersl (indicating); is that correct, sir?

13 A. That is correct.

14 Q. And there was a second time you received information about
15 there was a possible federal investigation. You received other
16 information about that; is that correct, sir?

17 A. Yes, sir.

18 Q. And when you received that information, Mr. Hersl wasn't
19 with you at that time either, was he, sir?

20 A. No, sir.

21 Q. There were some questions on Tuesday when Mr. Wise had
22 that duffel bag out here. Do you remember that duffel bag
23 being out here?

24 A. Yes, sir.

25 Q. He had the -- looked like hockey masks which were black

- 1 and crowbars and all sorts of things in that duffel bag; right?
- 2 **A.** Yes, sir.
- 3 **Q.** And it appeared to you that it really wasn't police-type
4 instruments in that duffel bag; right, sir?
- 5 **A.** Yes, sir.
- 6 **Q.** As a matter of fact, it appeared to you like it would be
7 instruments used more like for home invasions rather than
8 police work; is that correct, sir?
- 9 **A.** Yes, sir.
- 10 **Q.** Who was present with you when detective -- strike that,
11 Sergeant Jenkins showed you that duffel bag?
- 12 **A.** It was myself, Hendrix, and Taylor.
- 13 **Q.** Not Mr. Hersl (indicating); is that correct, sir?
- 14 **A.** No, sir, he wasn't there.
- 15 **Q.** You were asked some questions about -- just a couple
16 minutes ago about a Westminster search. You were not part of
17 the Westminster search, were you, sir?
- 18 **A.** No, sir.
- 19 **Q.** As a matter of fact, your team was split up for that
20 particular investigation; is that correct, sir?
- 21 **A.** Yes, sir.
- 22 **Q.** Detectives Rayam, Gondo, Hersl, and Sergeant Jenkins went
23 out to Carroll County in Westminster; is that correct, sir?
- 24 **A.** Yes, sir.
- 25 **Q.** And you, along with Hendrix and others, including

~~WARD~~ ~~CROSS~~

1 Detective John Clewell, went and executed a search warrant here
2 in Baltimore City which was related; is that correct, sir?

3 **A.** Yes, sir.

4 **Q.** And that was all part of a larger investigation involving
5 this somewhat major drug trafficker, Ronald Hamilton; is that
6 correct, sir?

7 **A.** Yes, sir.

8 **Q.** And this wasn't just a spur-of-the-moment investigation,
9 was it?

10 **A.** It wasn't my investigation. I wasn't fully involved in it
11 so I don't know.

12 **Q.** Fair enough. Your involvement was just the
13 search warrants on the -- July 8th, is that correct, sir, of
14 2016?

15 **A.** If that's the date, yes.

16 **Q.** Thank you.

17 You started in the Western District; is that correct?

18 **A.** Yes, sir.

19 **Q.** I'm now going to show you what has been marked as
20 Defense Exhibit No. 1.

21 Let me get it on the screen a little bit.

22 And thanks to Google, we've pinpointed where the
23 Western District is in Baltimore City; is that correct, sir?

24 **A.** Yes, sir.

25 **THE COURT:** Just to -- it's not on my monitor. Is it

1 on everybody else's?

2 **MR. PURPURA:** This monitor is not working either.

3 **BY MR. PURPURA:**

4 **Q.** Anyway, so this is Western District; is that correct, sir?

5 **A.** Yes, sir.

6 **Q.** And you were working at Western District for approximately
7 five years, according to your testimony; is that right?

8 **A.** Yes, sir.

9 **Q.** And all around the Western District, all around the
10 Western District, from the Lexington Terrace area to
11 Pennsylvania Avenue to North Avenue, that's all what's
12 considered to be high-crime area; isn't that correct, sir?

13 **A.** Yes, sir.

14 **Q.** As a matter of fact, it's -- I think maybe before your
15 time, but was it at a time that Western District was referred
16 to as Fort Apache?

17 **A.** I'm not sure about that.

18 **Q.** And, anyway, so there's a huge amount of crime in
19 Baltimore City, a large amount, right surrounding your police
20 station in Western District; is that correct, sir?

21 **A.** Yes, sir.

22 **Q.** It's a very busy district; is that correct, sir?

23 **A.** Yes, sir.

24 **Q.** And there's another district literally on the east side --
25 that's the west side -- and that's Eastern District, and you

1 also worked there. This is Defense Exhibit No. 2.

2 Is that correct, sir?

3 **A.** Yes, sir.

4 **Q.** And the Eastern District is also another busy narcotics,
5 guns, and murder district; is that correct, sir?

6 **A.** That's correct, yes.

7 **Q.** And that's also where you were part of working; is that
8 correct, sir?

9 **A.** Yes, sir.

10 **Q.** And during that time, you did a job and you did your job
11 well; is that fair to say, sir?

12 **A.** Yes, sir.

13 **Q.** And because you were doing your job so well, there came a
14 time in 2015 when Sergeant Wayne Jenkins --
15 Government Exhibit FBI-3 -- that man there, as your sergeant,
16 he contacted you; is that correct, sir?

17 **A.** Yes, sir.

18 **Q.** And you didn't really know him that well before the spring
19 of 2015, did you?

20 **A.** No.

21 **Q.** And he said he was looking for some hard workers; correct?

22 **A.** Yes, sir.

23 **Q.** And you were a hard worker; right?

24 **A.** Yes, sir.

25 **Q.** You came from those busy districts, and you did your job;

1 correct?

2 **A.** Yes, sir.

3 **Q.** And the time period when Jenkins came to you and asked you
4 to come in as a hard worker, that was the spring of 2015;
5 correct?

6 **A.** Yes, sir.

7 **Q.** And we know what happened here in Baltimore City in the
8 spring of 2015. That was the death of Freddie Gray; right?

9 **A.** I believe so, sir, yes.

10 **Q.** And there were riots after that; right?

11 **A.** There was riots, yes.

12 **Q.** And you're familiar what happened to the Western District
13 and the Eastern District about the murder rate in 2015; is that
14 correct, sir?

15 **A.** Yes.

16 **Q.** Blew up; right?

17 **A.** Yes, sir.

18 **Q.** The largest ever in Baltimore City's history; is that
19 correct, sir?

20 **A.** I'm not sure of the numbers, but it was an increase.

21 **Q.** And you were, as a police officer, you were aware. And it
22 was pressure on you and your fellow officers to do something;
23 correct?

24 **A.** Yes, sir.

25 **Q.** But what really happened during that time? Is it fair to

~~WARD~~ ~~CROSS~~

1 say that a lot of officers on the west side, on the east side
2 after the Freddie Gray incident said, "I don't want to get
3 involved"? Is that fair to say?

4 **A.** Yes, sir.

5 **Q.** So there were a lot fewer arrests by a lot of officers out
6 there, isn't that correct, sir, during that time period?

7 **A.** Yes, sir.

8 **Q.** And the mandate of your SES, Special Enforcement Section,
9 back in 2015, 2016 -- 2015 and the GTTF starting in 2016 was to
10 get the guns off the street; right?

11 **A.** Yes, sir.

12 **Q.** And that wasn't just in the Western District or the
13 Eastern District or South Baltimore or North Baltimore. You
14 had citywide jurisdiction; correct?

15 **A.** Yes, sir.

16 **Q.** And there was a lot of pressure on you and your fellow
17 officers to do exactly what you were mandated to do; is that
18 correct, sir?

19 **A.** I wouldn't say -- I didn't really feel the pressure,
20 so . . .

21 **Q.** You didn't feel the pressure?

22 **A.** No.

23 **Q.** But you were out there doing like what you said, 20 to 25
24 or more attempted stops every night, day in and day out when
25 you were working; is that correct, sir?

1 A. Yes.

2 Q. And you were ripping and roaring; right?

3 A. Yes, sir.

4 Q. And that's what Jenkins liked to do. He never got tired;
5 right?

6 A. Absolutely.

7 Q. This man here never got tired; right?

8 A. Right.

9 Q. And he kept ripping and roaring, and you and the other
10 GTTF members tried to keep up with him doing the same thing on
11 the east side and the west side of Baltimore City; isn't that
12 correct, sir?

13 A. Yes, sir.

14 Q. As to the overtime, now, that concept of overtime to you,
15 that didn't commence when you came onto the GTTF, did it, sir?

16 A. I'm not understanding. What's the question?

17 Q. Getting overtime for guns, excuse me, getting bonus
18 overtime, getting overtime for good work, that was something
19 you knew about before you came to GTTF; is that correct, sir?

20 A. It had happened before, yes.

21 Q. As a matter of fact, that's one of the things that the
22 Government questioned you about; right?

23 A. Yes.

24 Q. And if I tell you, your first proffer was April 19th of
25 2017. And your second proffer was about a week or two later,

~~WARD~~ ~~CROSS~~

1 April 28th of 2017. Does that sound about right to you, sir?

2 **A.** Yes, sir.

3 **Q.** And when I say "proffer," that's when you sat down with

4 Government counsel (indicating), right, Mr. Wise,

5 Mr. Hendrix [sic]; correct?

6 **A.** Yes, sir.

7 **Q.** You also sat down with FBI Agent Jensen at the front desk;

8 is that correct?

9 **A.** Yes, sir.

10 **Q.** And others may have been present as well, including your

11 attorney (indicating); is that correct?

12 **A.** Yes, sir.

13 **Q.** And these proffers, Detective-- excuse me, Agent Jensen

14 was taking notes; right?

15 **A.** Yes, sir.

16 **Q.** And you spoke sometimes for an hour or two hours or maybe

17 even three hours during these sessions; is that correct, sir?

18 **A.** That's correct.

19 **Q.** And in particular on April 28th, 2017, Mr. Wise and others

20 directed your attention to overtime and what's going on about

21 overtime which may not be proper overtime.

22 Do you remember that?

23 **A.** Yes.

24 **Q.** And you told them that the first time you heard about the

25 concept of getting overtime for guns or overtime for good work

~~WARD~~ ~~CROSS~~

1 was from a Hans Nicolas; is that right?

2 **A.** Yes, sir.

3 **Q.** He was a sergeant with the SES at that time; is that
4 correct, sir?

5 **A.** Yes, sir.

6 **Q.** And there were complaints that this particular sergeant
7 wasn't giving overtime for guns and drugs; right?

8 **A.** Yes, sir.

9 **Q.** And then you learned -- and this is before Jenkins; right?

10 **A.** Yes, sir.

11 **Q.** And then you learned, I believe you indicated to this
12 group of Government officials here (indicating), that there was
13 a Lieutenant Dombroski, D-E-M-B-R-O-K-S [sic]; right?

14 **A.** Yes, sir.

15 **Q.** And that he gave eight hours of overtime or slash days for
16 a gun; right?

17 **A.** Yes, sir.

18 **Q.** And that was an accepted procedure; correct?

19 **A.** Yes, sir.

20 **Q.** Even though you actually didn't work it; right?

21 **A.** Yes, sir.

22 **Q.** But because during this time period when the murder rate
23 was blowing up and there was havoc, you had a gun or two guns,
24 you get a reward and that's a slash day; correct?

25 **A.** Yes, sir.

~~WARD~~ ~~CROSS~~

1 Q. And it was also during this period there was a limit or
2 there was a budget issue for overtime.

3 Do you remember that?

4 A. Yes, I do.

5 Q. That overtime was limited; correct?

6 A. Yes.

7 Q. But it was not limited to your group; is that correct,
8 sir?

9 A. Yes, sir.

10 Q. And that's because your group was out there proactively
11 doing what they should have been doing at that point, getting
12 guns off the street during a time of crisis; is that correct,
13 sir?

14 A. Yes, sir.

15 Q. And we heard already that you got rewarded for it, that
16 Deputy Commission Palmere gave your group and the others
17 working with you getting these guns off the street an award;
18 right?

19 A. Yes, sir.

20 Q. And Jenkins basically says, "Gentlemen, your work speaks
21 for itself." That was your defense; right?

22 A. Yes, sir.

23 Q. Now, on Tuesday the Government showed you some overtime
24 slips.

25 Do you remember that?

~~WARD~~ ~~CROSS~~

1 A. Yes, sir.

2 Q. And they were your overtime slips; right?

3 A. Yes.

4 Q. Government Exhibit PP -- it's 2E, 2E, putting back on the
5 screen, this was one of the overtime slips that Mr. Wise went
6 over with you; is that correct, sir?

7 A. Yes, sir.

8 Q. And when you were on the witness stand, that wasn't the
9 first time you saw that slip because in one of those proffer
10 sessions and/or one of the prep sessions, Mr. Wise showed you
11 that slip and said he was going to be asking you questions
12 about that; is that correct?

13 A. I'm not sure. I don't . . .

14 Q. Well, did -- you indicated that you filed some overtime
15 slips for Mr. Hersl; is that correct?

16 A. Yes.

17 Q. Did Mr. Wise ever show you those slips?

18 A. No.

19 Q. So all this -- how many slips did they show you?

20 A. I'm not sure.

21 Q. But out of all the slips they showed you, they never
22 showed you one slip that you could identify that you actually
23 filed for Mr. Hersl (indicating); is that correct?

24 A. Yes.

25 (Counsel conferred.)

~~WARD~~ ~~CROSS~~

1 **BY MR. PURPURA:**

2 **Q.** Now, also, do you remember hearing a phone conversation
3 that was played -- Mr. Wise played between yourself and
4 Mr. Gondo?

5 **A.** Yes.

6 **Q.** And you were asked some questions about that.

7 Do you remember that?

8 **A.** Yes, sir.

9 **Q.** Well, I'm going to put on the screen, if I may, which
10 would be FBI-9, which is the transcript, and I'm going to turn
11 to Page 2 of that.

12 Now, I don't believe Mr. Wise directed your attention to
13 this section of the conversation. But you're saying
14 [reading]: And depend on how he feel, we roll out regular time
15 or but he'll try to make you see, see if you want to make
16 overtime every day, yo. That's how he is, yo. And then we
17 just got the green light, seen O'Ree last night, said the
18 overtime budget has opened back up. Work as much as you want.

19 Right?

20 **A.** Yes, sir.

21 **Q.** Now, who is O'Ree?

22 **A.** He was our lieutenant for a time.

23 **Q.** And O'Ree indicated that your budget now on overtime was
24 wide open again; is that correct?

25 **A.** Yes, sir.

1 Q. And this was June 14th of 2016; is that correct, sir?

2 A. Yes, sir.

3 Q. And that's when you were at the GTTF; is that correct,
4 sir?

5 A. I believe so, yes, sir.

6 Q. And that's when you were receiving overtime for guns
7 and/or slash days for guns; is that correct, sir?

8 A. Say the question one more time.

9 Q. At this point in June 2016, when the overtime was opened
10 back up by Lieutenant O'Ree, you all were receiving slash days
11 or four hours per gun; is that correct, sir?

12 A. We were receiving slash days and extra overtime; but it
13 wasn't a number like if we got one gun, it was four hours.

14 Q. Right. It just depended; fair enough?

15 A. Yes.

16 Q. The Shawn Whiting incident, I believe that's January of
17 2014; is that about right?

18 A. Yes.

19 Q. Did you write the search warrant for that?

20 A. Yes, I did.

21 Q. So you're what's called the affiant on that incident; is
22 that correct, sir?

23 A. Yes, sir.

24 Q. And was it your intent when you wrote that search warrant
25 to be honest and truthful to either the District Court judge or

~~WARD~~ ~~CROSS~~

1 a Circuit Court judge who that warrant was presented to?

2 **A.** Yes, sir.

3 **Q.** And it was your intent -- when you wrote that
4 search warrant, was it your intent to do a proper and lawful
5 search of the premises of Mr. Whiting?

6 **A.** What do you mean by a "proper" and --

7 **Q.** Was it your intent to steal, or was it your intent to get
8 drugs and guns off the street?

9 **A.** 50/50, I would say.

10 **Q.** So at that point, when you wrote that, when you wrote that
11 with Shawn Whiting, it was in your mind that I'm going to go
12 into this house; correct?

13 **A.** Uh-huh.

14 **Q.** And I'm going to get guns, get drugs; and if he's got
15 money, I'm going to steal at that point. Correct?

16 **A.** Yes, sir.

17 **Q.** So you had a criminal intent at the very beginning of that
18 incident; is that correct, sir?

19 **A.** Yes, sir.

20 **Q.** And that criminal intent was shared with some police
21 officers' intent as well that you were going to try to do the
22 right thing; right?

23 **A.** Yes, sir.

24 **Q.** But you clearly were a criminal on that incident; is that
25 correct, sir?

1 A. Yes, sir.

2 Q. And when you intended to take that money that you found,
3 you used force to get that money; isn't that correct, sir?

4 A. Yes, sir.

5 Q. And you know that's wrong; right?

6 A. Absolutely.

7 Q. But that was your intent from the beginning; correct?

8 A. Yes, sir.

9 Q. Because you wanted to take money; right?

10 A. Yes, sir.

11 Q. Belvedere Towers, Defense Hersl 3.

12 Does that look like the Belvedere Towers, sir, we're
13 talking about, spring 2015?

14 A. Yes, that's the Belvedere Towers, yes.

15 Q. And this is the incident where Jenkins makes this random
16 stop; is that correct?

17 A. Yes, sir.

18 Q. And he sees two black men, somewhat different
19 descriptions. And he sees two cars. And you end up at that
20 point -- or Jenkins ends up questioning both men; is that
21 correct?

22 A. Yes, sir.

23 Q. And you, with Jenkins in 2015, what you did, you cuffed
24 these people; right?

25 A. Yes, sir.

1 Q. And you knew at that time that Jenkins was doing something
2 wrong; right?

3 A. Yes, sir.

4 Q. And you knew at that time that Jenkins has stolen money
5 from people before; correct?

6 A. I'm not sure about the money part. I know about drugs,
7 and I'm not sure about the money.

8 Q. Okay. Well, this was not part of an investigation;
9 correct?

10 A. No.

11 Q. You never saw these people before?

12 A. No, I didn't.

13 Q. You had no prior knowledge as to who they were?

14 A. No.

15 Q. You had no probable cause whatsoever?

16 A. Right.

17 Q. You had no warrant; right?

18 A. Right.

19 Q. You weren't even actually out there trying to make
20 arrests. You were going to try to meet Hendrix; correct?

21 A. Yes, sir.

22 Q. When Jenkins took that duffel bag out of the car and the
23 money, you knew he wasn't going to turn it in; right?

24 A. It was a slight -- I thought he might have turned it -- I
25 didn't think he was going to take all of it. I thought he was

~~WARD~~ ~~CROSS~~

1 going to submit and keep a portion of it, not everything.

2 Q. You didn't arrest any of these men, did you?

3 A. No, sir.

4 Q. So no one gets arrested. You take the duffel bag, and you
5 take their money; correct?

6 A. Yes, sir.

7 Q. And you did it by force; right?

8 A. Yes.

9 Q. Because at that time you were aiding and abetting Jenkins
10 in obtaining these goods; right?

11 A. Yes, sir.

12 Q. And you did it by force?

13 A. Yes, sir.

14 Q. Never once did you have the lawful thought that I'm doing
15 police work here, did you?

16 A. No, sir.

17 Q. And it wasn't police work, was it?

18 A. No, it wasn't.

19 Q. You aided and abetted Jenkins in a robbery; correct?

20 A. Yes, sir.

21 Q. And this is the one that after you aid and abet
22 Sergeant Jenkins in a robbery, that you take the \$5,000 and you
23 leave it in his car, right, in the trunk of his car?

24 A. Yes, sir.

25 Q. Did Jenkins ever say, "Dude, thanks for the 5 grand"?

~~WARD~~ ~~CROSS~~

1 A. No.

2 Q. Just -- let me just segue real quick to the \$20,000
3 Stevenson, the -- did Jenkins ever -- strike that.

4 Just before -- after the \$5,000, did Jenkins ever approach
5 you and say, "I found 5,000 extra dollars in the trunk of my
6 car"?

7 A. No.

8 Q. Did Jenkins ever indicate at all that he found the extra
9 \$5,000 in the car?

10 A. No.

11 Q. He never approached you at all?

12 A. No.

13 Q. When you're down in the basement and you're divying up
14 Mr. Stevenson's money, does Jenkins say, "Do you really want
15 this 20,000?"

16 A. No.

17 Q. Did he say anything like that?

18 A. No.

19 Q. Did he ask you, "Why don't you just leave it in the trunk
20 of my car again like you did last time with the 5,000?"

21 A. No.

22 Q. Did you refuse to take the \$20,000?

23 A. No, I didn't.

24 Q. Now, when I asked you about proffers and meeting with
25 Government counsel and the FBI agents and TFO Sieracki in the

~~WARD~~ ~~CROSS~~

1 back row there, if I said you met with them on April 19th,
2 April 28th, May 10th, June 14th, July 5th, July 19th, and
3 November 8th, would that sound about reasonable as to the
4 amount of meetings you had and proffer sessions with Government
5 counsel and the agents?

6 **A.** Yes, sir.

7 **Q.** In addition to that, you had at least two meetings with
8 Government counsel in preparation for your testimony; is that
9 correct, sir?

10 **A.** I'm not sure it was two meetings.

11 **Q.** How many?

12 **A.** It might have been -- it might have been two, one or two,
13 yes.

14 **Q.** And, of course, at that time, as good a counsel as
15 Mr. Wise is, of course, he reviewed with you the questions he
16 was going to ask you and the areas he was going to ask you on
17 the witness stand; is that fair to say, sir?

18 **A.** Yes, sir.

19 **Q.** So when he questioned you, it was not a surprise, the
20 questions; is that correct, sir?

21 **A.** It still was 'cause it was kind of rephrased a little
22 different, so . . .

23 **Q.** Just rephrased, turned them around a little bit?

24 **A.** Yes.

25 **Q.** Now, you were asked on cross-examination if you were

1 charged with a 924(c) or, to put it another way, use of a
2 handgun in the commission of a crime of violence such as a
3 robbery.

4 Do you remember that?

5 **A.** Yes.

6 **Q.** Well you do -- your lawyer here -- not here at the
7 moment -- but you did receive a copy of the indictment; is that
8 correct?

9 **A.** Yes, sir.

10 **MR. PURPURA:** And this will be marked as Defense
11 Exhibit No. 5 for identification.

12 **BY MR. PURPURA:**

13 **Q.** And when you appeared before a Magistrate Judge -- not
14 Her Honor Judge Blake, but originally in front of a
15 Magistrate Judge, the judge asked you, "Did you receive a copy
16 of the indictment?"

17 And you said, "Yes"; correct?

18 **A.** Yes.

19 **Q.** And he asked you also, "Did you read that indictment or
20 review it with your attorney?"

21 And you said, "Yes"; isn't that correct, sir?

22 **A.** Yes.

23 **Q.** Okay. I'm going to show you what has been marked as
24 Defense Exhibit 4 for identification and ask you, sir, does
25 this appear to be the indictment in your particular case?

1 **A.** Yes.

2 **Q.** The original and only indictment against you in your case;
3 is that correct?

4 **A.** Yes, sir.

5 **Q.** Okay. And if you'll look here, you can see on the
6 right-hand side, it basically says what you're charged with.
7 And you've reviewed this before; is that correct, sir?

8 **A.** Yes, sir.

9 **Q.** And so you knew you were charged with a conspiracy to
10 violate the RICO statute, Title 18 U.S.C. 1962(d). And you had
11 a second count in a two-count indictment charging you with an
12 actual --

13 **MR. WISE:** Your Honor, we're just reading the
14 indictment now to the jury.

15 **THE COURT:** He's reading the two -- he's reading the
16 two charges. I don't think he's going to read the entire
17 indictment.

18 **MR. PURPURA:** That's it, just the two charges, the
19 only two charges in the indictment.

20 **BY MR. PURPURA:**

21 **Q.** And the second charge would be membership in the RICO
22 organization; is that correct, sir?

23 **A.** Yes, sir.

24 **Q.** So there is two charges, two counts; correct?

25 **A.** Yes, sir.

1 Q. There is not -- there is not a charge for a substantive
2 robbery; correct?

3 A. Yes, sir.

4 Q. There is not a charge for a 924(c) count, which is use of
5 a handgun in the commission of a robbery; correct?

6 A. Yes, sir.

7 Q. And you've discussed this with your attorney (indicating)
8 is that correct?

9 A. Yes, sir.

10 Q. Because your attorney told you, he told you how serious a
11 924(c) count is; isn't that correct, sir?

12 MR. WISE: Your Honor --

13 THE COURT: I think we're getting a little bit close
14 to the line on that one.

15 MR. PURPURA: A little close. A little close. Okay.

16 THE COURT: Attorney-client.

17 BY MR. PURPURA:

18 Q. You know -- you know that a 924(c) count -- or do you know
19 that that handgun count carried five additional years
20 consecutive to the underlying charge?

21 A. We might have spoke about it, yes.

22 Q. And you also knew that that count could apply to each and
23 every robbery you committed; right?

24 A. Yes.

25 Q. So if you committed just three robberies and you used a

1 handgun in every one of those robberies, you could have
2 received five years consecutive for the first handgun
3 violation. And then you knew that it enhanced -- it increased
4 up to 25 years for the second handgun violation; isn't that
5 correct, sir?

6 **A.** Yes, sir.

7 **Q.** So for two robberies alone, you could receive 30 years on
8 a handgun violation alone; correct?

9 **A.** Yes, sir.

10 **Q.** But in this indictment that you pled to, you do not have
11 that handgun violation. And in your plea agreement, you do not
12 have that handgun violation; isn't that correct, sir?

13 **A.** Yes, sir.

14 **Q.** So that was a consideration which caused you to plead as
15 well, isn't that correct, to avoid that type of horrific
16 sentence?

17 **A.** Yes, I was -- yes.

18 **THE COURT:** Mr. Purpura, we're getting pretty close --
19 that clock's actually a little slow, but whenever you can break
20 in another minute or two.

21 **MR. PURPURA:** We can stop right now. And I won't have
22 much after lunch, because I'm going to eat lunch.

23 **THE COURT:** Okay. All right. Recognizing that that's
24 a little slow, ladies and gentlemen, we're going to take the
25 lunch recess. I'll ask you to be back a little bit before

~~WARD~~ ~~CROSS~~

1 2 o'clock. We'll try to get started promptly at 2 o'clock.

2 Thank you all very much.

3 (Jury left the courtroom at 12:46 p.m.)

4 (Luncheon recess taken.)

5 **THE COURT:** Be seated, please.

6 All right. We'll get the jury.

7 (Jury entered the courtroom at 2:06 p.m.)

8 **THE COURT:** All right. I hope everyone had lunch.

9 And now you can be seated.

10 **THE CLERK:** Mr. Ward, you're still under oath.

11 **THE WITNESS:** Yes, ma'am.

12 **THE COURT:** Mr. Purpura.

13 **MR. PURPURA:** Your Honor, thank you.

14 **BY MR. PURPURA:**

15 **Q.** Mr. Ward, just a -- and I mean just a few more questions.

16 I'm going to direct your attention -- you testified on

17 Tuesday about an incident when this man, Government

18 Exhibit FBI-3, Jenkins, again, had a meeting with some of the

19 officers in your squad about BB guns and air pistols. Remember

20 testifying about that?

21 **A.** A meeting about BB guns and air pistols?

22 **Q.** Telling you to carry them or not to carry them; keep them

23 in the trunk in case you needed to plant something?

24 **A.** That wasn't a meeting. That was just something he told

25 us.

1 Q. Well, who told you?

2 A. Jenkins.

3 Q. Jenkins told whom?

4 A. Myself, Detective Taylor, and Detective Hendrix.

5 Q. Okay. And Detective Hersl (indicating) wasn't there, was
6 he, sir?

7 A. No, sir.

8 Q. Thank you.

9 Now, you know that cooperation -- and that's what you're
10 trying to get, some cooperation from testifying; is that
11 correct?

12 A. Yes, sir.

13 Q. First of all, you know you've done wrong; right?

14 A. Yes, sir.

15 Q. So you're admitting what you've done; correct?

16 A. Yes, sir.

17 Q. In addition to that, in addition to accepting
18 responsibility, you're also trying to seek some cooperation
19 credit; is that correct, sir?

20 A. Yes, sir.

21 Q. And the bottom line is because you don't want to have to
22 spend a day more in a federal prison than you have to; correct?

23 A. Yes, sir.

24 Q. And you know, by being a police officer for 13 years and
25 now being a part of the federal system, that the more you have

1 to offer these guys (indicating), the Government in this
2 particular case, the more cooperation you can offer, the more
3 credit you get; is that fair to say?

4 **A.** I'm not sure.

5 **Q.** You're not sure?

6 **A.** I never been involved in nothing like this, so I can't say
7 that's how it goes.

8 **Q.** Well, let's just go -- when you're on the streets, did you
9 ever deal with a cooperator on the street?

10 **A.** Yes.

11 **Q.** And if they could give you a lot of information, that
12 cooperator would be more valuable; right?

13 **A.** That's true.

14 **Q.** Okay. Same thing with you, don't you think?

15 **A.** There's still a difference, though. It's the federal and
16 the state side, so it's still a big difference.

17 **Q.** And they sought your cooperation at least seven times when
18 they had proffer sessions with you; right?

19 **A.** Yes.

20 **Q.** And they asked you questions about -- just about everybody
21 in Baltimore City Police Department that you knew about;
22 correct?

23 **A.** Yes.

24 **Q.** And you were trying to be at least as forthcoming as you
25 could be; is that fair to say?

~~WARD~~ ~~CROSS~~

1 **A.** Yes, sir.

2 **Q.** And you testified on Tuesday and you tried to be as
3 forthcoming as possible on Tuesday; is that correct, sir?

4 **A.** Yes, sir.

5 **Q.** And you know, speaking of the federal system, that in the
6 federal system, different than the state system, because in the
7 federal system, there just isn't any parole; is that right,
8 sir?

9 **A.** Yes, sir.

10 **Q.** Now, in your testimony on Tuesday and in your proffer
11 session -- your sessions, you never said that you gave
12 Daniel Hersl (indicating) any money which was stolen; is that
13 correct, sir?

14 **A.** Yes, sir.

15 **Q.** And you never saw Daniel Hersl steal or take money
16 unlawfully; isn't that correct, sir?

17 **A.** Yes, sir.

18 **Q.** You never saw Daniel Hersl steal or take drugs unlawfully;
19 is that correct, sir?

20 **A.** Yes, sir.

21 **Q.** And you never saw Daniel Hersl steal or take anything of
22 value, such as a watch or jewelry, unlawfully; is that correct,
23 sir?

24 **A.** Yes, sir.

25 **MR. PURPURA:** I have no further questions. Thank you,

~~WARD REDIRECT~~

1 sir.

2 **THE COURT:** All right. Any redirect, Mr. Wise?

3 **MR. WISE:** Yes, Your Honor. Thank you.

4 REDIRECT EXAMINATION

5 **BY MR. WISE:**

6 **Q.** Mr. Ward, both -- counsel for both defendants asked you
7 about your plea agreement. Do you remember being asked those
8 questions?

9 **A.** Yes, sir.

10 **Q.** And I believe they both asked you about the issue of
11 whether you were charged with having used or possessed a
12 firearm.

13 Do you remember being asked about that?

14 **A.** Yes, sir.

15 **Q.** Now, as part of your plea agreement, you admitted that you
16 used a firearm in the commission of robberies, the robberies
17 you admitted to; right?

18 **A.** Yes, sir.

19 **Q.** And as part of your plea agreement, you received a
20 five-level enhancement to your sentencing guidelines --

21 **MR. PURPURA:** Judge, objection. Objection. Can we
22 approach the bench?

23 **THE COURT:** Excuse me. Excuse me. Calm down.

24 **MR. PURPURA:** Thank you.

25 **THE COURT:** Yes, you can come up to the bench.

~~WARD REDIRECT~~

1 **MR. PURPURA:** Thank you.

2 (Bench conference on the record:

3 **MR. PURPURA:** I believe Mr. Wise cited, I think, in
4 the last trial Cropp. The case law in this circuit is really
5 clear that counsel for the defense -- 'cause that's what the
6 case law is addressed to -- cannot get into the specifics now
7 as to what the guidelines are because they're just too
8 complicated, in essence, for the layperson to understand, and
9 we are precluded from doing that. And if defense can't do it,
10 certainly the Government can't do it.

11 And in this case it is extremely misleading because
12 the five-level bump doesn't equate to anything near to five
13 consecutive years for 924(c). And that would be ridiculously
14 complicated for even a lawyer to understand, let alone --
15 'cause I don't know what the Government does -- to -- let alone
16 the jury.

17 **THE COURT:** Mr. Wise.

18 **MR. WISE:** So Mr. Nieto specifically asked him what
19 his guideline range were. He asked him about his base offense
20 level. The only -- I'm not going to get into a calculation or
21 a counterfactual calculation. The only point I want to make is
22 they've both made the point that he wasn't -- he didn't admit
23 to 924(c).

24 **THE COURT:** Can you just do it without getting into
25 five levels. Can you just say "that increased your guideline

~~WARD REDIRECT~~

1 range" --

2 **MR. WISE:** Yes.

3 **THE COURT:** -- which I think is fair response.

4 **MR. WISE:** Thank you.

5 **MR. PURPURA:** Okay. If it's limited to that.)

6 (Bench conference concluded.)

7 **THE COURT:** Can you just rephrase that, Mr. Wise.

8 **MR. WISE:** Thank you, Your Honor.

9 **BY MR. WISE:**

10 **Q.** Mr. Ward, as part of your plea agreement, you agreed to an
11 enhancement for a firearm that increased your guidelines; isn't
12 that right?

13 **A.** Yes, sir.

14 **Q.** Now, you were also asked some questions about overtime.
15 Do you recall being asked those questions?

16 **A.** Yes, sir.

17 **Q.** Did you know it was wrong to submit overtime slips for
18 time you didn't work?

19 **A.** Absolutely.

20 **Q.** And did it matter that Sergeant Jenkins told you you could
21 do it?

22 **A.** No.

23 **MR. WISE:** And if I could have Government PP-2E.

24 **BY MR. WISE:**

25 **Q.** This was the overtime slip I showed you and then I think

~~WARD~~ ~~REDIRECT~~

1 Mr. Purpura showed you.

2 **MR. WISE:** If you could move that up just a little
3 bit, Mr. Kerrigan.

4 **BY MR. WISE:**

5 **Q.** Could you -- can you read to the jury what it says above
6 the signatures.

7 **A.** [Reading]: I certify that the overtime has -- overtime
8 hours reported herein are authorized, were in fact worked, and
9 are correct.

10 **Q.** And that's on every one of these slips you ever signed or
11 signed for other members of the GTTF; right?

12 **A.** Yes.

13 **Q.** So is it -- sounds like a simple idea, but overtime is
14 supposed to be for time --

15 **MR. PURPURA:** Objection, Your Honor. Objection.
16 611(c). This is obviously a leading question. He's
17 testifying.

18 **THE COURT:** Would you -- he's assuming that you're
19 about to ask a leading question. I'm not sure if he is
20 correct.

21 If it is about to be a leading question, could you
22 rephrase it, please.

23 **MR. PURPURA:** Thank you.

24 **MR. WISE:** I wasn't, but I will anyway.

25 **BY MR. WISE:**

~~WARD REDIRECT~~

1 Q. What is overtime supposed to be for?

2 A. Overtime after your shift is worked, that's what overtime
3 is.

4 Q. Right. Work; right?

5 A. Yes.

6 Q. Did you understand that the whole time this was going on?

7 A. Yes, I did.

8 Q. Based on your interactions with these defendants, did
9 everybody on the GTTF understand that?

10 A. We all knew.

11 Q. And I think you testified to this, but did you get
12 overtime for arrests that you had nothing to do with?

13 A. Yes.

14 Q. Did you submit slips for Hersl that -- for arrests that he
15 had nothing to do with?

16 A. Yes.

17 Q. What about for Taylor?

18 A. Yes.

19 Q. So that's overtime for nothing; right?

20 A. Yes, sir.

21 MR. PURPURA: Objection.

22 THE COURT: Sustained.

23 BY MR. WISE:

24 Q. What was -- what was that overtime for?

25 A. For nothing, no work that we did.

~~WARD~~ ~~REDIRECT~~

1 Q. And how about what you testified to about not starting
2 shifts on time; was that systematic?

3 A. No.

4 Q. Well, did it happen all the time?

5 A. All the time, yes.

6 Q. And did you see Hersl start hours after the shift was
7 supposed to start?

8 A. Yes.

9 Q. Did you see Taylor start hours after the shift was
10 supposed to start?

11 A. Yes.

12 Q. And you testified on direct that Jenkins even used like a
13 code when he would text all you guys about when to come in;
14 right?

15 A. Yes.

16 Q. Remind the members of the jury what that code was.

17 A. Usually every day before we started work, he would send
18 out a group text. And it would always say something to the
19 fact that: Stop doing your surveillance, following your
20 target, and meet me at headquarters at 10 o'clock, 11:00,
21 12:00, whichever time we were coming into work.

22 Q. Was anybody on surveillance at that time?

23 A. No.

24 Q. Where were you?

25 A. Home.

~~WARD~~ ~~REDIRECT~~

1 Q. And when everybody got to BPD, where had they come from?

2 MR. NIETO: Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MR. WISE:

5 Q. Did you ever talk about where you had just been -- where
6 you had just been when you all finally got to BPD?

7 A. Yes.

8 Q. And where was it?

9 A. No one was at work. Either home or out doing something.

10 Q. Now, you were asked some questions about policing in the
11 city after the death of Freddie Gray.

12 Do you remember being asked those questions?

13 A. Yes, sir.

14 Q. Now, when did you join the SES section, the SES unit with
15 Jenkins? I think you've testified to this, but remind us
16 approximately when.

17 A. Approximately, what, 2014, early 2015.

18 Q. And was that before or after the death of Freddie Gray?

19 A. I believe it was before Freddie Gray.

20 Q. And I think you testified or were asked questions that
21 Freddie -- and I know you don't remember the specific day, but
22 Freddie Gray's death was in the spring of 2015; right?

23 A. Yes.

24 Q. Now, the door pops that you testified about, stopping
25 people for no reason, did that start before or after the death

~~WARD REDIRECT~~

1 of Freddie Gray?

2 **A.** Before.

3 **Q.** And overtime for no work that you testified about, did
4 that start before or after the death of Freddie Gray?

5 **A.** Before.

6 **Q.** And did the door pops and stopping people for no reason,
7 did that continue when you joined the GTTF?

8 **A.** Yes.

9 **Q.** And that was a year after the death of Freddie Gray;
10 right?

11 **A.** Yes, sir.

12 **Q.** And the overtime for no work, did that continue when you
13 and Jenkins and Taylor and Hendrix joined the GTTF?

14 **A.** It continued, yes.

15 **Q.** After the death of Freddie Gray, did anyone in the
16 department tell you you could put in for overtime you didn't
17 work?

18 **A.** No.

19 **Q.** Did anyone tell you you could steal money from people
20 after the death of Freddie Gray?

21 **A.** No.

22 **Q.** Both Mr. Purpura and Mr. Nieto asked you about the fact
23 that you testified that you didn't keep the \$5,000 from the
24 Belvedere Towers robbery or the \$20,000 from the Stevenson
25 robbery. Do you remember being asked those questions?

~~WARD REDIRECT~~

1 A. Yes, sir.

2 Q. Just to be clear, you admitted to both those robberies in
3 your plea agreement; right?

4 A. Yes, sir.

5 Q. And you didn't get any credit for the fact that you didn't
6 keep the money; right?

7 A. Correct.

8 Q. Now, Mr. Purpura asked you a series of questions about
9 your intent. I think they started with he asked you about your
10 intent in the Shawn Whiting search warrant.

11 And he asked you: Was it your intent -- I'm just going to
12 try to remember the words he used -- was it your intent to do
13 the search warrant the right way or legitimately?

14 And you said it was 50/50; right?

15 A. Yes, sir.

16 Q. Tell us what that means. What does 50/50 mean?

17 A. That mean if it was a large sum of money, I was going to
18 take some of it. But drugs and all that stuff, I still was
19 going to submit it. So there was going to be a report, and he
20 still was going to be arrested and everything.

21 Q. So did you have both those intents in your mind as you
22 went into that search warrant?

23 A. Yes.

24 Q. Did that happen again and again where you went into a
25 search warrant or a stop and had both those intents in your

~~WARD~~ ~~REDIRECT~~

1 mind?

2 **A.** Yes.

3 **Q.** On the one hand, to seize a gun but, on the other hand, to
4 take money if you could?

5 **A.** Yes.

6 **Q.** And Mr. Purpura also asked you about the
7 Belvedere Towers -- the Belvedere Towers robbery. And he asked
8 you something like: Did you know that Jenkins was up to no
9 good? Or something like that.

10 And my -- what I wrote down your response being was that
11 you didn't know if he was going to submit some and keep a
12 portion of it.

13 Remember saying that?

14 **A.** Yes.

15 **Q.** What did you mean by that?

16 **A.** Well, I didn't have no idea he was going to take all --
17 keep all the marijuana. I thought he would at least submit the
18 marijuana and take some of the money, not all the money and all
19 the marijuana.

20 **Q.** And what was the practice on the GTTF? Was it to keep
21 everything? Or was it to submit something, whether money or
22 drugs or something, and then steal the rest?

23 **A.** Usually a proportion was submitted.

24 **Q.** And why would you do that? Why would you submit some
25 money, not keep all of it, or the drugs or something else?

~~WARD~~ ~~REXCROSS~~

1 **A.** It didn't look good if a complaint came out that all this
2 drugs and all this money was missing and then we say it didn't
3 happen; but then mysteriously it's on camera or some type of,
4 you know, to say that it happened.

5 **MR. WISE:** Nothing further, Your Honor.

6 **THE COURT:** Okay. Any recross, Mr. Nieto?

7 **MR. NIETO:** Briefly. Briefly, Your Honor.

8 **REXCROSS-EXAMINATION**

9 **BY MR. NIETO:**

10 **Q.** Mr. Ward, I mean, Jenkins authorized overtime; right?

11 **A.** He signed our slips, yes.

12 **Q.** Right. So he authorized it?

13 **A.** He signed our slips, yes.

14 **Q.** Is that the same thing?

15 **A.** Yes.

16 **Q.** Okay. So he authorized it; correct?

17 **A.** Yes.

18 **Q.** Okay. And he also authorized slash days; right?

19 **A.** Yes, sir.

20 **Q.** Some Fridays you guys didn't even have to work.

21 **A.** Yes, sir.

22 **Q.** Remember that?

23 Right. So there was some authorization from your
24 sergeant, from your supervisor, telling you: You don't have to
25 come in this day, or don't come in this day; right?

~~WARD~~ ~~RE CROSS~~

1 **A.** Yes.

2 **Q.** And he was the one who would authorize you to be paid for
3 things you did not do; right?

4 **A.** Yes, sir.

5 **Q.** I'm sorry?

6 **A.** I said, "Yes, sir."

7 **Q.** Okay.

8 **MR. NIETO:** Nothing further, Your Honor.

9 **MR. PURPURA:** Just a couple quick questions. Sorry.

10 Really quick.

11 **RE CROSS- EXAMINATION**

12 **BY MR. PURPURA:**

13 **Q.** The -- you were asked by Mr. Wise about the door pops
14 pre-Freddie Gray. That's basically been some tactics used by
15 Baltimore City Police for years; isn't that fair to say?

16 **A.** No. I never learned it until I started working with
17 Sergeant Jenkins.

18 **Q.** Okay. And before Jenkins, you never heard about that?

19 **A.** No.

20 **Q.** How about profiling, looking for people with maybe BMWs,
21 tinted windows? That's been going on for a while; correct?

22 **A.** Yes.

23 **Q.** Did Jenkins invent that too?

24 **A.** No, sir.

25 **Q.** Okay. So these are tactics which are used by

~~WARD~~ ~~RECROSS~~

1 Baltimore City Police to ferret out perhaps drug traffickers or
2 people with guns; correct?

3 **A.** I can't answer that. I can't speak for everybody in
4 Baltimore City.

5 **Q.** And when people -- when you saw people on the streets, as
6 you indicated before, you would look for certain
7 characteristics. If one pocket was weighted down or if they
8 ran when police came up, that would be indicative of some sort
9 of criminal activity; correct?

10 **A.** Yes, sir.

11 **Q.** You weren't just pulling up every citizen just because
12 they're citizens walking the street of Baltimore City, were
13 you?

14 **A.** No, sir.

15 **Q.** You were targeting what you thought would be groups of
16 people or individual people who are committing crimes; correct?

17 **A.** Yes, sir.

18 **Q.** Now, what happened after -- in 2015, as you already
19 testified to, is that police officers here in Baltimore City,
20 they became apprehensive about making arrests in the city;
21 correct?

22 **A.** Yes, sir.

23 **MR. PURPURA:** No further questions. Thank you.

24 **THE COURT:** Mr. Wise, anything else?

25 **MR. WISE:** Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. WISE:

Q. So I know Mr. Purpura asked you about other police officers in Baltimore City, but did the things you were doing with Jenkins change after the death of Freddie Gray?

A. No.

Q. And Mr. Nieto asked you -- he used the word "authorized."

And I'll ask the same question: Did you know it was wrong to claim overtime you didn't work even with Sergeant Jenkins' authorization?

A. Yes, sir.

MR. WISE: Nothing further, Your Honor.

THE COURT: Okay. All right. Thank you. This witness is excused.

(Witness excused.)

THE COURT: I'll ask the Government if they have another witness to call.

MR. HINES: United States calls Shawn Whiting, Your Honor.

THE COURT: All right.

THE CLERK: Please raise your right hand.

SHAWN WHITING, GOVERNMENT'S WITNESS, SWORN.

THE CLERK: Please be seated. Please speak directly into the microphone. State your full name for the record and please spell your first and your last name.

~~WHITING~~ ~~DIRECT~~

1 Q. Have you previously testified in the grand jury about what
2 happened to you on that day?

3 A. Yes, sir.

4 Q. And when you testified in the grand jury, were you given
5 immunity?

6 A. Yes, sir.

7 Q. What did that require?

8 A. For me to tell the entire truth.

9 Q. Do you have immunity for your testimony here today?

10 A. Yes, sir.

11 Q. And is it the same requirement to tell the truth?

12 A. Yes, sir.

13 Q. Now, directing your attention to January, where were you
14 living in January of 2014?

15 A. 940 North Gilmore Street, Baltimore, Maryland.

16 Q. Was your home searched on January 24th?

17 A. Yes, sir.

18 Q. Prior to that search, how much money did you have in your
19 home?

20 A. 16 -- I mean 15,970 in the closet, 15 -- I mean, I'm going
21 to repeat it.

22 15,970 in the closet, 5500 in my jacket, and \$2500 in a
23 nightstand, all hundred-dollar bills.

24 Q. I'll go to the doc cam here, what will be marked SW-7.

25 Mr. Whiting, how much did you say you had in your closet?

~~WHITING DIRECT~~

1 **A.** \$15,970, \$5500 in a vest, and \$2500. The \$2500, that was
2 all hundred-dollar bills in my nightstand.

3 **Q.** How had you earned the \$15,970 that was in your closet?

4 **A.** Selling drugs.

5 **Q.** Do you still sell drugs today?

6 **A.** No, not at all.

7 **Q.** How had you earned the \$5,500 that was in your vest?

8 **A.** I was a painter, so I paint, professionally paint. So I
9 earned all that money from painting.

10 **Q.** What kind of jobs did you paint?

11 **A.** All like basically single-family homes, big homes. I'd
12 make like \$900 a week.

13 **Q.** You made about \$900 a week?

14 **A.** \$900 a week, yes.

15 **Q.** Were the homes that you painted --

16 **A.** Yeah, all the homes, yeah, big homes --

17 **THE COURT:** Start again.

18 **BY MR. HINES:**

19 **Q.** Were the homes that you painted in and around Baltimore?

20 **A.** All throughout, mostly in Baltimore County.

21 **Q.** And the \$2,500 in your nightstand, how had you earned
22 that?

23 **A.** That was from painting. That was from painting.

24 **Q.** And if you add this up, Mr. Whiting, is it approximately
25 \$23,970 that you --

~~WHITING~~ ~~DIRECT~~

1 **A.** Yes, sir. Yes, sir.

2 **THE COURT:** You need to wait until the --

3 **THE WITNESS:** Okay.

4 **THE COURT:** -- question is finished, sir. Thank you.

5 **THE WITNESS:** All right.

6 **BY MR. HINES:**

7 **Q.** Mr. Whiting, did you have \$23,970 in your home?

8 **A.** Yeah. That's what I had total.

9 **Q.** How did you learn on January 24th, 2014, that a search was
10 going to be happening at your house?

11 **A.** I didn't know it until basically I was 'sleep when I heard
12 my daughter screaming. I slept on the third floor in the
13 front. I heard my daughter screaming. And by the time I woke
14 up, police was already at -- at my -- like at my door, like a
15 step -- I just got out the bed. I only had my boxers on, my
16 underwear on. When he said, "Get down," I just got down.

17 **Q.** So you were asleep in your third-floor bedroom --

18 **A.** Yeah.

19 **Q.** -- just wearing your boxers?

20 **A.** Yeah.

21 **Q.** And you heard your daughter scream?

22 **A.** Yeah.

23 **Q.** And the next thing you noticed --

24 **A.** The police was right there where I was at. You know, as
25 soon as I got out the bed, he basically was like right there.

~~WHITING~~ ~~DIRECT~~

1 I had no time to -- I might have took like three steps.

2 Q. Were you placed in handcuffs?

3 A. Yeah; right there.

4 Q. Did you comply with their orders?

5 A. Yeah. He had the gun right there, right on me.

6 Q. Did you feel like you could resist?

7 A. Oh, no. They had they guns out.

8 Q. What did you believe would happen if you resisted the
9 officers?

10 A. Oh, of course, I would have been shot.

11 Q. Had you learned the names of any of the officers who came
12 into your home on that day?

13 A. Yes, sir.

14 Q. What were their names?

15 A. Maurice Ward, Marcus Taylor, and some other officers.

16 Q. Do you see Detective Taylor in the courtroom here today?

17 A. Wait a minute.

18 Q. You can stand up and look around if you don't --

19 A. (Witness complies.)

20 I think him right there (indicating).

21 Q. Can you describe him by an article of clothing that he's
22 wearing.

23 A. Yes, sir. Yes, sir.

24 Q. That's him, you said?

25 A. Hold up. Let me look around. I haven't seen him in a

~~WRITING DIRECT~~

1 while, so he had to --

2 **Q.** Did you testify in the grand jury and identify a series of
3 photos, Mr. --

4 **A.** Yes. Yes.

5 **Q.** Would it refresh your recollection to see the photograph
6 you identified --

7 **A.** If I see the --

8 **MS. WICKS:** Objection, Your Honor.

9 **THE WITNESS:** If I see the photograph --

10 **THE COURT:** Sir, you may sit down for just a moment.
11 Counsel, like to approach the bench?

12 **MR. HINES:** Yes.

13 (Bench conference on the record:

14 **MS. WICKS:** Your Honor, it appears as though he did
15 identify someone. I'm not sure which person he identified.
16 But he did identify -- he pointed to someone in the courtroom
17 and identified that person. So I don't think he needs his
18 refresh -- his recollection refreshed.

19 **THE COURT:** Do you want to agree that he identified
20 your client, Mr. Taylor?

21 **MS. WICKS:** I'm not agreeing he identified my client.
22 He pointed -- there are two black men over there, Your Honor.
23 I don't know which one he was pointing at.

24 **MR. HINES:** He was clearly pointing at Mr. Taylor. I
25 just didn't want to err in front of the jury and assume that,

1 but a stipulation, that's what --

2 **MS. WICKS:** I'm not stipulating. There's --

3 **THE COURT:** Okay. If you -- if you do not agree --
4 and I'm not saying you should -- that he pointed to your client
5 and identified Mr. Taylor --

6 **MS. WICKS:** I'm saying --

7 **THE COURT:** He was not entirely sure.

8 **MS. WICKS:** I understand he's not entirely sure. But
9 the question was then asked for him to describe something that
10 he was wearing or describe him. And the witness didn't do
11 that.

12 **THE COURT:** True.

13 **MS. WICKS:** If the Government wants to get the witness
14 to answer the question, then we might be somewhere. But since
15 he's identified someone, I don't think his recollection needs
16 to be refreshed.

17 **THE COURT:** Okay. I thought we were going somewhere
18 different, but what were you planning to do?

19 **MR. HINES:** I was planning to refresh his recollection
20 with the photo lineup photo that he saw in the grand jury.

21 **THE COURT:** Refresh -- I mean, aren't we getting
22 into -- I mean, once you've shown him a picture, then, of
23 course, he's going to point to the person that's sitting there.
24 I don't think that's a refreshing -- appropriate refreshing
25 recollection. I think that if you -- the way the record to me

1 is that he tentatively identified Mr. Taylor. I don't think he
2 pointed to anybody else. I think Mr. Taylor, but he was not
3 sure. He was not sure.

4 **MS. WICKS:** I'm not sure, Your Honor.

5 **THE COURT:** If you want to say that he identified by a
6 photograph someone that, you know, you showed him the
7 photograph in the grand jury, you can -- I think you could have
8 him do that, but you can't show him the photograph and then
9 say, Now, do you recognize him, basically?

10 **MS. WICKS:** I agree with the Court.

11 **THE COURT:** That is where I think we are.

12 **MS. WICKS:** I think the prior identification can come
13 in, but he's not refreshing his recollection if he made an
14 identification in the Court. I think the Government just
15 hasn't followed up about that, whatever he was saying about
16 whoever he's talking about in the courtroom.

17 **MR. NIETO:** Your Honor, just to further complicate
18 matters, for the record I think what my co-counsel is saying is
19 that seated behind Mr. Taylor is what I believe to be a
20 U.S. Marshal who is African-American, almost directly behind
21 him. And I think from his angle, that's what she was
22 suggesting.

23 Secondly, of course, this is a single photo which has
24 some, you know, persuasive -- I think it would sort of
25 invalidate the authenticity of his in-court identification.

1 **THE COURT:** I agree. I agree. And, of course -- if
2 there is any genuine dispute about whether Mr. Taylor was or
3 was not present during this search -- I don't know if that's a
4 fight you want to have -- you know, then you can go into it on
5 cross that I was shown one picture and so forth and so on.

6 I mean, I am not -- you all have that information. I
7 don't. I don't know if there's actually any genuine dispute
8 that it was Mr. Taylor.

9 If there's no genuine dispute, we're making a lot out
10 of nothing.

11 **MS. WICKS:** No. There is a dispute about what portion
12 he was there for. I mean, there is a dispute here, and I think
13 there's certainly a dispute about who he was pointing to. It
14 wasn't clear to me --

15 **THE COURT:** Okay.

16 **MS. WICKS:** -- and I'm sitting next to the man. So --

17 **THE COURT:** The record is what it is. It's up to the
18 jury. It can show the picture that was identified in the
19 grand jury, but then that's it. Then you can't have him go
20 back and look again.

21 **MR. HINES:** That's fine.)

22 (Bench conference concluded.)

23 **THE COURT:** We'll start over.

24 **MR. HINES:** Thank you, Your Honor.

25 **BY MR. HINES:**

1 Q. Mr. Whiting, before you testified in the grand jury, were
2 you shown a photo lineup, a series of photos?

3 A. I was showed a book, like, two books.

4 Q. And do you recall picking out a photo of Marcus Taylor?

5 A. Yeah.

6 Q. I'm showing you what's been marked as FBI-2 --

7 A. That's him right there.

8 Q. Is this the photograph that you picked out?

9 A. Yeah. Yeah. That's him.

10 Q. Now, Mr. Whiting, after you were arrested in your bedroom,
11 what happened next?

12 A. They took me downstairs and --

13 Q. The officers took you downstairs?

14 A. They took me downstairs and sat me on the couch.

15 Q. Were you in handcuffs at this time?

16 A. Yeah; in my boxers.

17 Q. And while you're sitting in handcuffs on the couch, what
18 happened next?

19 A. Officers came downstairs, Sergeant Avery [sic] and
20 Marcus Taylor.

21 Q. And what was brought downstairs?

22 A. They brought a bag of money, \$15,970.

23 Q. So this is the bag of money from the closet that you
24 referenced?

25 A. Yes.

1 Q. What happened when Mr. Taylor and Mr. Ivery brought the
2 bag of money downstairs?

3 A. They asked me how -- how much money was it.

4 I told 'em it's \$15,970.

5 And they asked me can I count it basically for the money
6 machines. I told 'em I ain't going to do their job. They do
7 their job theirselves.

8 And then I told 'em it was still some more money upstairs,
9 8,000.

10 Q. And did you tell them -- you told them there was
11 additional money upstairs?

12 A. Yeah. \$5500 in my vest and then it was additional other
13 money up there, 2500 in the nightstand.

14 Q. I understand. So you told them about the additional --
15 you asked them about the additional 5500 upstairs?

16 A. Yeah. I asked them where my other money at. They ignored
17 me.

18 Q. So Mr. Taylor and Mr. Ivery ignored you when you asked
19 them about your other money?

20 A. Yeah. Yeah.

21 Q. Did you also have drugs in your house?

22 A. Yeah.

23 Q. What drugs did you have in your house?

24 A. 4 and a half kilos of heroin.

25 Q. That's a significant quantity of heroin; right,

~~WHITING DIRECT~~

1 Mr. Whiting?

2 A. Yes, sir.

3 Q. Were you ultimately charged for the heroin that was in
4 your house?

5 A. Yeah. I was charged with everything.

6 Q. How much heroin was reported in your charging papers?

7 A. About 3 kilos.

8 Q. Only 3 kilos?

9 A. Yeah.

10 Q. But you said you had 4 and a half kilos in your house.

11 A. Yeah. I ain't notice until I got my discovery. I was
12 already sentenced. And basically, you know, I seen in there.
13 But I was going to trial, so I wasn't going to say nothing
14 about no drugs. I was just saying about -- really about the
15 money.

16 Q. And why didn't you complain to anyone about the drugs, the
17 additional drugs that were missing --

18 A. Who am I to complain about --

19 Q. Mr. Whiting, why didn't you complain about the missing
20 drugs?

21 A. Who going to complain about more, extra drugs; you know
22 what I mean?

23 Q. Were you worried that your sentence or charges would be
24 more significant?

25 A. Yeah.

~~WRITING DIRECT~~

1 **MR. NIETO:** Objection, Your Honor; leading.

2 **THE COURT:** Overruled.

3 **BY MR. HINES:**

4 **Q.** That was a yes?

5 **A.** Yes.

6 **Q.** What happened to the charges against you from this
7 episode?

8 **A.** What you say? Can you repeat it.

9 **Q.** Sure. What happened to the charges against you?

10 **MR. NIETO:** Objection, Your Honor.

11 **THE COURT:** Basis? Or do you want to come to the
12 bench?

13 **MR. NIETO:** If we could.

14 (Bench conference on the record:

15 **MR. NIETO:** My apologies, Your Honor. I did not know
16 whether or not he's going to be suggesting that his charges had
17 been dismissed based on eventually because of the malfeasance
18 of the police unit. And I thought that's where they were going
19 with it. And I think that's what the end result is.

20 The determination by the U.S. Attorney or the State's
21 Attorney's Office with what to do with that case is not
22 relevant for purposes of the jury, and that's where I was
23 going.

24 **MR. HINES:** And that's not where we were going to go
25 but I can lead him and ask: Were the charges against you

1 dismissed? And that was the end of where we were going to go.

2 **MR. NIETO:** That's my point.

3 **THE COURT:** Okay. What is your -- where are you
4 trying to get to? What is the purpose of your question?

5 **MR. HINES:** So in opening, Ms. Wicks said, You're
6 going to hear about the motivations of the witnesses. They'd
7 have a reason to lie after this became public, you know, came
8 forward with these stories.

9 **THE COURT:** Right.

10 **MR. HINES:** And we have to show, based on his
11 credibility, is he wasn't -- he didn't come forward with a
12 story at that time after charges were made. In fact, he
13 already complained at a prior date. And that's why, you
14 know -- and he's not in custody right now. There's no benefit
15 conferred upon him.

16 **THE COURT:** So, I mean, your point is that right now,
17 he's not facing any charges?

18 **MR. HINES:** Correct.

19 **MR. NIETO:** And I don't -- my concern is that the
20 jury's going to infer that the charges were dropped because of
21 this investigation, and that's where it's a little messy.

22 And my apologies because in Jencks, we had received
23 the letters that Mr. Whiting had written from state prison
24 complaining about this particular instance. And that's why I
25 thought that's where they were going.

1 So to suggest that there was nothing hanging over his
2 head at the time he was making these complaints I think is
3 something we can flesh out in cross.

4 But I just don't want the jury to get this confused.
5 And that's the only reason I jumped up, because they say, Oh,
6 these police did all these things and stole.

7 Oh, so then what happened with your case?

8 Oh, it got dropped.

9 A variety of reasons why it could be dropped, and I
10 don't want them to think it's because of this.

11 **MR. HINES:** And just to be clear, that was what was
12 argued in opening by Ms. Wicks, that people had motivation to
13 come forward so that their charges could be dropped. That's
14 not -- we now have to rebut that because that's the issue they
15 put on the plate.

16 **MS. WICKS:** Your Honor, my argument was not specific
17 about this person. There are people that came forward after
18 the allegations were made public. I was not referring to this
19 witness.

20 **THE COURT:** Well, then why --

21 **MS. WICKS:** He came forward -- I mean, according to
22 him, he contacted IAD back after he got arrested. So that's
23 not this factual scenario.

24 **THE COURT:** Just ask him if he's currently facing any
25 charges and -- right? That's what you want to get out, that

~~WHITING~~ ~~DIRECT~~

1 he's not here facing any charges.

2 **MR. HINES:** Okay.

3 **THE COURT:** I'll overrule the objection. You can ask
4 him that.)

5 (Bench conference concluded.)

6 **BY MR. HINES:**

7 **Q.** Mr. Whiting, are you currently facing any charges?

8 **A.** No, not -- is I'm currently facing any charges?

9 **Q.** I think your answer was "no"; is that right?

10 **A.** Huh?

11 **Q.** I asked if you were currently facing any charges, and your
12 answer was "no"?

13 **A.** Oh, no.

14 **Q.** Okay. When you were at your home at 940 North
15 Gilmor Street on the day of the search, did any other
16 law enforcement officers show up?

17 **A.** Two -- two guys came in there. They said they was DEA and
18 federal agents, but they never produced any identification or
19 show me no badge. So I don't know what they was.

20 **Q.** Two federal agents showed up. One of them said he was a
21 DEA --

22 **A.** One of them say he was a federal agent, and one say he was
23 a DEA agent. I don't know what they was.

24 **Q.** After the search when you returned to your home, did you
25 realize that additional items were missing from your home?

1 **A.** Yeah.

2 **Q.** What was missing?

3 **A.** A black Gucci belt; my Dolce & Gabbana cologne; my
4 Jordans, black Jordans, brand-new Jordans that came out in
5 2013. They was in a box. They was special edition; whereas
6 though, you needed a ticket to get 'em. And that's the only
7 way you can get 'em.

8 And then a pair of, like, Nike Airs that glowed in the
9 dark. Some -- my kids' controllers that I just purchased from
10 Game Stop -- I think I purchased them probably January 22nd. I
11 got receipts for all the items.

12 **Q.** So you said PlayStation® controllers?

13 **A.** Yeah. Two of 'em. It was like two -- two of 'em. They
14 took two PlayStation® controllers, some games, the cologne.

15 **Q.** What kind of cologne was it?

16 **A.** Dolce & Gabbana. My black Gucci belt, my black Gucci
17 shoes.

18 **Q.** What kind of shoes?

19 **A.** Black Gucci shoes. They went -- the belt went to the
20 shoes.

21 **Q.** And which kind of Jordan shoes did you have?

22 **A.** Jordan, they be like special. They call -- it was called
23 Oreos. They came out and, you know, I had 'em in a box. I
24 never wore 'em.

25 And the Nike Airs, they was brand new too. And like I

1 say, only way you can get 'em, you need to have to stand in
2 line and get a ticket. That's the only way you can have them
3 tennis shoes.

4 **Q.** What did you think when you got back to your house and
5 none of those items were there?

6 **A.** They robbed me and took 'em.

7 **Q.** Now, the -- did you learn how much money was actually
8 turned in to the DEA in your paperwork?

9 **A.** When I first got my additional charge paper, it had
10 undisclosed amount of money when I first got the charge papers
11 when I got arrested. And I was, like, something was funny when
12 they first did that.

13 But I was asking them, like, why didn't they put the
14 amount of money on there? Nobody couldn't really give me no
15 answer. But when I got a letter like February, March sometime
16 I got -- I received a letter from DEA out of Virginia. It
17 showed the amount of money that was submitted from -- to the
18 police department. As soon as I seen that, I called the
19 Internal Affairs and told them that day that they had basically
20 robbed me and took my money.

21 **Q.** So do I understand the first paperwork you received showed
22 undetermined amount?

23 **A.** Yeah. It say -- I'm trying to figure what it -- it say
24 "large sum of money." That's what was on my charge papers.

25 **Q.** And then ultimately did you find out the amount of money

~~WRITING DIRECT~~

1 that the DEA --

2 **A.** Only way I found out is from the DEA. I ain't never knew
3 nothing from Baltimore City police officers. They never give
4 me -- they never gave me amount.

5 **Q.** And how much money was turned in to the --

6 **A.** They had it submitted to them, \$7,650.

7 **Q.** So how much money was taken from you? Was it \$16,320?

8 **A.** Yeah, \$16,320, to be exact.

9 **Q.** Did you ever get any of that money back?

10 **A.** Not one cent.

11 **Q.** And I want to show you -- I'm going to ask you a question,
12 first, and show you an exhibit.

13 Did you take a photo of the money that was in your closet
14 prior to the search?

15 **A.** Yeah, I took a -- I took a picture of it.

16 **Q.** And when did you take that photo?

17 **A.** January 17th, 2014.

18 **Q.** So this was approximately one week prior to the search?

19 **A.** Yeah. But it was more money in the house. That was just
20 that money 'cause that was the money in the bag.

21 **Q.** That was the drug money?

22 **A.** Yeah, that was the drug money.

23 **Q.** I'm showing you what's been marked as SW-4. That's the
24 date on the photo, January 17th, 2014?

25 **A.** Yeah. Yes.

1 Q. What does this photograph show?

2 A. It shows \$15,970.

3 Q. So there's a number of stacks here -- one, two, three,
4 four, five, six?

5 A. It's 16 stacks, 16 stacks. One stack got \$970 in it. The
6 farther stack probably over on the right at the top, if you
7 count one, two, three, the fourth one right there, that's got
8 \$970 in it.

9 Q. All right. So these -- all of these stacks are stacks of
10 a thousand dollars --

11 A. A thousand dollars, yeah. That's how I stacked 'em.

12 Q. And the one in the top right is \$970?

13 A. Yeah.

14 Q. Did you tell anyone about the missing money?

15 A. Did I tell anybody? As soon as I got the letter, as soon
16 as I got the letter from the DEA, from out there. If you
17 look -- I called Internal Affairs. They -- when I called 'em,
18 they said all calls -- they say, All calls are being recorded,
19 'cause they said that you know we going to -- Mr. Whiting,
20 we're going to have to lie-detect you.

21 I said, You can lie-detector me because I said that's what
22 the money it is. I said, Plus that was more money. That was
23 the money in the bag. I said they only submitted 900 -- I said
24 they only submitted \$7,650 in the letter according to the DEA.
25 But I had way more money than that. And I told them about the

~~WRITING DIRECT~~

1 other items that was taken from me.

2 **Q.** In addition to the Baltimore City Internal Affairs
3 department, did you tell anybody else about the missing money?

4 **A.** Yeah.

5 **Q.** Who else did you tell?

6 **A.** I wrote a letter to the U.S. Justice Department. And I
7 think August 2014 while I was incarcerated, they advised me
8 to --

9 **MR. NIETO:** Objection, Your Honor.

10 **MR. HINES:** I'll move on.

11 **BY MR. HINES:**

12 **Q.** Did you also write a letter to the FBI?

13 **A.** Yeah; FBI criminal division.

14 **Q.** And when did you write the letter to the FBI?

15 **A.** February 2017. I was incarcerated.

16 **Q.** And when you wrote the letter in February of 2017, were
17 you aware that charges would be brought against Mr. Taylor?

18 **A.** I knew nothing at all. Nothing at all.

19 **Q.** After you wrote that letter, is that when you learned that
20 Mr. Taylor had been charged?

21 **A.** Basically, yeah. That was after 'cause I wrote it way
22 before they got charged. They got charged March. My letter --
23 my letter to the FBI criminal division is 20 -- 2017, in
24 February. I wrote one 20 -- as soon as I got sentenced July
25 the 8th, 20 -- 2015, I wrote a letter to the

~~WHITING~~ ~~CROSS~~

1 U.S. Justice Department telling them about the corruption of
2 all the police officers that was involved in my case, asked
3 them to open up an investigation into them.

4 **Q.** Okay. And -- but when you wrote the letter, did you --
5 what was your intent? What did you want to have happen?

6 **A.** 'Cause I knew possibly if they doing it to me, that it's
7 other people. Just like if you going stealing candy from the
8 store and --

9 **MS. WICKS:** Objection, Your Honor.

10 **THE WITNESS:** -- getting away with it, you going to
11 keep doing it. And I knew possibly that they was going to get
12 caught.

13 **MS. WICKS:** Objection.

14 **THE COURT:** Overruled.

15 **MR. HINES:** No further questions, Your Honor.

16 **THE COURT:** All right. Ms. Wicks.

17 **MS. WICKS:** Court's indulgence.

18 CROSS-EXAMINATION

19 **BY MS. WICKS:**

20 **Q.** Good afternoon, Mr. Whiting.

21 **A.** Good afternoon.

22 **Q.** One of the questions Attorney Hines just asked you was
23 whether or not you have any charges pending right now; right?

24 **A.** Do I have a charge pending? What, assault? Yes, assault.

25 **Q.** Okay. Well, just a couple moments ago he asked you if you

~~WHITING~~ ~~CROSS~~

1 had any pending charges. And you said "no"; correct?

2 **A.** No. That's to the case he mean about the police officer.

3 **Q.** Okay. Well, his question wasn't whether or not you had
4 any pending charges concerning the search warrant; right? His
5 question was whether or not you have any pending charges;
6 correct?

7 **MR. HINES:** Objection, Your Honor.

8 **THE WITNESS:** No, no, no, no, no.

9 **THE COURT:** All right. Stop, please. Stop.

10 Come up to the bench.

11 (Bench conference on the record:

12 **THE COURT:** So he does have charges pending against
13 him?

14 **MS. WICKS:** Yes.

15 **MR. HINES:** Nothing to do with this case whatsoever.

16 He has charges -- he had charges in the January 2014
17 search warrant which the defense objected to us getting into in
18 the case. That's what the question was about. They're now
19 eliciting a pending assault that he has somewhere else that
20 can't come into evidence.

21 And my question did not elicit anything about that.
22 It was about the January 2014 search which the defense objected
23 to, and that's why we came up to the bench.

24 **THE COURT:** Well, we unfortunately got into a
25 confusion which I may have contributed to by telling you to

1 phrase the question of whether there are any charges pending
2 now, because apparently -- what did happen with the drug
3 charge? Did he get sentenced, or was he just locked up
4 pretrial?

5 **MS. WICKS:** He pled. He got 18 years with time
6 suspended except for eight years. He did some time last fall.
7 There was a motion to withdraw his guilty plea that was
8 granted.

9 A couple days before that, while he was still in
10 custody, he apparently bit a guard because he didn't want to
11 get transferred. He's gotten charged for that, and that case
12 is pending.

13 Mr. Hines asked him twice specifically, Do you have
14 any pending charges?

15 And he answered "no" twice.

16 I think that's a fair area for me to get into when he
17 has a trial on February 13th. He has a pending charge. I
18 understand what we're talking about at the bench, but
19 Mr. Whiting doesn't know that. And when the prosecutor goes
20 back and asks him that question not once but twice and then he
21 says "no," I think that's something that the jury should know
22 about.

23 **THE COURT:** Well, the jury does now know that he has a
24 pending assault charge. How much -- what else are you planning
25 to ask about it?

1 **MS. WICKS:** That's what I was trying to ask, and
2 that's -- then they objected to that. I mean, he had
3 essentially answered it, but --

4 **THE COURT:** Yes.

5 **MS. WICKS:** -- he's trying to qualify. He didn't know
6 about the conversation up here.

7 But the specific question was: Do you have any
8 pending charges?

9 And he said "no."

10 **THE COURT:** Okay. So -- and he has now said "yes."

11 **MS. WICKS:** Yes.

12 **THE COURT:** He has a pending assault charge.

13 **MS. WICKS:** Yes; but I was trying to get out -- the
14 point was you were asked a specific question. It didn't say
15 "in reference to the search warrant."

16 It was absolutely general: Do you have any pending
17 charges?

18 **THE COURT:** Okay. But -- so that -- you're trying to
19 argue to get him to agree with that's what he meant.

20 **MS. WICKS:** I'm not arguing with him. I'm asking him
21 what the question was that he was asked ten minutes ago.

22 **THE COURT:** Why don't we just let the jury recall,
23 because I think it was pretty clear. Mr. Hines asked him if he
24 had any pending charges. He said "no."

25 You asked him if he had any pending charges, and he

1 said "yes."

2 **MS. WICKS:** Yes. It was their objection. I don't
3 think it's objectionable when there's a pending case.

4 **MR. HINES:** So that I'm clear, it's done now; right?
5 We're done? We're moving on? Is that --

6 **THE COURT:** It's done unless there's anything else
7 that opens another door, but that answer will stand. He has a
8 pending assault charge, and that can be argued.

9 **MS. WICKS:** Okay. Thank you.)

10 (Bench conference concluded.)

11 **BY MS. WICKS:**

12 **Q.** Now, Mr. Whiting, when you were arrested back in January
13 of two thousand and -- it was January 2014; correct?

14 **A.** Yes.

15 **Q.** Okay.

16 **A.** Yeah.

17 **Q.** And when you were arrested, your testimony, you were being
18 asked about what happened. The police came -- there were
19 police officers that came into your house, and they had a
20 search warrant; correct?

21 **A.** I never seen a search warrant.

22 **Q.** Okay. Was it provided through discovery?

23 **A.** Yeah.

24 **Q.** Okay. So you didn't see it that day, but eventually in
25 your case you saw the search warrant; correct?

~~WHITING~~ ~~CROSS~~

1 **A.** I seen something, but I say it wouldn't -- couldn't have
2 been true.

3 **Q.** Okay. I'm not asking about whether or not it was true,
4 but I'm saying in your discovery, you saw a copy of the
5 search warrant; correct?

6 **A.** I seen something. I don't know -- I'm not an attorney.
7 You know what I mean?

8 **Q.** Okay. But this was all something -- it was given to your
9 attorney, and you reviewed it with your attorney; correct?

10 **A.** And my lawyer questioned that search warrant.

11 **THE COURT:** Mr. Whiting, Mr. Whiting, you need to just
12 listen to her question --

13 **THE WITNESS:** Okay. All right.

14 **THE COURT:** -- and answer her question.

15 **BY MS. WICKS:**

16 **Q.** When you were -- so to your knowledge -- well, back in
17 January 2014 when the -- there was a police that appeared as
18 you were getting out of bed as you heard the police coming in
19 the building; correct? There was a police officer that came to
20 your door, your bedroom door, as you were getting out of bed
21 that morning; correct?

22 **A.** No. I didn't get out of bed until I heard my daughter
23 screaming.

24 **Q.** Right. I understand that. But you heard the screaming.
25 You're getting out of bed. You said you took about three

~~WHITING~~ ~~CROSS~~

1 steps --

2 **A.** The police was there. When I got out of the bed, the
3 police was there with the shield, with the gun right on me.

4 **Q.** Okay. Mr. Whiting, I'm going to ask a question, and I'm
5 just asking you to wait until I finish my question, okay?

6 **A.** All right.

7 **Q.** So the police officer that was right there, what police
8 officer was that?

9 **A.** It was a white police officer.

10 **Q.** A white police officer?

11 **A.** Yeah.

12 **Q.** That was not Detective Taylor; correct?

13 **A.** Detective Taylor came up there.

14 **Q.** Right now I'm asking about the police officer that was
15 there with a shield and a badge.

16 **A.** And he went right back downstairs with --

17 **THE COURT:** Mr. Whiting, Mr. Whiting, really, please
18 listen to her question and just answer the question.

19 **BY MS. WICKS:**

20 **Q.** The police officer that came into your bedroom that -- the
21 first police officer you saw was a white police officer;
22 correct?

23 **A.** Correct.

24 **Q.** Okay. Did you ever come to learn that police officer's
25 name?

1 **A.** I think his name was maybe -- maybe, I think, Thomas or
2 something like that.

3 **Q.** Okay. And there were seven or eight officers in total
4 that were in your house that day; correct?

5 **A.** Maybe, yeah, yeah, yeah.

6 **Q.** Well, you've testified to that before.

7 **A.** Okay, yeah, yeah, 'cause the other -- it was there seven
8 or eight, yeah.

9 **Q.** I'm sorry?

10 **A.** Yes. Yes, ma'am.

11 **Q.** Okay. And there may have been one female officer;
12 correct?

13 **A.** Yeah.

14 **Q.** And when you received the letter from the DEA, that was
15 that spring?

16 **A.** No. I -- I received a letter from the DEA like soon as --
17 basically -- okay, I get locked up January the 24th. January,
18 February, March, I didn't say the exact day, but I knew it was
19 one of them days. As soon as I received the letter -- it's
20 postmarked. As soon as I received it, the day that I received
21 it, I contacted Internal Affairs.

22 **Q.** Okay. My question wasn't about you contacting anyone. My
23 question was just to get at it was soon after that arrest;
24 correct?

25 **A.** Soon after the arrest?

~~WHITING~~ ~~CROSS~~

1 Q. Yes. In 2014 is when you got the letter from the DEA?

2 A. Yeah, yeah.

3 Q. Okay. And did you file a claim for your money?

4 A. For my money?

5 Q. Yes.

6 A. I contacted them and told them that they took the money.

7 Q. Okay. Well, there was money that the DEA was saying that
8 was seized from your house; correct?

9 A. Yes.

10 Q. In that letter; correct?

11 A. Yes.

12 Q. And the letter we're talking about is a letter from them
13 asking if you're making a claim to get your money back;
14 correct?

15 A. I didn't even have all the money to detain [sic] my lawyer
16 to do everything like that.

17 Q. The question I'm asking you is about the money that the
18 letter was about.

19 A. Yeah.

20 Q. There was money that was seized that day; correct?

21 A. Yes.

22 Q. Your testimony just now was that there was a little over
23 16,000 that, according to you, wasn't reported. But there was
24 a sum of money that was reported and apparently given to the
25 DEA; correct?

~~WHITING~~ ~~CROSS~~

1 **A.** Repeat your question.

2 **Q.** There is a sum of money that was taken from your house
3 that was given to the DEA.

4 **A.** Yeah.

5 **Q.** This whole letter that you got is the DEA asking you if
6 you want to make a claim about the money; correct?

7 **A.** I couldn't claim the money at the time. I couldn't claim
8 the money.

9 **Q.** Well, you just testified that part of the money that was
10 taken that day came from painting; correct?

11 **A.** Yeah.

12 **Q.** Okay. And back in the letters that you've written and the
13 testimony that you've given previously, you also indicated that
14 you sold cars; correct?

15 **A.** Hold on. Okay. You saying I told [sic] cars or whatever
16 it is. Don't try -- you trying to really confuse me. How can
17 I claim something if it's not the total amount that I had? Can
18 you answer that?

19 **THE COURT:** Sorry, Mr. Whiting, you're not asking the
20 questions right now. She is asking the question.

21 **THE WITNESS:** Excuse me, Your Honor. Who is she,
22 though? She never told me who she was.

23 I'm asking, what is your name?

24 **THE COURT:** Okay. Mr. Whiting, that's a --

25 **BY MS. WICKS:**

~~WHITING~~ ~~CROSS~~

1 Q. Mr. Whiting, I'm Jenifer Wicks.

2 A. Okay. So you did a --

3 Q. We talked on the phone yesterday; correct?

4 **THE COURT:** Wait a minute. Wait a minute.

5 Mr. Whiting, you've really got to let her finish. She's about
6 to try to explain to you.

7 **BY MS. WICKS:**

8 Q. I'm introducing myself. You're right. You don't know who
9 I am.

10 A. Yeah. You --

11 Q. I'm Jenifer Wicks, and we talked on the phone yesterday;
12 correct?

13 A. Correct.

14 Q. Okay. You talked to both myself and my investigator
15 yesterday on the phone; correct?

16 A. Correct. And what did I say to you?

17 Q. And you refused to meet with us in person; correct?

18 A. What did I say to you, though?

19 **THE COURT:** Mr. Whiting, please answer her question.

20 **THE WITNESS:** Yeah.

21 **BY MS. WICKS:**

22 Q. Okay.

23 A. Yes, ma'am.

24 Q. So now you know who I am. Now can you answer my questions
25 about --

1 **A.** Yeah.

2 **Q.** -- the letter that you got from the DEA?

3 **A.** You --

4 **THE COURT:** Repeat the question, please, a
5 straightforward, simple question.

6 And then, Mr. Whiting, you answer it.

7 **BY MS. WICKS:**

8 **Q.** The letter that you got from the DEA was a -- telling you
9 about money that was seized and asking you if you wanted to
10 make a claim that you rightfully and legally were entitled to
11 that money; correct?

12 **A.** I can't claim -- I can't claim \$7,650 if more was owed to
13 me.

14 **Q.** I understand that you were claiming there's other money
15 that was also taken --

16 **A.** And that's -- I contacted Internal Affairs and told them
17 what the amount of money was from the beginning.

18 **THE COURT:** Okay. I think the answer is, no, he did
19 not claim it.

20 **MS. WICKS:** Okay.

21 **THE COURT:** He called IAD.

22 **BY MS. WICKS:**

23 **Q.** So your response to the letter from the DEA is you called
24 Baltimore Police IAD; correct?

25 **A.** That's what they said. They said, You got to follow

1 protocol.

2 **Q.** This is a yes-or-no question.

3 Your response to getting the letter from the DEA was you
4 called Baltimore IAD; correct?

5 **A.** Yes. That's the first thing I did.

6 **Q.** Okay. And you also apparently contacted the DEA; correct?

7 **A.** The DEA?

8 **Q.** Yes. The letter was from the DEA in Virginia; correct?

9 **A.** No, I never contacted them.

10 **Q.** So in response to the letter you got from the DEA from
11 Virginia, you never contacted them?

12 **A.** I contacted the Internal Affairs.

13 **Q.** Okay. So the people that were corresponding with you
14 about money that you're saying was taken from your house, you
15 never contacted them --

16 **A.** They said there's protocol that you got to follow, and you
17 got to contact Internal Affairs and let them know. That's the
18 first thing I was told.

19 **Q.** I'm sorry?

20 **A.** They said you got to call -- contact Internal Affairs.

21 **Q.** Who is the "they"?

22 **A.** People told me. I asked my cousin. My cousin was a
23 police and everything. And he told me that's who you got to
24 contact.

25 **Q.** Okay. So you -- the letter tells you who to contact about

~~WHITING~~ ~~CROSS~~

1 the money; correct?

2 **A.** How can I contact somebody about the sum of money that was
3 not that total amount? You know, it's just like you got a
4 receipt for something; you going to get a receipt for \$5, but
5 the person owe you \$20.

6 **Q.** Okay. I'm asking you a question about the letter --

7 **THE COURT:** Please, can we move to a different
8 question, because I think this has been answered --

9 **MS. WICKS:** Sure.

10 **THE COURT:** -- the best it's going to get answered for
11 several times now.

12 **MS. WICKS:** Sure.

13 **THE COURT:** So let's try another question.

14 **BY MS. WICKS:**

15 **Q.** So, Mr. Whiting, as Government counsel brought out, when
16 you went to the grand jury in 2017, the Government gave you
17 immunity; correct?

18 **A.** In 2017?

19 **Q.** You went to the grand jury; correct?

20 **A.** Nope. I ain't get no immunity until I was basically
21 maybe, what --

22 **MS. WICKS:** Can I approach -- are we on 1?

23 2, what will be marked -- this is just for
24 identification as Taylor 2.

25 **THE COURT:** All right.

~~WHITING~~ ~~CROSS~~

1 **BY MS. WICKS:**

2 **Q.** Mr. Whiting, I'm showing you a transcript of your
3 testimony in the grand jury (handing).

4 **A.** Okay. I know that.

5 **Q.** Okay. And I'm just directing your attention to the middle
6 of Page 3, starting at -- just to read to yourself to refresh
7 your recollection starting at Line 10.

8 **A.** Okay. I already know that, but I know the Government
9 cannot prosecute me while I was already prosecuted. The
10 immunity ain't mean nothing to me.

11 **THE COURT:** So, Mr. Whiting, you do recall being given
12 immunity to testify?

13 **THE WITNESS:** Yeah, but that ain't even nothing to me.
14 I already did time.

15 **THE COURT:** That's fine. You just say "yes" or "no."
16 Yes, you got immunity.

17 **THE WITNESS:** Yes, ma'am. Yes, ma'am.

18 **BY MS. WICKS:**

19 **Q.** Okay. So you had immunity. And when you went to the
20 grand jury, you didn't have a lawyer at that time; correct?

21 **A.** I was already sentenced. How can you give me more time,
22 ma'am? Immunity mean nothing.

23 **MS. WICKS:** May we approach briefly, Your Honor, just
24 about the Court's previous ruling?

25 **THE COURT:** Sure.

1 (Bench conference on the record:

2 **MS. WICKS:** I understand the Court's ruling and where
3 we were before about the conviction that was vacated. He
4 withdrew his guilty plea. But at this point, since he's
5 bringing up that he was in custody, I would like to be able to
6 go into that.

7 **THE COURT:** Into what?

8 **MS. WICKS:** Well, I mean --

9 **THE COURT:** I mean, he just said he was sentenced.

10 **MS. WICKS:** I understand. But now the fact that his
11 sentence has been vacated, he's no longer sentenced. And that
12 was after he testified in the grand -- after he got immunity
13 and after he testified in the grand jury, then that conviction
14 has -- was -- he withdrew his guilty plea. And that conviction
15 was vacated. And that's after he testifies in the grand jury.

16 **THE COURT:** I'm really confused because I thought you
17 didn't want to get into that.

18 **MS. WICKS:** He's the one -- I mean --

19 **THE COURT:** No.

20 **MS. WICKS:** The point is he's the one bringing it up
21 and --

22 **THE COURT:** What he's trying to -- he's saying, why
23 would he worry about immunity because he'd already been
24 sentenced? That case is done.

25 **MS. WICKS:** Well, he would worry about immunity

1 because it's 3 kilos of heroin and he could be charged
2 federally with it.

3 **THE COURT:** Do you have any evidence whatsoever that
4 he was likely facing federal charges for the heroin that he had
5 already been convicted and sentenced on in state court? I
6 understand theoretically, theoretically, there's a
7 Fifth Amendment. But do you have any evidence?

8 **MS. WICKS:** Your Honor, I'm trying to deal with a man
9 that doesn't want to answer my questions.

10 **THE COURT:** Yes, and I'm trying to --

11 **MS. WICKS:** I'm trying as much as I can. The point is
12 here, is now he has brought out that he was in custody when he
13 testified to the grand jury and had immunity. I think it's
14 relevant that after that and since then and before his
15 testimony now, his conviction was vacated. He was serving time
16 for possession with --

17 **THE COURT:** But what is the relevance of it?

18 **MS. WICKS:** Pardon me?

19 **THE COURT:** What is the relevance of that?

20 **MS. WICKS:** That --

21 **THE COURT:** What are we -- what is this getting to? I
22 thought we didn't want to get to -- then we get into this whole
23 discussion of that's because the prosecutors decided this was
24 an invalid conviction. Your client and others allegedly --

25 **MS. WICKS:** At this point I think it's relevant

1 because he testified in the grand jury in this case and
2 after -- and before his testimony here, that conviction is
3 vacated and he's no longer serving a sentence.

4 **THE COURT:** We're going around and around, and I still
5 don't see it.

6 **MR. WISE:** The State never saw his grand jury
7 transcript.

8 **MR. HINES:** Right.

9 **MR. WISE:** And the State threw out his -- I apologize.

10 **THE COURT:** Go ahead.

11 **MR. WISE:** The State never saw his grand jury
12 transcript. They independently decided to throw out his case
13 because of the involvement of these officers.

14 **MR. HINES:** We had no interactions with State's
15 Attorney --

16 **MR. WISE:** We had nothing to do with this.

17 **MS. WICKS:** Okay. I don't know that. I mean --

18 **THE COURT:** Okay. Well, you have just been told that.
19 I will accept their word for it.

20 I think the prejudicial and confusing facts of trying
21 to get into why his conviction was dismissed far outweigh any
22 additional benefit that your client would get from going into
23 it, so let's try another topic.)

24 (Bench conference concluded.)

25 **MS. WICKS:** I'll withdraw that question, Your Honor.

~~WHITING~~ ~~CROSS~~

1 **BY MS. WICKS:**

2 **Q.** Back in January 2014, when the police were in your house
3 at 924 [sic] North Gilmore, there was a detective by the name of
4 Ward that was also there; correct?

5 **A.** Correct.

6 **Q.** And there were a couple other officers that you also were
7 able to identify when asked to look at the books of
8 photographs; correct?

9 **A.** Correct.

10 **Q.** And you -- the officers that you said had -- it was the
11 bag of money that had the \$15,970 in it?

12 **A.** What you say, ma'am?

13 **Q.** You're saying -- you were saying that Sergeant Avery [sic]
14 and Detective Taylor brought down a bag of money to you when
15 you were in the living room; correct?

16 **A.** Correct.

17 **Q.** And it -- at that time the other officers were off doing
18 other things in the house; correct?

19 **A.** Maybe.

20 **Q.** Well, were they all there in the living room?

21 **A.** All of them, they had come downstairs. And some of them
22 was upstairs, and they came downstairs.

23 **Q.** I'm sorry?

24 **A.** They had come downstairs.

25 **Q.** Okay. Sergeant Avery and Detective Taylor had come

1 downstairs; correct?

2 **A.** And Officer Pinto.

3 **Q.** And Officer Pinto was there as well?

4 **A.** Yes.

5 **Q.** Okay. And so they were all there when the discussion was
6 had with you about -- and you told them that it was \$15,970;
7 correct?

8 **A.** Yeah.

9 **Q.** And so you're saying it was Sergeant Avery,
10 Detective Taylor, and Officer --

11 **A.** Listen, it was a lot of stuff going on in the house that
12 day.

13 **Q.** I understand.

14 **A.** They came there -- I can't name every police officer.
15 They came down. They was going back and forth. So I'm sitting
16 downstairs.

17 **Q.** I understand. So I'm just talking about the exact,
18 specific time. Your testimony on direct was that
19 Sergeant Avery and Officer Taylor -- Detective Taylor had
20 brought a bag of money and asked you how much was in there;
21 correct?

22 **A.** It was -- it might have been more police officers in
23 there, but they came downstairs and they asked me that.

24 **Q.** Okay. So you're saying "they." They both said this at
25 the same time, or did one of them say it?

~~WHITING~~ ~~CROSS~~

1 **A.** I don't -- I don't really know. They asked me --

2 **Q.** You don't really know?

3 **A.** Yeah. I know they just asked me. And they asked me can I
4 count it. I told them, I ain't going to do their job for them;
5 they do it.

6 **Q.** Okay. So I'm asking when you're saying "they," do you
7 recall --

8 **A.** Police officers. Police officers. Okay?

9 **Q.** Okay. One of the eight police officers in the house said
10 that --

11 **A.** Police officers.

12 **THE COURT:** Stop. Stop.

13 He has testified to their -- his recollection of
14 Sergeant Avery and Detective Taylor, and there are other
15 officers at the same time.

16 **BY MS. WICKS:**

17 **Q.** And you don't recall which specific officer said that;
18 correct?

19 **A.** I said police officers.

20 **Q.** One of the white officers or one of the black officers --

21 **A.** Police officers. Black, white, His -- looked like he was
22 Hispanic.

23 **THE COURT:** Mr. Whiting, Mr. Whiting, this is really
24 not going to help anybody if you don't wait until her
25 question --

~~WHITING~~ ~~CROSS~~

1 **THE WITNESS:** Okay.

2 **THE COURT:** -- is finished.

3 But, Ms. Wicks, he has testified about who he said the
4 two officers were and that he does not recall which one of them
5 asked the question about the money in the bag, so let's move
6 on.

7 **BY MS. WICKS:**

8 **Q.** And now your answer, it was just one of the police
9 officers; correct?

10 **THE COURT:** That's what he said. It was one of the
11 two police officers.

12 **THE WITNESS:** I already answered you, ma'am.

13 **THE COURT:** Okay. Let's move. Next question.

14 **BY MS. WICKS:**

15 **Q.** The -- you don't -- did you see -- you saw other officers
16 carrying bags out of the house that day; correct?

17 **A.** How could I see officers carrying bags out the house and I
18 was gone?

19 **Q.** So how long did you stay in the house after you were
20 brought downstairs?

21 **A.** I don't know. I don't know.

22 **Q.** Well, was it five minutes? five hours?

23 **A.** I can't tell you.

24 **Q.** Okay. And during the time that you're sitting in the
25 living room, did you see officers leaving the house with bags

1 of evidence?

2 **A.** I seen the two -- ones that said they was DEA and federal
3 agent leave out the house. The rest of them was in the house.

4 **Q.** Okay. So in addition -- is that part of the seven or
5 eight officers or that's two other people?

6 **A.** That's two other people that claim they was federal agents
7 and DEA. They the only two that left out.

8 **Q.** Okay. So they came in; they looked at the money, and then
9 they left out?

10 **A.** And besides that, it was an old kind of white man,
11 sergeant. He left out the house. That's only one I recollect
12 that left out.

13 **Q.** Going back for a minute for the two people that identified
14 themselves as a federal agent and a DEA agent, they came in the
15 house and looked at the money and then they left; correct?

16 **A.** They went upstairs.

17 **Q.** They went upstairs?

18 **A.** They -- they first -- when they first entered, they said,
19 "Shawn Whiting, can I talk to you for a minute?"

20 I said, "No."

21 Then --

22 **Q.** Okay. And did they tell you that they recognized you from
23 a previous investigation?

24 **A.** For what? They ain't tell me not one word. They just
25 said, "Shawn Whiting, could I talk to you for a minute?"

1 I said, "No."

2 They went upstairs. When they came back down, he said,
3 "Can I talk to you? Shawn Whiting, can I talk to you for a
4 minute?"

5 I said, "No. Didn't I tell you 'no'?"

6 **Q.** And do you recall if it was the guy that identified
7 himself as a federal agent or the guy that identified himself
8 as a DEA agent?

9 **A.** They say federal agent and DEA agent. I don't know what
10 they was. I ain't never see a badge. I ain't never seen no
11 identification. I ain't give them the chance.

12 **Q.** Was it the same person or of the two people a different
13 person that --

14 **A.** The same two people that came in the house together. They
15 went upstairs together. They came down together. They asked
16 me the first question, can they speak to me.

17 I told them once.

18 They asked -- they came back down, can they speak to me.

19 I said "no" and they left out.

20 **Q.** And I'm asking you when you're saying "they," were they
21 both saying that or did one of them say that?

22 **A.** One of 'em.

23 **Q.** And was it the same guy that asked it the first time as --

24 **A.** I don't recollect that one.

25 **Q.** You don't recollect that --

~~WHITING~~ ~~CROSS~~

1 **A.** No. I just know they was together and I wasn't paying no
2 attention to 'em.

3 **Q.** Okay. Now, also seized in your house that day, in
4 addition to -- well, on the paperwork that you saw, there was
5 three kilos of heroin, more or less; correct?

6 **A.** What you say?

7 **Q.** Out of your house that day on the paperwork that you saw,
8 there was about 3 kilos of heroin seized; correct?

9 **A.** Yeah. I know what was in the house. It was 4 and a half
10 kilos. I don't care what they say on the paper. It was 4 and
11 a half kilos in the house.

12 **Q.** And you knew that there were 4 and a half kilos --

13 **A.** Yeah, of course, I know what was in the house.

14 **THE COURT:** Mr. Whiting --

15 **THE WITNESS:** Yes, ma'am.

16 **THE COURT:** -- let her finish, please.

17 **THE WITNESS:** Okay.

18 **BY MS. WICKS:**

19 **Q.** Well, part of your reason for knowing there was 4 and a
20 half and not 3 was because you had 4 and a half since the
21 beginning of January and you hadn't sold any in January --

22 **A.** No, because I weighed it, ma'am. I weighed it. I weighed
23 it. I bagged it up. I put it in the bag. If nobody know
24 knowing where it's at, how somebody going to get there? It's
25 keys to the house. Every door had a key and a lock on it.

1 They put in my statement that the doors was open. That's not
2 true.

3 **Q.** Okay. Well, going back for a moment, you also made the
4 statement that you hadn't sold any heroin in January; correct?

5 **A.** I made a statement I'm saying I ain't sold none? No.

6 **Q.** No? You never told any law enforcement officer that
7 you --

8 **A.** I ain't say another thing in January. They lied.

9 **Q.** Okay. That was my question. You told them that you had
10 not sold heroin in January; correct?

11 **A.** Of course.

12 **Q.** Okay. So we're in agreement that you had told
13 law enforcement that you had not sold heroin in January 2014;
14 correct?

15 **A.** That's after the fact that I'm already sentenced and
16 convicted. That's after the fact. I ain't say nothing when I
17 was on trial about no drugs, period. I was already convicted,
18 serving my time and everything. So me telling them about
19 something after that, it ain't make a difference 'cause I
20 couldn't get no more time. Immunity ain't help me. I'm
21 already a convicted felon serving eight years. So when I came
22 out, they ain't had nothing to do with me coming home.

23 **THE COURT:** All right. Thanks.

24 Next question.

25 **BY MS. WICKS:**

1 Q. And you didn't have a trial; correct? You're saying now
2 you went to trial on this. You didn't have a trial --

3 A. I ain't have a trial because the simple fact is I know
4 they would believe them over top of me. The reason for them
5 coming in the house, to say I put trash outside with my -- with
6 a piece of mail with a letter. Who do that?

7 Q. Okay. And so when you just indicated that there was a
8 trial, I'm just clarifying. There was not a trial. You pled
9 guilty; correct?

10 A. Yeah, I pled guilty. I could have gotten more time. You
11 know what I'm saying?

12 Q. In addition to the heroin that was found in the house,
13 there were two handguns; correct?

14 A. Correct.

15 Q. And at the time in January of 2014, you had been twice
16 convicted of possession with intent to distribute; correct?

17 A. Can you explain that?

18 Q. Back in -- back before January of 2014, you had been
19 convicted of possession with intent to distribute; correct?

20 A. Distribute what?

21 Q. Drugs.

22 A. Just tell me. Tell me what year and tell me when and when
23 and where.

24 THE COURT: She's asking if you recall. If you don't
25 agree with it, then you don't agree with it. But she's asking

~~WHITING~~ ~~CROSS~~

1 if you recall that you'd previously been convicted twice for
2 possession --

3 **THE WITNESS:** Okay. I'm going to tell you something.
4 They put on my charge papers that I was convicted of a felony,
5 2008, which is not true. I ain't have no conviction in 2008.
6 That's in my discovery, saying that -- explaining to the judge
7 to get a warrant. I was -- never had no conviction in 2008.

8 **BY MS. WICKS:**

9 **Q.** Okay. But you do -- you did have a felony conviction for
10 possession with intent to distribute narcotics; correct?

11 **A.** Possession of cocaine or something like that.

12 **Q.** A felony; correct?

13 **A.** That is nothin'.

14 **Q.** Pardon me?

15 **A.** Nothin'.

16 **Q.** It's nothin', but it's a felony. It may be nothing to
17 you, but it's a felony; correct?

18 **A.** I wasn't worried about that, though, because it doesn't
19 say that I had the drugs.

20 **THE COURT:** That was not her question.

21 **THE WITNESS:** Okay.

22 **THE COURT:** Mr. Whiting, did you have a previous
23 felony conviction?

24 **MS. WICKS:** Court's indulgence.

25 **THE WITNESS:** Yeah.

(Counsel conferred.)

BY MS. WICKS:

Q. And the two handguns that you had in the house, you were legally not allowed to have those handguns; correct?

A. That's what they say.

Q. Pardon me?

A. That's what they say.

Q. That's what they say?

A. Yeah.

Q. Did you know that?

A. I'm already convicted. I'm not worried. We past that, Miss.

Q. Well, we're here at this trial --

THE COURT: That was not the question.

BY MS. WICKS:

Q. -- and I'm asking you a question. And you swore to take -- you took an oath to tell the truth; correct?

A. I'm telling the truth. I'm not lying. I'm convicted.

Q. I'm not asking about whether or not you're worried.

I'm asking whether or not in January of 2014, you were legally allowed to have the two handguns that were in your house.

A. Was I legally?

Q. Yes.

A. They was there, wasn't they?

~~WHITING~~ ~~CROSS~~

1 Q. I understand they were there. Were they supposed to be
2 there?

3 A. Yeah, they was there. They was there.

4 Q. I understand they were there.

5 A. You can't take nothing away that was already there, ma'am.

6 Q. I'm not trying to take --

7 **THE COURT:** I think we're misunderstanding here. He
8 admits he had the two guns and --

9 **THE WITNESS:** I pleaded guilty to the case; right?
10 That's your answer.

11 **THE COURT:** Sir, sir -- we can agree that he was not
12 legally allowed to have the two guns. Let's move to the next
13 question.

14 **BY MS. WICKS:**

15 Q. Can we agree to that?

16 **THE COURT:** We just did.

17 **THE WITNESS:** Oh, boy.

18 **BY MS. WICKS:**

19 Q. In addition, you had a body armor in the house; correct?

20 A. Yes, ma'am.

21 Q. And a lot of ammunition; correct?

22 A. Correct.

23 Q. And a hydraulic press?

24 A. All right.

25 Q. What's a hydraulic press for?

1 **A.** I ain't even answering that. I don't even know what it's
2 there for. It's used to put shocks on your car. You know
3 that's what it's used for? It's used to put shocks on your car
4 for.

5 **Q.** I'm asking what you used it for.

6 **A.** That's what it's used for, to put shocks on your car.

7 **Q.** That's what you used it for?

8 **A.** Okay. I already pleaded guilty to my case; you know what
9 I mean?

10 **MS. WICKS:** Court's indulgence.

11 **BY MS. WICKS:**

12 **Q.** And so you're saying you do not -- did you have a
13 conviction in 1996 for possession with intent to distribute?

14 **A.** No, not at all. 1990. It's from a case from 1990. I got
15 convicted in '91, and I never had a conviction since that.

16 **Q.** Okay. So my next question --

17 **A.** But other than that, in 1980-something in New York, that's
18 it.

19 **Q.** You had a prior felony conviction also in New York?

20 **A.** Yes, ma'am.

21 **Q.** Okay. And that was in the '80s?

22 **A.** Yes.

23 **Q.** Now, prior to these -- prior to the search warrant being
24 executed at your house, there were two traffic stops initiated
25 by Detective Ward; correct?

1 **A.** Detective Ward and the other officers, ma'am.

2 **Q.** Sergeant Avery; correct?

3 **A.** Other officers, the whole team that be with 'em that they
4 was in OCD before that.

5 **Q.** Okay. Well, when you were asked questions about these
6 traffic stops, you indicated that it was Detective Ward and
7 Sergeant Avery were the two officers you could identify;
8 correct?

9 **A.** I said other officers, ma'am. All them, they be together.
10 Avery -- I mean Sergeant Marcus Taylor and Maurice Ward be
11 together like peanut butter and jelly every day in the same
12 car.

13 **Q.** And you would follow them around every day so that's how
14 you knew they were --

15 **A.** No. I see 'em. I see 'em. They know -- why would I
16 follow them around?

17 **Q.** So I'm asking just about the two traffic stops --

18 **A.** Okay.

19 **Q.** -- by Detective Ward. You also identified that at the
20 first traffic stop, Sergeant Ivery was there; correct?

21 **A.** Yeah; 'cause he came up there too, yeah.

22 **MS. WICKS:** Court's indulgence.

23 **THE COURT:** Yes.

24 **BY MS. WICKS:**

25 **Q.** There were also tally sheets in your house that were

~~WHITING~~ ~~CROSS~~

1 seized by the police that day; correct?

2 **A.** That's what they say.

3 **Q.** Well, you also testified that there would be tally sheets;
4 correct?

5 **A.** I say they would be tally sheets? Is that what you
6 saying?

7 **Q.** I mean, do you -- are you saying that there weren't tally
8 sheets?

9 **A.** It was paper in there; that's all I know. I don't know
10 what it was.

11 **Q.** So you didn't keep track of your drug sales, your tally
12 sheets?

13 **A.** No, no, no, no, no. Whatever they say was in there. They
14 said it was in my room on my bed, which it was not on my bed.

15 **Q.** Okay. Well I'm asking you what was in the house that day.

16 **A.** What was in the -- drugs --

17 **Q.** Specifically --

18 **THE COURT:** One at a time.

19 **BY MS. WICKS:**

20 **Q.** Specifically, my question was: Did you have tally sheets
21 in the house?

22 **A.** Tally -- you saying tally sheets?

23 **Q.** Yes.

24 **A.** That's what you call 'em, tally sheets?

25 **THE COURT:** That's what she asked you, sir.

1 **BY MS. WICKS:**

2 **Q.** That's what it's called on the paperwork.

3 **A.** That's what I call it?

4 **Q.** What do you call where you keep track of your --

5 **A.** I don't keep track -- I keep track in my head, ma'am.

6 **Q.** So you didn't keep track on any paperwork in your house;
7 is what you're --

8 **A.** Nothing was in my room but money.

9 **Q.** Were there tally sheets in the house?

10 **A.** I don't know. I don't know. Whatever they got on the
11 paper that they say they got out there, you know, they lied and
12 said that. They might have put anything.

13 **Q.** Well, I understand that that's what you're claiming. But
14 I'm asking you, there were -- you know there were tally
15 sheets --

16 **A.** I don't know. Whatever they got on the paper, I pleaded
17 guilty to the case; that's what I say.

18 **Q.** Okay. And you pleaded guilty to there being 3 kilograms
19 of heroin in the house; correct?

20 **A.** I pleaded guilty to whatever they say it was.

21 **Q.** Okay. And -- but you're saying whatever they said it was,
22 it was more than that; right?

23 **A.** Okay. Yeah.

24 **Q.** And you didn't want to tell 'em back then that there were
25 4 and a half kilos because that's more weight than 3 kilos;

1 right?

2 **A.** Let me see. It didn't -- if I'm on trial for something,
3 why would I mention more drugs?

4 **Q.** I'm with you on that. I'm just saying, back then, that's
5 why you wouldn't have told them about the other kilo and a half
6 of heroin; correct?

7 **A.** I ain't go -- I ain't -- basically, they was asking me
8 something. Why I'm going to tell 'em something that they --
9 why I'm going to tell 'em something that they -- they don't
10 know about and add more?

11 **Q.** But the money, which is something that you still want to
12 get back, that's why you're telling them about all this money;
13 right?

14 **A.** I told them back -- I told 'em in 2014. It's on the
15 record. It's recorded from Internal Affairs.

16 **Q.** I understand. I understand. You told them in 2014. You
17 told them in 2015. You told them in 2016. You told them in
18 2017. And now you're talking about it in 2018; right?

19 **A.** Yes, ma'am.

20 **Q.** And that's because you want the money back; right?

21 **A.** I want all my stuff back legally that I can get back.

22 **Q.** Okay.

23 **A.** Legally. That I can attain.

24 **Q.** When you left that day, you don't know who had access to
25 that house; correct?

~~WHITING~~ ~~CROSS~~

1 **A.** Do I know who had -- in my discovery, according to my
2 discovery, it say Marcus Taylor, the one who submitted the
3 money.

4 **Q.** Okay. Marcus Taylor submitted the money. And there were,
5 according to you, eight other officers that day; correct?

6 **A.** Marcus Taylor submitted the money. Just like you talk
7 about the tally sheet --

8 **Q.** And there were eight other --

9 **A.** Just like you talk about the tally sheet --

10 **THE COURT:** Stop.

11 **BY MS. WICKS:**

12 **Q.** There were eight other officers there that day; correct?

13 **A.** It was a lot of officers in there. That's to say there
14 was a lot of officers, okay?

15 **Q.** Okay. Including the two people that came in and said they
16 were federal or DEA agents; correct?

17 **THE COURT:** We've done that. Yes, there were two
18 other people that said they were federal and DEA.

19 Next question.

20 **THE WITNESS:** Yeah, we already said that.

21 **THE COURT:** Next question. Okay. Next question.

22 **BY MS. WICKS:**

23 **Q.** And you don't know who had access to the house after the
24 police left; correct?

25 **A.** After police left?

~~WHITING~~ ~~CROSS~~

1 Q. Right.

2 A. Do I know who had access --

3 Q. You just know what wasn't there when you --

4 A. I know who was upstairs.

5 Q. Correct.

6 A. I know who went back upstairs, though.

7 Q. After you left the house, you know --

8 A. I know I was there -- I was there.

9 Q. I'm asking -- I'm talking about after you left the house,
10 before you came back, you weren't there. So you don't know who
11 was in the house; correct?

12 A. Maybe so. My daughter was there, though.

13 Q. Okay. And when you came back to the house, what you know
14 is what was missing at that point; correct?

15 A. Yeah.

16 MS. WICKS: Okay. Thank you.

17 No further questions, Your Honor.

18 THE COURT: All right. Mr. Purpura?

19 MR. PURPURA: May I confer with the Government?

20 THE COURT: Sure.

21 (Counsel conferred.)

22 JUROR: May we take a break?

23 THE COURT: Yes. Okay. Short break.

24 (Jury left the courtroom at 3:27 p.m.)

25 (Recess taken.)

1 **THE COURT:** You can all be seated, please.

2 Mr. Hines?

3 **MR. HINES:** One matter perhaps to address before the
4 jury comes in, briefly.

5 **THE COURT:** All right. Sure. Go ahead. Do you need
6 to do it at the bench? Whatever you want.

7 **MS. WICKS:** Yes, that would be my preference.

8 (Bench conference on the record:

9 **MR. HINES:** So on redirect, I'm now going to move in
10 his prior letter. His credibility has been attacked, and we're
11 going to use it to rehabilitate his credibility when attacked
12 on any ground.

13 At the outset Ms. Wicks, you know, said that -- asked
14 a line of questioning about his prior assault; said that he --
15 you know, had challenged his credibility from then on and
16 throughout the questioning.

17 I'll be brief, recognizing that he's a very verbal
18 witness. And I'm just going to read in and ask him some
19 questions about this part of the letter and move it into
20 evidence.

21 It's obviously the subject of our unopposed motion
22 which we filed on January 16th. And I just wanted to alert the
23 Court to that.

24 **THE COURT:** Okay. Is there any issue?

25 **MS. WICKS:** Your Honor, the motion is not unopposed.

1 They were bringing to the Court's attention a body of law. I
2 don't believe in my questioning that I attacked the specific
3 fact of that he was complaining. In fact, I asked him about
4 the fact he's been complaining about the money for every year
5 since then. So I don't think this meets my attack on his
6 credibility.

7 **THE COURT:** What is in here that -- I mean, I agree
8 with Ms. Wicks. He's made it pretty clear.

9 **MR. HINES:** So reading from the bottom, I'd direct
10 your attention here, Your Honor. He discusses the amount of
11 money, how they brought it down in front of him, the exact
12 amounts.

13 **THE COURT:** Okay. Well, I think -- and we can resolve
14 the issue later whether it actually comes into evidence. But
15 we've heard that he complained at prior dates about the money.
16 This indicates that he also at the same time, February 26th of
17 2017 -- let's see. Tell them about the money.

18 All right. Well, no. Sorry. Looking at it again,
19 what's in there that she has specifically challenged?

20 **MR. HINES:** She's challenged it. She's attacked his
21 credibility generally. She's suggested that he's lying through
22 her line of questioning that he didn't answer that he had an
23 assault conviction when I asked the question that was -- the
24 Court wanted to ask about his January 2014 episode. And she's
25 attacked him every step of the way, challenged that other

1 officers were involved from the moment he was -- prior to
2 Mr. Taylor's arrest, he's been indicating that this is the same
3 exact sequence of events that he recalls, you know, before any
4 publicity in this case, which is also another avenue that's
5 been opened by defense counsel in their opening.

6 So his credibility has been attacked. And we should
7 get it in in the second part of the rule to rehabilitate the
8 declarant's credibility as a witness generally when attacked on
9 another ground. And it does come into -- as substantive
10 evidence under the rule as the notes to the Advisory Committee
11 rules explain.

12 **THE COURT:** Well, I think you can ask him if he, you
13 know, said the same things about the money in a prior
14 complaint. You can get him to identify this so we have it in
15 the record so that's not an issue later on.

16 I don't know at this point whether she has attacked
17 his credibility in such a way as to make this entire letter
18 admissible.

19 **MR. HINES:** Okay.

20 **THE COURT:** But you can lay the groundwork that would
21 be necessary to get it admitted. And you can -- we haven't
22 even finished cross yet. We'll see if you want to just make it
23 clear that he's been complaining about the money being taken
24 since the beginning, but --

25 **MS. WICKS:** I mean, the specific point that I made, if

1 any, in cross about his complaints is when he got the letter
2 from the DEA, which he said was in 2014, he didn't file a
3 claim. This is three years after that.

4 So this -- the specific thing, if any of -- he's
5 saying, you know, he was -- he was in a situation where he
6 could have made a claim. And he didn't make a claim, based on
7 the advice of his uncle, apparently. But that was three years
8 ago.

9 So this letter was written -- it was four years ago.
10 But three years ago this was -- it was three years before
11 writing this letter. So I don't -- the specific line of the
12 point when he didn't make a complaint and he claimed then he
13 called IAD instead of responding to the DEA, but --

14 **THE COURT:** It does not relate to that. I agree with
15 you. But you have also been asking him questions about what
16 happened at the house. I am -- so far I am not letting it in.
17 Only for identification.

18 **MS. WICKS:** Okay.

19 **THE COURT:** And so you don't have to fight yet.

20 **MS. WICKS:** Okay.

21 **MR. PURPURA:** Just so you know, my cross would be a
22 stipulation.

23 **THE COURT:** I'm sorry?

24 **MR. PURPURA:** My cross-examination is going to be a
25 simple stipulation that Mr. Hersl was not present during the

1 search warrant.

2 **THE COURT:** Oh, okay. Fine.)

3 (Bench conference concluded.)

4 **THE COURT:** We're going to bring the jury back in.
5 Mr. Whiting.

6 **THE WITNESS:** Yes, ma'am.

7 **THE COURT:** Let me just please ask you: It will be a
8 lot easier for all of us -- I don't know how many more
9 questions there are going to be --

10 **THE WITNESS:** All right.

11 **THE COURT:** -- but please just listen to the question;
12 let 'em finish it; answer it.

13 **THE WITNESS:** Okay. My bad.

14 **THE COURT:** If you don't understand it, you can ask
15 them to repeat it.

16 **THE WITNESS:** Okay. All right.

17 **THE COURT:** But, otherwise, just answer it.

18 **THE WITNESS:** Okay. All right.

19 **THE COURT:** All right. Let's get the jury.

20 (Jury entered the courtroom at 3:47 p.m.)

21 **THE COURT:** All right. You can all be seated.

22 **THE CLERK:** Mr. Whiting, you're still under oath.

23 **THE WITNESS:** Okay.

24 **THE COURT:** All right. Mr. Purpura, do you have a
25 question?

THE COURT: You may.

BY MR. HINES:

Q. Mr. Whiting, I'm showing you what's been marked for identification as SW-3.

Can you take a moment to look at that exhibit.

A. Yeah. This was what I wrote 'cause I was advised from the U.S. Department of Justice to write to the FBI criminal division. That's why I wrote them. I wrote to the U.S. Justice Department first.

Q. So is SW-3 the letter that you wrote to the FBI?

A. Yes, that's it.

Q. And in your letter do you indicate the amount of money that had been taken from your house?

A. Yes.

Q. And in your letter do you indicate that you had had \$15,970 upstairs?

A. Yeah. That was in the closet.

Q. And then in your black vest in your inside pocket, \$5,500?

A. Yeah. That was right by my bed. I had a little ottoman where I put my vest at. In the inside, it's 5,500.

Q. And \$2,500 in the nightstand?

A. Yeah. In the nightstand, it was all hundred-dollar bills.

Q. And did you indicate in the letter that you had, in fact, made a report to the Baltimore City Internal Affairs?

A. Yeah. As soon as I got a notice from Internal Affairs --

~~WHITING~~ ~~REDIRECT~~

1 I mean as soon as I got a letter from the DEA like out of
2 Virginia, they told me how much money. As soon as I got --
3 received the letter that day, I contacted 'em that day. And
4 they was telling me all phone calls is recorded. It was just
5 like all that time, encounters that I deal with police, they
6 say, first, anything as to protocol, you got to contact
7 Internal Affairs.

8 So that's what I did. And it's recorded. And I called
9 and talked to them numerous times.

10 **Q.** And what was the date of your letter to the FBI?

11 **A.** February the 26th, 2017.

12 **Q.** And is that sometime before you ever had learned that
13 Mr. Taylor was arrested?

14 **A.** Yeah; but I contacted him way before that. Like I said,
15 as soon as I -- I got sentenced July the 8th, 2015. I think in
16 August in 2015, I wrote a letter to the U.S. Justice Department
17 about all them. And that's on -- on that letter -- on the
18 letter or something like that that I wrote to the FBI criminal
19 division, I had a letter and they had a reference number to the
20 letter that I wrote in August 2015, 'cause I went to jail July
21 the 8th.

22 **THE COURT:** All right. Thank you. Thank you,
23 Mr. Whiting. You can stop.

24 **THE WITNESS:** Okay.

25 **THE COURT:** You're being asked about a particular

1 letter right now from February 26th.

2 **MR. HINES:** Your Honor, I have no further questions.

3 **THE COURT:** Are you all done?

4 **MR. HINES:** Thank you.

5 **THE COURT:** Okay. Anything else?

6 **MS. WICKS:** No.

7 **THE COURT:** All right. Thank you, sir. This witness
8 is excused.

9 You may step down, Mr. Whiting. You're all done.

10 **THE WITNESS:** Okay.

11 (Witness excused.)

12 **MR. HINES:** United States calls Stephen Leimbach.

13 **THE CLERK:** Please raise your right hand.

14 TASK FORCE OFFICER STEPHEN LEIMBACH, GOVERNMENT'S
15 WITNESS, SWORN.

16 **THE CLERK:** Please speak directly into the microphone.
17 State your full name for the record and spell your first and
18 your last name, please.

19 **THE WITNESS:** TFO Stephen Leimbach, S-T-E-P-H-E-N.
20 Leimbach is L-E-I-M, as in Mary, B-A-C-H, as in Henry.

21 **THE CLERK:** Thank you.

22 DIRECT EXAMINATION

23 **BY MR. HINES:**

24 **Q.** Good afternoon, Mr. Leimbach.

25 Where do you work?

1 **A.** I work for the Baltimore County Police Department,
2 currently assigned as a TFO to the Drug Enforcement
3 Administration.

4 **Q.** What does it mean to be assigned as a TFO to a federal
5 agency?

6 **A.** Essentially, the TFOs, they have officers that are
7 assigned to the DEA to assist in federal cases. They bring in
8 experience. They bring in just a different level 'cause you
9 have new guys that come from the DEA who have never done a lot
10 of drug cases, and so it kind of mixes it up and gives a local
11 presence to it.

12 **Q.** And how long have you worked --

13 **THE COURT:** I'm sorry. Could you either pull the mic
14 a little closer or just -- thank you.

15 **THE WITNESS:** How's this?

16 **THE COURT:** Better. Thank you.

17 **BY MR. HINES:**

18 **Q.** How long have you worked for the Baltimore County Police
19 Department?

20 **A.** 25 years.

21 **Q.** And approximately when did you start working as a Task
22 Force Officer with the DEA?

23 **A.** September of '12, 2012.

24 **Q.** I'd like to direct your attention to January 24th, 2014.

25 Did you participate in a seizure related to Shawn Whiting?

1 **A.** Yes.

2 **Q.** What was your and the DEA's involvement in that seizure?

3 **A.** We got called to pick up some money for what we called an
4 adoption case at that time. Myself and TFO Sokolowski went to
5 the scene. We walked around the scene while they were
6 searching and things of that nature.

7 They didn't -- I don't believe they were finished the
8 search, and we didn't have the proper bag to collect the money.
9 So we told the people there to just meet us down at the
10 district office to drop the money off and we would seize it
11 from 'em then.

12 **Q.** When you say "the scene," was that 940 North
13 Gilmor Street?

14 **A.** That's -- that's -- I don't specifically remember that
15 address or where -- it has been so long. But if that's the
16 address on the report, yes.

17 **Q.** And it was related to Shawn Whiting, you said?

18 **A.** Yes.

19 **Q.** When you went to the scene, was it Mr. Whiting's home?

20 **A.** It was a row home.

21 **Q.** Did you see other officers there?

22 **A.** Yes.

23 **Q.** What agency was there?

24 **A.** It was Baltimore City Police Department.

25 **Q.** What did you see at the house?

1 **A.** Just -- so we walked around. They showed us the money. I
2 don't remember what the money was in when we saw it. We looked
3 around. I don't remember if I saw evidence of drugs or
4 anything like that. We kind of just -- I was just following
5 Keith through the house, just showing us stuff. And then we --
6 we left.

7 **Q.** So you had an occasion to observe the money in the house?

8 **A.** Yes.

9 **Q.** And then you went back to the DEA building?

10 **A.** Yeah. Yes.

11 **Q.** And did the other Task Force Officer go with you as well?

12 **A.** Yes.

13 **Q.** What happened once you were back at the DEA building?

14 **A.** We met the city officer in the lobby of the building. He
15 produced the money per our procedure. They put it into a
16 self-sealing evidence envelope. They signed. We signed. We
17 seal it. And then we take it back up to our office and put it
18 in a high-value vault for processing.

19 **Q.** Was that all done right in front of you, the sealing of
20 the evidence?

21 **A.** Yes.

22 **Q.** What observations, if any, did you make regarding the
23 money once the officer had brought it to the DEA?

24 **A.** I just remember it looking to be less. Now, I didn't
25 count the money there, and I didn't count it at the thing. But

1 internally, I thought it looks a little light.

2 Q. I'm showing you -- well, let me ask this: After you took
3 the money that looked to be a little light, did you submit it
4 into the DEA's vault?

5 A. Yes.

6 Q. And did you fill out any paperwork when you did that?

7 A. Keith Sokolowski filled it out.

8 Q. Did you sign as a witness some of the paperwork?

9 A. Yes.

10 Q. Let me show you what's been marked as
11 Government's Exhibit SW-6.

12 Is this a receipt for cash form used by the DEA?

13 A. Yes.

14 MR. HINES: And if you zoom in on the top,
15 Mr. Kerrigan, right here, just a little below that, yes.

16 BY MR. HINES:

17 Q. There's a description of items.

18 A. Yes.

19 Q. What are the last four numbers of the description of items
20 right there?

21 A. 4155.

22 Q. And is that number sometimes used with Loomis when money
23 is later submitted?

24 A. Yes.

25 Q. Now, directing your attention to the bottom of the page,

~~ZELMBACH~~ ~~CROSS~~

1 is that your signature?

2 **A.** Yes.

3 **Q.** So you witnessed the sealing of this money in your
4 presence?

5 **A.** Yes.

6 **Q.** And looking back --

7 **MR. HINES:** Go back, Mr. Kerrigan.

8 **BY MR. HINES:**

9 **Q.** It says U.S. currency to be counted?

10 **A.** Yes.

11 **Q.** So the money was taken to the high-evidence vault. And
12 then at some point later, protocol was to take it to the bank?

13 **A.** That's correct.

14 **Q.** And so when you say that you made an observation
15 internally that it appeared to be light, was that in reference
16 to what you had previously seen at Mr. Whiting's home?

17 **A.** Yes.

18 **MR. HINES:** No further questions, Your Honor.

19 **THE COURT:** Thank you.

20 Any questions?

21 **MR. NIETO:** Yes, Your Honor.

22 **CROSS-EXAMINATION**

23 **BY MR. NIETO:**

24 **Q.** Task Force Officer, do you -- when you introduced
25 yourself, did you introduce yourself as a federal agent or as a

~~ZELMBACH~~ CROSS

1 Baltimore County police officer?

2 **A.** When I introduce myself?

3 **Q.** Yes, sir.

4 **A.** It depends on the situation.

5 **Q.** Did you introduce yourself to anyone at this particular
6 situation?

7 **A.** No.

8 **Q.** Okay. Did you have any credentials or anything to suggest
9 you were federal agents on you at the time you arrived?

10 **A.** I don't recall.

11 **Q.** You don't recall. Okay.

12 Now, when you arrived there with -- is it Task Force
13 Officer Sokolowski?

14 **A.** That's correct.

15 **Q.** Okay. And I think you had called him Keith earlier. That
16 same gentleman; right?

17 **A.** Yes.

18 **Q.** So when you arrived with Task Force Officer Sokolowski,
19 did you recognize Mr. Whiting as being a previous target of a
20 HIDTA investigation?

21 **A.** No.

22 **Q.** Did Task Force Officer Sokolowski say anything about that
23 at that time?

24 **A.** I don't have any recollection of that.

25 **Q.** Okay. Now, you said that the money -- you thought the

1 money looked light --

2 **A.** Yes.

3 **Q.** -- when you received it?

4 So as a federal agent, what did you do?

5 **A.** Nothing. I had no basis for -- for saying anything. At
6 the -- at the scene, I hadn't counted it there. It's in a
7 different context, you know, and putting into a bag, so it
8 wasn't in the same context. I didn't have any --

9 **Q.** So -- but do you -- I think what you're testifying is that
10 you believed there was less money --

11 **A.** It was a gut feeling.

12 **Q.** -- that they provided to you than what was found at the
13 house; right?

14 **A.** Yeah; it was a gut feeling.

15 **Q.** Right. So you didn't do anything?

16 **A.** No.

17 **Q.** You didn't talk to your supervisors?

18 **A.** Unh-unh.

19 **Q.** You didn't follow up with the police officers who called
20 you in?

21 **A.** No.

22 **Q.** Do you know why they called you in?

23 **A.** No.

24 **Q.** I mean, if they're going to steal the money, why would
25 they be calling in federal agents to cross their t's and dot

~~ZUMBACH~~ ~~CROSS~~

1 their i's; right?

2 **A.** No idea.

3 **MR. NIETO:** Okay. Thank you. Nothing further,
4 Your Honor.

5 **THE COURT:** Any questions, Mr. Purpura?

6 **MR. PURPURA:** I do. I apologize.

7 **CROSS-EXAMINATION**

8 **BY MR. PURPURA:**

9 **Q.** Just quickly, Task Force Officer, you were called in, and
10 they walked you around the searched area on Gilmor; correct?

11 **A.** Yes.

12 **Q.** And part of what you realized, there was 3 kilos of heroin
13 which were seized on this particular seizure?

14 **A.** I don't remember that.

15 **Q.** You don't know that?

16 **A.** Unh-unh.

17 **Q.** Back in 2014, as a TFO, how much would a kilo of heroin
18 go, gross?

19 **A.** In 2014, seventy to a hundred thousand.

20 **Q.** So seventy to a hundred thousand, that's wholesale.
21 That's not breaking it down; correct?

22 **A.** Correct.

23 **Q.** That's per kilo; correct?

24 **A.** Uh-huh.

25 **Q.** And so if you had 4.5 kilos in the house, like Mr. Whiting

~~ZWEIZIG~~ ~~CROSS~~

1 said, that could be up to easily a half a million dollars or
2 pretty close in gross value of heroin; correct?

3 **A.** Could be, uh-huh.

4 **Q.** Right. In addition, Mr. Whiting had his daughter in the
5 house. Did you see his daughter there?

6 **A.** Nope.

7 **Q.** Did you see his little twins in the house at the same
8 time?

9 **A.** It was so long ago, I don't -- I don't recall who was
10 there.

11 **Q.** And a kilo press, what is a kilo press?

12 **A.** It's a device used to compact heroin.

13 **Q.** Not to change shocks on a car; right?

14 **A.** No.

15 **MR. PURPURA:** Thank you. No further questions.

16 **THE COURT:** Any redirect?

17 **MR. HINES:** No, Your Honor.

18 **THE COURT:** Okay. Thank you very much, sir. You're
19 excused.

20 **THE WITNESS:** Thank you.

21 (Witness excused.)

22 **MR. HINES:** United States calls Brian McElhenny.

23 **THE CLERK:** Please raise your right hand.

24 BRIAN McELHENNY, GOVERNMENT'S WITNESS, SWORN.

25 **THE CLERK:** Please be seated.

~~McELHENNY~~ DIRECT

1 Please speak directly into the microphone. State your
2 full name for the record and please spell --

3 **THE WITNESS:** Yes. Brian McElhenny.

4 **THE CLERK:** Excuse me. Please spell your first and
5 your last name.

6 **THE WITNESS:** B-R-I-A-N, M-C-E-L-H-E-N-N-Y.

7 **THE CLERK:** Thank you.

8 DIRECT EXAMINATION

9 **BY MR. HINES:**

10 **Q.** Sir, where do you work?

11 **A.** Drug Enforcement Administration here in Baltimore.

12 **Q.** And how long have you been with the DEA?

13 **A.** Approximately 13 years.

14 **Q.** I'd like to direct your attention to late January 2014.

15 Did you participate in a submission of money related to
16 Shawn Whiting?

17 **A.** Yes, I did.

18 **Q.** And what was your role in the submission of this money?

19 **A.** My role that day was to pick up the money at our office
20 and submit it to the Loomis Bank where it was then transferred
21 over to the marshals.

22 **Q.** And did you -- where did you get the money from at your
23 house?

24 **A.** Our high-value evidence custodian.

25 **Q.** And where did you take the money to?

~~McELHENNY DIRECT~~

1 **A.** To Loomis, Loomis Bank.

2 **Q.** And what is Loomis?

3 **A.** Loomis is where we hand over all the cash, and it's
4 converted to a cashier's check and ultimately transferred over
5 to the Marshals Service.

6 **Q.** I'm going to show you what's been marked as SW-2.

7 **MR. WISE:** If you zoom in on the bottom, Mr. Kerrigan.

8 Thank you, sir.

9 **BY MR. HINES:**

10 **Q.** Special Agent McElhenny, is this a report that you
11 prepared documenting the money that the DEA received which you
12 turned in to Loomis?

13 **A.** Yes, I did.

14 **Q.** And is that your signature on the bottom of the page?

15 **A.** Yes, it is.

16 **Q.** Right here (indicating).

17 And what's the date that it was taken to Loomis?

18 **A.** January 30th, 2014.

19 **MR. HINES:** And if you zoom out, Mr. Kerrigan, up to
20 here.

21 **BY MR. HINES:**

22 **Q.** And this shows that the U.S. currency was turned in?

23 **A.** That's correct.

24 **MR. HINES:** Zooming out again, Mr. Kerrigan.

25 **BY MR. HINES:**

1 Q. On the top of the page, there's a file number and a case
2 number. This Case No. GC-11-98, is this in reference to the
3 seizure from Shawn Whiting?

4 A. That's correct.

5 Q. And the file title is just a name that had been put in the
6 system; is that right?

7 A. Correct.

8 Q. Turning to the next page, Mr. Kerrigan, if you zoom in.
9 What is this, Special Agent McElhenny?

10 A. This is the slip that Loomis gives us as far as the total
11 count.

12 Q. And what does it show in the top right-hand corner as far
13 as the total count?

14 A. \$7,650.

15 Q. Okay. And it shows the bills. It looks like
16 2 fifty-dollar bills, 351 twenty-dollar bills, 47 ten-dollar
17 bills, and 12 five-dollar bills; is that right?

18 A. That's correct.

19 Q. Is the money counted in front of you at Loomis?

20 A. Yes, it is.

21 Q. And that's by the people that work there?

22 A. Correct.

23 Q. And directing your attention to the third page.

24 MR. HINES: On this page in the top left-hand corner,
25 Mr. Kerrigan, right there, if we could zoom in.

1 Court's indulgence one moment.

2 **THE COURT:** Yes.

3 **BY MR. HINES:**

4 **Q.** Go to Page 3 of SW-2. This is -- is this a -- well, what
5 is this, Special Agent McElhenny?

6 **A.** Again, this is what Loomis gives us as far as the receipt.

7 **Q.** And does it show \$7,650?

8 **A.** Yes, it does.

9 **Q.** And does it give a series number here?

10 **A.** Correct.

11 **Q.** And what is this 4155 number in reference to?

12 **A.** The last four digits on our self-sealing evidence
13 envelope.

14 **Q.** I'll show you what's been admitted into evidence as SW-6.
15 Is that the same last four numbers?

16 **A.** Yes, it is.

17 **Q.** So this is referencing the hand-off of the money from
18 Mr. Leimbach to the high-evidence vault to you?

19 **A.** Correct.

20 **MR. HINES:** No further questions, Your Honor.

21 **THE COURT:** Any questions?

22 **MR. NIETO:** Briefly, Your Honor, if I may.

23 CROSS-EXAMINATION

24 **BY MR. NIETO:**

25 **Q.** Sir, the -- I think Government had shown you --

1 **MR. NIETO:** Court's indulgence.

2 (Counsel conferred.)

3 **BY MR. NIETO:**

4 **Q.** I'd like to show you what has been previously marked as
5 Government Exhibit SW-2.

6 Do you remember testifying about this just a few minutes
7 ago, sir?

8 **A.** Yes.

9 **Q.** Okay. Now, if you zoom in and draw your attention to it,
10 it says [reading]: U.S. Marshals Service, asset forfeiture --
11 and then I guess that's probably division; right?

12 Do you see that?

13 **A.** Yes, I do.

14 **Q.** Do you know what the asset forfeiture division is?

15 **A.** Vaguely. I mean, I know they handle all the assets and so
16 forth that we hand over to them ultimately, yes.

17 **Q.** Okay. So what you do is you take proceeds or money that
18 has been involved in criminal activity, and then you submit it
19 to a bank as part of the asset forfeiture; correct?

20 **A.** Sure.

21 **Q.** It's almost by definition asset forfeiture, meaning, in
22 theory, the guilty party is forfeiting these assets because
23 it's part of a criminal act?

24 **A.** Correct.

25 **MR. NIETO:** Okay. All right. Nothing further,

~~GLOVER~~ ~~DIRECT~~

1 Your Honor.

2 **MR. PURPURA:** No questions. Thank you.

3 **MR. HINES:** No redirect.

4 **THE COURT:** All right. Thank you, sir. You are
5 excused.

6 (Witness excused.)

7 **MR. WISE:** United States calls Detective Ethan Glover.

8 **THE CLERK:** Please raise your right hand.

9 TASK FORCE OFFICER ETHAN GLOVER, GOVERNMENT'S WITNESS,
10 SWORN.

11 **THE CLERK:** Please be seated.

12 Please speak directly into the microphone.

13 State your full name for the record and spell your
14 last name, please.

15 **THE WITNESS:** Ethan John Glover, G-L-O-V-E-R.

16 **THE CLERK:** Thank you.

17 **MR. WISE:** Thank you, Your Honor.

18 DIRECT EXAMINATION

19 **BY MR. WISE:**

20 **Q.** Good afternoon, sir.

21 **A.** Good afternoon.

22 **Q.** What law enforcement agency do you serve with?

23 **A.** Baltimore City Police Department and TFO for the DEA.

24 **Q.** And I think the jury has briefly heard what that means,
25 but can you tell us what a TFO -- how a Baltimore City police

1 officer can be a TFO with the DEA.

2 **A.** TFO is a Task Force Officer. So basically I work for the
3 City and duly with the Drug Enforcement Administration. So I
4 have some, you know, DEA powers also.

5 **Q.** I see. And how long have you been with the Baltimore City
6 Police Department?

7 **A.** Next -- next month will be 15 years complete.

8 **Q.** And how long have you been a DEA Task Force Officer?

9 **A.** Four years.

10 **Q.** And if you could, just briefly describe what your duties
11 and responsibilities are as a DEA Task Force Officer.

12 **A.** The group that I'm in, we basically do investigations,
13 narcotic investigations of different drug organizations. And
14 we work with different jurisdictions within the city and states
15 to try to, you know, to basically, you know, put the bad people
16 in jail.

17 **Q.** I see.

18 I want to direct your attention to March 22nd of 2016.
19 Were you called to a search location to seize money from a
20 home?

21 **A.** Yes, I was.

22 **Q.** And who called you?

23 **A.** Detective or Sergeant Wayne Jenkins.

24 **Q.** And where was the house that he called you to come to?

25 **A.** 1604 Heathfield Road.

1 Q. And what did you do?

2 A. I was called to the house. Sergeant Jenkins told me that
3 he had some money that needed to be seized. I called my group
4 supervisor before I went to the house to make sure it was okay
5 to go to the house to seize the money based on our connections
6 to the case.

7 Q. And why would a Baltimore City sergeant call a DEA Task
8 Force Officer to seize money? Just explain the sort of, I
9 guess, practice for the -- or the reason for that.

10 A. In the city when you have city officers or city detectives
11 or city sergeants, when it's a large amount of money, they
12 usually call a Task Force Officer or a federal agency there to
13 seize the money. And then we then adopt the case or adopt the
14 money and seize it through our proper channels.

15 Q. I see. So I think you testified you talked to your, I
16 think you said your GS, your supervisor?

17 A. Yes.

18 Q. And he authorized you to go to the scene?

19 A. Yes.

20 Q. And what happened when you got there?

21 A. I got to the scene. When I got to the scene,
22 Sergeant Jenkins was there, Detective Ward, Detective -- two
23 other detectives, Ward -- can you --

24 Q. Is it Hendrix?

25 A. -- Hendrix and the gentleman that (indicating) right there

1 (indicating).

2 **Q.** Detective Taylor?

3 **A.** Taylor.

4 **Q.** And when you got there and these four officers were there,
5 what happened?

6 **A.** So Sergeant Jenkins told me that he had -- they had seized
7 \$100,000 that was in the safe downstairs in the basement. They
8 found the money. They hadn't touched the money. This is how
9 they found it.

10 **Q.** Was the safe -- had the safe already been broken open, or
11 did they break it open in your presence?

12 **A.** It had already been broken open by the time I got there.

13 **Q.** I see.

14 **A.** So at that point in time, I didn't have any evidence bags
15 to seize -- seize the money at that point in time. I left and
16 went down to our downtown office to get evidence bags.

17 **Q.** And then what did you do?

18 **A.** So after I got the evidence bags, I came back to the
19 location, at which point in time -- before I left,
20 Sergeant Jenkins had taken pictures of the money. This is
21 how -- saying, This is how it's going to be when you come back.
22 I had a camera when I came back. I took pictures of it, and
23 our pictures married up of the hundred thousand dollars.

24 I put the money in the evidence bags, seized -- I mean
25 sealed the bags up, signed 'em. And me and

1 Detective (indicating) then took the bags and went down to the
2 BDO and put the money in BDO at Baltimore -- I mean at the DEA
3 and in the overnight storage.

4 Q. And you gestured again to Detective Taylor?

5 A. Detective Taylor.

6 Q. All right. I want to show you what's been marked as OS-8.

7 And we can do that on the document camera, if that's
8 easier. I'll just give Mr. Kerrigan a second to bring it up.

9 Do you see OS-8, Detective Glover?

10 A. Yes.

11 Q. And what is OS-8?

12 A. That was the money that was seized from 1604 Heathfield,
13 but that -- that seizure bag is in the BDO evidence room.

14 Q. Okay. And it looks like there's actually two evidence
15 bags for the --

16 A. Yes.

17 Q. -- money; is that right?

18 A. Yes.

19 Q. And I'm not going to ask you to read the whole sequence.
20 But the tags, the bag on the left, the tag ends in 64; right?

21 A. Yes.

22 Q. And the bag on the right, the tag ends in 63?

23 A. Correct.

24 Q. And if we back out of that for a second, Mr. Kerrigan, if
25 you could enlarge the red bands at the top of the bag.

~~GLOVER DIRECT~~

1 And whose name appears on those bands?

2 **A.** Mine and Detective Taylor.

3 **Q.** Okay. And now, if I could have OS-3. And keeping in mind
4 the number sequence we just saw.

5 **MR. WISE:** If you could enlarge the top third of that,
6 Mr. Kerrigan.

7 **BY MR. WISE:**

8 **Q.** So does this show those -- the number sequence from those
9 two bags, the bag ending in 63 and the bag ending in 64?

10 **A.** Yes.

11 **Q.** And the date on this is the 23rd; is that correct?

12 **A.** Yes, it is.

13 **Q.** Was this search occurring sort of late in the evening?

14 **A.** Late in the evening, going into the next morning.

15 **Q.** So into -- past midnight into the 23rd?

16 **A.** Yes.

17 **MR. WISE:** And then if you could enlarge the bottom,
18 Mr. Kerrigan.

19 **BY MR. WISE:**

20 **Q.** Is that your name and signature, "TFO E. Glover"?

21 **A.** Yes.

22 **Q.** And is that Detective Marcus Taylor's name and your
23 signature as witness?

24 **A.** Yes, it is.

25 **Q.** All right. And now at some point after this, did you take

~~GLOVER DIRECT~~

1 the currency in these two bags to be counted?

2 **A.** Yes. At a later date, that the currency was taken to
3 Loomis. That's the financial institution that the DEA uses to
4 count the money, and that's where it was counted at.

5 **Q.** Okay. And it may be easier if I do this on the document
6 camera since it's sideways, but . . .

7 I'm going to show you what's, I guess, the second page of
8 OS-3. Is this a receipt from Loomis, the company that you
9 mentioned that counted the money?

10 **A.** Yes.

11 **Q.** And, again, keeping in mind the sequence on those evidence
12 bags, is this the line for those evidence bags where we see a
13 63 and a 64?

14 **A.** Yes.

15 **Q.** And how much was ultimately counted in those two bags?

16 **A.** \$100,000.

17 **Q.** And this is the money that at least was at Heathfield when
18 you got there?

19 **A.** Correct.

20 **MR. WISE:** Just a moment, Your Honor.

21 (Counsel conferred.)

22 **BY MR. WISE:**

23 **Q.** Just briefly, Detective Glover, were you -- you said that,
24 I guess, Sergeant Jenkins had taken photographs before you got
25 there?

~~CLOVER~~ ~~CROSS~~

1 **A.** Photographs were taken that -- when I left there, before I
2 left there, he took photographs of that hundred thousand
3 dollars.

4 **Q.** Okay.

5 **A.** And I took photographs of it when I came back in, and
6 those two married up --

7 **Q.** Got it.

8 **A.** -- of the hundred thousand dollars.

9 **Q.** Did he also tell you if he'd made a video of some kind?

10 **A.** Yeah. They said it was a video that was made, I guess --
11 let me strike that.

12 He didn't say it was a video that was made before that.

13 **Q.** Okay.

14 **A.** That was -- I guess I heard after the fact.

15 **Q.** I see. So he didn't show you a video at the time?

16 **A.** Of them going into the safe?

17 **Q.** Yeah.

18 **A.** No.

19 **Q.** Okay.

20 **A.** Oh, I don't recall that.

21 **MR. WISE:** All right. Nothing further, Your Honor.

22 Thank you.

23 **THE COURT:** All right. Thank you. Mr. Nieto or
24 Ms. Wicks?

25

CROSS-EXAMINATION

BY MS. WICKS:

Q. Good afternoon.

(Counsel conferred.)

BY MS. WICKS:

Q. Looking again at OS-3, the second of the deposits was the hundred thousand dollars that Government counsel was just asking you about. The one above that, that also was from an investigation with the money that you seized. And Detective Jenkins was also there that day; correct?

A. Correct.

Q. And that was, to your knowledge, a related investigation to the Heathfield address; correct?

A. Correct.

Q. And you were familiar with the Heathfield address from a drug-related wiretap investigation; correct?

A. Correct.

Q. And you yourself were familiar with and had observed Oreese Stevenson during that investigation; correct?

A. Correct.

Q. And when you -- the money that you get from Baltimore City police officers that is going through the system, this is for asset forfeiture; correct?

A. I can't speak -- what's the exact question?

Q. The money that you're talking about here is money coming

1 from Baltimore City police officers going to you, a Task Force
2 Officer, for asset forfeiture; correct?

3 **A.** I can't -- I don't -- I don't know where the money exactly
4 goes after it's seized.

5 **Q.** Well, the deposit at Loomis is for the U.S. Marshals asset
6 forfeiture; correct?

7 **A.** Okay. Yes.

8 **Q.** And that's on the deposit slip that you get from Loomis;
9 correct?

10 **A.** Right. Correct.

11 **Q.** All right. And when you -- Detective -- I'm sorry.

12 Sergeant Jenkins called you that day. And the address
13 that you were going to was -- was -- well, he -- did he know
14 that you were familiar with that address from the
15 investigation?

16 **A.** No. He -- Sergeant Jenkins and I were in the same class.
17 And so me -- he knew that I grew up in that area.

18 **Q.** Okay.

19 **A.** So he said it was around the corner from my mother's
20 house.

21 **Q.** Okay. So he thought that you might be close by?

22 **A.** I don't live with my mother.

23 **Q.** Okay. But is he -- when he's calling you, is he calling
24 different people from the unit or he just -- he happens to call
25 you 'cause he knows you went to the police academy together?

~~CLOVER~~ ~~CROSS~~

1 **A.** He called me -- I believe he called me because I was a
2 TFO. And that's -- that's part of our description, that we
3 would go -- we would seize large amounts of money.

4 **Q.** Okay. And you were not aware of if there was a certain
5 dollar amount, that police officers then had to call; but it
6 was clearly large amounts of money that Sergeant Jenkins is
7 calling you about seizing and depositing into the federal
8 system, so to speak; right?

9 **A.** Correct.

10 **Q.** Okay.

11 **MS. WICKS:** Court's indulgence.

12 **BY MS. WICKS:**

13 **Q.** And when you go and seize the money on the scene, you
14 don't count the money; correct?

15 **A.** No, we don't count the money.

16 **Q.** You memorialize what the money looked like. And it looked
17 the same when you got there as when you left and came back
18 again; correct?

19 **A.** Correct.

20 **Q.** And you took pictures there on the scene on your phone;
21 right?

22 **A.** No. Camera.

23 **Q.** On your own camera?

24 **A.** Yeah. 35-millimeter.

25 **Q.** And then you apparently take scene pictures also when you

~~CLOVER~~ ~~CROSS~~

1 get back to the federal building and deposit it; correct?

2 **A.** Correct.

3 **Q.** And it's not counted until it gets to Loomis and
4 deposited, and they count it for you?

5 **A.** Correct.

6 **Q.** Okay. Thank you.

7 **MS. WICKS:** No further questions, Your Honor.

8 **THE COURT:** Thank you.

9 Mr. Purpura, any questions?

10 **MR. PURPURA:** One second.

11 (Mr. Purpura and Defendant Hersl conferred.)

12 **MR. PURPURA:** Thank you, Judge. Just very briefly, if
13 I may.

14 **THE COURT:** Sure.

15 CROSS-EXAMINATION

16 **BY MR. PURPURA:**

17 **Q.** Detective, good afternoon, sir.

18 **A.** Good afternoon, sir.

19 **Q.** Detective, I'm going to show you again what you looked at
20 before, which is OS-8, Government exhibit.

21 Do you recognize that again?

22 **A.** Yes.

23 **Q.** Okay. And the -- it looks to me like the hundred thousand
24 dollars -- is that one or two bags?

25 **A.** Two bags.

1 Q. Two bags.

2 And those are DEA plastic bags; correct?

3 A. Correct.

4 Q. Is there a difference between a DEA plastic bag and a
5 heat-sealed plastic wrap? Do you know what I mean by
6 heat-sealed plastic wrap?

7 A. Like heat-sealed plastic --

8 Q. You ever see money, stacks of money in a heat-sealed
9 plastic wrap?

10 A. Okay. Yes. Yes. This is different.

11 Q. It's different; right?

12 A. Yes.

13 Q. Thank you.

14 And what circumstances do you see money in a heat-sealed,
15 plastic wrap, heat-sealed?

16 A. In my -- in my career --

17 Q. Yeah.

18 A. -- I see it when it's large sums of money are being, I
19 guess, transferred through the cartels and they package the
20 money.

21 Q. And people, cartels, large amounts of money --

22 A. Right.

23 Q. -- or even small amounts of money, when they're, say,
24 \$50,000 or 100,000, when they're in heat-sealed, plastic wraps,
25 there's a purpose. There's a reason why they do that, at least

~~CLOVER~~ ~~CROSS~~

1 they think there is, isn't there, a fact?

2 **A.** I would believe so, yes.

3 **Q.** And that's to avoid detection, perhaps K9 or others;
4 correct?

5 **A.** Not -- me, no. I would think heat-sealed, it makes it
6 easier for you to count it. So if you put it in 50,000,
7 100,000 packages, you know how much money you have.

8 **Q.** Fair enough. Fair enough.

9 But the bottom line is these are not that type of plastic
10 wrap here on this; is that correct?

11 **A.** No.

12 **MR. PURPURA:** Thank you.

13 I have no further questions. Thank you.

14 **THE COURT:** Thank you. Any redirect?

15 **MR. WISE:** No, Your Honor. Thank you.

16 **THE COURT:** All right. Thank you very much, sir. You
17 are excused.

18 (Witness excused.)

19 **MR. HINES:** United States calls Timothy Lynch.

20 **THE CLERK:** Please raise your right hand.

21 SPECIAL AGENT TIMOTHY LYNCH, GOVERNMENT'S WITNESS,
22 SWORN.

23 **THE CLERK:** Please speak directly into the microphone.
24 State your full name for the record and spell your last name,
25 please.

~~LYNCH DIRECT~~

1 Government's Exhibit 14A. May be easier if I just show it to
2 you (handing).

3 Do you recognize this exhibit?

4 **A.** I do.

5 **Q.** And along with these items as well?

6 **A.** Yes.

7 **Q.** Where did you seize this?

8 **A.** We seized it in the walk-in closet in the residence of
9 Officer Taylor.

10 **Q.** You can show the jury. What is it exactly?

11 **A.** It's a Baltimore City Police badge, Number 926.

12 **Q.** On here is it (indicating)?

13 **A.** And it's a nametag with "Taylor" on it.

14 **Q.** Let me show you Government's Exhibit 14B. Is this a
15 photograph of this badge?

16 **A.** That's correct.

17 **MR. HINES:** No further questions, Your Honor.

18 **THE COURT:** All right. Any questions?

19 **MR. NIETO:** Court's indulgence.

20 No, Your Honor.

21 **THE COURT:** Mr. Purpura?

22 **MR. PURPURA:** No. Thank you, Judge.

23 **THE COURT:** Okay. And I'll see counsel at the bench.

24 But this witness is excused. Thank you very much,

25 sir.

~~LYNCH DIRECT~~

1 (Witness excused.)

2 (Bench conference on the record:

3 **THE COURT:** Just on the scheduling, I need to be
4 upstairs in a few minutes. Do you have anybody else that's
5 like really short?

6 **MR. HINES:** Yes. We just have a couple of seizing
7 agents, Lieutenant Morris, he'll be really short. And then
8 there might be even a couple more, but we understand 4:45 is
9 the hard stop; right?

10 **MS. WICKS:** She said 4:30.

11 **THE COURT:** I said 4:30.

12 **MR. HINES:** Oh, all right. Well, then in that case --

13 **THE COURT:** Get one more in.

14 **MR. HINES:** Okay.)

15 (Bench conference concluded.)

16 **MR. HINES:** United States calls Robert Morris.

17 **THE COURT:** All right.

18 **THE CLERK:** Please raise your right hand.

19 LIEUTENANT ROBERT MORRIS, GOVERNMENT'S WITNESS, SWORN.

20 **THE CLERK:** Please be seated.

21 Please speak directly into the microphone.

22 State your full name for the record and spell your
23 last name, please.

24 **THE WITNESS:** My name is Robert W. Morris, Jr.,

25 M-O-R-R-I-S.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. HINES:

Q. Sir, where do you work?

A. Baltimore Police Department.

Q. How long have you been with the Baltimore Police Department?

A. 25 years.

Q. What's your title?

A. I'm a lieutenant.

Q. Which section or group are you in?

A. I'm assigned to the Internal Affairs section.

Q. I'd like to direct your attention to March 1st, 2017. Did you assist the FBI's Public Corruption Squad with seizing evidence?

A. Yes, sir.

Q. And if I may approach, I'd like to show you two exhibits.

I'll show you what's been marked as FBI-17A, if you could show the jury.

A. Sure.

(Witness complies.)

Q. Is that an item that you seized?

A. Yes, sir.

Q. And what is that item?

A. It's a BB pistol that was located in the glove box of

~~MORRIS - DIRECT~~

1 Marcus Taylor's car.

2 **Q.** It's a BB pistol located in Marcus Taylor's car?

3 **A.** Yes, sir.

4 **Q.** I'm showing you what's been marked as

5 Government's Exhibit FBI-16A.

6 Would you show the jury.

7 **A.** Sure.

8 (Witness complies.)

9 **Q.** Is that an item you seized?

10 **A.** Yes, sir.

11 **Q.** What is that item?

12 **A.** That is Taylor's departmental weapon.

13 **Q.** That's his Baltimore Police Department-issued service
14 firearm?

15 **A.** Yes, sir.

16 **Q.** And where was that seized from?

17 **A.** That was seized from his vehicle as well.

18 **MR. HINES:** And, Mr. Kerrigan, if you could put up on
19 the screen 16B and then 17B.

20 **BY MR. HINES:**

21 **Q.** Lieutenant Morris, is 16B a photograph of
22 Detective Taylor's Baltimore Police Department firearm?

23 **A.** Yes, sir.

24 **Q.** And, Lieutenant Morris, is Government's Exhibit 17B a
25 photograph of Detective Taylor's BB gun?

~~SMITH DIRECT~~

1 **A.** Yes, sir.

2 **MR. HINES:** No further questions, Your Honor.

3 **THE COURT:** All right.

4 **MS. WICKS:** No questions.

5 **MR. PURPURA:** No. Thank you.

6 **THE COURT:** Okay. All right. Thank you very much,
7 sir.

8 **THE WITNESS:** Yes, Your Honor. Thank you.

9 **THE COURT:** You're excused.

10 (Witness excused.)

11 **THE COURT:** Counsel, if the others are about that
12 length, go ahead, if you can do at least one more, short, or
13 not.

14 **MR. HINES:** United States calls Matthew Smith.

15 **THE COURT:** Okay.

16 **THE CLERK:** Please raise your right hand.

17 TASK FORCE OFFICER MATTHEW SMITH, GOVERNMENT'S WITNESS,
18 SWORN.

19 **THE CLERK:** Please be seated.

20 Please speak directly into the microphone.

21 State your full name for the record and spell your
22 last name, please.

23 **THE WITNESS:** My name is Matthew Smith, S-M-I-T-H.

24 **THE CLERK:** Thank you.

25

DIRECT EXAMINATION

BY MR. HINES:

Q. Mr. Smith, where do you work?

A. I'm a detective with the Baltimore City Police Department.

Q. And do you also work for the FBI?

A. I do. I'm currently assigned as a Task Force Officer with the FBI's Public Corruption Unit.

Q. How long have you been with the Baltimore City Police Department?

A. 23 and a half years.

Q. Did you participate in seizing evidence on March 1st, 2017?

A. I did.

MR. HINES: If I may approach, Your Honor.

BY MR. HINES:

Q. I'll show you a couple of items.

I'm going to show you what's been marked as FBI-13A. Can you look at that and show the jury.

A. (Witness complies.)

Q. And counsel as well.

A. (Witness complies.)

Q. What is Government's Exhibit 13A?

A. It's a Glock, firearm.

Q. And is this a firearm for Detective Hersl that was seized?

A. Yes; yes, it is, according to that serial number.

1 Q. And I'm showing you what's been marked as
2 Government's Exhibit 12A. Is this an item that you seized?
3 A. Yes. It's Badge Number -- Detective Badge No. 880.
4 Q. And whose badge is that?
5 A. Detective Hersl.
6 Q. Okay. And when you seized these badges, was it at the
7 time that Detective Hersl was arrested?
8 A. Yes, it was.
9 Q. Did you also seize a badge from Detective Taylor at the
10 time that he was arrested?
11 A. Yes, I did.
12 Q. I'm showing you what's been marked as
13 Government's Exhibit 15A, FBI-15A.
14 Do you recognize that exhibit?
15 A. Yes, I do.
16 Q. Who did you seize that from?
17 A. It's Detective Marcus Taylor, Detective.
18 Q. Now, when you seized this exhibit, after you seized it,
19 did anything strike you as unusual about the badge?
20 A. Yes. During the -- after it was seized and when I was
21 doing inventory, I noticed it -- his badge number was mine,
22 same number as mine.
23 Q. His badge number was yours?
24 A. Yes. His badge -- it's listed as detective police
25 officer. And it says 244, which is my badge number.

1 Q. 244 is the badge number you were assigned by the
2 department?

3 A. Yes. And you can tell that, I mean, it's different from
4 the one that's indicated on his ID card.

5 Q. In your capacity as a detective with the Baltimore City
6 Police Department and the Internal Affairs group, have you
7 heard of detectives getting fake badges made up?

8 A. You can -- within the department, you can get a badge, ask
9 for -- get a duplicate badge. You have to go through a
10 process, get permission from your commander. And then it's
11 taken to the quartermaster, approved. And then you go to a
12 company called Hans and they make the badges for you.

13 Q. In order to get a badge made up, is there a rule about the
14 number that must be on the fake badge or the additional badge
15 that's made up?

16 A. When you're first assigned to the department, you're
17 assigned a number, a badge number for you. As you change -- if
18 you're a police officer, become a detective, it may change.
19 Mine was 1954; then it changed to 244 when I became a
20 detective.

21 So when you go to get a duplicate badge, you've got to
22 keep that number.

23 Q. So 244 is your badge number; is that right?

24 A. Yes.

25 Q. And are you aware that Detective Taylor's actual badge

~~SMITH~~ ~~CROSS~~

1 assigned by the department was found at his home (indicating)?

2 **A.** Yes, I did learn that.

3 **Q.** And that's been admitted into evidence as 14A.

4 So the badge that Detective Taylor had on him that he was
5 carrying around was actually your number?

6 **A.** Yes.

7 **MR. HINES:** No further questions.

8 **THE COURT:** All right.

9 **MR. NIETO:** Court's indulgence.

10 **MR. PURPURA:** Your Honor, while they're just chatting,
11 could I ask a few questions?

12 **THE COURT:** Sure.

13 **MR. PURPURA:** Thank you.

14 CROSS-EXAMINATION

15 **BY MR. PURPURA:**

16 **Q.** Detective, good afternoon, sir.

17 **A.** How you doing?

18 **Q.** Fine. Thanks.

19 Now, as far as Daniel Hersl is concerned, you were the --
20 one of the detectives -- you were in the Internal Affairs
21 department when Daniel Hersl reported on March 1st of 2017?

22 **A.** Actually, a task force officer assigned off location with
23 the FBI.

24 **Q.** Okay. Right. But on March 1st, when Mr. Hersl -- now
25 Mr. Hersl came to work --

~~SMITH~~ ~~CROSS~~

1 A. Right.

2 Q. -- where did you confront him?

3 A. It was at Kirk Avenue, 2524 Kirk Avenue, at the
4 Internal Affairs building, yes.

5 Q. So at Internal Affairs; correct?

6 A. Yes.

7 Q. And that's because Mr. Hersl was instructed on March 1st
8 to report to Internal Affairs; correct?

9 A. Yes.

10 Q. And he did report to Internal Affairs on March 1st as
11 instructed; correct?

12 A. Yes.

13 Q. And at that point, when he was arrested, he didn't try to
14 fight or take flight or anything like that, did he?

15 A. No.

16 Q. He turned over his badge to you; correct?

17 A. Well, the SWAT team members seized it from his person,
18 handed it to me, and I bagged it.

19 Q. Okay. And that was his correct badge; correct?

20 A. Yeah.

21 Q. Okay. And he turned over his service weapon. It was
22 taken from him; correct?

23 A. Well, when they got -- when all the detectives arrived --
24 when you come into Internal Affairs, if you're armed, you've
25 got to place it in a gun locker, so his weapons were placed in

~~SMITH~~ ~~CROSS~~

1 gun lockers.

2 **Q.** Fair enough.

3 And that was apparently the gun that was assigned to him;
4 correct?

5 **A.** Yes.

6 **Q.** Were you involved in any searches of his vehicle or his
7 home?

8 **A.** No.

9 **MR. PURPURA:** No further questions. Thank you.

10 **THE COURT:** Thank you.

11 All right. Mr. Nieto? Ms. Wicks?

12 **MR. PURPURA:** I'm sorry, Your Honor. Did you ask me
13 something?

14 **THE COURT:** No. I'm asking them if they have any
15 questions.

16 **CROSS-EXAMINATION**

17 **BY MS. WICKS:**

18 **Q.** Good afternoon.

19 **A.** How you doing?

20 **Q.** You haven't had any problems because of this apparent
21 numbering issue with the badges; correct?

22 **A.** I'm sorry. What do you mean "problems"?

23 **Q.** I mean, you're saying you have a badge number that's the
24 same number as the one that you recovered from

25 Detective Taylor; correct?

~~SMITH REDIRECT~~

1 **A.** Yes.

2 **Q.** You're not aware of any issues that have arisen because of
3 this discrepancy in the numbers; correct?

4 **A.** No. No, I'm not.

5 **MS. WICKS:** Okay. Thank you.

6 No further questions, Your Honor.

7 **THE COURT:** Any redirect?

8 **MR. HINES:** Just briefly, Your Honor. Three exhibits.

9 REDIRECT EXAMINATION

10 **BY MR. HINES:**

11 **Q.** Mr. Smith, are Exhibits 12B --

12 **MR. PURPURA:** Judge, we'll stipulate to Hersl's badge
13 and gun, whatever the exhibits are. There's no issue.

14 **MR. HINES:** Counsel is stipulating 12B, 13B, and 15B
15 are photographs of the exhibits I've just shown?

16 **MR. PURPURA:** Yes.

17 **MR. HINES:** No further questions, Your Honor. Thank
18 you.

19 **THE COURT:** Great.

20 All right. Thank you very much, sir. You're excused.

21 (Witness excused.)

22 **THE COURT:** Ladies and gentlemen, we will be stopping
23 for today.

24 As I've told you, we're not here in court tomorrow, so
25 I will see you again on Monday at 10:00.

1 Same instructions. Please leave your notes here.
2 Don't listen or read about anything about the case. Don't talk
3 about the case. Keep an open mind. And we will see you on
4 Monday at 10:00.

5 Thank you very much.

6 (Jury excused at 4:38 p.m.)

7 **THE COURT:** Counsel, any issues you want to anticipate
8 for Monday morning?

9 **MR. WISE:** Not from the United States, Your Honor.
10 Thank you.

11 **MR. PURPURA:** Nothing. Thank you, Your Honor.

12 **MS. WICKS:** No. Thank you, Your Honor.

13 **THE COURT:** All right. I'll see you all Monday.
14 If something comes up tomorrow, I'll be around.

15 **MR. WISE:** Thank you, Your Honor.

16 **MR. PURPURA:** Thank you, Your Honor.

17 (Court adjourned at 4:39 p.m.)

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I, Douglas J. Zweizig, RDR, CRR, do hereby certify that the foregoing is a correct transcript from the stenographic record of proceedings in the above-entitled matter.

/s/

Douglas J. Zweizig, RDR, CRR
Registered Diplomate Reporter
Certified Realtime Reporter
Federal Official Court Reporter
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