

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF CONNECTICUT

3

4 UNITED STATES OF AMERICA,)

5 Plaintiff,)

NO: 3:15CR119(MPS)

6 vs.)

7)

March 17, 2016

8 JOSE VASQUEZ, *also known*)

9 as Green Eyes,)

10 Defendant.)

SUPPRESSION HEARING

11 _____

Volume I

12

13 450 Main Street
14 Hartford, Connecticut

15

16 B E F O R E:

THE HONORABLE MICHAEL P. SHEA, U.S.D.J.

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18 A P P E A R A N C E S:

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28 Court Reporter: Martha C. Marshall, RMR, CRR

29 Proceedings recorded by mechanical stenography, transcript
30 produced by computer.

1 THE COURT: Good morning. Please be seated.

2 We have a hearing on a motion to suppress today in
3 United States versus Vasquez. The case is 15CR119.

4 Let's begin with appearances of counsel, please.

5 MR. HALL: Good morning, Your Honor. Gordon Hall
6 for the Government. With me is Special Agent John Rubinstein
7 of the Drug Enforcement Administration.

8 MR. WILLSON: Your Honor, good morning. Charles
9 Willson for the Federal Defender's Office. To my left here
10 is Mr. Vasquez.

11 THE COURT: Good morning, Mr. Willson,
12 Mr. Vasquez.

13 So then Mr. Hall, are we prepared to proceed or,
14 Mr. Willson, you wanted to say something?

15 MR. WILLSON: I do have a couple of things to say.
16 One, from a more general standpoint, we are having some
17 discussions about a possible partial resolution. This case
18 is complicated a bit in that there's a potential forfeiture
19 issue down the road, but we're talking about the possibility
20 of resolving the other issues with a plea. I think it would
21 be worth a little bit more time to have those discussions
22 before starting the hearing.

23 The other issue I have to bring up is that
24 Mrs. Vasquez was in the hospital last night in the emergency
25 room.

1 THE COURT: I'm sorry to hear that.

2 MR. WILLSON: With Mrs. Vasquez, who is in the
3 courtroom now, was in the hospital last night in the
4 emergency room. She was in my office, quite frankly, at the
5 end of the day. They'd come up from Pennsylvania. She
6 looked very unwell, lots of swelling in the throat, neck
7 area. She wasn't able to really speak with me for more than
8 a few minutes. I have now a prescription that she needs to
9 fill that I borrowed from them and she has an infection in
10 her tonsils and also been a tooth infection as well. She
11 earlier this morning, pursuant to the advice given, took a
12 Percocet. She has a prescription where she's supposed to
13 take five milligrams of oxycodone by mouth every four to six
14 hours as needed for pain which, according to this, will cause
15 sedation. I have to say she's taken something this morning,
16 a little bit after seven o'clock. The timing to take the
17 next dose, which she doesn't have in her possession yet, is
18 probably right around the time she would take the witness
19 stand here, roughly, assuming that each of the agents takes
20 about an hour. That puts us there.

21 So in light of that, our first request probably
22 would be for a continuance of the hearing. I know there was
23 discussions when we were on the phone last week.

24 THE COURT: Let me -- I obviously sympathize with
25 Mrs. Vasquez, and I'll do what I can to accommodate her, but

1 the agents I think are here. Those are the gentlemen sitting
2 in the back, is that right, Mr. Hall? I know I recognize one
3 of them from a trial I've had.

4 MR. HALL: These guys get around, don't they. There
5 are two state troopers out in the hall.

6 THE COURT: He's got all his witnesses here. So
7 we're going to go forward. Why don't we revisit sort of
8 where we are with Mr. Vasquez when the Government gets done
9 presenting its witnesses, unless the Government was going to
10 call Mrs. Vasquez.

11 MR. HALL: I was not going to call her before the
12 officers.

13 THE COURT: So you're prepared to proceed with the
14 officers this morning?

15 MR. HALL: Yes, Your Honor.

16 THE COURT: So why don't we plan on that, and then
17 see where we are. If Mrs. Vasquez is not feeling well, she's
18 free to leave from my perspective. If she needs to go lie
19 down, she should do that. She should get whatever medication
20 she needs. That obviously is a priority. I'm not going to
21 prevent her or you from putting in her testimony at some
22 point. So whether we need to have a second day for this
23 hearing, we will. I propose we proceed in that manner and
24 that way allows us to be flexible. Who knows, maybe she'll
25 be feeling better in a few hours. If not, that's fine.

1 We'll deal with it.

2 MR. WILLSON: The other point, though, being if we
3 could have a few more moments to converse.

4 THE COURT: Look, the hearing was scheduled for
5 nine. I don't mean to be difficult, Mr. Willson, but I left
6 an event to get here on time. I spent a lot of time
7 preparing for the hearing. I'm sure that Mr. Hall at least
8 had to make arrangements to have his people here. You've had
9 to make arrangements to have your people here. Whatever
10 you're able to agree on, we're not going to have a change of
11 plea today, unless there's an agreement ready to sign. Is
12 there?

13 MR. WILLSON: That's what we're discussing.

14 THE COURT: That may be what you're discussing.
15 Here's the thing. I want to do as much of this hearing today
16 as we can. I don't have all day. So if you're saying,
17 Judge, we need five minutes, ten minutes, and we'll know one
18 way or the other, I'll give you five minutes, ten minutes.
19 If you're saying we need half an hour, 45 minutes, the
20 answer's no, we're going to proceed. Which is it?

21 MR. WILLSON: I think in ten minutes.

22 THE COURT: We'll be in recess for ten minutes.

23 (Recess.)

24 THE COURT: Be seated, everyone. You're ready to
25 proceed, gentleman?

1 MR. HALL: Yes, Your Honor.

2 THE COURT: Mr. Hall.

3 MR. HALL: One thing I would mention, I think that
4 it would be appropriate for the witnesses to be sequestered.

5 THE COURT: I agree. So why don't -- I don't know
6 who your fact witnesses are. Let's make sure that only one
7 of them, the person who is testifying is in the room. The
8 case agent can stay, but other than that other fact witnesses
9 should be in the hallway. I think that's true of
10 Mrs. Vasquez as well.

11 MR. WILLSON: Right, Your Honor. So is the case
12 agent testifying first?

13 THE COURT: I don't know. I don't know what his
14 plan is.

15 MR. WILLSON: It would be our position that all
16 three witnesses, the only person who should be in the room is
17 the one that's going to testify. So if Agent Rubinstein is
18 going to testify, we would ask --

19 THE COURT: You can put your client on, too. He has
20 a right to be here. So I'm going to let the case agent
21 stay.

22 MR. WILLSON: Well, my client's rights are different
23 than the case agent.

24 THE COURT: That's true. But I'm going to let the
25 case agent stay.

1 MR. HALL: There's also a rule we get to have a case
2 agent.

3 THE COURT: Well, there's no rule. It's the Court's
4 discretion. In any event, I'm letting the case agent stay.

5 Call your first witness. All other fact witnesses,
6 including Mrs. Vasquez, need to step out of the courtroom.

7 MR. WILLSON: Our objection is just noted for the
8 record.

9 MR. HALL: The Government calls Christopher Walsh.

10 C H R I S T O P H E R W A L S H,
11 a witness called by the Government, having been duly sworn,
12 was examined and testified on his oath as follows:

13 THE CLERK: State your name, city and state, spell
14 your last name, please.

15 THE WITNESS: Detective Christopher Walsh, W A L S
16 H, Hartford, Connecticut.

17 MR. HALL: May I proceed, Your Honor?

18 THE COURT: You may.

19 DIRECT EXAMINATION

20 BY MR. HALL:

21 Q. Good morning, sir.

22 A. Good morning.

23 Q. Can you tell the Court how you're currently
24 employed?

25 A. I'm employed by the Connecticut State Police

1 presently assigned to Statewide Narcotics Task Force.

2 Q. And do you have a rank or classification or
3 something with the State Police?

4 A. A detective, sir.

5 Q. How long have you been a detective?

6 A. Approximately, ten years.

7 Q. And before you were a detective, was there a time
8 period during which you had served with the State Police?

9 A. That's correct. I did about five years as a road
10 trooper at Troop H in Hartford.

11 Q. When you say road trooper, what do you mean?

12 A. The uniform personnel on the sides of the highway
13 that you see when you drive around.

14 Q. Before your time as a road trooper, do you have any
15 other prior law enforcement experience?

16 A. I did. I did about two years as a reserve officer
17 in a small town in Massachusetts, Erving, Massachusetts.

18 Q. As a reserve officer, generally what did you do,
19 was it general policing?

20 A. Correct, general patrol.

21 Q. Now, as a detective with the State Police, what is
22 it that you do?

23 A. Our job in statewide narcotics is to identify and
24 investigate drug trafficking organizations within the State
25 of Connecticut.

1 Q. And have you been assigned to statewide narcotics
2 the whole time you've been a detective?

3 A. That's correct.

4 Q. So ten years I think you said?

5 A. That's correct.

6 Q. And while generally that's the mission that you
7 just described for the statewide narcotics group,
8 specifically what kinds of things did you do -- have you done
9 in the past ten years as a member of that group?

10 A. I've been case officers in numerous narcotics
11 investigations, weapons investigations. Also, frequently
12 used as an undercover officer in a lot of these
13 investigations, as well as assisting other agencies, whether
14 it be the DEA or the FBI or a lot of municipal police
15 departments as well.

16 Q. So over the time that you've been a detective, and
17 in connection with these narcotics investigations and weapons
18 investigations that you participated in, have you had
19 occasion to make felony arrests?

20 A. Yes, sir. Felony arrests and we do a lot of our
21 own entries.

22 Q. So being -- can you tell the Judge what you mean
23 when you say entry?

24 A. It would be the execute search warrants on
25 residents, cars, persons, et cetera.

1 Q. And also executing arrest warrants, right?

2 A. Correct.

3 Q. And from time to time would that involve making
4 entries into residents, cars, et cetera?

5 A. That's correct.

6 Q. Just so that it's clear, when you have a state
7 arrest warrant, do you have an understanding as to whether
8 you are authorized under Connecticut law to enter a residence
9 in order to execute that arrest warrant?

10 A. A felony arrest warrant, yes, sir.

11 Q. Do you have need any other process in order to do
12 that?

13 A. That's it, as long as you can identify that the
14 person is in the residence.

15 Q. And have you had occasion to force doors with
16 respect to these kinds of entries that you've had to make?

17 A. Yes.

18 Q. Have you executed arrests or search warrants in
19 Connecticut at residences that were, say, three family wood
20 frame houses?

21 A. Hundreds.

22 Q. Have you done those in the New Haven area?

23 A. Yes.

24 Q. In the Hartford area?

25 A. Yes.

1 Q. In the Bridgeport area?

2 A. Yes.

3 Q. And you say hundreds?

4 A. That's correct.

5 Q. And so would you say then, based on that, that you
6 are generally familiar with apartments in three-family wood
7 frame houses in Connecticut?

8 A. They all differ a little bit, but, yeah, I would
9 say I'm familiar with them.

10 Q. So if you have to go into one, you have a general
11 idea what you're going to find?

12 A. Yes, sir.

13 Q. And could you tell the Judge, roughly, how many
14 felony arrests you've made?

15 A. I would say hundreds, Your Honor.

16 Q. And over the past few years with respect to your
17 work with the Statewide Narcotics Task Force, have you been
18 part of an entry team?

19 A. Yes.

20 Q. And has that team been personnel wise more or less
21 the same or different over those years?

22 A. It's relatively the same. Some people change here
23 and there, but the core group of people has remained.

24 Q. So who is the core group of people in your entry
25 team?

1 A. It would be myself and three or four other
2 detectives in the office.

3 Q. Can you name any of them?

4 A. Sergeant Burns, Detective Chapman, Detective Sean
5 Kraus, Detective Lena.

6 Q. And on that entry team, do you guys always do the
7 same specific things, each of you?

8 A. No.

9 Q. What do you do?

10 A. It depends on other assignments. So if I'm the
11 case officer, for instance, I wouldn't be utilizing the
12 breaching equipment to go through the door. However, if
13 somebody else was the case officer, I could certainly could
14 be assigned to utilize the breaching equipment on the door.

15 Q. And the breaching equipment, what is that
16 generally?

17 A. It would be the ram and the Halligan tool, the
18 tools to either push the door in or pry the door out.

19 Q. And you've operated both kinds of tools?

20 A. Yes, sir.

21 Q. And you've seen them operated by others?

22 A. Yes, sir.

23 Q. And then from time to time I think you mentioned
24 that you work with other law enforcement agencies, right?

25 A. That's correct.

1 Q. So do you work with local police departments from
2 time to time?

3 A. Yes, sir.

4 Q. And, also, do you work with various federal
5 agencies from time to time?

6 A. We do.

7 Q. And have you worked with DEA?

8 A. Yes, sir.

9 Q. And have you performed entries in your work with
10 DEA?

11 A. Yes.

12 Q. Can you say how many times?

13 A. I would say maybe 30 to 50 times.

14 Q. Okay. Now, drawing your attention to July of 2015,
15 did you and the other members of your entry team become aware
16 of a DEA investigation into the suspected distribution of
17 heroin by Wilson and Jose Vasquez?

18 A. Yes.

19 Q. And in connection with that, do you know whether
20 DEA made a request of your organization, the State Police,
21 for one or more for your State Police units to participate in
22 that investigation?

23 A. Yes.

24 Q. And was your entry team one of those units?

25 A. Yes.

1 Q. Now, up until the time that arrests were made in
2 that case, did your unit -- your entry team participate in
3 the investigation that I've just asked you about?

4 A. Not to my -- I definitely did not. I don't believe
5 anybody did.

6 Q. But you did not?

7 A. That's correct.

8 Q. And what was your understanding that your entry
9 team was being asked to do?

10 A. To serve a felony arrest warrant.

11 Q. On how many individuals?

12 A. On one.

13 Q. Were you also tasked with executing any federal
14 search warrants?

15 A. No, sir.

16 Q. Or any state arrest or search warrants?

17 A. No.

18 Q. Just that one thing?

19 A. That's correct.

20 Q. And who was that warrant for?

21 A. Mr. Vasquez.

22 Q. This Mr. Vasquez here, Jose Vasquez?

23 A. Yes, sir.

24 Q. And prior to performing any tasks on that
25 assignment, did you and the members of your entry team attend

1 a pre-arrest or pre-operation briefing?

2 A. Yes.

3 Q. And do you recall who addressed the pre-operation
4 briefing?

5 A. I believe you were actually one of them, but I
6 believe there were several, and I don't recall exactly who it
7 was.

8 Q. Would they have been either Special Agents or Task
9 Force Officers of the DEA?

10 A. Yes, sir.

11 Q. Whoever they might have been, they were that kind
12 of guy?

13 A. Yes, sir.

14 Q. What sort of things did they talk
15 about -- withdrawn.

16 Did they give you to understand your own
17 assignment, the assignment of your entry team?

18 A. They do. They give an overall view of the case and
19 then each specific task.

20 Q. From the overall view of the case, as you
21 understood it, do you know how many arrest warrants were to
22 be executed in this operation?

23 A. I believe it was 19.

24 Q. But 18 of those people were not your problem,
25 right?

1 A. Exactly.

2 Q. And do you know how many, if any, federal search
3 warrants were to be executed in connection with that
4 operation?

5 A. I don't. I was just more concentrated on my
6 specific task.

7 Q. And in the course of the briefing you said that you
8 were generally advised about the nature of the
9 investigation?

10 A. Yes, sir.

11 Q. Can you tell the Court what kind of investigation
12 it was?

13 A. It's just a drug trafficking --

14 MR. WILLSON: Objection, hearsay, Your Honor.

15 THE COURT: Well, this is a preliminary proceeding.
16 So under Rule 4(a), I think it is, the Rules of Evidence
17 don't apply to this proceeding. That said, I don't have a
18 problem if you want to make an objection for purposes of
19 notifying me about the reliability of evidence, but I'm going
20 to overrule the objection.

21 MR. HALL: Thank you, Your Honor. Just so it's
22 clear, the reason I'm asking these questions is so the Court
23 can appreciate what his understanding was about what he was
24 going to do. That's really the point of it. I'm not
25 offering it for the truth.

1 BY MR. HALL:

2 Q. It's a drug case?

3 A. Yes. To my understanding, it was a large scale
4 drug trafficking organization.

5 Q. And was there any part of the briefing in which
6 either the DEA personnel advised you and the other people
7 present about any particular concerns or steps you should
8 take in approaching any of the suspects that you might be
9 having to execute process on?

10 A. I believe they did. The particulars, I'm not sure.
11 But basically at the end of the day that anyone involved in
12 this type of organization we look at as a dangerous person.
13 Just through training and experience, the connection with
14 firearms is always there. So regardless of the past or what
15 they said, we would consider these persons as possibly
16 dangerous.

17 Q. And is that your practice customarily when you're
18 doing state warrants for the State Police?

19 A. It is.

20 Q. In a drug case, large scale drug trafficking
21 organization?

22 A. That's correct.

23 THE COURT: Can I just follow-up with one question?

24 MR. HALL: Yes, Your Honor, always.

25 THE COURT: At this briefing, did you receive any

1 specific information about the defendant in that regard?

2 THE WITNESS: I may have, Your Honor. I just don't
3 recall.

4 THE COURT: So as you sit here, you don't know?

5 THE WITNESS: That's correct.

6 THE COURT: Go ahead, Mr. Hall.

7 MR. HALL: Thank you.

8 BY MR. HALL:

9 Q. And so were you also given to understand that
10 assigned to your team there would be a DEA agent?

11 A. That's correct.

12 Q. And who was the DEA agent assigned to your team?

13 A. Special Agent Rubinstein.

14 Q. And as far as your understanding goes, based on the
15 briefing and what other planning that you guys did before
16 this, before you executed the warrant, what role was Special
17 Agent Rubinstein to play in this thing?

18 A. He would be the case officer.

19 Q. And what would that mean?

20 A. He would basically be in charge of writing the
21 reports, seizing the evidence, et cetera.

22 Q. As far as the operational details, that is, which
23 of you does what within your team as far as the entry goes,
24 did he have say-so over that?

25 A. No.

1 Q. And as it unfolded, did he in fact exercise say-so
2 over that?

3 A. I'm sorry. Could you repeat that?

4 Q. So, for example, the way it actually happened,
5 setting aside whatever you were told at the briefing, the way
6 it actually happened, did Special Agent Rubinstein direct
7 that one of you in particular would use the ram, one of you
8 in particular would do whatever else you had to do to get in
9 the door, that kind of thing?

10 A. No, sir.

11 Q. Was it fair to say that that was left pretty much
12 to your discretion?

13 A. That's correct.

14 Q. You and the members of your team?

15 A. That's correct.

16 Q. Do you know whether the State Police even advised
17 DEA of who on your team was going to use the ram or the torch
18 or whatever it was?

19 A. I would doubt that. I mean, it would be Sergeant
20 Burns. If anyone told them what we were going to do, it
21 would be Sergeant Burns.

22 Q. And directing your attention to July 15th, sometime
23 before 6:00, a.m., did you and the members of your team and
24 Special Agent Rubinstein take any particular action with
25 respect to this task that you were going to do? Did you go

1 anywhere?

2 A. I believe once we left the main briefing we met at
3 another area, just our group, and went over exactly what our
4 plan was.

5 Q. And to the extent you can recall, what was your
6 plan?

7 A. I can't really say for sure. I know that, you
8 know, we had a particular house that they thought the target
9 would be located in, a specific vehicle that he either owned
10 or operated, and that would have been our plan, is to proceed
11 to that area, that house, that target residence where we
12 thought he was at.

13 Q. And that information was provided by whom?

14 A. Special Agent Rubinstein.

15 Q. And, again, you did not participate in the
16 investigation before this, right?

17 A. That's correct.

18 Q. So this would have all been new to you?

19 A. That's correct.

20 Q. So you say you went to a general briefing. Was
21 that different from the one that I was at or was it the same
22 one?

23 A. Yeah. Typically we leave the larger briefing with
24 everybody there, and then you kind of find the group you're
25 assigned to and you have a separate smaller briefing just

1 with the group that you're assigned to.

2 Q. I want to just go back. You've indicated you were
3 aware there were other warrants being executed that day?

4 A. That's correct.

5 Q. Felony warrants?

6 A. Correct.

7 Q. Were you given any information to the effect of
8 whether or not there were relatives of your defendant, your
9 guy, Mr. Vasquez, who would be subject to arrest that morning
10 also?

11 A. Yes, sir.

12 Q. And if you can recall, what were you told about
13 that?

14 MR. WILLSON: Objection, Your Honor. Unlike the
15 other question, this doesn't seem to lend anything as to what
16 he was about to go do. So it seems irrelevant.

17 THE COURT: It's true that the rules of evidence
18 don't apply, but why are we getting into this? Where's it
19 going?

20 MR. HALL: The offer would be that the officer and
21 the other members of the entry team had reason to believe
22 that there were many other people whose places were being
23 visited that morning. This is all in the New Haven area,
24 relatively small area. I would bring out that these warrants
25 are supposed to be executed at the same time, but they aren't

1 necessarily. That there were people who were related --

2 THE COURT: Okay. I think I get it. I'll overrule
3 the objection.

4 MR. HALL: Thank you, Your Honor.

5 Q. Let's see. Relatives. So what about the
6 relatives? I think that's where we were, right?

7 A. I mean, at the briefing there were multiple
8 targets. I know some of which were related to Mr. Vasquez.
9 I don't recall which ones were, which ones weren't. And
10 there was also some of them who did have violence in their
11 past, their past police records, et cetera. However, I don't
12 know which ones did and which ones didn't.

13 Q. But you're clear I think in saying that you were
14 not given, as the Judge asked you, specific information that
15 Mr. Vasquez was known to carry a weapon, for example, or was
16 known to have engaged in gun play or something in the past?

17 A. That's correct.

18 Q. So any concern that you would have with him was
19 really based on your general experience with these cases?

20 A. That's correct.

21 Q. So having been at the general briefing and then
22 having gone to some kind of rallying point with your team,
23 what did you guys then do?

24 A. I don't recall specifically what was discussed, but
25 just generally what we do in the past is we just kind of get

1 a game plan together before moving to whatever area we're
2 going to be in.

3 Q. Did you proceed to the location of the -- where you
4 had been provided by the DEA where this man was thought to
5 be?

6 A. Yes.

7 Q. And what sort of -- and was this a building?

8 A. Three-family apartment, yes.

9 Q. Wood frame?

10 A. Correct.

11 Q. Had you been in that building before?

12 A. No.

13 Q. And were you provided by the DEA or any other
14 source with sort of a floor plan of the units in that
15 building?

16 A. No.

17 Q. Were you provided with information as to who lived
18 on -- you said three-family -- in the units where your guy
19 was not supposed to be?

20 A. We really didn't have any information on where he
21 was in that building upon arrival.

22 Q. And how many doors were you guys going to cover?
23 In other words, do you know how many entries there were to
24 the building?

25 A. Well, it was a three-family. So there would be

1 three entrance doors and probably three exit doors. So two
2 per unit is typical.

3 Q. And, again, you didn't know that until you got
4 there, right?

5 A. That's correct.

6 Q. And so your entry team -- how many people were on
7 your entry team?

8 A. I don't know for sure. It's typically around
9 five.

10 Q. Around five. And did you all go in the same way or
11 did you split up to cover other doors or how did that work?
12 Tell the Judge, please.

13 A. In these cases, Your Honor, we always assign at
14 least one or two people to the rear of the residence, whether
15 there's an exit door or not, to secure for anyone fleeing out
16 the back door and also, you know, any evidence, potential
17 evidence that could come flying out the window when we make
18 entry.

19 Q. And which door did you go to?

20 A. I believe it was -- it was the front door. I went
21 to the door we entered.

22 Q. Do you recall, as you're sitting here, the address
23 of this place?

24 A. I don't, sir. I'd have to look at the police
25 report.

1 Q. Do you know -- have you been to houses on
2 Washington Avenue in West Haven before?

3 A. I would say yes.

4 Q. But not this one?

5 A. Correct.

6 Q. So you went to what would be the front door?

7 A. Yeah, the front door where the entry team was.

8 Q. And so when you guys got to the front door -- I
9 don't mean the front door of the unit, I mean the front door
10 of the building -- did you guys, you and your entry team,
11 have to force the entry door?

12 A. To the common entry, I believe, was unlocked. And
13 that led to a staircase that basically went to the second and
14 third floor apartments.

15 Q. Prior to entering the dwelling, you mentioned
16 before that you had been given information about a vehicle
17 that Mr. Vasquez was said to have operated from time to time.
18 Was there any indication of the presence of that vehicle
19 outside the building?

20 A. That vehicle was parked next to the dwelling.

21 Q. Was that vehicle parked on the street, like on
22 Washington Avenue, or was it parked in a parking lot, can you
23 recall?

24 A. I don't recall. I don't recall where it was
25 parked. I know it was in the area of that building.

1 THE COURT: I'm sorry, I missed the part earlier
2 when you said that you had given -- been given information
3 about a vehicle Mr. Vasquez had operated. At what point did
4 you receive that information?

5 THE WITNESS: I believe it was at the -- I mean,
6 really, Your Honor, I can't say. I'm not sure when or even
7 if I had that information. For instance, you know, Special
8 Agent Rubinstein was in charge. As a case officer, he had
9 that information. Really, our job was just to kind of -- to
10 go with him and, you know, if located, take him into custody
11 without incident was, you know, what we were assigned to. I
12 may have been told about the vehicle, but I may not have
13 until we got there. I really can't say.

14 Q. But at some point before you actually entered the
15 building, this was in your mind about the vehicle?

16 A. Correct. At some point I knew, but it could have
17 been while we were at that building.

18 Q. And what, if anything, did the presence of that
19 vehicle around the building mean to you?

20 A. Well, it gave some credibility to whatever
21 information they had that he possibly could reside at that
22 address. So certainly seeing the car that he operated in
23 that area corroborated at least some of the information that
24 they had about his residence.

25 Q. Now, ultimately you entered the unit that you

1 thought he was in, right?

2 A. Correct.

3 Q. Before that happened, did you have any conversation
4 with any residents of the building?

5 A. Personally, I did not.

6 Q. Do you know if members of your team did?

7 A. They could have, I just don't know.

8 Q. But you have no recollection of anything like that
9 happening?

10 A. I don't.

11 Q. So when you went in the common door, which you said
12 was unlocked, can you just describe very briefly for the
13 judge what you see when you go in that door?

14 A. It's a series of staircases that lead up. So your
15 first landing would be the second floor apartment, third
16 floor landing would be the entrance to the third floor
17 apartment.

18 Q. And what's on the first floor?

19 A. I don't -- the first floor, I'm not sure if that
20 was out of that common dwelling. Sometimes the first floor
21 has its own entrance. But me particular went up that common
22 stairway towards the second and third floor.

23 Q. Did you have information that led you to conclude
24 that the person you were seeking was upstairs in the
25 building?

1 A. Yeah. I believe we had information that he was on
2 the third floor, but we weren't a hundred percent positive.

3 Q. Okay. So when you go up the staircase and you get
4 to the second floor landing, can you see the second floor
5 apartment from there, the entry to it?

6 A. Yeah, the second floor appeared to be vacant.

7 Q. Why do you say that?

8 A. You could see into the apartment and there was
9 nothing in the apartment that would indicate that somebody
10 was living there.

11 Q. How could you see into it?

12 A. I believe the doorknob and the dead assembly were
13 missing from the door.

14 Q. So how did that let you see into the apartment?

15 A. You could see through the door, through the hole in
16 the door where the doorknob assembly was.

17 Q. They're just gone?

18 A. They were gone, correct.

19 Q. So you could see right into it. And then having
20 seen that, did you -- what did you guys do?

21 A. We then proceeded up to the third floor.

22 Q. And was there a fourth floor?

23 A. No, sir.

24 Q. So when you get to the third floor, was there a
25 landing or not?

1 A. Yes.

2 Q. So can you just describe for the judge what that
3 looks like? You come up the stairs, you get to the top,
4 you're at a landing. How big is the landing, where's the
5 door, that type of thing, to the extent you remember?

6 A. To be honest, I can't remember the size of the
7 landing in this particular apartment. I mean, I can tell you
8 what they typically are.

9 THE COURT: Let's stick with what you remember.

10 A. I remember the landing and the door going into what
11 was clearly the third floor apartment.

12 Q. Let me ask you this. When you guys are going to go
13 through a door, do you guys go through the door like four
14 abreast or something like that or do you go more like in a
15 line?

16 A. In a line.

17 Q. And you guys call that something when you're right
18 in front of the door?

19 A. A stack.

20 Q. A stack. And if you can recall, you formed a stack
21 when you got up to that third floor door?

22 A. Yes, we did.

23 Q. Were you standing on the stairs still?

24 A. I'm not sure.

25 Q. You may have been on the stairs or you may have

1 been on the landing?

2 A. Yeah. Depending on the size of the landing. If
3 you were stacked up, I mean, if somebody had to go down a
4 step to fit on a landing, it's certainly possible, but I'm
5 not sure.

6 Q. So when you guys got to the door, where were you in
7 the stack?

8 A. I'm not sure.

9 Q. Were you at the front?

10 A. Possibly.

11 Q. Did you have the entry equipment, the ram, torch,
12 whatever it was?

13 A. I'm not sure if I did or not.

14 Q. And before taking any action with respect to the
15 door of the apartment, did you guys do anything, have any
16 talk or whispering among yourselves, you guys ready or
17 anything like that?

18 A. No.

19 Q. You guys have worked together before, right?

20 A. Yeah. We've done this so many times there's really
21 no discussions once you're at the door.

22 Q. So once you were at the door, what happened?

23 A. Once we were at the door, I specifically recall
24 having to pause at the door.

25 THE COURT: Having to pause?

1 THE WITNESS: Correct. I remember having to pause
2 at the door, trying to get confirmation that that was the
3 apartment that he was in. I know the U.S. Marshals were
4 involved to a certain extent about pinpointing his location
5 through, you know, some sort of technology that I'm not
6 really familiar with. However, you know, we were 99 percent
7 sure that he was in that apartment due to the second floor
8 being empty. This one was clearly occupied. There was mail
9 in the mailbox, et cetera, not necessarily with his name on
10 it, but it appeared to be occupied.

11 Q. Was that mailbox on the third floor or was it down
12 by the entry?

13 A. I believe it was up on the third floor, but there
14 was also --

15 THE COURT: And there was mail in the mailbox, did
16 you say that?

17 A. That's correct. Not specifically with his name on
18 it.

19 Q. Did you check that? Are you saying that there was
20 none with his name or you're saying it was mail, I don't
21 know?

22 A. We checked it. There was none with his name on it.
23 And we were just waiting for confirmation that that was his
24 apartment. At that time I heard movement within the
25 apartment.

1 Q. Let's stop. The confirmation, how would that come
2 to you?

3 A. That came from the U.S. Marshals.

4 Q. But how would you get it? I'm sorry. Withdrawn.
5 Did you guys have radios with you or something?

6 A. That's correct.

7 Q. So you guys are in contact with, say, Special Agent
8 Rubinstein, for example?

9 A. I wasn't necessarily myself, but somebody was.

10 Q. Somebody was. And then with the Marshals?

11 A. Correct.

12 THE COURT: Could you have him identify who actually
13 was present on the landing, just the whole team at this
14 point?

15 MR. HALL: I tried. I think he --

16 THE COURT: Maybe I missed that or maybe he didn't
17 remember.

18 MR. HALL: I might have forgotten to ask. I'm
19 sorry.

20 Q. So who was on the landing or maybe on the stairs a
21 little bit? Who was out there?

22 A. It was me, Sergeant Chuck Burns, Detective Chapman,
23 and myself.

24 THE COURT: Three people?

25 THE WITNESS: I believe so, Your Honor. There may

1 have been somebody else. I would have to refer to the
2 report.

3 Q. Was Special Agent Rubinstein on the landing with
4 you guys?

5 A. I believe Special Agent Rubinstein was covering the
6 back of the residence.

7 Q. So he was not on the landing with you guys?

8 A. Correct.

9 Q. And you don't recall who had the ram or whatever it
10 was?

11 A. I don't.

12 Q. And you said you were waiting for confirmation?

13 A. Correct.

14 Q. Did you get that?

15 A. Yes.

16 Q. And then what happened?

17 A. At that point -- at that point we ended up hearing
18 or I heard movement within the apartment, and that's when we
19 decided to breach the door.

20 Q. Was there any time when any of you knocked on the
21 door?

22 A. Yes.

23 Q. When did that happen?

24 A. We knocked on the door just prior to breaching. So
25 we heard commotion in the apartment, we knocked on the door.

1 We waited a short amount of time.

2 Q. Let me stop you there. Did you knock on the door
3 or did somebody else?

4 A. I knocked on the door. I knocked on the door as
5 soon as I heard the movement inside the apartment.

6 Q. And did anybody say anything from your end, you
7 guys?

8 A. Yes, sir.

9 Q. What?

10 A. We announced our purpose and authority, just like
11 we always do. So it would be state police.

12 Q. What did you state?

13 A. State police with an arrest warrant.

14 Q. When you say you knocked on the door, you did that,
15 right?

16 A. I did.

17 Q. Did you use your hand or did you use anything
18 else?

19 A. Hand, fist.

20 Q. And so maybe -- could you demonstrate by using that
21 piece of wood that's in front of you there how you knocked on
22 the door.

23 A. (Witness complies.)

24 Q. And did you make your announcement before or after
25 you knocked?

1 A. After.

2 Q. And after knocking and saying what you said, did
3 anybody open the door?

4 A. No.

5 Q. Did anybody come to the door?

6 A. No.

7 Q. Did you hear anymore noise inside?

8 A. Yes.

9 Q. And let me just make sure that I understand this.
10 You heard noise before you even knocked?

11 A. Correct.

12 Q. What did that mean to you?

13 A. To me that meant that somebody inside was either
14 attempting to flee or destroy or hide evidence.

15 Q. And when you heard noise after you knocked and
16 announced, what did that mean to you?

17 A. Same thing.

18 Q. Now, can you say how long before knocking, how long
19 you were on the landing, can you say?

20 A. I would say at least a couple of minutes.

21 Q. And you're out there looking at the mailbox and all
22 that stuff. And can you say after you knocked or banged,
23 really, and yelled or announced your presence and purpose,
24 how long before you guys breached the door?

25 A. I would say maybe -- maybe 10 to 20 seconds.

1 Q. And during that 10 to 20 seconds, you continued to
2 hear noise inside the apartment?

3 A. That's correct.

4 Q. Is it fair to say that you thought the same thing
5 about that noise that you thought about the noise that you
6 heard before you began to knock?

7 A. Correct.

8 Q. And do you recall who -- was it a ram or what was
9 it?

10 A. It was a ram.

11 Q. And do you know who swung the ram?

12 A. I don't.

13 Q. Could have been you, could have been somebody
14 else?

15 A. Correct.

16 Q. Did the door give way?

17 A. Yes.

18 Q. And when the door gave way, was there anybody
19 standing in the doorway?

20 A. No.

21 Q. What did you guys do?

22 A. We then entered, spread out, and searched the
23 apartment for persons.

24 Q. So how many people are we talking about? You,
25 Chapman, Burns. Anybody else at that point upon making

1 entry?

2 A. I believe that was it.

3 Q. So when you say you spread out, can you recall how
4 that happened? Withdrawn.

5 Where did you go?

6 A. I went to the bedroom.

7 Q. So when you walk into the apartment, what's
8 there?

9 A. The apartment -- I don't know the specific layout
10 of the apartment. I didn't look at anything prior to this.
11 But I do remember it was a small apartment and there was very
12 little furnishings in the apartment.

13 Q. So the room that you found yourself in when you got
14 to the other side of the door, was there any furniture in
15 that room?

16 A. A bed.

17 Q. I mean, you just walked in, there's a bed right
18 there?

19 A. Upon entry it was just -- I don't know -- upon
20 entry I would assume it was the living room or the kitchen.
21 It wasn't the bedroom. But I can't say for sure what it
22 was.

23 Q. Whatever that was, are you saying there was a bed
24 in there?

25 A. No, sir.

1 Q. Was there any furniture in that room, whatever it
2 was, when you first walked into the apartment? If you
3 remember. If you remember.

4 A. I don't remember exactly what was in the apartment,
5 but I do remember it was very limited furnishings. It was
6 uncommonly empty.

7 Q. And you went to the bedroom you say?

8 A. Correct.

9 Q. How did you know where the bedroom was?

10 A. I didn't. I just -- one person goes right, one
11 person goes left, one person goes straight, and that's just
12 where I ended up.

13 Q. That's what I was getting at actually. Which way
14 did you go, left, right, or straight?

15 A. I don't recall.

16 Q. You found yourself in a bedroom?

17 A. Correct.

18 Q. Can you say how many steps? I don't mean remember
19 count the stems, but how far was it from where you come into
20 the apartment until you're in the bedroom?

21 A. I really couldn't say. If I try to put a number on
22 it I'd really be guessing, but it was a small apartment.

23 Q. Okay. So you went in the bedroom. How did you
24 know it was a bedroom?

25 A. When I entered the doorway of the room there was a

1 bed in it.

2 Q. Was the door closed before you entered it?

3 A. I'm not sure.

4 Q. You went in there?

5 A. Correct.

6 Q. When you went in there, what were you wearing
7 generally?

8 A. I would have been wearing a State Police tactical
9 vest.

10 Q. Tactical vest being, does that have some sort of
11 protective property?

12 A. Yes, sir. It's a ballistic vest with police
13 markings on both the front and the back.

14 Q. What color were you generally dressed in?

15 A. In black with bright yellow lettering across the
16 front and back.

17 Q. Did you have anything on your head?

18 A. I'm not sure. Nothing covering my face certainly,
19 but I don't know if I had a ball cap on or a winter cap.

20 Q. Nothing covering your face?

21 A. That's correct.

22 Q. You didn't have a helmet on your head?

23 A. No, sir.

24 Q. Maybe a ball cap or something?

25 A. Correct.

1 Q. And you had this ballistic vest on?

2 A. Correct.

3 Q. Attired in black, yes?

4 A. Probably in my specific case would have been blue
5 jeans.

6 Q. So the ballistic vest, what color is that?

7 A. It's like a really dark Navy blue/black vest with
8 bright yellow lettering on it.

9 Q. And then you'd have jeans on?

10 A. Correct.

11 Q. What kind of shoes?

12 A. Timberland work boots.

13 Q. Heavy shoes?

14 A. Correct.

15 Q. Did you have a weapon?

16 A. Yes, sir.

17 Q. What kind of weapon did you have?

18 A. 645 caliber semi-automatic.

19 Q. That's a handgun?

20 A. Correct.

21 Q. By the time you entered the bedroom, had you drawn
22 that weapon?

23 A. Yes.

24 Q. How were you carrying that weapon as you entered
25 the bedroom?

1 A. In a ready position, out in front of my body.

2 Q. Could you demonstrate for the judge what that would
3 look like?

4 A. (Witness complies.)

5 Q. And the other guys, Chapman and Burns, do you
6 remember exactly what they were wearing?

7 A. Similar vests. As far as their pants or shoes, I
8 couldn't say for sure.

9 Q. What about weapons?

10 A. Same weapons.

11 Q. And were they unholstered, do you know?

12 A. I believe they would. They should have been. I
13 would assume they did have them unholstered, but I couldn't
14 say for sure.

15 Q. Because you were busy?

16 A. Correct.

17 Q. When you went into the bedroom, you saw a bed?

18 A. Correct.

19 Q. What else did you see?

20 A. Mr. Vasquez sitting on the bed.

21 Q. Were you able to identify him at that point as
22 Mr. Vasquez or what?

23 A. No.

24 Q. So male sitting on the bed?

25 A. Correct.

1 Q. And what else did you see?

2 A. I believe there was a female in the bed as well.

3 Q. Was he on the bed or in the bed?

4 A. He was on the bed.

5 Q. And what about her?

6 A. I'm not really sure.

7 Q. But she was in the room?

8 A. Yeah.

9 Q. Was there anybody else in the room?

10 A. No.

11 Q. Did you point your gun at them?

12 A. Yes.

13 Q. And did you say anything to them?

14 A. Yes.

15 Q. What?

16 A. Again, I don't know my exact words to them, but
17 it's pretty much the same thing every time we do this. So I
18 would have told him State Police, get on the ground, show me
19 your hands.

20 Q. And when you say those things, when you said them
21 in this case, would that have been in a conversational tone
22 or would that have been in a more urgent tone?

23 A. Yeah, it would have been more like a yell or a
24 holler. It would have been a fairly intense situation.

25 Q. And did the two people in the room, the male and

1 the female, did they comply with your commands?

2 A. Yeah, I believe they did.

3 Q. Was there any resistance offered at all by them?

4 A. Not that I can recall, no.

5 Q. And while you were doing this, the other guys
6 were?

7 A. While I'm doing this, the other guys are searching
8 other areas of the house for people. They end up locating
9 another person.

10 THE COURT: You're testifying as to your
11 understanding as to general practice. Obviously, you didn't
12 see what they were doing.

13 THE WITNESS: Exactly, Your Honor. But they would
14 just fan out and go through the whole house to make sure if
15 there were any other persons within the house they'd be
16 properly detained.

17 Q. And why would that they do that? Not the detaining
18 part. Why would they look around for other people?

19 A. Just for safety issues.

20 Q. Safety for whom?

21 A. Safety for both the officers and potentially for
22 them as well.

23 Q. Because whether they had their guns out or not,
24 they were armed, right?

25 A. That's correct.

1 Q. Now, ultimately was the male identified?

2 A. Yes.

3 Q. And who was he identified as?

4 A. Mr. Vasquez.

5 Q. And was the female identified?

6 A. She was.

7 Q. As whom, if you know?

8 A. I'd have to refer to the report.

9 Q. As far as you know -- withdrawn.

10 And the other person that was found in the
11 residence, was that person identified as far as you know?

12 A. Yes.

13 Q. Do you know who he was?

14 A. I don't.

15 THE COURT: I'm sorry. There was a third person
16 found in the residence?

17 MR. HALL: Yes, sir.

18 THE COURT: I have the question, and the other
19 person that was found in the residence, was that person
20 identified as far as you know? I guess I missed the earlier
21 question and answer when you said someone was identified.
22 Maybe you can take him through that.

23 MR. HALL: I had asked the witness whether
24 ultimately the male that he found in the bedroom was
25 identified and that was Mr. Vasquez.

1 THE COURT: And the female was identified. And
2 then?

3 MR. HALL: He doesn't remember who.

4 THE COURT: Yes.

5 MR. HALL: And there was a third person he
6 mentioned.

7 THE COURT: Let's hear more the circumstances under
8 which he saw that third person because this is news to me..

9 MR. HALL: I'd like to try to get the circumstances
10 if I could turn this thing on.

11 THE COURT: You've shown these to Mr. Willson?

12 MR. HALL: Yes.

13 THE COURT: You've seen the pictures?

14 MR. WILLSON: He's sent me pictures before.

15 MR. HALL: I'm sorry, Your Honor.

16 THE COURT: Quite all right.

17 BY MR. HALL:

18 Q. So that third person who was identified, you don't
19 know who it was?

20 A. That's correct.

21 Q. But do you know whether either the female or that
22 third person had outstanding warrants that morning?

23 A. Yeah. To my understanding, they didn't. Just
24 because I know they weren't taken into custody.

25 Q. So now to go back to the bedroom with Mr. Vasquez.

1 How was Mr. Vasquez dressed?

2 A. He was in his underwear, I believe.

3 Q. Did he have a top on?

4 A. I'm not sure.

5 Q. But he had underwear on the bottom?

6 A. Correct.

7 Q. And the female, how was she dressed?

8 A. I'm not sure.

9 Q. And you had said to the judge a minute ago that
10 what you yelled to them was let me see your hands, get on the
11 floor. So did these two people get on the floor?

12 A. Again, I'm not positive. And I'm not sure that's
13 exactly what I said to them. So it could have been, you
14 know, show me your hands, keep your hands. You know,
15 whatever the command was, you know, they did comply. But I'm
16 not exactly sure what I said. So I'm really not totally sure
17 what they did, whether they actually got down on the floor or
18 just showed their hands where they sat.

19 Q. And did you at some point put handcuffs on
20 Mr. Vasquez?

21 A. Not a hundred percent sure if it was me or if
22 somebody else came in to assist me, but at some point as a
23 group somebody covered them while somebody handcuffs them.

24 Q. But you were there. Is it fair to say that you
25 were in the room, in the bedroom, when Mr. Vasquez got

1 handcuffed?

2 A. That's correct.

3 Q. And to your recollection, was the female also
4 handcuffed?

5 A. I couldn't say for sure on her.

6 Q. Would that be typical?

7 A. It could go either way in that situation.
8 Sometimes a female, if they're not known to be directly an
9 influence in the case or the organization, sometimes they'll
10 get treated with quite a bit of leniency and won't be
11 handcuffed. But I couldn't say specifically in this case.

12 Q. So she may have been, she may not have been?

13 A. That's correct.

14 Q. But these people, to the extent they were
15 handcuffed, that happened in the bedroom?

16 A. That's correct.

17 Q. Was there -- did any of you indicate to Mr. Vasquez
18 that he was under arrest?

19 A. Not until he was positively identified.

20 Q. How did that happen?

21 A. I really couldn't say for sure. I believe he might
22 have said -- you know, we asked him his name and he said it,
23 and he didn't lie. But at that point, I mean, somebody would
24 have somehow confirmed it was him.

25 Q. Going back to getting the cuffs on Mr. Vasquez and

1 maybe the female. Were you joined at some point in the
2 bedroom by other personnel?

3 A. Yes, sir.

4 Q. And do you know who joined you in the bedroom?

5 A. I can't say for sure who joined in in the bedroom.
6 At this point people are starting -- who were covering
7 exterior doors and et cetera are starting to filter in now
8 through the door, because they can hear that we've gained
9 entry and have multiple people detained. So at this point
10 people start filtering in.

11 MR. WILLSON: Objection. The reason I raise it is I
12 can't tell if the witness is describing how things generally
13 worked.

14 THE COURT: Let's clarify that, Mr. Hall.

15 Q. What you just said to the Judge, is that what
16 happened or is that what usually happens?

17 A. That is what happened. Eventually everybody made
18 their way into the apartment. I can't tell you the exact
19 time they filtered in, but they most certainly filtered in.

20 Q. So you -- handcuffs were applied to at least one of
21 these two people and you -- did you ask Mr. Vasquez, aside
22 from his identity, did you ask Mr. Vasquez any questions at
23 that point? You?

24 A. No.

25 Q. Do you recall if anybody else asked Mr. Vasquez

1 any questions at that time aside from his identity?

2 A. No.

3 Q. You don't recall?

4 A. Nobody asked him questions, because at that point
5 our job was done. So we thought. He said his name was our
6 target. He was cuffed. Our job was over.

7 Q. With respect to the security sweep you described
8 before, aside from that other male who was found, was anybody
9 else found?

10 A. No, sir.

11 Q. Were any weapons found?

12 A. No.

13 Q. Just -- okay. And do you know if at some point
14 Special Agent Rubinstein appeared in the apartment?

15 A. He did.

16 Q. Can you say when that occurred?

17 A. I can't say specifically, no.

18 Q. To your recollection -- okay.

19 So after you had Mr. Vasquez in custody, what was
20 the plan?

21 A. The plan was to get clothes on him and turn him
22 over to DEA, however they wanted to transport him and process
23 him.

24 Q. Like you said, your job was done basically?

25 A. That's correct.

1 Q. Di you have to do with the processing?

2 A. No.

3 Q. And you mentioned getting clothes on him. Why do
4 you do that?

5 A. Just because he needs some clothing on, you know,
6 he's going to be walking outside.

7 Q. And how did you arrange that with Mr. Vasquez?

8 A. I asked Mr. Vasquez which clothes he wanted. He of
9 course was handcuffed to the back, and he just kind of nodded
10 towards there was a pair of pants hanging over a laundry
11 basket in the bedroom.

12 Q. Can you just show the Judge how he nodded so that
13 he can see?

14 A. (Witness complies.)

15 Q. And so --

16 MR. WILLSON: I didn't catch that.

17 THE COURT: Why don't you stand up.

18 (Witness complies.)

19 THE COURT: So I'm clear, when this happened, he was
20 cuffed behind his back?

21 THE WITNESS: That's correct.

22 Q. So then you said you took that as an indication
23 toward pants that were on the laundry basket?

24 A. Correct.

25 Q. Where was the laundry basket?

1 A. I believe the laundry basket was -- it was in the
2 bedroom. I believe it was up against the wall adjacent to
3 the bed.

4 Q. When he did, that when he gestured like you just
5 showed the Judge, could you tell what he was gesturing to?

6 A. The laundry basket.

7 Q. So you could tell?

8 A. Yes.

9 Q. Did you look at the laundry after he gestured?

10 A. Sure.

11 Q. Did you see a pair of pants?

12 A. Amongst other clothes, yeah.

13 Q. What did you do?

14 A. Picked up the pair of pants.

15 Q. Then what did you do?

16 A. Turned them upside down and shook them.

17 Q. Why did you do that?

18 A. That's just what we always do. You shake them out
19 before -- the pants have to be checked before you give them
20 to him.

21 Q. Why?

22 A. To make sure there's no weapons or contraband in
23 the pants before you hand them over to him?

24 Q. Why don't you just reach in the pockets?

25 A. Our reasoning is just that there's always a

1 possibility of uncapped needles in the pockets of any
2 clothing you pick up. So typically we give them a good shake
3 before we go sticking our hands in the pockets.

4 Q. When you gave the pants a shake, were you in the
5 bedroom?

6 A. Yes.

7 Q. And did you shake them over the bed or over the
8 floor or what? Tell the Judge what you remember.

9 A. I don't really recall whether it was over the bed.
10 I believe it was over the floor, but I couldn't say with a
11 hundred percent certainty.

12 Q. When you shook the pants, did anything come out?

13 A. Yes.

14 Q. What came out?

15 A. Cash and a bag.

16 Q. Let me just pause here and show you a couple of
17 photographs which I will mark as they come in if they do.

18 THE COURT: You'll mark as what?

19 MR. HALL: I will mark them if they come in as they
20 do. I don't actually have stickers though.

21 THE COURT: Do we have stickers for him? We have
22 stickers for you. You want to just mark them for ID. How
23 many do we have?

24 MR. HALL: 8.

25 THE COURT: Mark those Government's 1 through 8 for

1 ID.

2 MR. HALL: I'm sorry, Your Honor, an oversight.

3 THE COURT: That's all right.

4 Q. Just to go back a little bit. I'm going to show
5 you what's been marked as Government's Exhibit 1. And I ask
6 you -- can you see that on the screen?

7 A. Yes.

8 Q. Can you tell me who that is?

9 A. Appears to be Mr. Vasquez.

10 Q. Mr. Vasquez?

11 A. Correct.

12 Q. And showing you Government's Exhibit Number 3. Can
13 you tell me who that is? Can you see?

14 A. I can. There's a glare, but I can see. I'm
15 assuming that's the female in the apartment. To be totally
16 honest with you, I don't recognize her.

17 Q. So you don't know?

18 A. I don't.

19 Q. And showing you Government's Exhibit Number 2, do
20 you know who that is?

21 A. Upside down.

22 THE COURT: That would be really hard to figure
23 out.

24 THE WITNESS: Unfortunately, that doesn't clear it
25 up either. To be honest, Your Honor, it's probably the third

1 guy.

2 THE COURT: But you're not able to say?

3 THE WITNESS: That's correct. I don't know who he
4 was.

5 Q. Fair enough. Now, when you said you shook the
6 pants, there were drugs and money that you saw?

7 A. Correct.

8 Q. I'm going to show you Government's Exhibit Number 4
9 for identification. Can you tell us what that appears to you
10 to be?

11 A. The sack full of drugs.

12 MR. HALL: At this point I'd offered Government's
13 Exhibit 1 and Exhibit 4.

14 THE COURT: So when you say 4 is the sack of drugs,
15 can you just be a little bit more specific?

16 THE WITNESS: Yes, Your Honor. This is -- the along
17 with the currency, this is what came out of the pants pocket
18 when I shook it.

19 MR. WILLSON: Can I ask a question, Your Honor?

20 THE COURT: Sure.

21 BY MR. WILLSON:

22 Q. So earlier when you testified you said you shook the
23 pants, out came cash and a bag?

24 A. Correct.

25 Q. So that's the bag?

1 A. Correct.

2 MR. WILLSON: Nothing further.

3 THE COURT: 1 and 4 will be full.

4 MR. HALL: Thank you, Your Honor.

5 (Whereupon, Government's Exhibits Number 1 and 4
6 were marked in full.)

7 BY MR. HALL:

8 Q. Now, with respect to what's pictured in Exhibit 4,
9 that's the bag, right, that came out of the pants?

10 A. Correct.

11 Q. When the bag came out of the pants, did the bag
12 remain closed?

13 A. I believe it remained closed, but it wasn't zip
14 tied shut. So, in other words, when you picked it up you
15 could clearly see what was inside of it.

16 Q. When the bag fell out of the pants, were any of the
17 drugs visible to you?

18 MR. WILLSON: I think that question's been asked and
19 answered a second ago.

20 THE COURT: Well, I'd like to hear it. I'm not sure
21 it was. I'd like to hear the answer. So I'm going to
22 overrule that.

23 A. I can't say for sure if it was or not, if you could
24 see it while it was lying on the floor.

25 Q. The cash that came out, was that in the bag?

1 A. I believe the cash was separate.

2 Q. And you could see the cash?

3 A. Correct.

4 Q. At what point --

5 THE COURT: I'm sorry. Just so I'm crystal clear.
6 What I heard you say is the pants drop on the floor, not sure
7 if you could see drugs at that point, could see cash at that
8 point. Don't let me put words in your mouth. Is that
9 accurate?

10 THE WITNESS: Correct.

11 MR. WILLSON: Your Honor, I'm just going to note the
12 records should speak for itself in terms of what he said
13 already, because my memory is a little bit different.

14 THE COURT: That's fine. It's my job to decide the
15 issue and I want to make sure I understand what the witness'
16 testimony is. The purpose of the question was to make sure
17 that I did. Go ahead.

18 Q. When you saw these objects, however they were come
19 out on to the floor, what if anything did you do?

20 A. At that point I searched the pants by hand.

21 Q. And did you find anything else in the pants?

22 A. No.

23 Q. And was anybody else in the room when this
24 happened?

25 A. Yes.

1 Q. Who?

2 A. I believe Sergeant Burns was in the room.

3 Q. Do you know whether Special Agent Rubinstein was in
4 the room?

5 A. I'm not sure if he was or not.

6 Q. And so this bag is on the floor and cash is on the
7 floor. Did you just leave it there?

8 A. I picked it up.

9 Q. Both?

10 A. Correct.

11 Q. So you picked up the cash and the bag?

12 A. Correct.

13 Q. When you picked up the bag, what could you see?

14 A. The glassine bags of heroin.

15 Q. And how could you see them? I mean, describe to
16 the Judge -- excuse me -- but the bag appears to have a draw
17 string on it. I want you to describe for the Judge what you
18 saw when you picked up the bag exactly.

19 A. Your Honor, when you picked up the bag, you know,
20 whether they were spilled out or not like this, I couldn't
21 say. When I picked up the bag, the bag was not sealed shut.
22 So, in other words, without manipulating the bag, you could
23 see inside this bag. And through training and experience
24 myself could clearly identify the folds inside is common with
25 glassine bags of heroin.

1 Q. And did you say anything to any of your colleagues
2 at that point?

3 A. Yes.

4 Q. What did you say?

5 A. I would have said to Sergeant Burns was right next
6 to me that, hey, he's got drugs and cash here.

7 Q. And did you have occasion to at any point after
8 that look at the laundry basket?

9 A. I personally did not.

10 Q. So then what happened to this stuff that's pictured
11 in Exhibit 4 plus the cash?

12 A. This was turned over to Special Agent Rubinstein.

13 Q. So at some point then Rubinstein had joined you?

14 A. That's correct. At some point he did join us. The
15 exact timing is unknown, but he did join us in that bedroom,
16 that's correct.

17 Q. Would you tell the Judge, I mean, really roughly
18 how long you were in the apartment?

19 A. It was a relatively short period of time. I would
20 say total from entry to exit couldn't have been more than
21 maybe -- maybe 25 minutes or so.

22 Q. And you mentioned that there was not furniture in
23 that first room that you entered when you went in?

24 A. Limited furniture, if any, correct.

25 Q. Limited, if any. Whatever you remember. And in

1 the bedroom that you went into you said there was a bed,
2 right, because the guy was sitting on it?

3 A. That's correct.

4 Q. Do you remember any other furniture in that room?

5 A. Again, I don't know specifically, but I remember
6 that room as well, it had a bed in it, but there was limited
7 furniture for a normal bedroom.

8 Q. Aside from the clothing that was in that basket,
9 was there any other clothing that you saw in that room?

10 A. Not in my view.

11 Q. Did you have occasion to go into any of the other
12 rooms?

13 A. No.

14 Q. So is it fair to say that you don't know how they
15 were furnished?

16 A. The other -- just the rooms that I went through I
17 can speak for, correct.

18 Q. Which would just be the entry room and that
19 bedroom?

20 A. Correct.

21 Q. And did you, you know, seize the drugs, take the
22 drugs into custody or package them in any way or did someone
23 else do that?

24 A. No, Special Agent Rubinstein would have been in
25 charge of that.

1 Q. So you're standing there with the bag. You say you
2 see glassine envelopes or folds in it that you recognize as
3 typical of heroin packaging, right?

4 A. Correct.

5 Q. What did you do with the bag?

6 A. I would have handed them to Special Agent
7 Rubinstein.

8 Q. Do you know what he did with them after that?

9 A. I believe him and Sergeant Burns sealed them in
10 evidence bags.

11 Q. Did you see them do that?

12 A. I was probably there, but I couldn't say
13 specifically that I recall it.

14 Q. I wanted to know what you saw. That's really what
15 the point is. So you might have seen it, you don't
16 remember?

17 A. That's correct.

18 Q. You know that happened because that's what happens,
19 correct?

20 A. Correct.

21 Q. And did you Mirandize any of the subjects, the two
22 males and female, Mr. Vasquez, the female, and the male?

23 A. No.

24 Q. Did anybody Mirandize any of them in your
25 presence?

1 A. Sergeant Burns Mirandized Mr. Vasquez.

2 Q. Did that happen before or after the drugs were
3 discovered?

4 A. Before.

5 Q. And was, to your recollection, after that, did
6 anybody question Mr. Vasquez?

7 A. Not to my knowledge.

8 Q. If they did, you didn't see it?

9 A. That's correct.

10 Q. And it may not have even happened?

11 A. That's correct.

12 Q. And before he was Mirandized, was he questioned at
13 all? I asked you before about identification, but now I'm
14 saying at all.

15 A. Just about his identification.

16 Q. And who did that?

17 A. I'm not sure who asked him what his name was.

18 Q. But, again, he was cooperative with you guys?

19 A. Correct.

20 Q. Did there come a time when you became aware that
21 additional drugs had been discovered in the apartment?

22 A. Yes.

23 MR. WILLSON: I'm sorry. Could I have that question
24 repeated?

25 Q. Did there come a time when you became aware that

1 additional drugs were discovered in the apartment?

2 A. Yes.

3 Q. Did you discover them?

4 A. No.

5 Q. Do you know who did?

6 MR. WILLSON: Objection. I assume he's just asking
7 what he was told.

8 MR. HALL: No, I'm asking --

9 THE COURT: Overruled.

10 Q. Did you see who discovered the drugs? Or
11 discovered any drugs? I'm sorry.

12 THE COURT: Now I'm confused. Let's start again.

13 MR. HALL: I'm trying to make it specific.

14 Q. Did you see who discovered any drugs aside from the
15 ones that you found?

16 A. Yeah. I believe it was Special Agent Rubinstein
17 and Sergeant Burns.

18 Q. And do you know -- did you see where they were
19 discovered?

20 A. In the laundry basket.

21 Q. Did you see that?

22 A. Yes.

23 Q. Did you see the drugs in place in the laundry
24 basket?

25 A. I didn't, no.

1 Q. Did you see the drugs after -- did you see any
2 drugs after they had been removed from the laundry basket?

3 A. Yes.

4 Q. I'm going to show you what's been marked as
5 Government's Exhibit 7, and ask you if you can tell the Judge
6 what that is?

7 A. Plastic bag containing suspected heroin.

8 Q. And why do you say suspected heroin?

9 A. You just can tell by the color and the consistency
10 of it.

11 Q. You can?

12 A. Yes, sir.

13 Q. So you handled heroin before?

14 A. Unfortunately, about every day.

15 MR. HALL: I'd offer that, Your Honor.

16 MR. WILLSON: Your Honor, I'd agree to it for the
17 limited purposes of this hearing.

18 THE COURT: That's all it's coming in for.

19 MR. WILLSON: Just making sure.

20 THE COURT: This is Government Number 7?

21 MR. HALL: 7.

22 THE COURT: Government 7 will be full.

23 (Whereupon, Governemnt's Exhibit Number 7 was marked
24 in full.)

25 MR. HALL: Thank you, Your Honor.

1 Q. Directing your attention to sort of the bottom half
2 of the photograph which I'm indicating. You said it looks
3 like heroin, right, the whole thing?

4 A. Correct.

5 Q. Can you detect any difference in texture or color
6 between what's at the bottom half of the photograph and
7 what's at the sort of top half of the photograph?

8 A. Yes.

9 Q. And in your experience, can you describe any
10 significance to the difference that you see?

11 MR. WILLSON: Your Honor, I'm going to object. More
12 foundation, what the relevance of today's hearing is.

13 MR. HALL: I'll withdraw it. It's okay.

14 Q. This looks like heroin to you?

15 A. Correct.

16 Q. And was Mr. Vasquez removed from the apartment?

17 A. Yes.

18 Q. Did you participate in that?

19 A. I would say yes, but I couldn't say for sure. But
20 I was certainly there.

21 Q. And when he left the apartment, to your
22 recollection, was he wearing the pants that he had indicated
23 he wanted to wear?

24 A. No.

25 Q. And why not?

1 A. Because they were too large. The waistband was too
2 large. He couldn't wear them without a belt.

3 Q. And so why is that significant? Why is that a
4 problem that he can't wear them without a belt?

5 A. Because the pants were too large. Without the belt
6 they wouldn't stay up.

7 Q. Why couldn't he have a belt?

8 A. They won't let him have a belt in any lockup
9 facility.

10 Q. So then the pants were not suitable, is that fair
11 to say?

12 A. Correct.

13 Q. So was there other clothing that he wore?

14 A. Yeah, shorts. I believe he left in shorts.

15 Q. And where did those come from?

16 A. I'm assuming the same laundry basket, but I don't
17 know for sure.

18 Q. Did you get the shorts?

19 A. I'm not sure.

20 Q. Did anything else -- after all of the heroin was
21 discovered, did anything else -- was there anything else
22 discovered in the apartment of investigative significance as
23 far as you know?

24 A. As far as I know, no.

25 Q. Within the apartment, as far as you know, did

1 anybody -- well, withdrawn.

2 So then he was brought out of the premises, but you
3 don't remember if you participated in that?

4 A. Correct.

5 Q. Did you help transport him?

6 A. No.

7 Q. Did you bring him, when he was outside the
8 apartment, did you bring him to any transport vehicle,
9 anything like that?

10 A. That's the part I'm not sure if it was me.
11 Somebody would have. Whether it was me or not, I'm not sure
12 if I was the one that escorted him from the door to the car.

13 Q. And aside from the identity question that you
14 already told us about, you never asked Mr. Vasquez any
15 questions yourself?

16 A. No.

17 Q. Now, you mentioned Trooper Chapman, right?

18 A. Correct. Detective.

19 THE COURT: How do you spell the last name?

20 THE WITNESS: Your Honor, it's C H A P M A N.

21 Q. Is he on the entry team?

22 A. He is.

23 Q. So he went into the apartment with you guys?

24 A. Correct.

25 Q. And he would have been one of the three that went

1 left, right, or straight, correct?

2 A. Correct.

3 Q. Did there come a time while you were in the
4 apartment that he left the apartment?

5 A. I'm not positive.

6 Q. Does Detective Chapman have custody of a dog?

7 A. Yes.

8 Q. And that's like a -- what kind of dog is that?

9 A. It's a narcotics detecting canine.

10 Q. Did the narcotics detecting canine accompany the
11 entry team into the apartment when you guys first went in?

12 A. No.

13 Q. Where was the dog, if you know?

14 A. The dog would have been in his car. In Detective
15 Chapman's vehicle.

16 Q. In Detective Chapman's car, yes. And so at some
17 point did the dog enter the premises as far as you know?

18 A. Yes.

19 Q. Do you know why? First, that's a yes or no
20 question.

21 A. Well, I don't -- let me just explain.

22 THE COURT: The question is do you know why the dog
23 entered.

24 A. The -- other than entry, the dog goes everywhere
25 with Detective Chapman.

1 Q. They have a relationship?

2 A. Any canine handler.

3 Q. And so typically what do you guys do with that
4 dog?

5 A. Typically they'll utilize the dog to perform a
6 search of the residence.

7 Q. In this case, did that dog perform a search of the
8 residence?

9 A. No.

10 Q. In fact, by the time the dog got there, what was
11 the state of your operation in that apartment?

12 A. By the time the dog was there we were ready to
13 leave.

14 Q. And to your -- are you familiar with that dog?

15 A. Yes.

16 Q. Have you seen that dog alert to the presence of
17 drugs and stuff like that?

18 A. Yes.

19 Q. Aside from as might regard anything that might have
20 been found, did you see that dog alert to anything in the
21 apartment?

22 A. No.

23 Q. And when you guys left, the dog left?

24 A. Correct.

25 Q. Other than this security sweep that you described,

1 and then the events that you described to the Judge involving
2 Mr. Vasquez, was there any other searching at that apartment
3 that you're aware of?

4 A. No.

5 Q. Was Mrs. Vasquez or the female taken into
6 custody?

7 A. No.

8 Q. Was she uncuffed before you left?

9 A. Yes. She may not have been cuffed at all but she
10 certainly, if she was, she would have been uncuffed when we
11 left.

12 Q. What about the other male, was he taken into
13 custody by you guys?

14 A. No.

15 Q. Do you know what happened to him after you left?

16 A. No, sir.

17 Q. In fact, did you ever learn who he was?

18 A. No.

19 MR. HALL: I think that's all I have, Your Honor.

20 THE COURT: Okay.

21 Mr. Willson.

22 MR. WILLSON: Your Honor, I, too, am going to need
23 some stickers.

24 Just four for now.

25 THE COURT: Why don't we use letters for these.

1 MR. WILLSON: Letters are fine.

2 CROSS-EXAMINATION

3 BY MR. WILLSON:

4 Q. Good morning, Trooper Walsh.

5 A. Good morning, sir.

6 Q. Just a couple of things so I understand. So you're
7 on this team that gets plugged in to do entries, is that
8 right?

9 A. In this particular case, yes.

10 Q. Is that a team you're still on today?

11 A. No, sir.

12 Q. Was there a period of time when you were generally
13 on an entry team and would get plugged in as needed?

14 A. The entry team would be in addition to our
15 investigative work. So we would, for the most part, do the
16 entire case from start to finish.

17 Q. So is there a chance perhaps that this Friday you
18 could get put on to an entry team?

19 A. Yes.

20 Q. So it comes up as needed?

21 A. That's correct.

22 Q. And in this particular case, it came up, it wasn't
23 a case you had been working on?

24 A. That's correct.

25 Q. And so at some point your team was notified that

1 their help was needed?

2 A. That's correct.

3 Q. Who on your team would have been the one that would
4 be the contact person in that situation?

5 A. Sergeant Burns.

6 Q. Not you?

7 A. That's correct.

8 Q. And before you did the search, do you recall how
9 long ahead of time you knew that you were going to be going
10 to West Haven on the morning of July 15th to do this entry?

11 A. I believe once we left the brief, we went directly
12 to this residence. It was a fairly short amount of time.
13 Maybe 20 or 30 minutes.

14 Q. So had you met that morning somewhere about 5:00 in
15 the morning?

16 A. We met for a brief that morning, correct.

17 Q. Roughly 5:00?

18 A. Correct.

19 Q. So before 5:00 that morning, you didn't know
20 anything about this case?

21 A. That's correct.

22 Q. You never looked at any of the evidence?

23 A. Correct.

24 Q. You'd never been involved with a wiretap?

25 A. Not this wiretap.

1 Q. Again, just asking about this case. You had not
2 been involved with the wiretap?

3 A. Correct.

4 Q. You didn't know Jose Vasquez from anybody until
5 about 5:00 that morning?

6 A. That's correct.

7 Q. And as you said earlier, you don't recall there
8 being anything specific about him being dangerous or having a
9 propensity to use guns or anything like that?

10 A. Correct.

11 Q. It's just your general training that sometimes
12 there are guns even when we don't expect it?

13 A. Yes, sir, tool of the trade.

14 Q. Right. You were saying earlier you don't recall
15 the specifics about how you were organized to go into the
16 apartment, is that right?

17 A. That's correct.

18 Q. You might have been the ram guy, you might have
19 not?

20 A. That's correct.

21 Q. And of the three people that are situated, do each
22 one of those people have certain roles in that situation?

23 A. Not other than the person who used the breach
24 tools, no.

25 Q. And earlier I think you indicated that there are

1 two types of breach tools?

2 A. Correct.

3 Q. There's the ram?

4 A. Correct.

5 Q. What's the other thing?

6 A. The Halligan.

7 Q. And what do you do with that?

8 A. The Halligan is more or less a pry bar for
9 out-swinging doors rather than in-swinging doors.

10 Q. And do you recall whether, as you're about to go
11 into that apartment, whether one of you had one of those?

12 A. One of us -- any time there's a potential to breach
13 a door, there would be somebody with a ram and somebody with
14 a Halligan.

15 Q. So you don't remember specially, but your
16 expectation is that one of you would have had one and one
17 would have the other?

18 A. Correct.

19 Q. And the third guy, what's he supposed to do in that
20 situation?

21 A. The third guy makes entry, detain any persons
22 located within the residence.

23 Q. Is he the communicator in terms of operating the
24 radio?

25 A. Not necessarily.

1 Q. So someone could have a ram in one hand and a radio
2 in the other?

3 A. That's correct.

4 Q. You indicated earlier there was some communication
5 with Agent Rubinstein I believe?

6 A. Correct.

7 Q. And the Marshals Office?

8 A. Correct.

9 Q. Do you remember who was doing that?

10 A. I believe it was Sergeant Burns.

11 Q. Is that typically his role because he's sort of the
12 main contact person?

13 A. He's the supervisor, correct, so he'd be in charge
14 of any communications with somebody else or another agency.

15 Q. In terms of who's the ram guy, is that something
16 where people specialize or you just take turns, how does that
17 work?

18 A. Yeah, it can depend. There are certain guys that
19 get it more than others just because of their sheer size and
20 strength. Certain guys are left-handed and sometimes if
21 you're standing on the opposite side of the door a left-hand
22 swing is advantageous to a right-handed swing. And you have
23 to be trained in the utilization of those tools as well.

24 Q. Have you been trained?

25 A. Yes.

1 Q. Do you tend to be the ram guy or do you tend to be
2 one of the other guys?

3 A. I was -- for the first six or seven years I was
4 almost always the ram guy, but as we age that tends to get
5 taken away from me and given to a younger person.

6 Q. Without much resistance, I'm assuming, as we age?

7 A. Yeah, exactly.

8 Q. And how old are you?

9 A. 41.

10 Q. How tall are you?

11 A. Five-nine.

12 Q. You look like a strong man. I don't want to assume
13 anything. How much do you weigh?

14 A. About 220 pounds.

15 Q. So that day you're doing a job you've done many,
16 many times before, right?

17 A. Correct.

18 Q. And you don't remember too much specific about how
19 you were organized going in?

20 A. Correct.

21 Q. And you said that's a street I think where you
22 thought maybe you'd done this at other times on Washington
23 Street?

24 A. Yeah, I believe we have.

25 MR. WILLSON: Your Honor, may I approach the

1 witness?

2 THE COURT: You may.

3 MR. WILLSON: Your Honor, just because this is our
4 first time doing this together, is that something I should be
5 asking each time?

6 THE COURT: No, certainly not for this proceeding.
7 But when you're done doing whatever you're doing up there,
8 just question from the podium.

9 Q. I've put in front of the witness a copy of a
10 document that I've put here on the ELMO which is photograph
11 marked as Defendant's Exhibit A. Prior to this hearing a
12 number of photographs were provided to Chambers and also a
13 copy to the Government, and I believe this was among them.

14 Trooper, do you recognize this building at all in
15 the picture?

16 A. I assume it's the target building, but I couldn't
17 say for sure. I think it was dark when we were there.

18 Q. That's a good question. You were there at about
19 quarter to six, right?

20 A. Yes.

21 Q. And this is July 15th?

22 A. Yes, sir.

23 Q. Do you remember anything about the weather that
24 day?

25 A. No, I don't.

1 Q. Do you remember it being hot, humid, anything?

2 A. I don't recall.

3 Q. Do you remember whether it was raining?

4 A. I don't recall.

5 Q. Do you know what day of the week it was?

6 A. I don't.

7 Q. Was this the sort of thing you do on the weekends
8 or is it pretty much a Monday through Friday activity?

9 A. Monday through Friday.

10 Q. Do you recognize that street in general as
11 Washington Avenue in West Haven?

12 A. I don't recognize it from the photo, no.

13 Q. Looking at the photo, does that give you any better
14 memory as to where you would have entered the building?

15 MR. HALL: Did you want to offer the photo? I would
16 object to the 100 Washington Avenue, West Haven part of it.

17 THE COURT: Just so I'm clear, do you want to lay
18 more of a foundation? You don't really have one to put it in
19 yet.

20 MR. WILLSON: I'm trying to get there, Your Honor.

21 THE COURT: That's fine. Why don't you keep
22 going.

23 MR. WILLSON: To see if anything helps his memory.
24 I'm confident I can put it in later with Mrs. Vazquez.

25 Q. You've had a minute or two to look at the photo.

1 Does it help jar your memory at all?

2 A. It doesn't, to be honest with you.

3 Q. I'm just going to take it back from you.

4 A. Sure.

5 Q. So you don't remember whether it was dark or
6 light?

7 A. I don't.

8 Q. Now, you said you were carrying a SIG Sauer?

9 A. Correct.

10 Q. And is that your firearm of choice in these
11 situations?

12 A. It's the permit issued weapon.

13 Q. As the three of you are going in, do you all carry
14 the exact same type of firearm?

15 A. I believe so. The only one that I'm not a hundred
16 percent sure on that is Detective Chapman. He is a member of
17 the State Police Tactical Team. So he does have other
18 weapons that the rest of us are not issued so I can't say for
19 sure about him, but the other state guys would have the same
20 weapon.

21 Q. Do you have any recollection of being up on the
22 landing before you went into the apartment what the other
23 members of the entry team had on them for a weapon?

24 A. No.

25 Q. And Detective Chapman, you said he's part of the

1 State Tactical Team. Does he have access to something bigger
2 than a SIG Sauer?

3 A. I don't know what he has access. They do utilize
4 other weapons so I'm not sure exactly.

5 Q. Like a riffle?

6 A. I don't know if it's a larger caliber. I assume
7 it's not a larger caliber. So I don't know what you mean by
8 bigger, frame or caliber.

9 Q. Something other than a handgun?

10 A. He does have access to those. And I'm not sure if
11 he had that with him that day or not.

12 Q. So you're at the top of the landing. You don't
13 really know who's doing what, but one of you is going to have
14 the ram, one of you is going to have the pryer, right?

15 A. Correct.

16 Q. Third person doesn't have any sort of entry device?

17 A. Correct.

18 Q. Generally from your training, one goes left, one
19 goes center, one goes right?

20 A. Correct.

21 Q. And you have some recollection in this case you
22 went right?

23 A. No.

24 Q. You're not sure?

25 A. I don't know where I went. I just was clearing the

1 house. So, in other words, if the person in front of me
2 veered to the left or went straight and there was rooms off
3 to the right, I would have gone right. However, I'm not
4 saying that's the case. I don't recall the layout of this
5 apartment.

6 Q. You remember that you ended up in a bedroom?

7 A. Correct.

8 Q. And earlier you did this thing where you knocked
9 and you talked about the entry. Do you have a specific
10 memory of that or is it like a lot of your testimony today,
11 which is, this is how it works, this is how we do things?

12 A. I do have a specific memory of that. I mean, it is
13 something we do every time but I do have a specific memory of
14 it.

15 Q. If I ask you yes or no, let's try to stick with
16 that.

17 So how many doors did you knock down in your
18 career?

19 A. A couple thousand maybe.

20 Q. All right. And this is training that you've
21 actually gone through, how to knock and enter an apartment or
22 a house, right?

23 A. Correct.

24 Q. So not only have you done it in real life, you've
25 done it in training a bunch, right?

1 A. That's correct.

2 Q. Have you trained others on how to do this?

3 A. No.

4 Q. And you said your memory is you probably waited
5 about 10 to 20 seconds, right?

6 A. That's correct.

7 Q. In terms of the entries that you've done, do you
8 more often than not do them around six o'clock, some point
9 really early in the morning?

10 A. Well, in the last few years they tend to be that
11 early in the morning, where the first five years I was in
12 this unit it tended to be in the evening or at night. But
13 the past few years they do tend to be early morning hits.

14 Q. So we're going to agree that six o'clock in the
15 morning is early morning, right?

16 A. Correct.

17 Q. And depending on the time of year, it's dark,
18 right?

19 A. Correct.

20 Q. You don't even remember whether July 15th was dark
21 or not, right?

22 A. Correct.

23 Q. And you said you heard some movement, right?

24 A. Correct.

25 Q. Now, let me jump away from that for a second.

1 Agent Rubinstein, he was the one that was supposed
2 to do the report?

3 A. Correct.

4 Q. Was there any other report as far as you know?

5 A. No.

6 Q. You didn't do a report?

7 A. No.

8 Q. Did you review his report?

9 A. No.

10 Q. Did you give him some information or notes for him
11 to look at in preparing his report?

12 A. I gave him information at the scene.

13 Q. Okay. Verbally. Did you give him anything in
14 writing?

15 A. No, sir.

16 Q. Did you shoot him an email later on?

17 A. No.

18 Q. Was there any texting conversation about it later
19 on?

20 A. No.

21 Q. Had you worked with Agent Rubinstein before?

22 A. I have.

23 Q. Have you worked with him since, other than
24 preparing for today or what you might have done with Agent
25 Hall -- excuse me -- Attorney Hall?

1 A. I don't believe so. Possibly, but I don't believe
2 so.

3 Q. So you've never reviewed any sort of arrest report
4 for this case?

5 A. No.

6 Q. In fact, I think during your testimony you
7 mentioned that you didn't really review anything before
8 coming here today, is that right?

9 A. That's correct.

10 Q. You haven't looked at any documents?

11 A. I read through the report when I got here
12 outside.

13 Q. You read through the arrest report?

14 A. Correct.

15 Q. Is that the first time you've ever seen that?

16 A. No, I briefly looked at it when it was emailed to
17 me by the attorney. But before that I've never looked at
18 it.

19 Q. Did you have any communications when it was emailed
20 to you other than look at this?

21 A. Yes.

22 Q. What were those communications generally about?

23 A. Just informing me that a suppression hearing will
24 be coming up, review the report, and make sure you're ready
25 to testify.

1 Q. Did you have any meeting with him other than coming
2 here this morning?

3 A. No.

4 Q. So you said you heard movement. You didn't hear
5 anybody loading up a firearm, right?

6 A. No, sir.

7 Q. You didn't hear any grinding going on, like someone
8 destroying something?

9 A. No, sir.

10 Q. No one shredding documents?

11 A. No, sir.

12 Q. You didn't hear a bunch of toilets flushing?

13 A. I did not.

14 Q. You didn't hear the sink running?

15 A. I did not.

16 Q. When you say movement, you mean basically some sort
17 of foot steps?

18 A. That's correct.

19 Q. And meanwhile Agent Rubinstein, you believe, was
20 covering another exit?

21 A. That's correct.

22 Q. And was there anybody in addition to Agent
23 Rubinstein covering any exits, if you remember?

24 A. I don't recall.

25 Q. You said at some point normally there's about five

1 of you that would do this together?

2 A. That's correct.

3 Q. So if there's three of you on the stairs, there's
4 Agent Rubinstein, there's a decent chance that there's
5 somebody else, right?

6 A. I believe there was at least another person at the
7 rear of the house, yeah.

8 Q. Would that agent or trooper or whoever would have
9 been paired up to be side-by-side with Agent Rubinstein or
10 would he have covered some other exit or window?

11 A. It could have been either. I couldn't say for sure
12 what his assignment was.

13 Q. At some point you said more people were in the
14 apartment. Okay. Do you remember at any point the total
15 number of officers or agents that were in the apartment?

16 A. I mean, I could estimate it, but I couldn't say for
17 sure.

18 Q. The three of you that were on the stairs, who were
19 those again?

20 A. Myself, Sergeant Burns, and Detective Chapman.

21 Q. What was Detective Chapman wearing?

22 A. Detective Chapman would have been wearing the same
23 upper ballistic vest with the markings on it. And as far as
24 his pants, I'm not a hundred percent sure.

25 Q. Was anyone wearing anything on their head?

1 A. Other than a ball cap or winter cap, not to my
2 knowledge.

3 Q. When you went into the apartment with your guns
4 drawn, did your gun have any sort of sighting device on it or
5 targeting device on it?

6 A. Yes.

7 Q. Tell us about that.

8 A. It's a Para stock six hour sights.

9 Q. What does that mean?

10 A. It's just iron sights. So, in other words, it's
11 not the laser beams, flash lights or anything like that.
12 It's just a set of the standard iron sights.

13 Q. You know far more about firearms than I do. Okay.
14 So would it be the type of thing where you would use it if
15 you were holding the gun up so you're actually looking as
16 opposed to down around your waist, that sort of thing?

17 A. That's correct.

18 Q. It doesn't project anything on to a wall or a
19 target or anything like that?

20 A. That's correct.

21 Q. Do you remember about the others, what type of
22 firearms they were using in terms of them having sights? You
23 don't want to look over there, you want to focus on me or the
24 Judge. Do you remember anything about --

25 A. I wasn't looking over there, to be honest with

1 you.

2 THE COURT: Gentlemen, I get it. I tried a few
3 cases in my day.

4 MR. WILLSON: I just saw his eyes drift off.

5 THE COURT: Just ask him a question.

6 Q. Do you remember anything about whether the others
7 had any sort of sight devices on their firearms?

8 A. Sergeant Burns has the identical gun to me -- as
9 me. As far as Chapman, I have no idea

10 Q. Is Detective Chapman someone that you don't work
11 with as often?

12 A. I do, but he's a member of the tact team so they
13 have multiple weapons that they have access to.

14 THE COURT: Mr. Willson, can I just ask one question
15 about the sights?

16 MR. WILLSON: Certainly.

17 THE COURT: I want it very clear, the sight, when
18 you say it's an iron sight, we're talking it's on the barrel,
19 is that right?

20 THE WITNESS: Yes, Your Honor. It's not on the
21 barrel, it's on the slide. It's along that barrel portion.
22 So there's a single point on the front and then a U-shaped
23 iron sight on the rear. So you would line up the two.

24 THE COURT: Got it. Sorry. Go ahead, Mr.
25 Willson.

1 Q. You leave the big briefing, you have sort of a
2 small briefing, right?

3 A. Correct.

4 Q. At the big briefing you heard that a whole lot of
5 activity is going on, not just Mr. Vasquez's case, right?

6 A. That's correct.

7 Q. And then you break into your small group?

8 A. Correct.

9 Q. And the small group is the people that are going to
10 go to Jose Vasquez's place?

11 A. That's correct.

12 Q. And you're focusing on Mr. Vasquez's situation I'm
13 assuming?

14 A. That's correct.

15 Q. And from that time until after everything has
16 happened at the apartment, in that span of time, are you in
17 contact with the other groups that are going off to other
18 places?

19 A. Not me personally, no.

20 Q. Just so I understand the big group meeting, the big
21 briefing, is there a lot of talk about each defendant or is
22 it just more of an organizational thing about why we're all
23 here today and then splitting up?

24 A. I think it's both. I think it's an overview as
25 well as specific targets involved in the case.

1 Q. When you're in that briefing or in the small
2 briefing, is there any discussion about whether we think Jose
3 Vasquez is a night owl or maybe out at the casino or doing
4 something at that time of day, is there any discussion about
5 that?

6 A. I wouldn't say there's necessarily any discussion
7 about that. It would be Special Agent Rubinstein telling us
8 any pertinent information that we would need to know.

9 Q. And the pertinent information that you recall is
10 that there's an expectation that he's going to be in an
11 apartment at this address because his car was outside of it,
12 right?

13 A. There was an expectation that he was going to be in
14 that apartment. I believe there was more than just the
15 vehicle being parked outside of it, but that would be a
16 question for him.

17 Q. And you go to the apartment and pretty quickly
18 you're able to assess that the second floor apartment
19 probably doesn't have anybody in it, right?

20 A. That's correct.

21 Q. You don't kick the door down?

22 A. That's correct.

23 Q. You don't ram it or pry it open or anything like
24 that, right?

25 A. Correct.

1 Q. It's pretty obvious that you're on the stairwell
2 and there's another door likely up to the third floor
3 apartment, right?

4 A. Correct.

5 Q. And proceeding up that stairwell, you don't have to
6 go through other doors, it's just there's another door at the
7 top? If you remember.

8 A. I don't recall specifically.

9 Q. You said when you kicked in and you found the guy
10 that turned out to be Jose Vasquez, he was -- I don't want to
11 get Mr. Hall wrong -- was he relatively cooperative?

12 A. Yes.

13 Q. He didn't resist you when it came to putting on the
14 handcuffs?

15 A. No.

16 Q. He didn't try to run?

17 A. No.

18 Q. He didn't try to grab anything?

19 A. No.

20 Q. And to the best you recall, the female that was
21 there, she was relatively cooperative?

22 A. I believe so, yes.

23 Q. She didn't try to run?

24 A. No.

25 Q. She didn't try to grab anything?

1 A. No.

2 Q. No one's trying to flip over the air mattress?

3 A. Correct.

4 Q. No one's trying to jump out the window?

5 A. Correct.

6 Q. Do you recall Mr. Vasquez ever giving consent to
7 search the apartment?

8 A. No.

9 Q. Do you recall the woman ever giving consent to
10 search the apartment?

11 A. No.

12 Q. There's been some talk, a little bit of testimony
13 from you about how there was a third person there. Remember
14 that? Did you interact directly with that person?

15 A. No.

16 Q. I'm going to try one more photo with you.

17 Sir, I'm just going to put in front of you a
18 photograph that's actually been marked with Defendant's
19 Exhibit B. Put a copy of it here on the ELMO. There's some
20 printing at the bottom that says front entry which is not on
21 the marking so I'm just going to cover that.

22 Does that help your recollection about the day's
23 events on July 15th or no?

24 A. It doesn't, no.

25 THE COURT: Do you want to ask him if he recognizes

1 the photo? It's up to you. I'd like to try to move it
2 along.

3 MR. WILLSON: I don't want to try to pull teeth when
4 there's nothing.

5 THE COURT: Fine.

6 Q. Earlier the Government asked you if you have a
7 general idea of what you're going to find when you go into
8 these types of places and you said yes. Are we talking more
9 about the layout of generally what you would expect or is it
10 you expect to find X amount of drugs and Y amount of guns and
11 that sort of thing?

12 A. A generic layout, for instance, the approximate
13 size.

14 Q. When you were at the big briefing, let's call it,
15 did anyone explain to you that there are actually two
16 different cases that were going on that day?

17 A. They may have, but I don't recall specifically
18 that.

19 Q. So you don't recall anyone talking about how
20 Mr. Jose Vasquez's case is actually just a two defendant case
21 and then there's this other case with a whole bunch more
22 defendants?

23 A. They may have, but I don't recall specifically,
24 no.

25 Q. When you went in the apartment, there's three

1 people turns out. Was there anything else in the apartment
2 other than the furnishings and the people?

3 A. Not that I can recall.

4 Q. You talked at one point about there being generally
5 two entryways or exitways for an apartment. Just to clarify,
6 when you say that, do you mean two entryways right out to the
7 street or into a common stairwell or some other access point
8 when we're talking about these buildings?

9 A. Typically there's two entries or exits, two
10 different doorways that go out to not necessarily outside,
11 but a common hallway or some way of exiting the building, for
12 instance, if there was a fire or something like that.

13 Q. Do you have any recollection of assessing when you
14 got to 100 Washington Street these are the two ways to get in
15 and out or any memory about that at all?

16 A. Not me particularly, no.

17 MR. WILLSON: Your Honor, if I could just have a
18 moment?

19 THE COURT: Yes.

20 Q. About how many of these entry team activities have
21 you done since July 15th, any guess?

22 A. Maybe around 50 to 70.

23 Q. Any more in West Haven or they're all over the
24 place?

25 A. I'm sure there was some in West Haven, but spread

1 out.

2 Q. Trooper Walsh, after Mr. Vasquez is in custody,
3 just so I'm clear, did you walk him out of the apartment?

4 A. I'm not sure if I did myself or somebody else
5 did.

6 Q. Do you remember driving him to whatever weigh
7 station he was going to go to on his way to court?

8 A. I didn't drive him anywhere.

9 Q. Did you remember who you left with or did you leave
10 in your own car by yourself?

11 A. I'm not sure who I left with. Once he was in
12 custody and we left that apartment, our job was done.

13 Q. Were you involved in seizing the car?

14 A. No.

15 MR. WILLSON: Nothing further, Your Honor.

16 THE COURT: Redirect, Mr. Hall.

17 MR. HALL: Just real quick, if I could, Your Honor,
18 a couple of questions.

19 REDIRECT EXAMINATION

20 BY MR. HALL:

21 Q. So as far as the execution of this warrant at six
22 o'clock in the morning, did you have any part in deciding
23 what time it was going to be?

24 A. No, sir.

25 MR. WILLSON: I'm sorry, I missed the question, Your

1 Honor.

2 THE COURT: The question was did you have any part
3 in deciding what time the warrant would be executed. And he
4 said no.

5 MR. WILLSON: Thank you, Your Honor.

6 Q. And then as far as Mr. Willson asked you about
7 whether you were briefed on how many federal cases this
8 round-up had been divided into by the lawyers or whatever,
9 did you care?

10 A. Honestly, no, sir.

11 MR. HALL: Thank you.

12 THE COURT: You can step down, sir.

13 Mr. Hall, you have another witness, right?

14 MR. HALL: Sure.

15 THE COURT: So why don't we take 15 minutes now and
16 we'll be back for your next witness. We'll be in recess.

17 (Recess.)

18 THE COURT: Be seated, please. Mr. Hall.

19 MR. HALL: Yes, Your Honor. The Government would
20 call Charles Burns.

21 It's not like I don't know these guys.

22 THE COURT: If you could stand and raise your right
23 hand.

24 C H A R L E S B U R N S,

25 called as a witness by the Government, having been duly sworn

1 by the Clerk, was examined and testified on his oath as
2 follows:

3 THE CLERK: Please be seated. State your name, city
4 and state, spell your last name.

5 THE WITNESS: My name is Sergeant Charles Burns with
6 Connecticut State Police, Middletown, Connecticut.

7 DIRECT EXAMINATION

8 BY MR. HALL:

9 Q. Good morning, Sergeant.

10 A. Good morning.

11 Q. Can you tell Judge Shea what you do for a living?

12 A. Connecticut State Trooper.

13 Q. And you're a Sergeant, right?

14 A. Yes, sir.

15 Q. So what does that mean for you?

16 A. I'm a supervisor.

17 Q. And how long have you been with the Connecticut
18 State Police?

19 A. Approximately 16 years.

20 Q. Before that, did you have any law enforcement
21 experience?

22 A. Yes, sir. One year in Milford.

23 Q. Milford PD?

24 A. Yes.

25 Q. In your time with the State Police, did you

1 have -- did you work on the road at all?

2 A. Yes.

3 Q. Highway trooper kind of thing.

4 Did there come a time when you became involved with
5 the Statewide Narcotics Task Force?

6 A. Yes.

7 Q. When did you start with them?

8 A. The end of 2012.

9 Q. Prior to that time, did you do any narcotics work
10 for the State Police?

11 A. No, I did not.

12 Q. So you were on the road up until 2012?

13 A. Yes.

14 Q. So you were with Statewide Narcotics from 2012
15 until the present?

16 A. No. I am no longer with Statewide Narcotics.

17 Q. That's over with?

18 A. Yes.

19 Q. As of July of 2015, were you with Statewide
20 Narcotics?

21 A. Yes.

22 Q. You worked with other law enforcement agencies from
23 time to time?

24 A. Yes.

25 Q. In Statewide. What are you doing now?

1 A. I am a patrol supervisor.

2 Q. Is that quite a bit different from when you were
3 with Statewide?

4 A. Yes.

5 Q. And were you a supervisor when you were with
6 Statewide?

7 A. I was.

8 Q. And although you were a supervisor, did you
9 participate in investigations yourself?

10 A. Yes.

11 Q. And did you participate in executing search
12 warrants and arrest warrants?

13 A. Yes, I did.

14 Q. So you've done that before in narcotics cases,
15 before July of 2015?

16 A. Yes.

17 Q. On numerous occasions would it be fair to say?

18 A. Yes.

19 Q. And at some point before 2015, did you become
20 associated with Trooper Walsh and others in sort of an entry
21 team?

22 A. Yes, I worked out of the same office with Trooper
23 Walsh.

24 Q. Did you ever serve on entry teams with him before
25 2015?

1 A. Yes, many.

2 Q. And if you'd just tell me, did the entry team that
3 you served on with him generally have the same personnel over
4 a period of time or not?

5 A. Yes. It would generally be the same group of
6 people.

7 Q. And so who was in that group of people, to the
8 extent you remember any of them?

9 A. There would be myself, another Sergeant, Detective
10 Kraus, Detective Chapman, Detective Walsh.

11 Q. And then from time to time others would come and
12 some would go, that kind of thing?

13 A. Yes. And then there would be -- our office was the
14 Task Force. So we had troopers and then we had people from
15 local police departments as well.

16 Q. Could you -- drawing your attention to July of
17 2015, did you and your organization receive a request to
18 participate in a DEA operation?

19 A. Yes, we did.

20 Q. And then did you, in fact, yourself participate in
21 that operation?

22 A. I did.

23 Q. And again, in July of 2015, did you become aware of
24 the particulars of the operation or some particulars of the
25 operation?

1 A. Yes.

2 Q. What was your understanding of what it was?

3 A. During the briefing of the operation we were told
4 that there was a narcotics investigation that had been going
5 on for an extended period of time. DEA had several arrest
6 warrants and search warrants and we were going to be
7 assisting with the execution of an arrest warrant that
8 morning.

9 Q. And were you given any particulars as to who the
10 arrest warrant was going to be for?

11 A. Yes. That morning we were given the name and
12 address and photos of the person we were looking for.

13 Q. Is that the same morning you attempted to execute
14 the warrant?

15 A. Yes.

16 Q. Were you given a picture of the guy?

17 A. Yes.

18 Q. And you said an address?

19 A. Yes.

20 Q. And were you given more than one address?

21 A. Originally we were given a different address and it
22 was changed.

23 Q. So you received direction as to where to locate
24 this person?

25 A. Yes.

1 Q. Do you know who gave you that direction?

2 A. Special Agent Rubinstein.

3 Q. And what role, if any, did Special Agent Rubinstein
4 play with your entry team in this operation?

5 A. He was with our group representing the DEA.

6 Q. And on your entry team, you mentioned the number of
7 names of the people who have been on entry teams with you
8 over time, but directing your attention to July 15th and that
9 DEA operation, do you recall who was on the entry team you
10 were with for that day?

11 A. Not specifically.

12 Q. Can you remember anybody who was on it?

13 A. I remember, like I said, Detective Chapman,
14 Detective Walsh, Special Agent Rubinstein was there, but I
15 don't think he made the initial entry. I think he was on the
16 outside.

17 Q. And as far as the initial entry goes, this is a --
18 were you given a photograph of the house or the building at
19 the address where you were to execute the warrant?

20 A. I don't recall.

21 Q. Did you find the building?

22 A. Yes.

23 Q. And did you meet in the small group, the entry team
24 with Special Agent Rubinstein, prior to attempting the
25 entry?

1 A. Yes.

2 Q. And was that right there at the house or was that
3 someplace else?

4 A. We met prior and then we went to that house.

5 Q. And when you met prior or another time, did you
6 guys come up with some kind of plan of who was going to do
7 what on the entry?

8 A. Yes.

9 Q. Do you recall any particulars of that?

10 A. I don't remember. Normally someone would be
11 assigned the breaching tools. I don't remember who was
12 assigned, though.

13 Q. Okay. So had you -- could you say roughly how many
14 entries you executed, either arest or search warrants, you
15 made with this team, plus or minus one or two people,
16 roughly?

17 A. 150.

18 Q. And have you ever made entries either for search or
19 arrest warrants into three-family wood frame houses?

20 A. Yes.

21 Q. Could you say roughly how many times?

22 A. A quarter, a third.

23 Q. So on that day, what -- do you remember if there
24 was more than one entrance to the building that was the
25 target?

1 A. Yes. I believe that there were three separate
2 entrances.

3 Q. And do you recall which one that you were involved
4 with covering?

5 A. We had several people go in different entrances
6 looking for an unsecured common door, and I believe it was
7 Detective Chapman who found a side door that was unsecured
8 into a common hallway or stairwell.

9 Q. And did you end up entering the building by way of
10 that doorway?

11 A. Yes, sir.

12 Q. And who else went in there with you?

13 A. The majority of our group.

14 Q. Would that include Walsh?

15 A. Yes.

16 Q. Would that include Chapman?

17 A. Yes.

18 Q. Okay. So prior to entering the building, did you
19 have any conversation or other interaction with any of the
20 residents of the building?

21 A. No.

22 Q. And so tell the Judge what happened -- withdrawn.
23 So you go to this entrance that you're going to
24 use, right? And did you open the door or did somebody
25 else?

1 A. To the apartment or the common?

2 Q. Into the building.

3 A. Into the building, I don't -- by the time I got
4 there the door was open. There was no people there. I'm
5 assuming it was unlocked. I don't know.

6 Q. Where did you guys go once you got into the
7 building?

8 A. We made our way to the third floor.

9 Q. Were you able to detect whether anybody was there
10 present on the first floor?

11 A. I don't remember the first floor. I do remember on
12 the second floor from the stairwell the -- there was a hole
13 in the door where a dead bolt would be and you could tell
14 from the hallway that it was a vacant apartment.

15 Q. And so did you guys attempt to enter into that
16 second floor?

17 A. No.

18 Q. Had you received information directing you really
19 to the third floor to find the subject?

20 A. Yes.

21 Q. And so did you proceed to the third floor?

22 A. Yes, sir.

23 Q. And when you got to the third floor, can you
24 describe for the Judge what it was like there? Was there a
25 landing, was there not a landing, that kind of thing, if you

1 can recall?

2 A. I don't recall if there was a landing or not.

3 Q. So when you got to the top -- when you got to the
4 unit entry door on the third floor, that happened, right?

5 You got to the unit entry door on the third floor? Yes? You
6 have to answer out loud.

7 A. Yes.

8 Q. What did you guys do?

9 A. The people who were in the front knocked on the
10 door.

11 Q. Well, were you in the front?

12 A. No.

13 Q. Did you guys look around the hallway to see if
14 there were any indications of residents by anybody?

15 A. Can you repeat the question.

16 Q. Did you guys look around in the hallway up there on
17 the third floor to see if there were any indications of
18 residents by any particular people?

19 A. No, I don't recall.

20 Q. You didn't do that?

21 A. I did not do that.

22 Q. Do you recall if anybody else did?

23 A. I do not recall.

24 Q. And so you started to say that someone knocked on
25 the door. Were you at the front of the line?

1 A. No, I was not.

2 Q. That's called a stack, right?

3 A. Correct.

4 Q. So you were not at the front?

5 A. No.

6 Q. Did you have a ram yourself?

7 A. No.

8 Q. Did you have the other thing, pry bar thing?

9 A. No. I was probably the fourth or fifth person

10 back.

11 Q. Were you the guy who decided when to force the door

12 if that became necessary?

13 A. No.

14 Q. And so you're at the back of the line. Can you

15 tell the Judge what happened as you're standing at the door.

16 You started to say somebody knocked.

17 A. Right. We knocked. We announced.

18 Q. Can you say to the Judge -- do you know who

19 knocked?

20 A. I don't recall who was in the front.

21 Q. It was not you?

22 A. It was not me.

23 Q. Somebody knocked?

24 A. Yes.

25 Q. Did you hear it?

1 A. Yes.

2 Q. Could you characterize the sound? In other words,
3 using -- do you know if the person who knocked, could you
4 tell by listening to it whether the knocking was done with
5 the flashlight or hand or open fist or whatever?

6 A. It would be a loud knock, like a banging.

7 Q. What about this -- you said you announced. What
8 did you hear?

9 A. Police with a warrant.

10 Q. Is that typical?

11 A. Yes.

12 Q. Do you remember that?

13 A. Yes.

14 Q. And was that announcement made -- what kind of
15 voice was that announcement made?

16 A. Loud.

17 Q. And prior to the knock and announcement, do you
18 recall seeing or hearing anything from the hallway -- from
19 the apartment as you were standing in the hallway?

20 A. No, I do not.

21 Q. And after the knock and announce, do you recall
22 seeing or hearing anything coming from the apartment?

23 A. No, I do not.

24 Q. What happened after the knock and announce?

25 A. Ultimately the door was forced open.

1 Q. By you guys?

2 A. Yes.

3 Q. Do you know if they used a ram or pry bar?

4 A. I would -- I want to say the ram.

5 Q. Do you remember that or do you just --

6 A. The ram is usually the first attempted tool.

7 Q. And so -- and did the door yield?

8 A. Yes.

9 Q. Was anybody at the door?

10 A. No.

11 Q. Was there any discussion that you recall in the
12 stack after the announcement was made about when to force the
13 door?

14 A. No.

15 Q. Do you recall how long it was between the knock and
16 announce and when the door was forced?

17 A. Less than a minute.

18 Q. And, again, you didn't hear anything?

19 A. I did not.

20 Q. And so once the door was forced , what did you
21 do?

22 A. Once the door was open everybody entered into the
23 apartment.

24 Q. And let me just stop you there. When you entered
25 the apartment -- well, that morning, did you have a

1 weapon?

2 A. Yes.

3 Q. And as you entered the apartment, where was the
4 weapon?

5 A. I don't recall if my weapon was drawn or not. It
6 would depend upon how far back I am in the stack whether my
7 gun would be out or not.

8 Q. Can you explain that to the Judge, please. Were
9 you ever the front guy?

10 A. Yes.

11 Q. If you're the front guy, where's your gun?

12 A. Generally the people in the front would have their
13 gun out and the people in the back would be -- the people in
14 the front would be ultimately like the cover people and then
15 the people in the back would be the arrest people. So you
16 would be -- the people in the back would be using their hands
17 to facilitate an arrest. So at that point you're not using
18 your gun so I wouldn't have my gun out.

19 Q. And do you have a recollection of ever seeing the
20 people in front of you enter the apartment?

21 A. Yes.

22 Q. And so could you see where they went?

23 A. They peeled in different directions. I know that
24 when I went in I peeled to the right.

25 Q. And why did you peel to the right?

1 A. The people in front of me either went straight or
2 the left.

3 Q. And so when you went to the right, where did you
4 end up?

5 A. There was a doorway that led to a bedroom.

6 Q. Was the doorway open or closed when you got to
7 it?

8 A. Closed.

9 Q. And did you enter that room?

10 A. Yes.

11 Q. When you entered that room, did you have your gun
12 drawn?

13 A. At that point I might have. I don't recall.

14 Q. Why do you say you might have?

15 A. At that point now I'm in the front of a new line,
16 for lack of a better term, and at that point I would have
17 drawn my gun.

18 Q. Do you know what kind of gun you had?

19 A. I have a .45 caliber Sig Sauer pistol.

20 Q. So what did you do about that closed door?

21 A. We opened the door.

22 Q. We?

23 A. We. I mean we as the group. Yeah, the door.

24 Q. I want to just sort of get -- do you have a
25 recollection of opening the door or did someone else open the

1 door?

2 A. I don't recall. I remember going through the
3 door.

4 Q. After you went through the door, what did you
5 find?

6 A. There was a bedroom with two people in the
7 bedroom.

8 Q. And can you characterize them by gender?

9 A. A male and a female.

10 Q. And where were they when you came into the room?

11 A. The male was half in bed and half out of bed. And
12 the female was still in bed.

13 Q. And ultimately was the male identified as your
14 target?

15 A. Ultimately that was the main target, yes.

16 Q. And once you were in the room and there's the male
17 and the female, were you -- at that point were you alone or
18 was somebody with you?

19 A. No, there was several people with us.

20 Q. Do you remember who any of them were?

21 A. I remember Detective Walsh and at least one other
22 person.

23 Q. Did you say anything to the people in the bed?

24 A. When I entered the room I would have said police.

25 Q. And you would have said that. Do you recall saying

1 anything specific to them?

2 A. No.

3 Q. Do you recall you or someone else giving them
4 direction?

5 A. The direction would have just been as far as
6 handcuffing direction.

7 Q. Right. You come into this room and there's this
8 man and woman. And when you say police, you didn't whisper
9 it, did you?

10 A. No.

11 MR. WILLSON: Objection, Your Honor. I'm not sure
12 that the evidence's clear that he said police. He said he
13 would have said police. I think it's an important
14 distinction.

15 THE COURT: I heard the testimony, too, and I think
16 your characterization is accurate.

17 MR. HALL: I heard it as well and I think he's
18 right.

19 Q. Did someone say something to these people in that
20 room that you heard?

21 A. Yes.

22 Q. And do you recall what they said?

23 A. When I entered the room I yelled police.

24 Q. And did you hear anyone, yourself or anyone else,
25 give these people any direction?

1 A. The direction would have been to show us your
2 hands.

3 Q. But do you recall hearing anybody saying police,
4 show me your hands or something like that? Just trying to
5 get for the Judge what you recall, that's all. If you don't,
6 it's okay.

7 A. I would have said police, show me your hands.

8 Q. And to your recollection, were both of the subjects
9 compliant?

10 A. Yes.

11 Q. Did it ultimately happen that both of the subjects
12 got handcuffed?

13 A. Yes.

14 Q. And you've indicated that the male ended up being
15 the target that you were seeking in the first place, right?

16 A. Yes.

17 Q. So was he placed under arrest?

18 A. Once he was identified, yes.

19 Q. And do you remember how he was identified?

20 A. We had a photo and Special Agent Rubinstein made a
21 phone call. He positively identified him.

22 Q. When you entered the apartment -- I mean when you
23 entered that room, the bedroom, I guess, because there's a
24 bed in there, when you entered that room, did Rubinstein come
25 in with you?

1 A. Not at that time.

2 Q. When did he get there?

3 A. He would have -- I don't remember when he got
4 there.

5 Q. Do you have a recollection of it at some point he
6 was in the apartment with you guys?

7 A. Yes.

8 Q. And that he was not there when you first went into
9 the bedroom?

10 A. Not when we initially went through the door.

11 Q. Okay. And did you have direct conversation with
12 the male subject?

13 A. Yes.

14 Q. And what was the nature of that conversation?

15 A. Once the male was secured and the female was
16 secured and then there was a third person in the apartment,
17 that person was secured, and the team had completed their
18 sweep of the apartment to make sure there was no other people
19 there, I gave all three of them -- I read them their Miranda
20 rights.

21 Q. Did they sign anything to indicate they had been
22 read their rights?

23 A. No.

24 Q. And do you recall anyone helping Mr. Vasquez, the
25 subject, helping him prepare to be transported?

1 A. After, yes. So he -- yes, because at the time he
2 was not dressed.

3 Q. What was he dressed in?

4 A. I believe underwear.

5 Q. And so what happened then?

6 A. I recall being in the common room, living room.
7 There was not much furniture. Call it the living room.

8 Q. Would that be the first room you came into?

9 A. The first room that we came in, had like the middle
10 room.

11 Q. Was that bedroom directly off that first room?

12 A. Yes. And I had read their rights in English. We
13 had a Spanish officer with us and I gave him the Miranda
14 card. He read the rights in Spanish. And then Detective
15 Walsh, once we identified everybody, was trying to get
16 Mr. Vasquez some clothes.

17 Q. And did Walsh end up getting Mr. Vasquez some
18 clothes?

19 A. Yes, he did.

20 Q. And what was the clothes that he got him?

21 A. Originally it was a pair of pants.

22 Q. And did you see Walsh do anything with the pants
23 before he brought them to Mr. Vasquez? Did you see it?

24 A. Yes.

25 Q. And what did you see?

1 A. I saw -- I was in the -- Walsh would have been in
2 the bedroom. I would have been in the living room. And as
3 he was walking towards me --

4 Q. Could you see him?

5 A. I could see him. And he had the pants and he was
6 shaking them upside down.

7 Q. And what happened?

8 A. Items fell out of the pants.

9 Q. Did you see the items?

10 A. Yes.

11 Q. Did you see them fall?

12 A. Yes.

13 Q. Where did they fall to?

14 A. To the ground.

15 Q. Could you see what they were?

16 A. Yes. It was money and narcotics.

17 Q. Now, as far as the narcotics goes, was there
18 anything else? Was there anything else?

19 A. In the pants?

20 Q. That fell out of the pants?

21 A. Not that I recall.

22 Q. And so once it had been determined that there were
23 narcotics there, what did you do?

24 A. I remember having a conversation with the group and
25 then I ended up leaving the apartment.

1 Q. Before you left the apartment, do you notice where
2 Walsh got the pants from?

3 A. The bedroom.

4 Q. Do you know where in the bedroom?

5 A. No, I don't.

6 Q. After the narcotics had been found, did you have
7 any occasion to go into the bedroom?

8 A. Yes.

9 Q. Did you see any other narcotics?

10 A. Yes.

11 Q. Where?

12 A. In the hamper.

13 Q. There is a clothes hamper?

14 A. A clothing hamper.

15 Q. Where was the clothing hamper located, if you
16 recall?

17 A. If you entered the bedroom, to your immediate left
18 on the ground.

19 Q. And was that so -- so the hamper's to your
20 immediate left. Is that sort of in the middle of the room or
21 adjacent to anything in particular?

22 A. It was against the wall, but to the left of the
23 doorway.

24 Q. So as you look at the hamper, what could you see?

25 A. There was additional drugs.

1 Q. How could you say that?

2 A. There was a plastic -- I don't even know how you
3 describe it -- the only thing I can think of it's the type of
4 thing that when I was a kid I used to put like pencils in.
5 Like a plastic foot-long item with a zipper on the top.

6 Q. And when you saw this thing in the hamper, was the
7 zipper opened or closed?

8 A. It was open.

9 Q. And could you see anything by just looking at the
10 hamper? Could you see what was inside of that thing?

11 A. Yes, it was narcotics in it.

12 Q. What did the narcotics look like generally?

13 A. I believe it was heroin.

14 Q. Yeah. Have you seen heroin packaged for street
15 sale?

16 A. Yes.

17 Q. Did it look like that?

18 A. Yes.

19 Q. So it was -- so it was in glassine bags?

20 A. Yes.

21 Q. In the hamper?

22 A. Yes.

23 Q. And what else was in the hamper?

24 A. I don't recall anything else in the hamper.

25 Clothes.

1 Q. Could you tell the Judge, if you can, what the
2 condition of the clothes was, that is, were they just thrown
3 in the hamper or were they neatly folded?

4 A. I don't recall that.

5 Q. So with respect to the drugs on the floor, did you
6 touch those drugs? Did you take any action with respect to
7 those drugs?

8 A. No.

9 Q. And with respect to the drugs that you described
10 from the hamper, did you take any action with respect to
11 those?

12 A. No.

13 MR. HALL: I'm sorry, Your Honor.

14 THE COURT: That's all right.

15 Q. I'm going to show you Exhibit 4 and ask you if you
16 could tell the Judge what that is?

17 A. I believe that's the items that were -- that fell
18 out of his pant pockets.

19 Q. And then I want to show you what's been marked for
20 identification as Exhibit 6. Do you recognize that?

21 A. That would have been the item in the zipper bag.

22 Q. Is that thing that you described like a pencil bag
23 type thing?

24 A. Yes.

25 Q. So that would have been in the hamper?

1 A. Yes.

2 MR. HALL: I offer that.

3 MR. WILLSON: Your Honor, can I ask a question, just
4 a question about the record?

5 THE COURT: Yes.

6 BY MR. WILLSON:

7 Q. Sir, did you testify that the bag when you saw it
8 in the hamper it was clear, like a transparent bag? I just
9 can't recall the testimony right now.

10 A. No.

11 Q. So when you're in the living area or this common
12 area and you're looking into the bedroom, is that when you
13 see -- allegedly see the bag?

14 MR. HALL: This is kind of cross-examination.

15 THE COURT: He can ask a few questions on voir dire.
16 Stick with the bag.

17 Q. Is that when you see the bag, when you're in the
18 common area?

19 A. No. I was called into the room by Special Agent
20 Rubinstein who pointed the bag out to me.

21 Q. Is this the condition that you saw the bag in?

22 A. I believe so, yeah.

23 Q. It's hard to tell, honestly, but the bag doesn't
24 look like it's in the hamper. You didn't see this photo be
25 taken or the bag when the photo was taken, am I right on

1 that?

2 THE COURT: I didn't even understand that question.

3 MR. WILLSON: I don't know that I did either.

4 Q. When I look at the picture here, you see there's
5 the bag, there's the money, right?

6 A. Yes.

7 Q. And when you look around the frame of the bag, what
8 do you see?

9 A. I can't tell from here.

10 If you're asking me if I saw the picture get taken,
11 I don't recall seeing the picture being taken.

12 Q. So you don't remember this picture being taken?

13 A. No.

14 Q. But you say that that's the bag that you saw?

15 A. I believe so, yes.

16 THE COURT: One more question, Mr. Willson. We're
17 on voir dire here.

18 MR. WILLSON: That's fine.

19 I assume that the bag and the other pouch that we've
20 seen has not been brought today?

21 THE COURT: I have no idea.

22 MR. WILLSON: That may be something we want to
23 explore in the future. Could I have a second with
24 Mr. Vasquez?

25 No objection, Your Honor.

1 THE COURT: Exhibit 6 will be full.

2 (Whereupon, Government's Exhibit Number 6 was marked
3 in full.)

4 MR. HALL: Thank you, Your Honor.

5 BY MR. HALL:

6 Q. I'm going to show you Exhibit 7 which I think is a
7 full exhibit. Do you recognize that?

8 A. No, I do not.

9 Q. Now, to your recollection, after Mr. Vasquez had
10 been -- well, after he had been Mirandized, did he make any
11 statements while you guys were in the apartment?

12 A. I don't recall any statements.

13 Q. Did he make any -- you don't recall any that he
14 would have made to you or anyone else?

15 A. I don't recall him making any statements to me.

16 Q. And you mentioned as far as names of people who had
17 come into the apartment with you, Walsh and Chapman at least,
18 right?

19 A. Yes.

20 Q. So at some point did Chapman leave the apartment
21 before you did?

22 A. He and I both left the apartment at the same
23 time.

24 Q. Why did you guys leave?

25 A. I went -- I was under the impression that we were

1 going to get consent paperwork signed to search the
2 apartment.

3 Q. What gave you that impression?

4 A. I don't recall having a conversation with
5 Mr. Vasquez, but to go back to my vehicle to get paperwork, I
6 would have only have done that if I was under the impression
7 that we would be voluntarily searching the apartment.

8 Q. And you're clear that that's why you left?

9 A. That's why I left.

10 Q. Why did Chapman leave, do you know?

11 A. He left -- he also has a narcotics canine. So he
12 would have gone to get the canine.

13 Q. To participate in a consent search?

14 A. Yes.

15 Q. So then did you return to the apartment?

16 A. Yes.

17 Q. And did Chapman return to the apartment?

18 A. Yes.

19 Q. And did he have the dog?

20 A. Yes.

21 Q. Were you familiar with his dog?

22 A. Yes.

23 Q. It's a narcotics dog?

24 A. Yes.

25 Q. Had you seen that dog alert before?

1 A. Yes.

2 Q. To your recollection, did Mr. Vasquez or anybody at
3 the apartment ultimately consent to a search of the
4 apartment?

5 A. No. When I came back in --

6 Q. No, right. And then what happened when you came
7 back in.?

8 A. No, he did not. When I came back in the mood had
9 changed in the apartment and I was told by my team that we
10 were not going to have a consent signed.

11 Q. So you left the apartment with the impression that
12 there would be a consent search?

13 A. Yes.

14 Q. When you returned you had the impression that there
15 would not?

16 A. Yes. When I came back that's what I was told that,
17 no, he's not giving consent.

18 Q. So aside from what we talked about with the pants
19 and what we talked about with the laundry basket and any
20 security sweep that you and your men did upon entering the
21 apartment, was a search conducted of the apartment?

22 A. No, it was not.

23 Q. Was the dog run through the apartment to search
24 it?

25 A. No.

1 Q. Did you see the dog alert in the apartment?

2 A. I did not.

3 Q. And before you guys -- how long were you guys
4 there?

5 A. Half an hour maybe.

6 Q. Before you guys left, was the female released from
7 the handcuffs?

8 A. Yes.

9 Q. Was she taken into custody after that at all?

10 A. No.

11 Q. And could you describe her demeanor upon your
12 entry?

13 A. I don't recall her demeanor one way or the other.

14 Q. So she was released from the handcuffs. The third
15 party, the male -- there was a third party, right?

16 A. Yes.

17 Q. He was ultimately identified?

18 A. Yes.

19 Q. Did you have a warrant for him?

20 A. No.

21 Q. Was he unhandcuffed?

22 A. Yes, he was.

23 Q. Did you guys transport him anywhere?

24 A. No.

25 Q. Did you?

1 A. No.

2 Q. So when you left, is it fair to say that the female
3 and that third party guy stayed?

4 A. Yes.

5 Q. And did you seize any evidence?

6 A. No. Special Agent Rubinstein seized evidence.

7 Q. And so there was one prisoner, right?

8 A. We had one prisoner, yes.

9 Q. Who helped him out of the house? Who helped him
10 out of the amount, if you recall?

11 A. I do not recall.

12 Q. And did you help transport him after he was removed
13 from the house?

14 A. I don't remember how he was transported.

15 Q. You might have and you might not have?

16 A. I came in a cargo van that could fit 15 people. I
17 don't recall if he came with us in the van -- we also had a
18 couple cars -- or if he left in a vehicle.

19 Q. Did you say there were 15 people in the van?

20 A. No, that's the size of the van.

21 Q. So after you guys cleared -- left the premises,
22 what did you do?

23 A. Once we left we ended up going to -- back to the
24 briefing location.

25 Q. Was there any further investigative activity by you

1 and the other state troopers?

2 A. The only other thing I recall is I believe the
3 vehicle was seized.

4 Q. From where?

5 A. From the house.

6 Q. Do you recall why that was seized?

7 A. That was part of the DEA instructions.

8 MR. HALL: Nothing further, Your Honor.

9 THE COURT: Okay. Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. WILLSON:

12 Q. Good afternoon.

13 A. Good afternoon, sir.

14 Q. Jumping to the middle. So you're in the common
15 area. Mr. Vasquez is in -- excuse me -- Trooper Walsh is in
16 the bedroom and he grabs a pair of jeans, shakes them, and
17 out falls the money and the pouch?

18 A. Yes.

19 Q. So earlier you said money and narcotics. When you
20 were standing in the common area or the living room, whatever
21 it is, you didn't actually see drugs fall. You saw the pouch
22 fall and then a subsequent search led to finding the drugs in
23 the pouch?

24 A. No.

25 Q. You saw just drugs everywhere?

1 A. Because he was walking it almost made it like a
2 line, there was glassine bags.

3 Q. And he was the one with the jeans, right?

4 A. Yes.

5 Q. So if he testified about what he saw, he was the
6 one that had a better view of what was going on?

7 MR. HALL: I object to the form of that questio.

8 Q. Did he have a better view of the jeans?

9 MR. HALL: I object to the form of that question
10 also.

11 THE COURT: If he knows, he can answer. Wait. I've
12 overruled the objection. If the witness knows the answer to
13 the question did he have a better view, he can answer that
14 question.

15 Q. Compared to where you were standing, did Trooper
16 Walsh have a better view of the jeans and whatever fell out
17 of it?

18 A. He was holding the jeans, so, yes.

19 Q. Is it fair to say that a certain percentage of your
20 recollection of July 15th is based on your training and your
21 practices and what you expect would have happened as opposed
22 to specific memories, is that fair to say?

23 A. I'm trying to testify based on my memory.

24 Q. Sir, you've used would have and would have done
25 this in a decent amount of your testimony. Just so the

1 record is clear, when you're doing that, would you agree that
2 that's an indication that you're recalling what you would
3 normally do in those situations?

4 A. Yes.

5 Q. For example, if you were the person in the back,
6 which is what you recall being as you're about to enter the
7 apartment, you would not have been the person holding the
8 ram, right?

9 A. Correct.

10 Q. And you wouldn't be the person holding the
11 crowbar?

12 A. Correct.

13 Q. And your recollection is that there were about four
14 to five people on that stairway waiting to go into the
15 apartment?

16 A. No, there was more than that. I think I said I was
17 the fourth or fifth person back, but there were people behind
18 me.

19 Q. I misunderstood then. What's your memory as to how
20 many there were?

21 A. I don't remember, but there were people in front of
22 me and there were people behind me.

23 Q. Maybe ten?

24 A. Eight to ten.

25 Q. Eight to ten. And meanwhile, there's at least a

1 couple of people stationed at other locations in case someone
2 tries to go out another exit, is that right?

3 A. Yes.

4 Q. And Agent Rubinstein was probably one of the people
5 at one of the other locations, is that your memory?

6 A. Yes.

7 Q. Prior to the briefing that led to the entry, had
8 you had any other contact with anybody about this case
9 involving Mr. Vasquez?

10 A. Yes.

11 Q. So before the morning of July 15th, you had had
12 contact with somebody about the case against Jose Vasquez?

13 A. Yes.

14 Q. Who was that?

15 A. Special Agent Cogan.

16 Q. Who is Special Agent Cogan? What's his
17 relationship to you?

18 A. He's just an agent.

19 Q. Were you the contact person for the entry team
20 getting involved or how did you have contact? Let me stop
21 myself.

22 Were you the contact person for the entry team
23 getting involved that morning?

24 A. Yes.

25 Q. So there's not another trooper or detective or what

1 have you that was the contact person?

2 A. No. I received -- it was either phone call.

3 Q. Is that the nature of the contact you had with
4 Agent Cogan?

5 A. Yes.

6 Q. Do you remember when in relationship to July 15th
7 you got that call from Agent Cogan?

8 A. It was probably a month prior to that saying that
9 they were planning on needing our assistance at some point in
10 the future. Didn't have a specific date at that time.

11 Q. Did he have an address?

12 A. No. At that point I didn't even have any targets
13 names or anything. It was just we're going to be doing a
14 large roundup and we're going to be looking for assistance.

15 Q. Between that contact a month prior on July 15th,
16 did you have additional contact with Agent Cogan or another
17 agent about being needed the morning of July 15th?

18 A. Just as far as logistics of where to go and date
19 and time.

20 Q. There was a canine there, right?

21 A. Yes.

22 Q. Have you ever been a canine officer anywhere?

23 A. No.

24 Q. With canine use, is there any reporting
25 requirements for state police about what did the canine do on

1 a particular day to keep track of the dog's activities?

2 A. Required reporting? It depends upon what they
3 do.

4 Q. For example, because of the liability risks in
5 having a canine, is there any additional reporting
6 requirements other than just we were at a spot, we did a
7 search, we did the usual requirements? Are there anything
8 specific to a canine?

9 A. Narcotics canine?

10 Q. Yes.

11 A. No, only if they're used in a search.

12 Q. And based on the activity from July 15th, would you
13 expect there would have been a canine report?

14 A. No.

15 Q. Were you involved in writing the report?

16 A. No.

17 Q. Did you give information that was used in writing
18 the report?

19 A. Can you repeat that one more time?

20 Q. Did you give information that was used in writing
21 the report?

22 A. I don't think so.

23 Q. Okay. Do you remember taking any notes in
24 connection with what happened at the arrest?

25 A. No.

1 Q. Do you remember sending any text messages or other
2 communications to anybody about what happened at the
3 arrest?

4 A. No.

5 Q. Did you ever see a report from the arrest?

6 A. Yes.

7 Q. When did you see it?

8 A. I received that from Mr. Hall.

9 Q. And that was in connection with getting ready for
10 today?

11 A. Yes, sir.

12 Q. Back closer to when the events happened and the
13 report probably was created, did you have a chance to review
14 it?

15 A. No, I never saw it.

16 Q. The narcotics that you say you were found in the
17 laundry basket, do you recall that?

18 A. Yes.

19 Q. Can you describe the laundry basket for us?

20 A. A plastic two foot by two foot square open top with
21 holes on the side for ventilation style laundry basket.

22 Q. I don't know if you're someone who does their own
23 laundry, but is it the type of basket where you would bring
24 it to the washing machine and carry it or would you pull
25 stuff out of it and then move it to a washing machine?

1 A. It's portable.

2 Q. Were you the person that first discovered or do you
3 claim to be the person that first discovered the narcotics in
4 the laundry basket?

5 A. No, no.

6 Q. Who is that?

7 A. Special Agent Rubinstein.

8 Q. Did he call you over or somehow draw your attention
9 to it?

10 A. Yes.

11 Q. So when he --correct me if I'm wrong, but did he
12 point out the narcotics and you looked and said, oh, yeah,
13 those are narcotics, is that how it all went?

14 A. Yes, something along those lines.

15 Q. You didn't independently find them on your own?

16 A. No, no.

17 Q. You indicated a few of the people you recalled
18 being in line with you to go into the apartment that day.
19 Can you just give us those names again?

20 A. It was Walsh -- I'm trying to remember the people
21 that were there. So Walsh, Chapman, Kraus, Gonzay (ph).

22 Q. Anybody else?

23 A. Not off memory.

24 Q. Sir, I want to put on the ELMO here a photo that's
25 previously been marked as Defendant's Exhibit A. Do you

1 recognize that building?

2 A. Yes.

3 Q. How do you recognize it?

4 A. That's the house that we went into.

5 Q. The house where eventually you found Mr. Vasquez
6 inside?

7 A. Yes.

8 Q. And do you think that photo seems to accurately
9 capture your memory of the building on the day of July
10 15th?

11 A. Yes.

12 MR. WILLSON: Your Honor, I'd offer this into
13 evidence.

14 MR. HALL: No objection, Your Honor.

15 THE COURT: Defendant's A will be full.

16 (Whereupon, Defendant's Exhibit A was marked in
17 full.)

18 Q. Sticking with the photo for a second. You see
19 there's some side stairs where I'm pointing to?

20 A. Yes.

21 Q. Is that -- do you recall whether that's the
22 entryway that you went in to get to the common stairway?

23 A. Yes.

24 MR. WILLSON: Your Honor, should I pass it to your
25 courtroom deputy for the record?

1 THE COURT: Yes.

2 Q. Sir, just again, if you recall, putting in front of
3 you a photo that's been marked as Defendant's Exhibit B. Do
4 you recognize that at all?

5 A. Yes. The doorway on the right would be the stairs
6 coming into the apartment, and then straight ahead the door
7 that's open with the window would be the bedroom.

8 Q. When you say the door with the entry into the
9 apartment, is that the door that everyone would have come
10 through when they broke in?

11 A. Yes.

12 Q. And I can't recall, help me. When you came in did
13 you peel right, peel left, peel center? Which way did you
14 go?

15 A. I went to the right.

16 Q. So you turned into that room that you just
17 identified as the bedroom?

18 A. Yes.

19 THE COURT: That doorway you said to the right,
20 there are two doors on the right. I assume you mean the one
21 that is shown as being open in the picture.

22 THE WITNESS: Yes, the open doorway.

23 THE COURT: Thank you. Go ahead.

24 Q. Sir, do you recall opening that door in the middle
25 at any point?

1 A. No, I don't recall that door at all.

2 MR. HALL: I'm sorry to interrupt. That could be a
3 full exhibit?

4 THE COURT: Do you want to offer it.

5 MR. WILLSON: Yes, Your Honor.

6 THE COURT: No objection?

7 MR. HALL: No.

8 THE COURT: Defendant's B will be full.

9 (Whereupon, Defendant's B was marked in full.)

10 Q. You've talked about how you were in sort of a
11 living area but you could see into the bedroom. Do you
12 remember that testimony?

13 A. Yes.

14 Q. So using this picture, is it as if you're the
15 photographer and that's about where your position was and you
16 could see into the bedroom from there?

17 A. Yes.

18 MR. WILLSON: Again, I'll just pass that up, Your
19 Honor.

20 THE COURT: Sure.

21 Q. You had a conversation with a group in the living
22 area and then you left the apartment earlier in your
23 testimony. Is that when you left the apartment to go out to
24 your car but then came back?

25 A. Yes.

1 Q. Do you recall anything about that conversation with
2 the group?

3 A. No.

4 Q. You don't remember someone saying to you hey, go
5 get the consent forms, he's going to consent or anything like
6 that?

7 A. No.

8 Q. And at that point did things seem fairly stable and
9 secure?

10 A. Yes.

11 Q. You wouldn't have left the apartment if things were
12 not secured, correct?

13 A. Correct.

14 Q. And from your memory of Mr. Vasquez, no one there
15 really put up any resistance or was difficult in any way?

16 A. No.

17 Q. Do you remember who you had the conversation
18 with?

19 A. No.

20 Q. Do you speak Spanish, sir?

21 A. No.

22 Q. So when you went in the apartment there was the
23 three people, a small amount of furnishings let's call it.
24 Anything else memorable about the apartment?

25 A. No. Just the lack of furniture.

1 MR. WILLSON: Your Honor, if I could just have a
2 moment?

3 THE COURT: Yes.

4 Q. You said initially you were given a different
5 address to go do the search, do you remember saying that?

6 A. Yes.

7 Q. Do you remember anything about why it switched or
8 what the other address was?

9 A. I don't remember the other address. It was -- it
10 was changed before we arrived that morning for the
11 briefing.

12 THE COURT: I'm sorry, your voice dropped off. You
13 said it was changed before?

14 A. Before we got there we were given an address and
15 then that morning it was a different address.

16 Q. But you don't remember what the first address was?

17 A. No, I do not.

18 Q. Just in general, when you're doing one of these
19 entries, someone uses the ram, right?

20 A. Yes.

21 Q. And then do they drop the ram and take out their
22 gun or how does that work?

23 A. Generally, the person with the ram is not the first
24 person through the door.

25 Q. So the person rams the door, tries to get out of

1 the way, let the others through?

2 A. Yes.

3 Q. Do you remember anything specifically from this
4 morning, July 15th, about how that worked?

5 A. No.

6 Q. And the person who rams the door and then gets out
7 of the way, what do they do with the ram normally?

8 A. It generally stays right there.

9 Q. They stack it neatly or they drop it and go in?

10 A. Generally probably dropped.

11 Q. Do you recall anything specific that day?

12 A. No.

13 Q. Given -- when you're on a stairwell, in your
14 experience as being the ram guy from time to time, would you
15 then bring the ram with you into the apartment, drop it
16 somewhere in the apartment or would you drop it on the
17 stairs, it tumbles, or how would you handle that?

18 A. It would probably end up right inside the
19 apartment.

20 Q. Are you trained to, if you're following the ram
21 guy, to step over, make sure you don't trip, get hurt or how
22 is that handled?

23 A. I'm not understanding the question.

24 Q. Well, you're the ram person. Are you then the last
25 person to go in and everyone goes in front of you?

1 A. I can talk in generalities. It's a fluid
2 situation. So every situation is going to be a little bit
3 different. But generally the ram guy is not the first person
4 through.

5 Q. Are they usually the last person through?

6 A. Depends.

7 Q. When you drop the ram, make a lot of noise?

8 A. It could. I mean sometimes if you drop it it
9 would, but we have different people that do the rams. So
10 some people would place it down, some people might drop it
11 down. It depends.

12 Q. And you don't remember who was the ram guy that
13 day?

14 A. I have no idea.

15 Q. How much does the ram weigh?

16 A. 30 pounds.

17 MR. WILLSON: I'm finished at this time.

18 MR. HALL: Just one.

19 REDIRECT EXAMINATION

20 BY MR. HALL:

21 Q. Sergeant, were there any Connecticut State Police
22 reports made of this operation at all?

23 A. No.

24 MR. HALL: Thank you. Nothing further.

25 THE COURT: You can step down, sir. Thank you.

1 We will recess for lunch early and come back in 45
2 minutes. Before he do that, how many witnesses do you expect
3 to call?

4 MR. HALL: One.

5 THE COURT: And that's going to be Special Agent
6 Rubinstein?

7 MR. HALL: Yes, sir.

8 THE COURT: Have you had a chance to inquire with
9 Ms. Vasquez how she's doing, that kind of thing?

10 MR. WILLSON: Not since we first addressed it this
11 morning, Your Honor.

12 THE COURT: Why don't you report back after lunch on
13 that.

14 And then lastly, we had discussed on the phone the
15 possibility of moving the trial. And I think we had had some
16 discussion that October 12th might be an acceptable date. I
17 think Mr. Willson wanted a little time to talk to his client
18 about that. Does that date remain a good date for the
19 parties?

20 MR. HALL: My dance card is open on October 12th.

21 MR. WILLSON: Likewise, Your Honor.

22 THE COURT: And so, Mr. Willson, you've had a chance
23 to talk to your client about that?

24 MR. WILLSON: I have, Your Honor. We've discussed
25 it. He is agreeable. He's aware he has a right to a speedy

1 trial, but we'll waive that in this instance. He's out on
2 bond with a number of conditions and all that is going well
3 as far as we know. So in light of that, we're fine to moving
4 it to October.

5 THE COURT: In light of that, I'm going to
6 reschedule jury selection for October 12th, with evidence to
7 start immediately thereafter. I find that the time between
8 today and October 12th, 2016, is excluded under the Speedy
9 Trial Act because the ends of justice served by continuing
10 the trial to that date outweigh the best interest of the
11 public and the defendant in the speedy trial. In particular,
12 given the fact that the Defendant is not being detained prior
13 to trial and, also, that the parties will need additional
14 time potentially to alter their strategies in light of my
15 ruling on the motion we're addressing today, the suppression
16 motion. I find that while this case may not be unusual or
17 complex, failing to exclude the time through October 12th
18 would deny the Defendant and the Government the reasonable
19 time necessary for effective preparation taking into account
20 the exercise of due diligence.

21 All right. And then we'll -- before we start this
22 afternoon, we'll talk about Mrs. Vasquez's status and, if
23 necessary, we'll need to pick another date.

24 Now, so you're aware, that date is going to have to
25 be before the end of March. So you know, we're going to

1 finish this hearing if it's not finished today.

2 So we'll be in recess.

3 MR. WILLSON: Your Honor, one last question. Are we
4 going to have our argument today on *Weaver* and *Pelletier* and
5 those cases, or are we going to reserve that after finishing
6 of the hearing?

7 THE COURT: If we don't finish the hearing today,
8 we'll do that at the end.

9 We'll be in recess.

10 (Recess.)

11 (Recess.)

12 THE COURT: Please be seated. By my clock, I'm a
13 little late. So I apologize.

14 Mr. Willson, do you have a report with regard to
15 Mrs. Vasquez?

16 MR. WILLSON: Yes. It would not be suitable for her
17 to testify. She has not been able to get the medication that
18 she needs.

19 THE COURT: Let's pick a second day now. Do you
20 have an estimate of how long you expect to be with her, Mr.
21 Willson?

22 MR. WILLSON: Your Honor, I think it would be
23 comparable to probably the first witness we had today. It
24 will be a little longer.

25 THE COURT: So hour, hour and a half total?

1 MR. WILLSON: I don't want to pigeon hole the
2 Government into a time slot. I think I'll take about an
3 hour.

4 THE COURT: Let's call it two to be safe. And we'll
5 leave some time for argument. I don't think we don't need
6 much for that, half hour, 25 minutes total for argument if we
7 even need that much.

8 How does the -- bear with me one second. How does
9 the morning of the 22nd which is Tuesday?

10 MR. WILLSON: Your Honor, I'll tell you it's clear
11 on my calendar. I don't want to misrepresent anything there.
12 In light of her condition, just giving everything a chance to
13 resolve with that. I can tell you that I have a spare amount
14 availability of the 29th, 30th and 31st.

15 THE COURT: So you're saying you don't think she'll
16 be able to proceed on the 22nd?

17 MR. WILLSON: I don't know. Given that's just five
18 days away, I wouldn't want to ask again to move things.

19 THE COURT: And you're not available on the 28th?

20 MR. WILLSON: The 28th I could do late in the day.
21 I have a conference with Judge Underhill at 11:00 that's
22 going to go to noon.

23 THE COURT: How about the 29th? You said the 29th
24 looked good for you, Mr. Willson?

25 MR. HALL: 29th would be good for me.

1 THE COURT: Let's say the 29th and we'll start at
2 nine.

3 Very well. Anything else to take up before our next
4 witness?

5 MR. HALL: I don't think so, Your Honor.

6 MR. WILLSON: Your Honor, anticipating that Agent
7 Rubinstein is going to be the next witness, I'm going to, for
8 the purposes of the record, restate my earlier objection.
9 Agent Rubinstein has been in the courtroom for the testimony
10 of the first two witnesses. So just to maintain my objection
11 at this time noting that for the record.

12 THE COURT: Are you ready?

13 MR. HALL: Yes, Your Honor. The United States would
14 call John Rubinstein.

15 THE COURT: Please raise your right hand, sir.

16 J O H N R U B I N S T E I N,
17 called as a witness by the Government, having been duly sworn
18 by the Clerk, was examined and testified on his oath as
19 follows:

20 THE CLERK: Please be seated.

21 State your name, city and state, spell your last
22 name.

23 THE WITNESS: John Rubinstein, New Haven,
24 Connecticut. My last name is R U B I N S T E I N.

25 DIRECT EXAMINATION

1 BY MR. HALL:

2 Q. Good afternoon, sir. Can you tell the Court how
3 you're employed?

4 A. I am a Supervisory Special Agent with the Drug
5 Enforcement Administration.

6 Q. And how long have you been with the DEA?

7 A. This April it will be 26 years.

8 Q. How long have you been with the DEA in
9 Connecticut?

10 A. About 16 years, approximately.

11 Q. And now you're a Supervisory Special Agent?

12 A. Yes.

13 Q. What does that mean?

14 A. I am a Manager/Supervisor over an enforcement group
15 in New Haven, Connecticut.

16 Q. Do you still do cases yourself? Do you
17 investigate?

18 A. I still investigate. I'm not a lead on cases, but
19 I still do investigations.

20 Q. And you're not a lead because supervisors can't be
21 the lead?

22 A. They shouldn't be the lead.

23 Q. Too much to do?

24 A. There's a lot of other duties besides
25 investigating.

1 Q. Turning your attention to July of 2015, did you
2 become aware of an investigation being conducted by your
3 agency into heroin distribution, suspected heroin
4 distribution by Jose Vasquez and Wilson Vasquez?

5 A. Yes.

6 Q. And were you aware of that investigation as it was
7 going on before July?

8 A. I was aware, yes.

9 Q. Did you participate in it?

10 A. Not really.

11 Q. Are you based in New Haven?

12 A. I am in New Haven.

13 Q. And that investigation was based in New Haven
14 also?

15 A. Yes.

16 Q. And so you would, on a day-to-day basis, would have
17 occasion to be around the other agents and Task Force
18 officers who were doing that investigation, right?

19 A. That's correct.

20 Q. When you said I didn't -- sort of didn't have
21 anything to do with it, is that kind of what you meant?

22 A. Yes, I'm in a difference enforcement group. There
23 are difference forcement groups in New Haven, and that
24 operation, this investigation, was conducted by another
25 enforcement group.

1 Q. Right. But you guys are around each other all the
2 time?

3 A. Yes.

4 Q. Did you know there was a wiretap?

5 A. Yes, I did.

6 Q. Did you sit on the wire at all?

7 A. I did not. I might have been minimized one or two
8 times. I might have been, but I'm not sure a hundred percent
9 on that.

10 Q. And that would be a set of instructions delivered
11 by the prosecutor, probably me, about how to handle certain
12 aspects of the wiretap, right?

13 A. That's correct.

14 Q. But you didn't have any hands on involvement,
15 right?

16 A. No.

17 Q. Did you make any investigative decisions in that
18 investigation?

19 A. No.

20 Q. Were you aware generally of the scope of that
21 investigation?

22 A. Yes.

23 Q. Did you participate in a briefing prior to what you
24 guys would call the take-down in that investigation?

25 A. Yes, I did.

1 Q. And were you designated as one of the team leaders
2 in that investigation?

3 A. Yes.

4 Q. And what was the assignment of your team?

5 A. To arrest Jose Vasquez.

6 Q. Were you to do anything besides arrest
7 Mr. Vasque?

8 A. That day? Or I mean -- I had been given
9 information about possibility of locations for him and I did
10 some pre-operational surveillance myself, and did some
11 looking into the target and did my background investigation.
12 I looked over the information that was given to me by the
13 case agents about the target and a photo and locations. I
14 did my own, you know, one or two days of preparation for
15 that.

16 Q. Again, all in preparation for the arrest that you
17 were going to be making?

18 A. On the 15th.

19 Q. And your team -- who was on your team?

20 A. I was the only DEA agent and it was a statewide
21 narcotics team that was -- I was accompanying them, they were
22 accompanying me. I don't know how you look at it.

23 Q. That statewide narcotics team, had you worked with
24 that team before?

25 A. Yes.

1 Q. Had you worked, other than working with those guys
2 as a team, had you worked with some of those individuals
3 before?

4 A. Yes, numerous times.

5 Q. So the DEA in New Haven, is it fair to say, does
6 projects with the Statewide Narcotics Task Force from time to
7 time?

8 A. Yes.

9 Q. And that's the connection in which you knew these
10 people?

11 A. Yes.

12 Q. So directing your attention to the morning of the
13 15th. What did you do first thing in the morning?

14 A. Early that morning, very early, like 3:00 in the
15 morning, I went by a location that was given to me and
16 observed Mr. Vasquez's vehicle parked next to the residence
17 that we had -- that had been given to me.

18 Q. Was that the 100 Washington Street address?

19 A. Yes.

20 Q. So was the car there?

21 A. Yes.

22 Q. And in that information about whose car it was or
23 whatever, that was given to you also, right?

24 A. Yes.

25 Q. And so what else did you do that morning?

1 A. I went to a briefing location where I was part of a
2 large general briefing given by the case agents to everyone,
3 a little tower view of the case.

4 Q. Can you say roughly how many agents and officers
5 were involved in that operation?

6 A. I'd say over a hundred.

7 Q. Then you went where?

8 A. Then inside this facility we had divided up areas
9 for each team, and I was a member of a team number, I'm not
10 sure what the number was, but my team was assigned the arrest
11 of Mr. Vasquez. So the people assigned to that came over to
12 that area and we discussed what I had seen earlier in the
13 day, his vehicle was there. We discussed the location, what
14 it looked like, the 100 Washington Avenue. And we discussed
15 actually getting out of that location to a secondary location
16 to brief briefly and exit this thing approximately 6:00 a.m.

17 Q. So by the time 6:00 a.m. rolled around, did you
18 have a final location that you guys were being directed to go
19 to for the arrest of Mr. Vasquez?

20 A. Yes.

21 Q. Do you remember what that location was?

22 A. It was 100-102 Washington Avenue.

23 Q. And what is 100-102 Washington Avenue?

24 A. It's a house, a three-story house

25 Q. So you guys went there. Do you know how many

1 people were on your team?

2 A. About twelve people.

3 Q. And as far as deciding who goes to what door and
4 that kind of stuff, do you do that or who did that? Who's
5 responsible?

6 A. Me and Sergeant Burns talked about it was all their
7 personnel and I was the only DEA person there, and there was
8 a Department of Corrections person there also, but it was
9 decided that the statewide people would handle the
10 enforcement aspect of this operation and I would handle any
11 kind of administrative portions of the investigation, such as
12 report writing and evidence handling.

13 Q. So at some point did the various members of the
14 team disperse to get ready to do what each one was assigned
15 to do?

16 A. Yes.

17 Q. And where did you go when that happened?

18 A. I was downstairs on the front and the side of the
19 residence on Washington Street and on the side of
20 Washington -- I'm not sure what the adjacent road was. I was
21 on the perimeter with another person as the statewide people
22 made entry into the side door.

23 Q. Were you in radio contact of any kind with other
24 teams or command post or anything like that?

25 A. I was in radio contact with the command post.

1 Q. Were other people on the teams, that is, the
2 Statewide Narcotics Task Force people, were they in direct
3 contact with the command post or was that going to come
4 through you?

5 A. No, that was through me.

6 Q. How many doors did you say that they covered? I'm
7 sorry.

8 A. That we covered?

9 Q. That you covered or entered through?

10 A. They went through -- when I saw them they were in
11 the side door, in that door. Whether they're on the first,
12 second, third floor I couldn't tell because they went in that
13 door.

14 Q. Was that the entry team?

15 A. That was the entry team.

16 Q. So those were the guys that were going to go into
17 the apartment and arrest Mr. Vasquez?

18 A. Yes.

19 Q. So they went inside. And did you receive any
20 information about their progress as they moved around inside
21 the building?

22 A. I'd gone inside and come back outside, and darted
23 back inside and came back outside one or two times during
24 that time. And we also had an execution time of 6:00, a.m.
25 So we tried to keep it close to that. But the team was in

1 there a little bit before that and they determined that the
2 third floor was one of the residents where someone was in and
3 they executed. I didn't give them a command to execute or
4 anything like that.

5 Q. Do you know who made the decision for them to go in
6 the split second that they actually went in?

7 A. I do not.

8 Q. Did you receive some kind of indication that they
9 had actually made entry and secured the target?

10 A. Yes.

11 Q. How did that happen? Was it -- how was that?

12 A. I either walked in or one of them walked down and
13 told me everything was secure inside.

14 Q. And so did you proceed to the apartment?

15 A. Yes.

16 Q. By the time that you got to the apartment, were
17 they already inside?

18 A. Yes.

19 Q. And by the time that you got to the apartment, what
20 was the status of the individuals -- the non-law enforcement
21 people inside the apartment?

22 A. They were secure and in -- at least the two males
23 were in handcuffs. I can't be for sure of the female. She
24 might have been. I can't recall. She probably was.

25 Q. You said they were secure. What do you mean by

1 that?

2 A. They were handcuffed, out of bed, in a common area
3 outside of the bedroom.

4 Q. And had you had any information prior to the entry
5 that there might be a female with Mr. Vasquez?

6 A. Yes.

7 Q. Did you have any information that there might be
8 another male with the two of them?

9 A. I didn't have specific information, no, but I knew
10 there were multiple individuals involved in this case.

11 Q. So when you went up there, how many subjects were
12 there?

13 A. There were three.

14 Q. And were you surprised that there were three
15 instead of two?

16 A. No.

17 Q. And did you become aware that the subjects had been
18 Mirandized?

19 A. I observed Sergeant Burns Mirandizing
20 Mr. Vasquez.

21 Q. So you got there before there was any
22 Mirandization?

23 A. I got there, yes.

24 Q. And did there come a time when the team prepared to
25 transport Mr. Vasquez?

1 A. Yes.

2 Q. And in connection with that, did they assemble any
3 clothing to your knowledge?

4 A. Yes.

5 Q. And can you tell the Judge how that went?

6 A. I was in and out of the --

7 Q. I would like you to tell him what you saw.

8 A. I saw pants being shaken out and items falling to
9 the ground.

10 Q. And where did those pants -- excuse me. Where did
11 those items fall to the ground?

12 A. In the bedroom. In the carpeted bedroom.

13 Q. When that was happening, who was shaking the pants,
14 do you know?

15 A. Trooper Walsh.

16 Q. When that was happening, where were you?

17 A. I was either in the bedroom or in the doorway or
18 walking out. I was either on the phone or I was in the
19 process of photographing people. I was moving around quite a
20 bit getting stuff done.

21 Q. Let's just talk about that for a second. The state
22 police were going to take care of the enforcement action,
23 right?

24 A. Yes.

25 Q. You said you were going to have basically

1 administrative duties?

2 A. Yes.

3 Q. So did you have a role in determining whether or
4 not one of the subjects was the target?

5 A. Very much so, yes.

6 Q. And how was that done?

7 A. It was by photograph, by identification. I'd never
8 seen Mr. Vasquez before. So I had to confirm that we had the
9 right person and that the other persons in the -- that were
10 in the apartment were not involved in this case.

11 Q. And was that your job to do?

12 A. Yes.

13 Q. And what about communicating to a command post or
14 case agent or something that you had a person in custody?

15 A. I responded via radio and cell phone.

16 Q. And did you have other communications with the
17 command post or whatever it is during the course of the
18 operation?

19 A. Yes.

20 Q. So you were the one who had to do that?

21 A. Yes.

22 Q. And you mentioned that you took some photographs of
23 the people at the scene?

24 A. Yes.

25 Q. And you also took -- did you take other photographs

1 as well?

2 A. Yes.

3 Q. And so you had stuff to do it that was your own
4 stuff to do, right?

5 A. Yes.

6 Q. So while you're doing that, you said you saw the
7 pants being shaken?

8 A. Yes.

9 Q. Do you -- did you see the objects that fell from
10 the pants?

11 A. Yes.

12 Q. And did you recognize what any of them were?

13 A. Yes.

14 Q. Could you tell the Judge what they were or what did
15 they appear to you to be?

16 A. Retail heroin in retail heroin packaging, as well
17 as cash.

18 Q. And once you had seen the heroin and the cash, what
19 if anything did you do?

20 A. I began to process both the heroin and the cash
21 into DEA evidence.

22 Q. We'll get back to that. Was there a point IN which
23 you were able to see other suspected contraband?

24 A. Yes.

25 Q. How did that happen?

1 A. We went to get him additional clothing, a shirt and
2 pants, or shorts, or something else for him to where. And
3 right next to the bed was his laundry basket. And on top of
4 the laundry basket there was a zippered bag that was open
5 with a large quantity of heroin and some cash in it.

6 Q. So is it your testimony that you were able to see
7 these items on the top of the laundry basket?

8 A. Yes, in plain view.

9 Q. How do you recognize the substance that was there
10 as heroin?

11 A. Based on my training and experience and knowledge
12 of this case, it was -- it looked like a wholesale package,
13 or packages of heroin.

14 Q. Did someone take that heroin -- was there anything
15 with the heroin that you could see?

16 A. There was some cash with it.

17 Q. And did anybody take that, seize it?

18 A. Yes.

19 Q. Who did that?

20 A. Myself, with Sergeant Burns witnessing.

21 Q. Now, you indicated that you took some photographs
22 at the scene, right?

23 A. Yes.

24 Q. Can I just show you Government's Exhibit 1. Can
25 you tell me what that is?

1 A. Yes, that's Mr. Vasquez.

2 Q. And Government Exhibit --

3 THE COURT: 1 is all right in, is that right?

4 MR. HALL: Yes, these are full exhibits, Your Honor.

5 Q. Exhibit 4?

6 A. That is the retail heroin that came out of his
7 pocket.

8 Q. Why do you say retail heroin?

9 A. That's ready for sale for the street.

10 Q. And what makes you say that?

11 A. It's in single dosage glassine envelopes that a
12 consumer would purchase on the street from a distributor.

13 Q. So these two blue things that I'm pointing to at
14 the top of the photograph, are those the kind of things you
15 were just talking about, the retail?

16 A. Yes.

17 Q. And showing you Government's Exhibit 6. Can you
18 tell us what that is?

19 A. That is the cash that was in the zippered bag that
20 was on the laundry basket.

21 Q. Aside from the fact that -- there's no heroin
22 visible there, is there?

23 A. No.

24 Q. Aside from that fact, is that basically what the
25 bag looked like when it was sitting on top of the laundry

1 basket?

2 A. Yes.

3 THE COURT: I'm sorry, what number was that?

4 MR. HALL: 6.

5 Q. You didn't unzip that bag to see inside of it?

6 A. No.

7 Q. If the bag had been zipped shut, would you have
8 known to take it?

9 A. No.

10 Q. Did you search the apartment?

11 A. No, we did not. I did not, no.

12 Q. Did anybody else to your knowledge?

13 A. No.

14 Q. And then this thing, Exhibit Number 7, what's
15 that?

16 A. That is the wholesale heroin packages. Based on my
17 training and experience, it looks like 3 hundred gram
18 packages of heroin.

19 Q. Just indicate from the bottom of the package up,
20 there seem to be three sort of balls. Is that what you're
21 talking about?

22 A. Yes.

23 Q. And then this thing?

24 A. Yes.

25 Q. The top thing which is darker?

1 A. Correct.

2 Q. Where was that situated with respect to the bag
3 when you first saw it?

4 A. In the bag with the currency.

5 Q. But was it -- could you tell the Judge what it
6 looked like? Was it underneath the currency or where was
7 it?

8 A. It was in with the currency, amongst it.

9 Q. But your testimony is that you could see it?

10 A. Yes.

11 Q. Did you take any picture of it where it was?

12 A. I did not.

13 Q. These pictures, that is, Exhibit 7 and Exhibit 6,
14 were they taken at the scene?

15 A. One of them was. One was not.

16 Q. Which one was?

17 A. The cash, as per DEA policy, was photographed at
18 the scene.

19 Q. What is the DEA policy?

20 A. To photograph currency that you're going to seize
21 at the scene.

22 Q. And the bulk heroin or wholesale heroin, as you
23 called it, where was that picture taken?

24 A. This was at the DEA office.

25 Q. And the retail heroin, as you called it, Exhibit 4,

1 where was that taken?

2 A. This was taken in the bedroom.

3 Q. Can you say where in the bedroom?

4 A. On the floor, the carpeted floor.

5 Q. Showing you Government Exhibit 2 for

6 identification. Can you tell me what that is?

7 A. That's a picture of the other individual. I think

8 his name is Mr. Rodriguez.

9 Q. And was he wanted as far as you were able to make
10 out at the time?

11 A. At the time we checked, he was not.

12 Q. And so he was released, is that fair to say?

13 A. He was released after we confirmed not only was he
14 not wanted and he wasn't one of the other individuals
15 involved in the case. I didn't know who this person was. So
16 it took a little bit of time to confirm that this person was
17 not involved in the case.

18 Q. But that was done?

19 A. Yes.

20 MR. HALL: I would offer that as an exhibit, Your
21 Honor.

22 MR. WILLSON: Did you take the photo?

23 THE WITNESS: Yes.

24 MR. WILLSON: Okay. No objection.

25 THE COURT: Number 2, Government's 2 is full.

1 (Whereupon, Government's Exhibit Number 2 was
2 marked in full.)

3 Q. And then Government's Exhibit 3 for Identification,
4 can you tell us what that is?

5 A. Picture of Mrs. Vasquez.

6 Q. And where was that taken?

7 A. In the apartment in the common area.

8 Q. By whom?

9 A. Me.

10 MR. HALL: I'll offer that, too, Your Honor.

11 MR. WILLSON: No objection, Your Honor.

12 THE COURT: Exhibit 3 will be full.

13 (Whereupon, Government's Exhibit Number 3 was
14 marked in full.)

15 Q. In the picture Ms. Vasquez looks a little upset.
16 Can you characterize her demeanor during the time that you
17 were in the apartment?

18 A. She was upset.

19 Q. Was she upset the whole time or were there highs
20 and lows?

21 A. She was crying, not hysterically, but she was upset
22 about the whole situation. She was upset that we were
23 arresting her husband, taking her husband to jail. She was
24 also upset that we were taking her vehicle, which I told her,
25 and she got us the keys. And she was upset pretty much the

1 whole time we were there.

2 Q. But although upset, was she compliant?

3 A. Yes.

4 Q. And was Mr. Vasquez compliant, too?

5 A. Yes.

6 Q. Generally?

7 A. Generally, yes.

8 Q. So did you, while you were at the apartment, did
9 you package any of the heroin?

10 A. Yes.

11 Q. Is that what DEA does, if they can?

12 A. Yes.

13 Q. And so you did it yourself?

14 A. I did it myself as witnessed by Sergeant Burns.

15 Q. I want to show you what have been marked

16 Government's Exhibit 9 and 10 for identification.

17 MR. HALL: May I approach, Your Honor?

18 THE COURT: You may.

19 Q. Can you tell us what they are?

20 A. This is the contents of the heroin that was taken
21 from the laundry basket.

22 Q. And did you put it in that bag?

23 A. Yes.

24 Q. That's two bags. But did you put those in those
25 two bags?

1 A. Yes, I did.

2 Q. And prior to doing that, did you have occasion to
3 field test those substances?

4 A. Yes, I did.

5 Q. And what was the field test for?

6 A. Positive for the presence of opiates, both of them
7 tested.

8 Q. So they were positive for the presence of
9 opiates?

10 A. Yes.

11 Q. And based on your training and experience, and that
12 presumptive field test, what did you think when you took
13 them, what did you think those things were?

14 A. Fairly certain this is heroin, the large white
15 package. I'm not sure, even to this day, what this blue
16 substance is. I have never seen it in a blue substance. I
17 was extremely concerned this could be fentanyl. And I'm
18 still concerned it could be fentanyl, which I believe would
19 test positive, I think, as an opiate. But I've never seen it
20 blue. It's definitely lighter and it's different consistency
21 than the other substance. We have not gotten the lab report
22 back. So, as I sit here today, I don't know what it is.

23 Q. Have both of those been submitted to the lab and
24 then returned to you?

25 A. Yes.

1 Q. So the lab has samples that it will test, is that
2 fair to say?

3 A. I think this is it. This has not been tested
4 yet.

5 Q. So they haven't taken samples?

6 A. I don't believe so.

7 THE COURT: I'm sorry. When you say they haven't
8 taken samples.

9 MR. WILLSON: Your Honor, I'm just wondering what
10 the point of this is, in light of today's suppression hearing
11 why this is relevant.

12 THE COURT: This is what he saw, as I understand it.
13 Overruled. Go ahead.

14 MR. WILLSON: In terms of the laboratory, I thought
15 everything had been sent to the lab and we were awaiting the
16 reports.

17 THE COURT: Why don't you go ahead and clarify.

18 Q. After you got this stuff back to your shop in New
19 Haven, was it sent to the lab?

20 A. Yes.

21 Q. But there's a delay at the lab, is that fair to
22 say?

23 A. Yes.

24 Q. So it wasn't tested yet, right?

25 A. It has not been tested. The seals are still

1 original.

2 Q. But we needed it for the hearing, right?

3 A. Yes.

4 Q. So somebody went back and got it for us?

5 A. Yes.

6 Q. And brought it here today?

7 A. Correct.

8 MR. HALL: I would offer those as full exhibits.

9 MR. WILLSON: Your Honor, I guess I object to this.

10 I don't think they're relevant today. But other than that.

11 THE COURT: It's overruled. They may come in.

12 What are they marked as?

13 MR. HALL: The big one is 9 and the smaller one is

14 10.

15 THE COURT: Given that we're not going to keep

16 those, why don't I just look at them now.

17 (Hands.)

18 Q. And I want to show you what's been marked as
19 Government Exhibit 11 for identification. Can you tell us
20 what that is?

21 A. This is the contents of the bag that fell out of
22 Mr. Vasquez's pants.

23 Q. There appears to be a dark fabric object in there.
24 Can you tell us what that is?

25 A. That's the cloth bag, the original cloth bag that

1 contained all these items.

2 Q. And where did that come from with respect to
3 Mr. Vasquez?

4 A. The pants.

5 MR. HALL: I will offer that as well, Your Honor.

6 THE COURT: This is 11?

7 MR. HALL: Yes, Your Honor.

8 MR. WILLSON: No objection, Your Honor.

9 THE COURT: 11 will be full.

10 (Whereupon, Government's Exhibit Number 11 was
11 marked in full.)

12 MR. HALL: Thank you, Judge.

13 Q. Now, did you question -- you or anybody question
14 Mr. Vasquez at the scene aside from ascertaining his
15 identity?

16 A. Yes.

17 Q. And what did you ask him?

18 A. In substance, I asked him who the heroin belonged
19 to.

20 Q. And what was his response?

21 A. That it was his.

22 Q. Was there extensive -- was there further
23 questioning of him or anybody else there at the scene?

24 A. There was questioning whether he would give us
25 permission for a consent search. There was some discussions

1 about the property in the car that we were going to return
2 and take out of the car. And there was some discussions
3 about what was going to happen that day.

4 Q. Did you participate in those discussions?

5 A. Yes.

6 Q. Did you have any problem with Mr. Vasquez as those
7 discussions?

8 A. We'd gotten a little heated conversation, but
9 nothing that was out of normalcy when someone gets arrested
10 six o'clock in the morning.

11 Q. But by the time that you all left, had that settled
12 down in your view?

13 A. Yes.

14 Q. And then did you have occasion to question
15 Mr. Vasquez subsequently at the command post?

16 A. Yes.

17 Q. And to your knowledge, again, you saw him
18 Mirandized?

19 A. Yes.

20 Q. And did he agree to answer your questions?

21 A. Yes.

22 Q. And what did you ask him?

23 A. I was filling out a DEA Form 202, which is a
24 pedigree form, name, date of birth, address, family members.
25 And one of the questions is occupation. And he said to me

1 I'm a drug dealer.

2 Q. Beyond that, was there further questioning of
3 Mr. Vasquez before he was processed by the Marshal Service
4 and presented?

5 A. Nothing additionally other than his pedigree
6 information, his processing information.

7 Q. So he wasn't interrogated really about the case?

8 A. No.

9 Q. Now, with respect to the currency, there were two
10 sets of currency, right? There's the part that came out of
11 his pocket that was in Exhibit 11?

12 A. Yes.

13 Q. Do you know how much that was?

14 A. In his pocket was close to \$7,000. \$6,900. I'd
15 have to check the report. But it was a substantial amount of
16 money.

17 Q. And then the currency that was in the zipper bag
18 with the heroin, do you know how much that was?

19 A. About 26, 2700 dollars. A little under \$3,000.

20 Q. What happened to that currency?

21 A. From cradle to grave?

22 Q. No. You took it, right?

23 A. Yes.

24 Q. And then you have guidelines or regulations or
25 policies or something?

1 A. Yes.

2 Q. What did you have to do with it?

3 A. It was photographed in place, like I said earlier.
4 Each cash exhibit was put into a self-sealing evidence
5 envelope, and with a witness with me, Sergeant Burns, who
6 signed the envelopes on the sealing line and we sealed up
7 both money exhibits right there at the scene.

8 Q. And that cash is --

9 A. That cash was transported by me back to the office
10 where it was converted to a check, made payable, and we
11 subjected to asset forfeiture, administrative asset
12 forfeiture.

13 Q. So the cash is gone?

14 A. Yes.

15 Q. Now, to your knowledge, did any of the state police
16 officers create reports of the operation that morning?

17 A. No.

18 Q. Did you create a report of what happened that
19 morning?

20 A. Yes.

21 Q. And how many reports did you create?

22 A. Three or four. Three or four. The DEA Report of
23 Investigation and then some forms with it. So one DEA 6
24 Report of Investigation, a DEA 7 to put the drugs into
25 evidence. A DEA 7-A to put the phone and I believe an ID

1 maybe into evidence. And the forfeiture paperwork for the
2 processing and the transfer of the money to the Marshal
3 Service.

4 Q. You MENTIONED a telephone. Was a telephone seized
5 at the premises?

6 A. Yes.

7 Q. What kind of phone was it, was it a land line?

8 A. No, it was a cellular telephone.

9 Q. And that was processed into evidence in DEA. Do
10 they have that?

11 A. Yes.

12 MR. WILLSON: I missed that last question.

13 MR. HALL: That was processed into evidence.

14 THE COURT: That being the phone?

15 MR. HALL: Yes, Your Honor.

16 Q. So as far as reports that reflect investigative
17 details, how many reports are there?

18 A. One.

19 Q. And who wrote that?

20 A. I did.

21 Q. Did anybody else write it?

22 A. No.

23 Q. Now, did you write it while you were at the
24 premises?

25 A. No.

1 Q. Where did you write it?

2 A. At my office.

3 Q. And when did you write it?

4 A. Either the day of or immediately -- I started it
5 that day and took a day or so to finish it. Maybe two days
6 to finish it.

7 Q. Now, you were not present in the apartment for
8 everything that's reported in the report, isn't that right?

9 A. That's correct.

10 Q. So what were your sources of information?

11 A. I spoke with Detective Walsh, I spoke with Sergeant
12 Burns following the events of the day.

13 Q. And after you created your report, did you submit
14 your report to either Burns or Walsh for their review and
15 concurrence?

16 A. No.

17 Q. It's a DEA report, right?

18 A. Yes.

19 Q. Were you aware of any responsibility that you would
20 have had to submit a DEA report to a couple of state troopers
21 before you file it?

22 A. There is none.

23 Q. So how did you, in talking to Walsh and Burns, how
24 did you guys communicate? I mean, all three in the same
25 place or can you remember how that happened?

1 A. I spoke to both of them via cell phone, or my
2 office phone to their cell phone, I can't remember which,
3 probably cell phone. I think I spoke to Walsh on one or two
4 occasions and Burns on one or two occasions within the next
5 day or so.

6 Q. Now, you indicated that Walsh had gotten a pair of
7 pants for Mr. Vasquez to wear out of the house?

8 A. Yes.

9 Q. But you indicated that you -- that he needed more
10 clothing?

11 A. Yes.

12 THE COURT: Needed more?

13 MR. HALL: Clothing.

14 Q. What was wrong with the pants?

15 A. Well, the pants had evidence in them and --

16 Q. You didn't seize the pants, right?

17 A. No, we did not seize the pants. Commonly blue
18 jeans or pants like that need a belt, and they can't have a
19 belt -- can't process prisoner with a belt. Can't bring a
20 belt into the facility. So usually we try to find a pair of
21 pants that would not have need for a belt. It was warm out.
22 It was summertime. There were shorts right there in the
23 laundry basket as well as a shirt. He had no shirt on. In
24 the laundry basket right next to the bed.

25 Q. Were there other clothes in the room you could

1 see?

2 A. No.

3 Q. Could you see in the closets or anything, were
4 there other shirts and pants and stuff like that hanging
5 around?

6 A. There was a closet door that was open and there was
7 nothing in there. There was no dresser, no other hampers, no
8 armoire or furniture that would be able to hold or dressers,
9 nothing.

10 Q. Night table or anything?

11 A. No.

12 Q. Did you happen to look at any of the other rooms in
13 the apartment?

14 A. Briefly. Maybe the other bedroom. I was probably
15 making a phone call, I might have walked into another room to
16 have some privacy. I don't know what room I walked into, but
17 I didn't want to talk to people in front of the defendants.

18 Q. Aside from the bed that was in that bedroom where
19 you encountered Mr. Vasquez and Ms. Vasquez, did you see any
20 furniture?

21 A. No.

22 Q. Did you see any indication that the apartment was
23 actually being lived in aside from the bed?

24 A. No.

25 Q. When you saw Walsh shaking the pants, you said

1 these materials that are in the photograph, in addition to
2 some cash, the photograph that's in evidence, that's what
3 fell out of his pocket, right?

4 A. Yes, that's what was found, yes.

5 Q. A pouch and some drugs that were prepackaged for
6 sale?

7 A. Yes.

8 Q. How did they appear to you on the floor as they
9 fell out? What happened?

10 A. That photograph is not hundred percent -- when it
11 fell out it was open and some of the contents were out. That
12 photograph is by me removing some of the items and laying it
13 on the floor and taking a picture of it.

14 Q. So that photograph of the stuff that fell out of
15 his pants that's in evidence which I think I've given back to
16 the Clerk, would be Exhibit 4, you sort of staged that a
17 little bit?

18 A. Staged -- I don't know if the word staged fits. I
19 removed some of the contents to photograph it.

20 MR. WILLSON: I like stage.

21 A. I removed some of the content to photograph the
22 contents because I thought it would be useful that day in the
23 investigation.

24 Q. But that's not what it looked like when it came out
25 of the pants?

1 A. No.

2 Q. What did it look like when it came out of the
3 pants?

4 A. The top was open. It was not tightly tied or tied
5 in any way. And anyone with any narcotics experience would
6 look in that bag and see that there's retail heroin in
7 there.

8 Q. Who picked it up?

9 A. Walsh.

10 Q. And how did you get to see it?

11 A. He left it where it sat on the ground and I
12 processed it, and put it in the evidence bag after I
13 photographed it.

14 Q. To see that it was drugs, though? How did you end
15 up seeing that it was drugs? When did you realize it was
16 drugs?

17 A. Walsh told me.

18 MR. WILLSON: Can we get one question, Your Honor.
19 There's about three.

20 THE COURT: Let's try it again.

21 Q. What did you see that led you to believe that it
22 was drugs?

23 A. I saw the retail heroin packets in it.

24 THE COURT: I saw the retail heroin packets in it?

25 A. In the black bag.

1 Q. How did you see that? In other words, did Walsh
2 hold it out to you or did you pick it up? How did that
3 happen?

4 A. It was on the ground. And then I picked it up, but
5 I could see it anyway. It was visible.

6 Q. Could you see it before you picked it up?

7 A. Yes.

8 Q. You could see the drugs before you picked up the
9 bag?

10 A. Yes.

11 Q. Did you seize the zipper bag?

12 A. No.

13 Q. That would be the one that's in Exhibit 11 that's
14 in the hamper?

15 A. Correct.

16 Q. You did not seize that?

17 A. I did not.

18 Q. Why not?

19 A. I didn't need to at the time. There was additional
20 evidence to process. I didn't seize the pants. Just add
21 additional evidence to process.

22 Q. Again, what was your job that day when you went to
23 100 Wintergreen or Washington Avenue?

24 A. To arrest Mr. Vasquez.

25 Q. And did you guys search the apartment at all beyond

1 what you just related to the Judge?

2 A. No.

3 MR. HALL: Thank you.

4 CROSS-EXAMINATION

5 BY MR. WILLSON:

6 Q. So we don't know where the zipper bag is, right?

7 A. Is that a question?

8 Q. It is. Correct? We don't know where the zipper
9 bag is, correct?

10 A. Correct.

11 Q. And we don't know where the jeans are, right?

12 A. You're saying we. You're asking me because you
13 might know where it is. I don't.

14 Q. Fair point. You don't know where the jeans are,
15 right?

16 A. Yeah.

17 Q. Even though they just produced evidence of a crime
18 at the scene, you decided not to seize them as evidence,
19 right?

20 A. That's correct.

21 Q. With the zipper bag, were you the person that found
22 the zipper bag or was it somebody else and it was brought to
23 your attention?

24 A. I initially saw it I believe.

25 Q. You testified earlier it was on top. It was on top

1 of everything in the laundry basket clear as day?

2 A. Yes.

3 Q. And it was already open, is that right?

4 A. Yes.

5 Q. And rather than take a picture of the zipper bag as
6 clear as day on top of a laundry basket, you moved it,
7 right?

8 A. Yes.

9 Q. And you took the drugs out of it, right?

10 A. Yes.

11 Q. And you took a picture of the money because in part
12 you have a policy where you've got to document the money,
13 right?

14 A. Yes.

15 Q. But you don't have a policy about taking pictures
16 of the evidence where you found it when it's so important
17 where it was found, right?

18 A. I don't think we do have a policy. It's the
19 discretion of the agents that are doing the search warrant as
20 per the warrant.

21 Q. As part of your training, you're not advised that
22 you should capture the evidence where it's discovered rather
23 than move it to another location where questions can arise as
24 to how it was discovered and where it was discovered?

25 A. If it warrants it sometimes we do, sometimes we

1 don't.

2 Q. Going into the apartment that day, other than what
3 you had heard generally about the investigation, there was no
4 indication that Mr. Vasquez was going to have a large
5 quantity of drugs with him, is that right?

6 A. I expect nothing and anticipate everything.

7 Q. Well, you've been around for a while with the
8 DEA?

9 A. Yes.

10 Q. And I'm sure you've had cases where you go in to do
11 a search or arrest and you're anticipating finding a large
12 quantity because there was a controlled purchase or a
13 controlled sale or something right before you do the bust,
14 isn't that right?

15 A. I do this a long time and I don't anticipate.

16 Q. Have you had those type of cases? Like a bust/buy,
17 buy/bust, is that right?

18 A. I don't know what you're trying to ask. You asked
19 me --

20 Q. In your experience. In your experience, you've
21 done buy/bust cases, correct?

22 A. Yes.

23 Q. Where a transaction occurs and you go in
24 immediately to see what's there, right?

25 A. Not a lot. That's not a level that we deal with.

1 Q. Have you ever done it?

2 A. I have done it. We do it to recover evidence.

3 Q. With Mr. Vasquez, is that what had happened before
4 this?

5 A. No.

6 Q. No one had made a delivery, as far as you knew,
7 right before you crashed the door in, right?

8 A. Not to my knowledge, no.

9 Q. I'm going to put on the ELMO a document that's
10 previously marked as Defendant's Exhibit A. Do you recall
11 that being the house?

12 A. I believe it is.

13 Q. And earlier you testified about where you were
14 located while others were going up the stairwell. Do you
15 remember that?

16 A. Yes.

17 Q. And can you give us a reference in the picture as
18 to where you would have been at that time?

19 A. I was, if you could see the one-way sign to the
20 right, I was between that and the stairwell that they made
21 entry and back and forth. My responsibility was the
22 perimeter of the front and the adjacent side, adjacent
23 street. And there was another individual in the back
24 responsible for the back and other side.

25 Q. So when you say front, you're referring to the part

1 of the building that's facing us in the picture, is that
2 right?

3 A. And the right side, as we're looking at it, of the
4 building.

5 Q. So you're hanging out in the corner area?

6 A. I'm not really hanging out. I'm moving kind of
7 rapidly between positions because we didn't have a lot of
8 people to cover the place. So I was moving quite a bit.

9 Q. Was there anybody outside with you?

10 A. Yes.

11 Q. Who was that?

12 A. I believe it was a Department of Corrections
13 person.

14 Q. Were you there when the dog was brought in?

15 A. Yes.

16 Q. Were you the one -- did you say anything about
17 taking the dog out of there because he hadn't consented to
18 search?

19 A. No.

20 Q. Other than the three people in there, and the
21 furnishings, was there anything else of note found in the
22 apartment or that you saw in the apartment?

23 A. Of note, no.

24 Q. We talked about drugs. We talked about packaging.
25 We talked about a little bit of furniture. There's three

1 people. Anything else that comes to mind when you recall the
2 apartment?

3 A. No.

4 Q. Did you open any of the folds to actually see what
5 was in those folds that we've seen in exhibits -- in the
6 picture with the pouch? Did you open any of those blue folds
7 to see if there actually was heroin inside or anything like
8 that?

9 A. Yes.

10 Q. And you did that in the apartment?

11 A. No.

12 Q. Where did you do that?

13 A. At the DEA.

14 Q. Were you the person that was trying to get
15 Mr. Vasquez dressed or is that one of the other agents?

16 A. I was helping.

17 Q. Were you in the room when the pants were picked up
18 and shook?

19 A. I was in the vicinity. Like I said earlier, I was
20 either in the doorway or in the room.

21 Q. Show you a picture, Defense Exhibit B. Does that
22 help you remember or you don't remember?

23 A. I don't know if this is the apartment.

24 Q. You don't recall this being the apartment?

25 A. I recall the apartment on August 15th or July 15th,

1 and it looks very different.

2 Q. There's no carpeting in the photo, right?

3 A. That's correct.

4 Q. Otherwise, is it what you recall?

5 A. It is similar to what I recall.

6 Q. Just looking at this picture, does that help you
7 remember where you were when the pants were shaken and the
8 bag fell out?

9 A. I was probably standing right by the door to the
10 bedroom.

11 Q. Were you a person in authority at the scene,
12 meaning, would you tell Trooper Walsh what to do or somebody
13 there what to do or no?

14 A. I was one of the supervisors there, but I was in
15 charge of me. And the State Police were in charge of State
16 Police. Me and Sergeant Burns would, if anything needed to
17 be done, we would consult.

18 Q. You talked about doing the report. You weren't
19 sure if you did it, how quickly you did it. You said maybe a
20 couple of days.

21 A. I'm pretty sure I started it that day. That's what
22 I usually do.

23 Q. Do you remember when you finished it?

24 A. I'd have to look at the report itself.

25 Q. Ultimately some sort of supervisor would sign off

1 on it?

2 A. Yes, sir.

3 Q. Is it your practice to sit and do a report in one
4 finish or, you know, do you deal with phone calls, maybe come
5 back to go it? How do you handle that?

6 A. On this occasion how I handled it or in general?
7 In this case I think I came to it several times.

8 Q. And each time you do that, do you save a draft?

9 A. I hope I would.

10 Q. General good computer practice, right?

11 A. Yes.

12 Q. And the draft that you provided to your supervisor,
13 would that be your final draft?

14 A. It wouldn't be a draft I'd give to my supervisor.
15 It would be the final copy that I signed. Unless he had
16 corrections, return it and make the corrections.

17 Q. And you'd agree with me that a report from this
18 type of event, it's important to have all the key information
19 in that report, correct?

20 A. Sure, it's important.

21 Q. You know that ultimately Mr. Vasquez is going to be
22 prosecuted, the reports are going to be provided as part of
23 the case, right?

24 A. Yes.

25 Q. And you know someone like me or some other defense

1 lawyer is going to take a look at it, right?

2 A. Yes.

3 Q. And ultimately the Judge may be called to rely on
4 the report or look at that report in deciding what happened
5 on the day of the arrest, right?

6 A. Yes.

7 Q. So you want to make sure that report is nice and
8 thorough, right?

9 A. As thorough as I can get it.

10 Q. Before we get to that. So you're outside and they
11 do the entry, right?

12 A. Yes.

13 Q. But you get up there even before -- maybe a moment
14 before Mr. Vasquez is Mirandized, right?

15 A. Maybe a little before.

16 Q. Because you hear him being Mirandized, right?

17 A. Yes, and I see it.

18 Q. And you see it. And is generally the Mirandizing
19 of someone one of the first things that happens when someone
20 is arrested?

21 A. No, I would not characterize that at all. Safety
22 first. Making sure they're okay. Making sure our people are
23 okay. And when we have a moment of pause, usually when
24 they're clear and see what we're talking about and understand
25 what's going on coming into your house early in the morning,

1 some people tend to be a little disheveled. It was a few
2 minutes later.

3 Q. I just want to put a document in front of you.
4 Just take a couple of moments. Do you recognize that
5 document?

6 A. Yes.

7 Q. What is it?

8 A. It's my report of investigation.

9 Q. And it's redacted a little bit?

10 A. Yes.

11 Q. Did you redact it?

12 A. I don't know. Sometimes I do, sometimes someone
13 else does. I don't know whether I did this one.

14 Q. You see on the bottom of the first page it just
15 says approved and Uri Shafir here?

16 A. Yes.

17 Q. And the date there is July 21?

18 A. Yes.

19 Q. Do you recall whether you provided Mr. Shafir with
20 the report and then made any changes to it after talking with
21 him about it?

22 A. Not to my memory, no.

23 Q. Are you in a position now where you supervise other
24 people?

25 A. Yes.

1 Q. And so do people sometimes provide you with
2 reports?

3 A. Yes.

4 Q. And then you have to sign off as the supervisor?

5 A. Yes.

6 Q. And when you're checking them over -- you check
7 them over when they give them to you, right?

8 A. Yes.

9 Q. And if you see something that looks like it's
10 missing, do you say what about this and this needs to be
11 fixed?

12 A. No, I don't think missing stuff, unless I was
13 there. Agent Shafir wasn't there. I don't know if he'd be
14 able to have knowledge anything was missing, unless it was a
15 fundamental step in our evidence processing, a procedural
16 step. Maybe if we didn't put it in the bag, he'd probably
17 say why don't you describe putting it in the bag, but no.

18 MR. WILLSON: Your Honor, I've labeled one with
19 Defendant's Exhibit C. It's a copy of the same thing that's
20 in front of him and I'd offer it as a full exhibit.

21 THE COURT: Any objection, Mr. Hall?

22 MR. HALL: Just checking real quick.

23 No objection, Your Honor.

24 THE COURT: Defense Exhibit C will be full.

25 (Whereupon, Defendant's Exhibit C was marked in

1 full.)

2 THE COURT: And you've got the actual exhibit?

3 MR. WILLSON: I do, Your Honor.

4 THE COURT: Make sure you give it to Ms. Johnson.

5 You don't have an extra copy for me, do you?

6 MR. HALL: I wrote on the bottom of it, Judge, just
7 exhibit whatever it was.

8 MR. WILLSON: I gave him the stamped one.

9 BY MR. WILLSON:

10 Q. Were you involved in seizing the car?

11 THE COURT: Can I just have one moment to read it?

12 MR. WILLSON: Certainly, Your Honor.

13 THE COURT: Okay. Whenever you're ready.

14 BY MR. WILLSON:

15 Q. The car that was seized, was there a plan to seize
16 the car before the arrest even occurred or was that a product
17 of the events?

18 A. I was told to seize the car if it's there.

19 Q. Do you know ultimately whether that car was
20 returned or not?

21 A. I don't know. I know I processed it for
22 forfeiture.

23 Q. So you're part of a team. You go to Mr. Vasquez's
24 house. But there's a whole bunch of other teams that day
25 too, right?

1 A. Yes.

2 Q. Were you involved in trying to go and then arrest
3 anybody else in connection with the case or was it just
4 Mr. Vasquez for your team?

5 A. My team had additional responsibilities, but I also
6 had responsibilities with Mr. Vasquez to process him. So
7 they might have been cut loose to do something else but me,
8 as a member of the team, was handling Mr. Vasquez and
9 eventually the evidence I seized.

10 Q. So you're at Mr. Vasquez's place at 6. You didn't
11 have to be somewhere else at 9 to bust down another door or
12 anything like that, right?

13 A. No.

14 Q. What were you wearing when this happened?

15 A. I was either wearing a visible DEA raid ballistic
16 vest or I was wearing a ballistic vest with a DEA raid jacket
17 on. With the weather, it depends on the weather. I more
18 likely had a vest with visible police on both sides, front
19 and back.

20 Q. Do you recall when you entered the apartment
21 yourself whether you had a firearm drawn or anything out like
22 that or were your hands free?

23 A. I did not have my gun drawn that day at all.

24 Q. What kind of firearm do you usually have in that
25 situation?

1 A. A Glock pistol.

2 Q. Do you recall the firearms that were being used by
3 others that day?

4 A. Yes.

5 Q. Did anyone have something larger than a handgun?

6 A. I don't recall. I don't know.

7 Q. When you do these sort of entries with a group of
8 people, is it the usual practice for someone to have a more
9 serious firearm in case there's a problem?

10 A. I can just talk to practice. DEA practice is
11 someone usually has a long gun, a rifle. And statewide
12 probably does the same thing, at least one person has a rifle
13 either in the car or with the enforcement team as policy.
14 Not policy, but as a good practice.

15 Q. You just don't specifically recall from this day?

16 A. I do not.

17 Q. Do you recall whether anyone was wearing any sort
18 of helmet or head gear or something on their face other than
19 a baseball cap?

20 A. I don't believe so.

21 Q. Were you the person that took Mr. Vasquez from the
22 scene to wherever he was going next?

23 A. No.

24 Q. Who did that?

25 A. I do not know. One of the people. Could have been

1 the Correction guy with us, that was with us also, or it
2 could have been a combination of the state police and someone
3 else. I don't know. I saw back at the assembly area.

4 Q. Is there normally a Corrections officer as part of
5 these teams or was that unusual?

6 A. Not unusual for large take-downs that we have.
7 They've assisted us before in processing and handling the
8 prisoners.

9 Q. Are they specifically part of the Statewide Task
10 Force or are they brought in for the day?

11 A. They are brought in for the day.

12 Q. You've had a chance to review your report, right?

13 A. Yes.

14 Q. And does that appear to be the report you created
15 following this event?

16 A. It appears to be, yes.

17 Q. You said something -- let me start again.

18 Assistant U.S. Attorney Hall asked you about
19 whether Mrs. Vasquez was cooperative or combative and you
20 said, no, she was fine. And then he asked you about
21 Mr. Vasquez and you said, well, and you said something not
22 out of normalcy for someone who gets arrested at 6:00 in the
23 morning. That's what I wrote down. Do you recall that part
24 of your testimony?

25 A. Yes.

1 Q. In your experience, people who get arrested at 6:00
2 in the morning -- what did you mean, I guess, when you said
3 not out of normalcy for someone getting arrested at 6:00 in
4 the morning?

5 A. They're usually argumentative, not knowing why
6 they're being arrested. That we have no right to come in
7 their residence to get them. Those kind of arguments. Those
8 kind of exchanges.

9 Q. How many of these have you done over the years,
10 roughly?

11 A. Hundreds.

12 Q. Hundreds. Lots and lots. How often do you show up
13 and everyone's awake and ready to go?

14 A. Depends what time we're going.

15 Q. When you're there at 5:45 in the morning, how often
16 is whoever you're going to get there and ready to go? Is
17 that a regular thing or is it more often --

18 A. There's no saying what it is. If it's wintertime,
19 people stay in bed early in the morning. If it's summer
20 time, people tend to be up earlier in the morning because
21 it's lighter out. Sometimes they're asleep, sometimes
22 they're not. I've been to a door 3:00 in the morning and
23 Everyone was up. I've been at 3:00 in the afternoon and
24 everyone's been asleep. There's no rhyme or reason to it.

25 Q. Would you agree with me, though, that if you were

1 going in the middle of the day more often people are up, and
2 if you're going at 6:00 in the morning more often people are
3 asleep or just immediately responsive?

4 A. That's fair at times. But more likely they'll be
5 at their domicile or where they're residing early in the
6 morning, whether up or having breakfast or showering, but
7 they'll usually be at a home or at a residence location.

8 MR. WILLSON: If I could have a moment, Your Honor?

9 THE COURT: Yes.

10 MR. WILLSON: Your Honor, I have nothing further at
11 this time.

12 THE COURT: Redirect.

13 REDIRECT EXAMINATION

14 BY MR. HALL:

15 Q. This Uri Shafir fellow, he was your supervisor at
16 that time? He's the guy on the report.

17 A. Yes. He was my supervisor that signed this report,
18 but I'd been promoted at that time actually.

19 Q. But he signed the report as the supervisor?

20 A. Correct.

21 Q. Did he participate in this operation, the arrest of
22 Mr. Vasquez?

23 A. No.

24 Q. He wasn't there?

25 A. He was not.

1 MR. HALL: I don't have anything else, Your Honor.

2 THE COURT: You can step down.

3 MR. HALL: That would conclude the Government's
4 presentation.

5 THE COURT: as discussed, we will reconvene I think
6 we said March 29 at 9:00.

7 Thank you very much. We'll be in recess.

8 (Concluded.)

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C E R T I F I C A T E

I, Martha C. Marshall, RMR, CRR, hereby certify that
the foregoing pages are a complete and accurate transcription
of my original stenotype notes taken in the matter of UNITED
STATES V. VASQUEZ, which was held before the Honorable
Michael P. Shea, U.S.D.J, at 450 Main Street, Hartford,
Connecticut, on March 17, 2016.

/s/Martha C. Marshall
Martha C. Marshall, RMR, CRR
Official Court Reporter