

Q = Steven Sherick
A = Deputy Ryan Roher

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1 Q. This is Steve Sherick. This is an interview with Deputy -
2 I'm sorry. What's your first name?

3 A. It's Ryan -

4 Q. Ryan Roher?

5 A. - Roher. Uh-huh.

6 Q. And that's R-O-H-E-R?

7 A. Yes.

8 Q. This interview is being conducted at the main station for
9 the Pima County Sheriff's Department, and it's being conducted on
10 January 25th, 2018, in the case of State of Arizona vs. Terry Bressi.

11 So, I wanted to start out by getting some, some background.
12 Tell me when it was that you first became a police officer.

13 A. June 13th of 2004.

14 Q. And tell me about that. You attended the academy when?

15 A. 2004.

16 Q. Okay.

17 A. That's, that was June 13th, my commission date. So, I
18 attended the academy, I think, about a couple days after that is when
19 it started.

20 Q. All right. And then tell me about your, your initial
21 training.

1 A. So, I attended SALETCI, which is the Southern Arizona Law
2 Enforcement Training Center, that's the TPD academy. Graduated that,
3 then the Sheriff's Department Advanced Basic, and then FTO.

4 Q. And FTO is field training?

5 A. Yes, sir.

6 Q. Okay. And when did you complete your field training?

7 A. I don't even remember.

8 Q. Okay.

9 A. I had a - so, I was injured in the advanced basic, so, I
10 had a little bit of a delay.

11 Q. Uh-huh.

12 A. But I, honestly, I don't, I don't remember the actual
13 dates.

14 Q. Okay. And what was - what have been your, what have been
15 your assignments since you became commissioned as a sheriff's deputy?

16 A. So, I worked in the Patrol Division. I worked the San
17 Xavier District midnights to start with. Worked swing shift, and then
18 late swings. Did that for about three years. And then I was
19 reassigned to the Traffic Unit. I've been in the Traffic Unit since
20 then.

21 Q. So, would it be fair to say sometime maybe in the latter
22 part of 2007, you joined the Traffic Unit?

23 A. Yeah, I think so. I can bring up my CV real quick.

24 Q. Okay.

1 A. I have a CV, and if you want, I can actually print it for
2 you if you want it.

3 Q. That would be great. Yeah.

4 A. What is my password. We'll let - it's gonna take a minute,
5 cause -

6 Q. Okay.

7 A. - I don't usually use this one, so, if you want, just
8 remind me, I'll come back to it.

9 Q. Sure. So, tell me what, what are your duties as part of
10 the Traffic Unit?

11 A. So, our primary job is to investigate fatal collisions.
12 Secondary to that is to do all the issuing for felony cases with the
13 County Attorney's Office. We investigate and follow up on all hit-
14 and-runs that are investigated by our department. And following that,
15 we do enforcement.

16 So, we're a little different than, for example, the Tucson
17 Police Department, who their Traffic Unit is a, a true detective unit
18 where they, you know, they never go out and do enforcement anymore.

19 Our unit is, is an enforcement unit. So, like I'm wearing
20 a uniform today. That - this is my normal everyday uniform. I don't
21 wear a suit and tie. So, this is, this is pretty normal for us.

22 Q. Okay. And enforcement would be basically enforcing
23 Arizona's traffic laws?

24 A. Yes, sir.

25 Q. Okay.

1 A. Uh-huh.

2 Q. That could be anything from, from civil traffic violations
3 to reckless driving, driving under the influence?

4 A. It could be anything. And, in fact, so, one of the, one of
5 the - I mean I, I say one of the benefits of working in this unit
6 really is that I'm still, I'm still a patrol deputy. So, I can go to
7 any call. I can help the Patrol Division anytime they need help. And
8 then we're, we're, we are kind of a support unit.

9 So, I'll give you a couple examples. Gabriel Giffords. I
10 had a role in that investigation.

11 Q. Uh-huh.

12 A. Anything that's fairly significant in our department, we,
13 we generally have gone to. Officer-involved shootings, it's not
14 uncommon for us to show up there and help. And so that's kind of one
15 of our, our tasks that we, we get to do. So, it's - I mean we're,
16 we're a pretty broad-based unit, so, -

17 Q. What's your - other than having rank in terms of sergeants,
18 lieutenants, majors, are there any, are there any gradations, pay
19 gradations or, or other gradations in terms of your job -

20 A. Do you mean do I get paid more than the average deputy,
21 or -

22 Q. Yeah. What's your, what, what's your pay grade now?

23 A. I don't know.

24 Q. Okay.

1 A. I don't know how you would call it a pay grade. If you
2 want to get specific, I'm not topped out. I think I - I mean I'm
3 close, but I'm not. The, the highest paid deputy in the department
4 still makes more than I do.

5 Q. Okay. Like in federal, they have, you know, they'll have
6 GS grade -

7 A. Got it.

8 Q. - in terms - but they don't have anything like that with
9 the sheriff's department?

10 A. If they did, I don't pay attention.

11 Q. Okay.

12 A. So, I'm gonna be completely honest with you. Several years
13 ago, the department called me in and they said, "Hey, do you ever look
14 at your paycheck?" And I said, "Well, yeah." I mean like everybody
15 does. "Well, do you notice your pay rate?" I'm like, "I'm not - ah."

16 What happened is the department had made an error and
17 failed to give me some of my raises. And so they had to end up doing
18 a back-pay program, if that illustrates to you. I mean I just don't
19 pay that much attention to it.

20 Q. Okay.

21 A. So, I get, I get paid and I do my job, and so, you know, I
22 know that the, the pay issues is in the news all the time with the
23 Step system and stuff like that. I don't, -

24 Q. Did you have -

1 A. I don't know - not even know how many steps there are, to
2 be honest with you.

3 Q. Okay.

4 A. I saw on the news this morning, I think there's, somebody
5 said there's eight steps. I honestly couldn't tell you what those
6 were.

7 Q. Okay. Did you have any law enforcement or military
8 experience before you became a sheriff's deputy?

9 A. No sir, I did not.

10 Q. Okay. Now since your attendance at the academy, have you
11 had any advanced law enforcement training?

12 A. Yes.

13 Q. And would that be in your CV?

14 A. Yes. Let's see if we can get that printed for you so that
15 we can - I'm more than happy to go through that with you. To kind of
16 summarize, the majority of the training I have is, is associated with
17 traffic. Let's see. Which one do I want to - here, I think this
18 one's -

19 So, the majority of my training is associated with,
20 obviously, traffic investigations and things of that nature. Okay, I
21 think we're good. We'll find out. I hear noises. So, I'm a
22 reconstructionist. I've attended almost all the Northwestern schools.

23 Q. Okay.

24 A. So, when I say that, Northwestern has basically like an
25 Advanced Investigation I and II, there is a Vehicle Dynamics course,

1 which is a math class. And then there's a Traffic Accident
2 Reconstruction I and II, which I both attended. I've also attended a
3 Motorcycle as well as Pedestrian-Specific Reconstruction Schools.

4 Missing from the Northwestern queue is I've never had Heavy
5 Truck, and I've not had - it's not Biomechanical, it's - I'm sorry.
6 The name's escaping me right. How people move in cars basically. So,
7 those are the two, two big ones I haven't had. I think there's
8 probably a couple other ones that I haven't done.

9 Q. Okay.

10 A. I've also attended multiple IPTM schools, which is Florida
11 Institute of Police Technology Management, basically. Kind of a, a
12 Northwestern, but different. There you go.

13 Q. Great. Thanks.

14 A. I am a - there's, there's a lot of stuff in there, so, -

15 Q. What was this Border Patrol Explorer Academy that you did
16 in 2015?

17 A. So, they have - the Explorer is, is the kids.

18 Q. Uh-huh.

19 A. So, you know, a lot of police agencies have Explorer
20 programs. So, for example, Marana. They have - they're, they're like
21 teenagers. And they, they wear a pseudo-uniform. I think they help
22 out maybe with point control. They're almost like volunteers, but
23 they're not - and they're not cops.

24 Q. Right. Right.

25 A. But they're kids, right?

1 Q. Uh-huh.

2 A. And they're trying to encourage them to perhaps join law
3 enforcement or something like that. So, Border Patrol did a - or
4 asked me to come and teach them about standardized field sobriety
5 testing.

6 Q. Okay.

7 A. So, basically, what that was, was I put together - I
8 modified the DUI training that we give to other people to instruct
9 them how to instruct standardized field sobriety tests so that the
10 Border Patrol agents or anybody that they had brought in that day
11 could then go out to the explorers and teach the kids how to do -

12 Q. Okay.

13 A. - DUI investigations.

14 Q. All right.

15 A. Yes.

16 Q. During the, during the time that you've been a sheriff's
17 deputy, have you ever received any departmental discipline?

18 A. Probably. I don't know that actually - well, okay, hang
19 on. So, I got a - I'm gonna make a note here and see if I can
20 remember all of them.

21 I know I was in a car crash where I backed a Crown Vic into
22 a pole. I backed - actually, I take that back. I left my car in
23 Drive and it drove into another patrol car. That was a letter of
24 counseling, so both of those are letter of counselings.

1 I received another letter of counseling for another patrol
2 car crash where I left my car in Drive again. I could tell you that
3 one was on May 7th of 2016. That was the day of (inaudible) fatal
4 collision. I left my vehicle in Park (sic). It drove down an
5 embankment, got a L of C for that.

6 I believe I got a letter - I want to say it's a letter of
7 counseling for - how do I describe it? There was a pursuit. I
8 searched the vehicle. I did not find the gift cards that the person
9 had on their person.

10 The vehicle was towed. The gift cards were potentially
11 lost. The towing company actually had them, found them, and they were
12 able to retrieve those and give those back to the, the Defendant. I
13 think I got a letter of counseling for that.

14 I think I've had some other DVC's, but I don't remember all
15 of them. DVC's are documented verbal counselings. So, things like
16 bad driving. I think one time I didn't use my lights and sirens when,
17 when the department felt I should have.

18 Q. Okay.

19 A. Things of that nature.

20 Q. All right.

21 A. I think, you know, so, if you want me to include the other
22 allegations like IA investigations, there's, there's been several.

23 Q. What are those? Internal Affairs?

24 A. Yes, sir.

25 Q. What were those for?

1 A. So, I remember one when I first started was a lady told -
2 basically said that, said that I did not do a thorough investigation.
3 There was one where I was alleged to have banged my fist against a car
4 multiple times and yelled. And there was one recent where apparently
5 in Marana - not apparently. Was going to pay for my kid's karate.
6 I happened to mention to the clerk that I worked for the
7 department. The transaction was less than satisfactory as a customer,
8 and I happened to mention that, that basically my, my - the gist of my
9 conversation was, "You know, if we did this at the sheriff's
10 department, we wouldn't have jobs," you know, basically it's as
11 government thing. So, that was one of the investigations. I'm sure
12 there's been others, but I don't remember all of them.

13 Q. Okay.

14 A. And I'm surprised I didn't get one for this, 'cause if I
15 did, nobody's ever asked me anything.

16 Q. So, those would have all - anything the department did
17 would have been a part of your personnel file (inaudible)

18 A. As far as I know. I'm not allowed to access it, so -

19 Q. All right.

20 A. - I assume you were able to get a copy, but I apparently
21 cannot.

22 Q. I haven't gotten one yet, but -

23 A. Do they give them to you?

24 Q. If we request them, it's -

25 A. Oh, okay.

1 Q. - get them through the, through the prosecutor's office.

2 A. Okay. I - yeah, like I said, I'm not sure that they would
3 even give me my file.

4 Q. As part of your work with the sheriff's department, have
5 you ever worked on any roadblocks that were being conducted by the
6 Pima County Sheriff's Department?

7 A. Yes. And we don't call them roadblocks.

8 Q. What do you call them?

9 A. They're checkpoints.

10 Q. Okay.

11 A. I have participated in the Southern Arizona DUI Task Force
12 since I joined Traffic. We will never refer to them as roadblocks.

13 They're not a roadblock, they're checkpoints.

14 Q. And what - how do you make the distinction?

15 A. The department calls them a checkpoint. Attorneys, for
16 some reason, like to call them roadblocks. They're checkpoints.

17 Q. They're places where cars come to a place in the road and
18 they're, they're required to stop for a period of time, would that be
19 a fair description?

20 A. Yeah.

21 Q. Okay. Now was any of your training specifically directed
22 toward your work on - does the, does the department just call them
23 checkpoints, or do they call them sobriety checkpoints, or what do
24 they call them?

25 A. They're, they're called sobriety checkpoints.

1 Q. Okay.

2 A. What, what we usually tell people when they enter - and
3 it's - and I'm not sure if the power points actually on line when we
4 do the checkpoints. I know that there's some of the material that's
5 actually on the department website that you can pull up, that anybody
6 can pull up. It's not, it's not secreted.

7 When we do a DUI checkpoint, or a sobriety checkpoint, if
8 you will, it lays out what we say to the people as they come into the
9 checkpoint. "Hello. You've entered a DUI checkpoint." We don't have
10 a lot of time to deal with the people.

11 I mean the goal is to have the person enter the checkpoint,
12 have a very quick conversation. "Good evening. You've entered a DUI
13 checkpoint. Have you consumed any alcohol or drugs tonight?"

14 The idea is to make contact with that person, provide them
15 a pamphlet and get them on the - back on the road as quickly as
16 possible.

17 Q. All right. Did - does the training contain anything, any
18 instructions about what to do if you have an uncooperative motorist?

19 A. So, if you have someone that doesn't roll their window
20 down, for example, we will direct them to continue forward. Now
21 there's chase cars. And the idea of the chase cars is to try and find
22 a reason to stop car, whether that's for people turning around.
23 Whether that's for people throwing trash in the roadway, swapping
24 drivers, or in the case of somebody not rolling their window down.

1 We've had very few occasions of that over the years. And
2 then every once in a while, we'll get someone that is just - you get
3 some grumpy people sometimes, you know? Sometimes maybe the line is a
4 little bit longer than we'd hoped. And it took them an extra 30
5 seconds to get through the checkpoint.

6 You deal with those people, but it's not necessarily that
7 they're not answering or being uncooperative. They're just a little
8 sad, a little disappointed to be delayed basically.

9 Q. But if they don't roll down their window, or if they didn't
10 want to answer your questions, you let them go?

11 A. Yes.

12 Q. You might have a car follow them to see if they committed
13 any traffic violations.

14 A. That's exactly it.

15 Q. Okay. You wouldn't detain them or arrest them for refus- -
16 - at the checkpoint for refusing to roll down their window or answer
17 questions?

18 A. For rolling down the window, correct. That, obviously,
19 wouldn't include someone leaving their car in the middle of the road.
20 But most people that, you know, they're gonna obviously move on.

21 I'm not even sure if I've been there when we've had someone
22 do this. I mean, I've been in almost all of them since, since I
23 joined Traffic, so - except for a period where I was injured.

24 Q. Now with respect to the, the sobriety checkpoints, are
25 those, are those duties that you're required to perform or are those

1 volun- -- volunteer operations? I don't mean you don't get paid, but
2 are they on a volunteer basis? Or, or as part of your duties as a
3 Traffic officer, do you have to man those checkpoints?

4 A. So, at one point when I first started in Traffic, they were
5 considered to be mandatory, so, just part of our job. And there are -
6 it has, it has flip-flopped back and forth to not mandatory. But I
7 consider it a privilege to participate in them. And - well, I'd, I'd
8 participate in them whether they were mandatory or not.

9 Q. So, whether they've been voluntary or mandatory, you've
10 participated in both statuses?

11 A. Correct.

12 Q. Okay. And when you do the sobriety checkpoints, are you
13 paid regular pay or overtime pay?

14 A. I think when I first started in Traffic, I think some - I
15 think most - some of the checkpoints were overtime. At this point
16 now, - so, for example, I worked one last Saturday night. It was a
17 four-hour checkpoint. We call them a mini-checkpoint, so, it's a
18 little bit smaller. I was paid overtime for that.

19 However, the - for the most part, what they're doing at
20 this point is they're paying overtime for saturation patrol, and then
21 not overtime for the checkpoint. It really depends upon how the
22 department wants to do it, and it's really - it's not, it's not
23 incumbent upon us to make that decision one way or another. It's a
24 patrol, or a departmental decision.

25 Q. Who's, who's the, who's your supervisor in charge?

1 A. My current supervisor is Jason Dowdy.

2 Q. And, and is, is it D-O-W-D-Y?

3 A. D-O-W-D-Y, yes.

4 Q. Okay. And what - is he a sergeant?

5 A. He is, yes, sir.

6 Q. Okay. Now, is, is he the, is he the sergeant in charge of
7 the Traffic Section, or is there a lieutenant above him?

8 A. He is in charge of our unit. The lieutenant above him is
9 Sergeant - or sorry. Lieutenant Steve Carpenter. It's actually
10 Stephen, S-T-E-P-H-E-N.

11 Q. And does, does Lieutenant Carpenter have duties other than
12 supervising the Traffic -

13 A. Yes.

14 Q. - Unit?

15 A. Yes. So, he's also - Lieutenant Carpenter is also
16 responsible for the SRO program. I'm trying to remember, I think it's
17 S-R-O in Traffic that he oversees.

18 Q. Okay.

19 A. Now in the past, and it's gonna be a little confusing, and
20 I apologize. In the past, our section also had Motors and DUI all in
21 one house. So, it was Motors, Traffic and DUI.

22 Q. Uh-huh.

23 A. You may have read the department de-centralized that and
24 sent those individuals out to the districts. So, we're calling the
25 District Motors District DUI, -

1 Q. Okay.

2 A. - DUI Units. The person who's in charge of the DUI
3 checkpoints and overseeing the grant functions associated with that is
4 Sergeant Dawn Barkman.

5 Q. Okay.

6 A. Okay? Now there is, there is rumored talk that they may
7 re-centralize, in which case, we would all be back under the same
8 house.

9 Q. Okay.

10 A. In fact, this is Sergeant Barkman's old office, or desk.
11 This is what we're seated.

12 Q. All right.

13 A. Okay? So, she is still responsible for the DUI
14 checkpoints. She's the one that sets them up, gets permission from
15 the department to do them at wherever locations. She's the one that
16 produces the power points, collects all the, the sign-in sheets that
17 we, we do for each checkpoint.

18 Q. Okay.

19 A. If, if that helps you. I don't know.

20 Q. Yeah. That's good. So, how, how - just, just talking now
21 about sobriety checkpoints, approximately how many of those do you
22 participate in per year? Or have you since 2007?

23 A. (Inaudible) ten, fifteen. I, I'm guessing. (Inaudible) we
24 did 20 a year times ten years.

25 Q. Okay. So, you do, you do a little less than two a month?

1 A. During December, we do one every week, -

2 Q. Okay.

3 A. - right?

4 Q. Yeah.

5 A. So, I mean, like I say, it's a total guesstimate.

6 Q. Okay.

7 A. And like I say, I was injured for - I had to have knee
8 surgery at some point, so, I, I think I was, I was allowed to
9 participate in some of the checkpoints. Not, not on the line, 'cause
10 it was light duty. But I was there like an administrative officer
11 kind of thing. But I would say 200's probably a guesstimate.

12 Q. Okay. Now how about - how long have you been participating
13 in Operation Stone Garden?

14 A. Hmm. I don't think I ever did Stone Garden when I was in
15 Patrol. So, like that three-year period, I don't think I ever did
16 Stone Garden. I could be wrong. But I don't really remember being
17 able to just because of the shift.

18 And to be honest with you, so, one of my field training
19 officers, I think during field training, he said something about doing
20 Stone Garden. And I was completely oblivious to why are you going
21 out? I mean I had no clue what it was.

22 Q. Uh-huh.

23 A. Now our, our schedules in Traffic are a little bit more
24 flexible, and it allows us a little bit of opportunity to do some of
25 these extra things. So, I would say in Traffic, once I joined

1 Traffic, I mean my, my goal, my personal goal was to do one Stone
2 Garden a month.

3 Q. And is that what you've done?

4 A. I mean if you, if you measured all of them, if you were
5 able to get the records for all of them, that's probably about right.
6 I don't know that if I, I don't know that if I've been successful
7 actually keeping up that, that, that goal, -

8 Q. Uh-huh.

9 A. - or that, that level, but -

10 Q. Uh-huh.

11 A. - I would say it's probably close to that.

12 Q. Okay. And that would have been since - has it been
13 operating since 2007 as far as you know?

14 A. I think -

15 Q. It was operating before you -

16 A. It was operating -

17 Q. - went into Traffic?

18 A. Yeah. It was operating when I think - when I started with
19 the department, so, -

20 Q. Okay.

21 A. - I think it's been around for a pretty long time.

22 Q. Now, tell me what, tell me what you do when you're, when
23 you're working a Stone - oh. Well, let me ask a couple of other
24 questions first. Who in your department supervises doing operation
25 Stone Garden deployments?

1 A. At the time was Lieutenant Clements. So, he's now retired.

2 And -

3 Q. That was until when?

4 A. He -

5 Q. He runs it 'til when?

6 A. He retired a couple months ago.

7 Q. Okay.

8 A. Yeah.

9 Q. Basic - roughly the end of 2017?

10 A. I think so. I don't remember exactly when he retired, but

11 yeah.

12 Q. And do you know who's in charge of that program for the

13 Customs and Border Patrol, or who has been?

14 A. You mean at, at the federal agency?

15 Q. Yeah.

16 A. No clue.

17 Q. Okay. And who's your, who's - have you had a consistent

18 immediate supervisor while you've been working Operation Stone Garden,

19 or does it vary by deployment?

20 A. It varies every deployment.

21 Q. Okay. And tell me, tell me what you - tell me what your

22 duties are when you're operating as part of an Operation Stone Garden

23 deployment.

24 A. So, the way I have understood it is our goal is to go out

25 and do as much, do as many traffic stops as possible. Do enforcement

1 as needed. Do - go find drugs, go find people, go find money. And my
2 current understanding, or at least, at least at the time or more
3 recently, my understanding was that our role in doing Stone Garden is
4 to help the Border Patrol push the drugs and the people off the
5 roadways.

6 And the, the concept is, if you push them off the roadway
7 and into the desert, that's where Border Patrol really prefers to
8 apprehend those types of people, is that it makes it easier for them
9 to do those kind of desert operations, and they have a better success
10 rate at doing so.

11 So, in other words, me just driving my car up and down the,
12 the highway, to, to them, and the way I understand it, is that makes a
13 difference to them in that it, it pushes those people off the road
14 potentially.

15 Hey, there's a spotter, there's a spotter watching for
16 cops, and he starts calling in and he says, "Hey, the, the sheriff is
17 out running, running this highway. Don't run your dope load through
18 here right now. He's there," that, that kind of stuff.

19 Q. Okay.

20 A. Now I've been to Ajo several times during Stone Garden
21 there as well. And I think on one occasion, only one occasion I've
22 ridden with the Border Patrol agent. He took me out into the desert
23 into some of the mountain areas, and he was starting to point out, and
24 he goes, "See that area up there? There's a spotter up there watching
25 us."

1 Now, obviously, Ajo is a lot closer to the border than we
2 are here, but it was kind of interesting from not just a cop
3 perspective, but like, so, I don't even - I couldn't even be a tourist
4 in this area, 'cause it's that dangerous. So, from those standpoints,
5 we, we can make a difference in those areas.

6 Q. Okay.

7 A. Now, because I'm a Traffic deputy and I enjoy stopping cars
8 and doing enforcement, Stone Garden is kind of a natural (inaudible)
9 for me. So, if somebody says to me, "Hey, you can go out and stop as
10 many cars as you want," woo-hoo.

11 Your average patrol deputy might not feel the same way.
12 They, they might try to make some stops, look for some stuff, but I'm,
13 I'm definitely more goal-driven in that area.

14 Some deputies really like finding drugs. So, you might
15 have a deputy who's really good at, at, you know, watching and looking
16 for a car that he suspects might have drugs in it. My thing has
17 always been I just like making stops. I like making contacts.

18 We're a - there's no quota in our department, never has
19 been one. It has always been one of those, I can stop as many cars as
20 I want. And so part of Stone Garden for me is just the, the part of
21 the joy of being able to do that.

22 Q. Okay.

23 A. So, like let me give you an example. Right now, I'm kind
24 of behind a desk. I have a caseload. I have 35 cases. I have a huge
25 caseload right now, I don't really get to go out and do enforcement

1 today, 'cause I'm too busy doing caseload. And I'm teaching this
2 afternoon.

3 So, Stone Garden gives me an opportunity to - it's like a
4 bonus day. I get to go out and do what I enjoy to do, and that's
5 working in the field. Go stop cars. Does that kind of make sense?

6 Q. Yeah. So, let me ask you this. What kind of - first of
7 all, do you know how you get paid while you're working for Stone
8 Garden?

9 A. Sure. We get paid overtime.

10 Q. And do you know where the money comes from?

11 A. No idea. Assuming - let me rephrase that. I know it comes
12 from the federal government. Where in the federal government, I have
13 no idea.

14 Q. It's a federal grant program where money flows to Pima
15 County Sheriff's Department somehow through -

16 A. As far as -

17 Q. - federal government.

18 A. Yeah, to the best my knowledge.

19 Q. So, that's generally what you know?

20 A. Yeah.

21 Q. What, if any, specialized training have you had to act as
22 an officer under the Operation Stone Garden grant program?

23 A. I'm not aware that there is any requirement for specialized
24 training. The only one - the only Stone Garden operation that I can't

1 participate in, that I want to participate in, was in Ajo. And that's
2 out at the port-of-entry.

3 Q. Uh-huh.

4 A. They do a, like a - I can't remember what they call it.
5 It's like a port training for the deputies so that you could
6 physically go work at the port.

7 Q. Uh-hu8h.

8 A. I don't have that training.

9 Q. Okay.

10 A. That's the only thing I don't have that I wanted because
11 that allows you to go work at the port and do stuff there. But since
12 I don't have that, I can't.

13 Q. Now what, if any, kind of cooperation do you have? You
14 said that at least on one occasion you had, you did a ride-along with
15 one of the Border Patrol agents. What kind of cooperative arrangement
16 do you have with Border Patrol when you're working Operation Stone
17 Garden?

18 A. Well, I'll go - I, I go out to the particular checkpoint in
19 question a lot.

20 Q. Uh-huh.

21 A. So, there would be a lot of Stone Gardens that I would
22 actually go there. At one point, we were actually assigned to that
23 checkpoint for the day. And, and, you know, hopefully we can talk
24 about that specifically at some point, 'cause I'd really love to talk
25 about that.

1 But some of the agents appreciate us very much at that
2 particular checkpoint. There was one supervisor who, when, when I
3 showed up one time, and I don't remember his name. He's an older
4 supervisor. But he basically, he called in to verify that I could
5 stay there.

6 Q. A supervisor. Was that a sheriff's deputy?

7 A. No, sir. Border Patrol.

8 Q. Was that sheriff's department?

9 A. No, sir. Border Patrol supervisor.

10 Q. He called in to see whether it was okay for you to, to
11 station yourself at the checkpoint?

12 A. Yes.

13 Q. Do you remember who that supervisor was?

14 A. Like I said, I do not. He's a, he's a more elderly one.
15 Don't remember this name.

16 Q. And was that at the, the, the checkpoint that was involved
17 in this case?

18 A. Yes, sir.

19 Q. Okay. And do you know approximately when that was? Was
20 that fairly early in your participation in, in Operation Stone Garden?

21 A. Couldn't tell you. I don't remember.

22 Q. Okay. And, and whoever he called, the report you got back
23 from him was that it was fine for you to -

24 A. Yes.

25 Q. - be stationed at the checkpoint?

1 A. Yes. So, since we're here, I mean I might as well just
2 kind of finish my thought process here.

3 Q. Uh-huh.

4 A. I've actually gone to that checkpoint, not on Stone Garden.
5 I've gone there just to go work it.

6 Q. Uh-huh.

7 A. I think actually myself and a couple colleagues went there
8 one day. What we're - what we heard from the folks that work at the
9 checkpoint is that people are speeding come in. So, people coming,
10 basically, from their reservation, traveling eastbound, were speeding
11 into the checkpoint.

12 And I would hope that all of us would agree that we're
13 standing outside. We could get killed or hurt from somebody driving
14 that way. So, we would go do flag-downs at the checkpoint. We would
15 do speed enforcement. We would do whatever, whatever (inaudible) find
16 enforcement.

17 Q. And, and that would be you've done that at times when you
18 were on regular duty status, regular pay -

19 A. Yes, sir.

20 Q. - just as a regular sheriff's deputy. You've gone out
21 there and done traffic enforcement?

22 A. Yes, sir.

23 Q. And, and based on whatever it is your supervisor does in
24 terms of assigning you to duties, your supervisor at any time could
25 assign you to patrol the highway near or at one of these checkpoints?

1 A. Yes.

2 Q. If it was, if it was in Pima County?

3 A. Yes. Our particular unit is - we're allowed to go
4 everywhere. We are not tied to any one particular location. So, if I
5 woke up this morning and said, you know, I really want to go work the
6 north side, I could do that.

7 Q. Okay.

8 A. Tomorrow I want to go work the east side, I could do that.
9 Now there are times when maybe the sergeant or somebody in the
10 department says, "Hey, can you guys work this area specifically
11 because we're having some type of problem."

12 Q. Okay.

13 A. We would call that a MOP projection, like a mission-
14 oriented policing. So, I'll give you a good example. What is it?
15 Fort Lowell and Conestoga out on the east side. There's a gentleman
16 out there who calls and complains about speeders.

17 So, we go over there and we, we, we enforce. And we're
18 fairly heavy-handed when it comes to that because we're getting a
19 citizen complaint about that kind of issue.

20 Q. Uh-huh.

21 A. So, we, we tend to be fairly heavy-handed. We, we stop a
22 car, you're going to get a ticket because you're speeding, right? And
23 that's, that's why we were there in the first place.

24 So, some of, some of our enforcement is based off of that.
25 Some of our enforcement is based off of knowing areas where we see

1 consistent violations. So, I'll give you an example. Palo Verde and
2 44th.

3 Q. Let me, let me interrupt.

4 A. Sorry.

5 Q. I appreciate the examples -

6 A. I, I'm trying.

7 Q. - but I've got a lot of questions here that I need to - I
8 need to kind of focus.

9 A. Sorry.

10 Q. And -

11 A. Okay.

12 Q. - got a little bit off-track there.

13 A. Okay.

14 Q. So, let me ask you this. When you work Operation Stone
15 Garden, do you have any particular briefings before, before you start
16 one of those deployments?

17 A. In Tucson, no. In Tucson, at this point, now what we're
18 doing is we're actually calling in before we start. We're talking to
19 the watch commander, and the watch commander is giving us our
20 assignment.

21 Q. And who is the watch commander?

22 A. It changes every time we call.

23 Q. Do you remember who it was on the date when you stopped Mr.
24 Bressi?

1 A. I don't remember. It would have been - if, if we were. I,
2 I'm assuming we were doing it that time. If we were doing it, it will
3 be in the paperwork that we submitted.

4 Q. Would, would it have been your supervising sergeant?

5 A. No, sir. So, it's a Border Patrol watch commander.

6 Q. Oh. Okay. The watch commander -

7 A. Yeah. Sorry.

8 Q. - for Border Patrol.

9 A. Yeah.

10 Q. Okay. So, run that through for me again. So, you report
11 in to the watch commander before you, you start a deployment?

12 A. In Tucson, yes. Telephonically, you contact the Border
13 Patrol watch commander, and he tells you what area to work.

14 Q. Okay. All right.

15 A. So, it used to be that we would have an area that we would
16 know that we were working ahead of time. So, when we signed up for
17 Stone Garden, for example, you would know the area you're already
18 working.

19 Q. Okay.

20 A. They have changed that, they have changed that to designate
21 where they want us to go.

22 Q. And so sometimes you're, you're asked to do patrol duties
23 on the highway, and I guess on other occasions you're asked to
24 position yourself at the checkpoint?

25 A. Yes.

1 Q. Okay. When you're patrolling the highway, do you ever
2 patrol, not in the same car, but, but with Border Patrol agents?

3 A. So, the - I think the Ajo District, when they do it, they
4 do sometimes pair up. But in - since I've been doing this, I've
5 paired up one time, and that was in Ajo.

6 Q. Okay.

7 A. That was never here.

8 Q. Now if you stop somebody and you suspect they may be
9 transporting other people or narcotics, does Border Patrol ever assist
10 in those stops?

11 A. People, yes. Narcotics, narcotics, not necessarily. I
12 mean if we're at the checkpoint, and we find something, there - and
13 there's no other deputies there, and we need help, they're going to
14 help us. But with the investigative side, not necessarily. It would
15 have to be something that would spur them into action, so to speak.

16 Q. Okay. Now did they ever use - does the Border Patrol ever
17 assist you in terms of using Border Patrol canines to help you with
18 searches?

19 A. If we ask for one, they would, I'm sure.

20 Q. Okay.

21 A. Now, they are running a dog at the checkpoint frequently,
22 but that's their, that's their thing.

23 Q. Uh-huh.

24 A. So, I don't know. I'm trying to remember if we've ever
25 used one of their dogs. I think I might have used one of their dogs

1 when I was in patrol, not related to Stone Garden - related to chasing
2 someone or something like that. So, totally unrelated to anything
3 Stone Garden. That was a long time ago.

4 Q. Now has, has either the Sheriff's Department or the Border
5 Patrol given you any specific training materials with regard to the
6 Operation Stone Garden program?

7 A. Materials, no. And I don't know that I've ever received
8 any specific training or anything like that.

9 Q. Have you ever received any immigration training as part of
10 your work as a sheriff's deputy or as part of the Operation Stone
11 Garden deployment?

12 A. Other than the SB-1070 training, no.

13 Q. What was that training related to?

14 A. That was when SB-1070 came out, AZ-POST put a video thing
15 out - wasn't very good.

16 Q. Okay. Are you familiar with the immigration laws of the
17 United States?

18 A. Not really.

19 Q. Okay.

20 A. I mean, do you have anything more specific you can ask? I
21 mean, don't, don't come into our country illegally. I mean if you had
22 something -

23 Q. Well, let me just ask you this. Have, have - it sounds
24 like you haven't gotten any training materials, and nobody's
25 specifically sat down with you and trained you on the Immigration and

1 Nationality Act, or the, the legal authorization for Customs and
2 Border Patrol to conduct law enforcement operations in the United
3 States.

4 A. That's probably fair to say.

5 Q. Okay. What's the chain of command when, when you're, when
6 you're operating the Operation Stone Garden?

7 A. We have a sergeant that's assigned as our supervisor for
8 that day.

9 Q. Okay. And do you know what his interaction is with the
10 Border Patrol watch commander?

11 A. I - other than assuming that he does the same thing that we
12 do and calling in and getting an assignment, no, I do not.

13 Q. Now, there's additional paperwork requirements with
14 Operation Stone Garden, aren't there?

15 A. Other than our regular patrol day? Yes.

16 Q. Yeah. Tell me what those are.

17 A. So, at this point - and I believe at this time, we were
18 submitting basically a daily sheet of all stops. So, that - what
19 entails is a (coughing), excuse me. Sorry. So, we're producing a
20 list of vehicles, and list of people.

21 So, for every stop I would make, I would put the vehicle
22 down, vehicle information, and then that person down. We would
23 provide a narrative, very short brief narrative almost like a, just
24 kind of almost a summary, and very, very short. If we made any type
25 of arrest. If we're writing tickets.

1 Generally, what I would do is just put, you know, put down
2 what the violation was - stopped for speeding, cited. Or, you know,
3 stopped for speeding, warned. Those, those kinds of things.

4 Q. And then do you know where those reports go? And I, I,
5 I've seen them referred to as Daily Activity Reports, does that sound
6 accurate?

7 A. A DAR. Yeah, I think that's correct.

8 Q. Okay. Do you know where those, where those reports go?

9 A. I do not. I think the Ajo District folks are responsible
10 for taking care of that and providing that to Border Patrol, or
11 whoever they provide that to. But other than that, I don't know, sir.

12 Q. Okay.

13 A. And I, and I should add that, that D-A-R thing also
14 includes some statistics. Our unit collects quite a few different
15 stats because of the GHS grant money we receive. But for Stone
16 Garden, you're, you know, you're recording some statistical data. So,
17 number of stops, number of citations, number of -

18 Q. Yeah.

19 A. - arrests, drugs things of that nature.

20 Q. So, since, since we're there, I want to ask you some
21 questions about that. Have you ever seen this - these reports?

22 A. No. I've never seen this one, no.

23 Q. Okay. And what I'm showing you is what I understand to be
24 statistical summaries of the sheriff's department's participation in
25 Operation Stone Garden, and it's for the years 2012 through 2017.

1 But if you could just look at the headings at the top. Does that
2 sound, does that look like - similar to the information that you're
3 requested to document in these Daily Activity Reports?

4 A. Some of it is. So, for example, the - let's see here.
5 Traffic stops. Citations issued. Misdemeanor arrests. Felony
6 arrests. Stolen vehicles. I think the pursuits and port runners
7 might be on there. The number of narcotic seizures. And then they
8 have the weights of marijuana, meth, cocaine, heroin. They have an IA
9 turned over to BP.

10 Q. What's that mean?

11 A. Not sure. It might be an undocumented or illegal alien.
12 IA would make sense - illegal alien. Number of Intel events, number
13 of cases. Vehicle seizures. I think the U.S. currency might be on
14 there, weapons, and I don't remember the ammunition being on there,
15 but it might be.

16 Q. When it says number of cases, what does, what does "cases"
17 mean?

18 A. So, for us, if I, if I do a civil traffic infraction, write
19 a ticket for that, I don't generate a case number. But if I make an
20 arrest, or something where I'm gonna do a case report, then that
21 becomes a, a case.

22 Q. Okay.

23 A. Yeah.

24 Q. Now traffic stops could either be on the highway or at the
25 checkpoint, is that right?

1 A. Yes, sir.

2 Q. Okay. Now in terms of - so when you, when you operate a
3 sobriety checkpoint, you've got a power point that you've been trained
4 on. You've got certain - there's policies that govern sobriety
5 checkpoints, is that right?

6 A. Yes. I mean, let's be honest. It's a, it's a hotly-
7 contested DUI, hotly contested by everybody.

8 Q. Uh-huh.

9 A. It's something that every defense attorney, every County
10 Attorney, every - all of us have to participate in that process.

11 Q. Now, are there any policies, to your knowledge, regarding
12 your participate in checkpoints that are operated by the Border Patrol
13 as part of Operation Stone Garden?

14 A. Say, say it again.

15 Q. Are there any sheriff's department policies that govern the
16 op- -- your participation in checkpoints that are operated by the
17 Border Patrol?

18 A. No, sir. I'm not aware of any, any regulations.

19 Q. And no power point that you've ever seen?

20 A. No, sir.

21 Q. Okay. Do you ever have any periodic briefings with regard
22 to your participation is operation Stone Garden?

23 A. The only briefings I've attended have been in Ajo. So,
24 when you work in Ajo, Stone Garden deployment, there is a, what they
25 call a muster. It's fancy word for briefing.

1 Q. Uh-huh.

2 A. There is a briefing. They have not been - to some extent,
3 there - part of it is a deployment of their personnel. And sometimes
4 they may, may talk about some intelligence-based events. I have not
5 found them to be all that insightful for my purpose, though.

6 In other words, they're not - it doesn't necessarily
7 benefit me to go to those, I guess is kind of what I'm trying to get
8 at.

9 Q. Okay. Now when you're, when you're working Operation Stone
10 Garden, I think you've already described what you do. You do traffic
11 enforcement, and stop as many cars as you can stop during a, during a
12 deployment?

13 A. Yes.

14 Q. Okay. And do you do any - anything of what I would call
15 immigration enforcement?

16 A. Not -

17 Q. Question drivers regarding their, their citizenship or
18 nationality?

19 A. Not necessarily. What I've always kind of relied on is
20 what, what do they provide me? When someone hands you a driver's
21 license, and it's a U.S. driver's license, it's a pretty good clue
22 that they're probably here legally.

23 Arizona will not issue a driver's license to someone that's
24 here illegally, right? If someone hands me a Mexican voter

1 registration card, and that is the only document they possess, that's
2 usually not a good indicator.

3 If they have a Sonoran driver's license. If they have a
4 visa, it's a pretty good indicator that everything's okay. You have
5 to make those judgment calls. If, if I'm speaking to someone and they
6 are acting suspicious - it's a case-by-case basis.

7 Q. And if, if you think that there, there may be a possible
8 immigration violation while you're working Stone Garden, what do you
9 do?

10 A. Call Border Patrol.

11 Q. Okay.

12 A. Have them come over and make that determination.

13 Q. Okay. I had a question from, from the statistics. It
14 shows - I'm just picking a date is 2012, the first entry on this
15 document.

16 It says, "2,118 traffic stops, with 374 citations issued,
17 90 misdemeanor arrests, 18 felony arrests, stolen vehicle pursuit, 12
18 narcotic seizures." What would account for the, looks like, 15 to
19 1800 traffic stops where no citation was issued, no arrests were made?

20 A. Well, so, sometimes maybe we're trying to be nice. I don't
21 write a ticket for every stop I make. So, I stopped a lady from Texas
22 yesterday on the way home. She was speeding in a construction zone.
23 I gave her a warning.

24 So, in that case, there's no citation issued, but there's a
25 traffic stop that happens. That happens a lot. Maybe a deputy

1 decided to stop a car for doing five over. No reasonable person
2 would, would write a ticket in that, in that environment normally.

3 Q. Are there any records kept of what the nature of those,
4 those stops are?

5 A. Probably not in 2012. But whenever they started making us
6 to the updated DAR with the narrative portion, there, there was a lot
7 more documentation. Now I do it that way. So, if I stop a car and I
8 just do a warning, it'll say that on my, my documentation.

9 Q. Okay.

10 A. I don't - I can't say that's, that's how everybody else
11 does it.

12 Q. So, for every stop you've been making for - since when?

13 A. Don't remember. Whenever they changed the form.

14 Q. Okay. So, at some point, they changed the form so that you
15 needed to document what the reason for the traffic stop was.

16 A. Not, not even that. It was more, just they wanted the
17 vehicles and the people. I have just taken it upon myself to put that
18 extra information in there.

19 Q. Okay. So, that's not information that's demanded by Border
20 Patrol. It's just information that you voluntarily put on the form
21 when you submit your D-A-R's?

22 A. Yeah. I don't even know what, I don't even know what they
23 do with the information.

24 Q. Okay.

1 A. I don't know if they put it in a data base somewhere, or if
2 they somehow keep track of it. I don't know if it was accountability
3 for us, like - so, I've told you I'm fairly aggressive. You have some
4 deputies that are not that aggressive, -

5 Q. Uh-huh.

6 A. - you know? They, they might not make that many stops, and
7 they, they were trying to make sure that we were keeping active,
8 right?

9 Q. How do they - they monitor that by the, by the number of
10 stops that are being made. Is that (inaudible)

11 A. I don't know how they monitor it. So, you know, in the DUI
12 world, when we do DUI saturation patrol, you know, the, the sergeant
13 makes that determination. And their, their goal is to motivate us to
14 go out and do stuff, right?

15 Q. Uh-huh.

16 A. "Go do work, guys," you know? You're out to try and find
17 impaired drivers. In order to do that, you gotta stop cars. So, if
18 you have a deputy that's not stopping cars, well, why are we - why do
19 we have you here, right?

20 Q. Right.

21 A. So, I mean, the same principle applies, but I think it's
22 sergeant by sergeant, you know, depends upon what's going on. If you
23 make a stop, and you make one stop during Stone Garden, but you got,
24 you know, 800 pounds of marijuana, you're okay, right? (Inaudible)

25 Q. Right.

1 A. But, you know, if you make one stop in eight hours, and you
2 didn't, you didn't write a ticket or do anything, that, that changes
3 how they look at it.

4 Q. Okay.

5 A. I mean, and I say that from a deputy perspective -

6 Q. Right.

7 A. - who looks at other deputies and goes, "Why aren't you
8 doing anything?" So, I'm not looking at it as a sergeant, I'm just
9 looking at it from my, my own perspective. "Why are we paying you to
10 do this if you're not doing anything -,"

11 Q. Right.

12 A. - right?

13 Q. Now let me ask you this. When you're deployed at the
14 checkpoints, what are you supposed to do there?

15 A. If we're deployed at the checkpoints, so, we'll - I'll do
16 everything from enforcement to assisting Border Patrol. So, for
17 example, Border Patrol stops a car. Let me rephrase that. They have
18 it pull into the secondary area. We'll just say that the dog alerts.
19 They pull the car over. Border Patrol - and I, I kind of
20 stand off. I just kind of stand to the back. I'm not participating.
21 They do whatever investigation they, they do based on their, their,
22 their protocols, and they find a small amount of marijuana. They
23 don't, they don't handle that, right? I mean, the, the Attorney
24 General's Office, U.S. Attorney's not gonna handle -

25 Q. Uh-huh.

1 A. - a small amount of personal use. So, luckily, I'm there.

2 "Hey, Deputy Roher, come on over." And, you know, then I will provide
3 them with that assistance. I will take over at that point, and issue
4 any citations that need to happen. And that's happened a few times.

5 Q. Okay. So, you - at their request, you provide assistance
6 in doing what I would refer to as general law enforcement?

7 A. Sure.

8 Q. Outside of immigration.

9 A. Yes. Absolutely. So, one of the other things is - I mean,
10 I can give you another example. Let's say we're not at the

11 checkpoint. Let's say we're not doing Stone Garden. The Border
12 Patrol will have a driver come through that appears impaired to them.

13 They will call us and say, "Help. There appears to be an
14 impaired driver here." So, we'll come out and do - we'll, we'll take
15 over at that point.

16 Q. Right. It'd be no, no different than me driving down the
17 road and I see somebody weaving all over the road, and I call 9-1-1.

18 A. Absolutely. The only difference is, you haven't detained
19 them. They have, -

20 Q. Right.

21 A. - right? And that's, that's the primary difference. So, -

22 Q. Okay.

23 A. - unless you've been doing that. I don't know.

24 Q. No, I don't do that.

25 A. Sorry. I just try to be nice. I'm -

1 Q. No, I appreciate it. I, I'm just trying to thorough.

2 A. I understand. I'm just try to be a human, that's all.

3 Q. Now do you know whether or not when Border Patrol is
4 operating a checkpoint, whether the motorists are required to answer
5 their questions?

6 A. Well, based on my knowledge, when they roll the window down
7 and ask, "Are you a citizen," my understanding is, yes. But don't
8 know - I don't know that for 100%. To be honest with you, I don't
9 know that I've ever seen anybody not answer that question, 'cause it's
10 a simple question.

11 Q. Right. But, but whether they have a duty to do that or
12 not, you don't know?

13 A. Don't honestly know.

14 Q. Do you know whether or not a motorist's failure to answer a
15 question at a checkpoint would give the Border Patrol reasonable
16 suspicion or probable cause for any kind of violation?

17 A. I don't know that for sure. I would assume it probably
18 does, given the fact that we're dealing with federal agents as opposed
19 to, you know, like us at a DUI checkpoint.

20 Q. Do you know what violation, if any, a failure to answer a
21 question would constitute?

22 A. Don't know, sir. Not necessarily a violation, but gives
23 them rise to have them move over in the secondary area.

24 Q. So, has a Border Patrol, has a Border Patrol agent, while
25 you've been working Operations Stone Garden ever told you that a

1 motorist's failure to answer a question gives them reasonable
2 suspicion to detain them in secondary?

3 A. No, sir.

4 Q. Has, has Border Patrol ever given you any information about
5 how they're supposed to be trained to deal with uncooperative
6 motorists at a checkpoint?

7 A. No idea what they do, other than (inaudible) videos I've
8 seen.

9 Q. Do you know many deputies participate in Operation Stone
10 Garden?

11 A. No.

12 Q. Do you - you don't have any cross-certification to act as a
13 federal immigration agent, do you?

14 A. No, sir.

15 Q. Do you - does your department ever give you any feedback in
16 terms of statistics on the number of traffic stops you personally have
17 made as part of Operation Stone Garden?

18 A. Not in an official capacity, no.

19 Q. Now is there any distinction in the Daily Activity Reports
20 as to whether the traffic stop was made on a highway or at the
21 checkpoint?

22 A. No different, no.

23 Q. And would there be anything in your Daily Activity Reports
24 that would indicate whether the stop was made at the checkpoint or on

1 the highway? I guess there might be a milepost marker, or would that
2 even be on the Daily Activity Report?

3 A. I don't think that's on there.

4 Q. So, over the, over the, let's say ten years you've been
5 working Operation Stone Garden, -

6 A. Uh-huh.

7 Q. - if the department provided you with all the Daily
8 Activity Reports, it might be difficult for you to distinguish which
9 were highway stops and which were checkpoint stops?

10 A. There's a probably a couple times I could tell you based on
11 volume of stops. I know one, one time when we actually designated for
12 the full eight hours at the checkpoint, I think I made almost 30
13 stops.

14 Q. At the checkpoint?

15 A. Yes.

16 Q. Okay.

17 A. So, would not anticipate seeing that kind of volume on a
18 driving day.

19 Q. And, and those stops could be anything from suspicion of
20 actual criminal activity to traffic violations or even equipment
21 violations?

22 A. Yes, sir.

23 Q. Okay. Oh. What - how long is a typical deployment? Is it
24 an eight-hour shift?

25 A. It's an eight-hour shift, except if you're doing Ajo.

1 Q. What's Ajo? Oh, you got travel time?

2 A. Yes, sir.

3 Q. So, is that like a 12-hour shift?

4 A. I think it's twelve and a half.

5 Q. Okay.

6 A. But it's an eight-hour - it's still an eight-hour Stone
7 Garden shift.

8 Q. Right. But you'd have an additional four-plus hours for
9 travel time and maybe -

10 A. Yes.

11 Q. - meal break or something like that?

12 A. Yeah. They don't give us meal breaks, so, it's (inaudible)

13 Q. Has the - do you have a - is there any person designated
14 for the Stone Garden deployments as a Customs and Border Patrol
15 contact for the sheriff's deputies?

16 A. No, other than just contacting the watch commander back
17 which you might end up with a different person every time you call.

18 Q. Okay.

19 A. But there's not someone that we would specifically go,
20 "Hey, I'll call Joe today."

21 Q. Now, -

22 A. That's not how it works.

23 Q. Now is there any - how about at the checkpoints? Is there
24 any - is any particular Border Patrol agent designated as being in

1 charge if you had questions about anything regarding your duty while
2 you're working at the checkpoint?

3 A. If, if I needed supervisory exper- -- or there's usually a
4 supervisor. So, I mean you, you can tell them by their bars on their,
5 their uniform.

6 Q. Okay. Now on the day that Mr. Bressi's incident happened,
7 how many sheriff's deputies were, were deployed at the checkpoint?

8 A. Just me.

9 Q. Just you?

10 A. Yes.

11 Q. Was your sergeant there or was he somewhere else?

12 A. He was somewhere else.

13 Q. Do you know how these, how these deployments are planned?

14 A. Nope.

15 Q. Do you know who's in charge of planning them?

16 A. It's one of the Ajo sergeants, I believe.

17 Q. One of the Ajo sheriff's department sergeants?

18 A. Yes. I believe. I don't know if they plan it, or if the
19 lieutenant in Ajo makes that determination.

20 Q. Do you know who the lieutenant in Ajo is?

21 A. It's currently Lieutenant Koumal. It's K-O-U-M-A-L.

22 Q. And is there - has there been a consistent sergeant
23 assigned, or -

24 A. They, they rotate who it is.

25 Q. Okay. Do you know who it is currently?

1 A. No. Actually, Stone Garden's not on right now because of
2 the federal government's budget issues.

3 Q. Okay. Other than basically directing where the deployments
4 are going to take place, do you know what the watch commander does,
5 what his role is?

6 A. At the Border Patrol?

7 Q. Yeah.

8 A. No clue.

9 Q. And typically, your, your contact with the watch commander
10 would just be to phone in to find out where you were supposed to be
11 deployed?

12 A. Yes, sir. So, what we're supposed to do is phone in when
13 we start, and phone in when we end.

14 Q. Okay.

15 A. To let them know that we're - I don't know if it's
16 accountability to make sure we're still alive, or if they're just - if
17 - I, I really don't know.

18 Q. Okay. Is it - does the department separately keep track of
19 your overtime pay that you get through Operation Stone Garden?

20 A. Sort of.

21 Q. Tell me what, what - how that, how that occurs.

22 A. I'd actually direct you to the finance folks, and they can
23 answer that question.

24 Q. Okay.

1 A. I'm not really sure why I'm being asked about money and I'm
2 not really sure what that has to do with this. So, I would direct you
3 to them for any financial questions.

4 Q. All right. Do you know how the distinction is made whether
5 you're gonna be deployed to a checkpoint or do highway patrol with
6 regard to Operation Stone Garden?

7 A. No. So, in the past, that was a specific assignment for
8 the day. And now it's more of a - it's more of one of the deployment
9 (inaudible) that they may send you to.

10 Q. Okay. Do you know whether or not zero tolerance traffic
11 patrol is one of the policy requirements of the Operation Stone
12 Garden?

13 A. No. I'm not aware of that.

14 Q. You didn't receive any particular certification to
15 participate in Operation Stone Garden, did you?

16 A. Correct. I did not.

17 Q. Now in the, in the report that you wrote regarding this
18 incident, you indicated at the time that you came into contact with
19 Mr. Bressi, that you were familiar with his website videos and
20 previous interactions at the roadblock. How were you familiar with
21 that information?

22 A. I don't know how I became aware of him. I don't know if
23 it's just through searching, but I knew he had a checkpoint U.S.A.
24 website or something like that. I knew what he'd had an issue with,

1 he'd had an issue with Deputy Fenn (ph.), Deputy Wren (ph.), and had
2 put a video up of interaction with her.

3 One of my colleagues who's actually in my unit had actually
4 written him a ticket at the checkpoint as well at some point. And
5 that was Deputy Avila.

6 Q. Do you know what that ticket was for?

7 A. I want to say it was for using his horn.

8 Q. So, you also knew from before you had contact with Mr.
9 Bressi that night once you - or that day - once you saw him, you were
10 also aware of where he was employed, right?

11 A. Yes.

12 Q. And where is that?

13 A. The U of A, specifically Kitt Peak.

14 Q. Okay. Did you have any question about what his citizenship
15 or nationality was?

16 A. Nope.

17 Q. You knew he was a U.S. citizen?

18 A. Yes, sir.

19 Q. Okay. Now do you know whether or not his - the information
20 you got from Mr. Bressi came from any briefing you had related to
21 Operation Stone Garden, or did it come from Border Patrol deputies, -

22 A. Ask your question -

23 Q. - Border Patrol agents?

24 A. Sorry. I don't understand.

1 Q. How did you initially get information that, that Mr. Bressi
2 had a website and was keeping videos about these checkpoint
3 interactions?

4 A. Like I said, I'm not sure how I came to know about it. I
5 don't know if it was because of mention of him coming through the
6 checkpoints and the difficulty he's provided, or maybe, maybe somebody
7 mentioned it at some point. So, I've, I've heard BP agents talking
8 about him in the past, and the difficulties he's promoted when he
9 comes through.

10 Q. And you've heard about that before he was stopped that day?

11 A. Yes.

12 Q. Okay.

13 A. And I had no idea what car he was in, so -

14 Q. Do you know whether you watched the - and you've watched
15 some of the video that's on his website, right?

16 A. Yeah.

17 Q. Do you know whether you did that on duty or off duty?

18 A. Off duty. I, to be honest with you, I'm extremely curious
19 about him. I find some of his thought processes to be interesting.
20 Don't necessarily agree with him, but some of the stuff that he's
21 produced is kind of interesting. I don't blame him for believing the
22 way he does, but part of it is trying to understand that.

23 So, I will tell you that I've had a couple interactions
24 with Constitutionlists since I've been on the department, one of
25 which submitted six months of non-stop letters basically saying he was

1 going to declare bankruptcy in my name. That he demanded silver coin.

2 It was a very frustrating process, and not a very happy process, not -

3 Q. Now Mr. Bressi never -

4 A. Now let me, let me finish.

5 Q. Go ahead.

6 A. My first impression is that he is a Constitutionalist, but

7 now I'm wondering if he's not, and if he's a Libertarian.

8 Q. And what's your - what's the distinction you make between

9 those two categories?

10 A. A Constitutionalist in the past have been fairly, at least,

11 friendly to the sheriff. In other words, they accept the role of law

12 of the sheriff. They do not accept the role of law of anybody else,

13 and they have not been particularly favorable to anybody else. But at

14 least they kind of, sort of kind of accept the sheriff's department,

15 or the sheriff specifically because he's elected.

16 My understanding of the Libertarians is that they just want

17 a free - kind of a free movement, a free government, so to speak.

18 Frankly, still don't quite understand it. The problem is that the

19 Constitutionlists have been very violent in the past. I don't really

20 want to die doing my job. So, I -

21 Q. You, you didn't have any information at all that Mr. Bressi

22 was violent in any way, did you?

23 A. I don't know.

1 Q. No. I'm saying, did you have any information from anybody
2 that he was a violent person, or that he ever threatened a law
3 enforcement officer?

4 A. The fact that he's not friendly to law enforcement tends to
5 make him a potential threat.

6 Q. Okay. But there's no requirement that citizens be friendly
7 to law enforcement that you're aware of?

8 A. No. But as a human being, most of us are kind of nice to
9 each other, or try to be. And that's generally something I've
10 experienced. I mean - I guess.

11 Q. Have you discussed Mr. Bressi with any other law
12 enforcement officers?

13 A. Sure. I'm sure we have.

14 Q. And how about Border Patrol?

15 A. I've discussed with Border Patrol frequently, yeah.

16 Q. Okay.

17 A. Especially prior to this. I haven't really talked to them
18 after this so much, but prior to this, definitely.

19 Q. Do you know whether the sheriff's department has any kind
20 of an intelligence dossier on Mr. Bressi?

21 A. I don't believe we do.

22 Q. Do you know whether Border Patrol does?

23 A. I think they did at some point, but I don't know if it's -
24 I don't know if you would call it a dossier, or just a, kind of a, a
25 warning.

1 Q. Okay.

2 A. So, I can give you an example. A couple of
3 Constitutionalists I've had contact with, they're - my first step is
4 to notify the FBI. We have a liaison that deals with the, the FBI and
5 Constitutionalists specifically. I guess there's a unit at DPS that
6 deals with those folks.

7 Generally speaking, I alert them. I didn't alert them of
8 Mr. Bressi because after reading and trying to figure out kind of what
9 he thinks, it, it doesn't seem like he's on that path. He just seems
10 like he wants free, free movement, if I'm, if I'm understanding
11 Libertarian philosophy a little better.

12 Q. Tell me what your understanding was of - other than if
13 there's anything that you haven't told me already about information
14 you had before this incident that Mr. Bressi had been uncooperative
15 with law enforcement officers -

16 A. Other than -

17 Q. - other than Customs and Border Patrol.

18 A. I think other than Customs and Border Patrol and Deputy
19 Wren, Fenn, (sic) and watching that video. And, and again -

20 Q. Is that the one where he interviewed her about what she was
21 doing there?

22 A. Uh-huh.

23 Q. Did you think there was something inappropriate about that?

24 A. Not necessarily. It's just that it's when someone takes
25 that kind of measure against us, we're, we're suspicious people.

1 It's a uncomfortable feeling to have someone stand there for 15
2 minutes and kind of interrogate us.

3 You know, it makes us feel like we're doing something
4 wrong, and I mean, are we doing something wrong? I don't know. But
5 that's, that's kind of when you get interrogated by someone like that
6 for that long, and they're video taping you, it's, it's not a
7 comfortable feeling.

8 Q. Okay. And, and did Deputy Wren complain to you about that,
9 or did you just watch the video?

10 A. I think I just watched the video.

11 Q. Okay.

12 A. I don't even know if I talked to her about it. There is
13 one other deputy that I'm aware of that had contact with Mr. Bressi,
14 and that was McMillan. And I believe he elected to contact the Legal
15 Advisor, and the Legal Advisor, based on their conversation, he did
16 not issue a citation to him. I don't remember what the violation was,
17 or what the context was, but I believe it was a checkpoint contact.

18 Q. Do you know whether Mr. Bressi was ever told by any other
19 sheriff's personnel that he was not required to answer questions
20 regarding his citizenship and nationality?

21 A. I don't know.

22 Q. Do you know on April 10th - I'm gonna talk to you about Mr.
23 Bressi's incident now. On April 10th, do you know what time you
24 arrived at that, at that checkpoint?

25 A. No, sir.

1 Q. And is Operation Stone Garden kind of a rotating shift type
2 operation, or is it typically conducted during normal, what I'd call
3 normal business hours, or -

4 A. At least at this time, it was during - this, this
5 particular shift was 2 o'clock to 10 P.M.

6 Q. Okay.

7 A. Yeah. They usually, they usually ran - they would run two
8 shifts. 06:00 to - sorry. 6:00 A.M. to 2:00 P.M. And then 2:00 P.M.
9 to 10:00 P.M.

10 Now in the past, they were doing like, like a 24-hour
11 operation. Not making us working 24, but they were having three
12 shifts per day. But that, that hasn't gone on for quite a while.

13 Q. Okay.

14 A. That's been, that's been years.

15 Q. Do you remember, you were actually specifically assigned to
16 go the checkpoint that day, is that right?

17 A. As I recall, I was, yeah.

18 Q. And would that have been the watch commander who told you
19 where to go?

20 A. Yes. And even, and even if he didn't, you know, when they
21 say, "You can work this area," that's one of the places I, I will go
22 frequently.

23 Q. Okay. Do you remember whether you got any other specific
24 instructions that day?

25 A. I don't recall.

1 Q. And if you did, are those documented anywhere, or are they
2 just verbal?

3 A. Just verbal.

4 Q. What was your understanding of what your reason for being
5 present at the, at the Border Patrol checkpoint that day was?

6 A. A typical Stone Garden day, do enforcement, stop cars, make
7 contacts.

8 Q. Were you familiar with any of the Border Patrol agents who
9 were working there that day?

10 A. You know, I don't remember. I, I don't, I don't think I'd
11 ever met Agent Frye (ph.) before. I'd probably met Fuentes before,
12 and perhaps Lopez, but I don't recall specifically.

13 Q. Okay.

14 A. I know maybe one or two Border Patrol agents by name.
15 That's about it.

16 Q. So, the ones you recall having been there that day were
17 Lopez, Fuentes and Frye?

18 A. Yes.

19 Q. Okay. Anybody else?

20 A. There - I don't recall. I don't remember if they had a
21 canine there or not.

22 Q. Do you know who their supervisor was that day?

23 A. Fuentes was the supervisor.

24 Q. Okay. Do you know if those three agents were also familiar
25 with Mr. Bressi?

1 A. I don't think Frye was. Frye was the one that was on the
2 line.

3 Q. Uh-huh.

4 A. But clearly Lopez and Fuentes were.

5 Q. Okay. Would you be able to give me a ballpark of how many
6 times you've worked that SR-86, that checkpoint?

7 A. Probably not. Ten times, fifteen, twenty. That's a,
8 that's a total guesstimate.

9 Q. Okay.

10 A. It's not even probably, probably a very accurate estimate.
11 I don't really keep track of where we work.

12 Q. Border Patrol has never provided you with any documentation
13 regarding their own rules, regulations and policies regarding the
14 operation of that checkpoint, have they?

15 A. No, sir.

16 Q. Does Border Patrol place any acti- -- any limitations on
17 your activities when you're working at the checkpoint, other than
18 telling you when to go and when to leave?

19 A. They don't even do that.

20 Q. Okay. Do they ever have you work the point and question
21 motorists as they're driving through?

22 A. No. No, sir.

23 Q. Why not?

24 A. That's not my job. That's their job.

1 Q. Do you remember what you were doing at the checkpoint
2 before Mr. Bressi got there?

3 A. I was probably under the awning with my LIDAR in my hand.
4 Probably just monitoring cars coming into the checkpoint speed- --
5 speed-wise.

6 Q. Did you say with your radar detector in your hand?

7 A. LIDAR.

8 Q. LIDAR?

9 A. Yeah. We don't - we -

10 Q. Has - have you had any dis- -- any discussions before April
11 10th, had you had any discussions with Customs and Border Patrol
12 agents regarding what their policies or practices were regarding
13 uncooperative motorists?

14 A. No, sir.

15 Q. Had you had any discussions with them about how they dealt
16 with Mr. Bressi before that day?

17 A. Not - probably not very specific. Just that some of the
18 stuff that he would do as he would pull in, but not, not necessarily
19 what they would do.

20 Q. Now, was the checkpoint actually active when Mr. Bressi
21 arrived?

22 A. Yes.

23 Q. Okay. And were - was each vehicle being required to stop
24 at least briefly before he got there?

25 A. Yes.

1 Q. Did he stop when he, when he arrived at the checkpoint?

2 A. Yes.

3 Q. And that was something he was required to do?

4 A. Yes.

5 Q. Was there actually a stop sign there?

6 A. Yes.

7 Q. Were you able to hear the interaction that he was having
8 with, I guess, it was Agent Fuentes?

9 A. I thought it was Agent Frye, but, no, -

10 Q. Frye.

11 A. - I had not heard the interaction.

12 Q. Do you know why Frye called you over, or did he all you
13 over?

14 A. He kind of looked over towards me. It looked like to me
15 like he was motioning. I don't know if he was motioning towards me or
16 other agents, but it did look to me like he was motioning. I don't
17 know why he called me over.

18 Q. Did he tell you that he was detaining Mr. Bressi for any
19 particular reason?

20 A. No.

21 Q. But he had not permitted Mr. Bressi to leave, is that
22 right?

23 A. If you want to call it that, sure.

24 Q. He never told him to go ahead and go - leave?

25 A. No. I -

1 Q. You never saw him signal or say anything that would give -
2 have given Mr. Bressi permission to leave?

3 A. No. It appeared that he wanted him to pull in the
4 secondary area is what I, what I thought I gathered, but -

5 Q. Do you know whether he had any reasonable suspicion for any
6 criminal violation or immigration violation which would have indicated
7 a need for Mr. Bressi to pull into secondary?

8 A. No idea.

9 Q. And he didn't give you any?

10 A. Not that I'm aware of.

11 Q. Okay. And Mr. Bressi had stopped in the area he was
12 supposed to stop, is that right?

13 A. Yes.

14 Q. Do you know where the other two Border Patrol agents were,
15 Lopez and Fuentes, at the time that Agent Frye was having his
16 interaction with Mr. Bressi?

17 A. No, sir, I do not.

18 Q. Did any of the three of them say anything to you about Mr.
19 Bressi or his vehicle that they said there was, there was a problem or
20 that they had some reason for you to detain him?

21 A. No, I don't believe so.

22 Q. What was it that caused you to decide you were gonna
23 intervene? Was it that Frye - you thought Frye was either looking at
24 you, gesturing to you, or said something to bring you over?

25 A. Yes.

1 Q. And then once you got over there, did, did Frye tell you
2 anything that was a problem?

3 A. I don't recall what he said.

4 Q. He - did he tell -

5 A. Or if he - sorry. I don't recall if he said anything at
6 all.

7 Q. Okay. So, he didn't say anything to suggest that he had
8 any reasonable suspicion to detain Mr. Bressi for any criminal
9 violation or any immigration violation?

10 A. Correct.

11 Q. But he hadn't permitted him to leave, is that right?

12 A. Yes. Can we take a break, please?

13 Q. Sure. Let me see how I pause this.

14 (A short break was taken.)

15 Q. This is a continuation of an interview with Officer (sic)
16 Roher regarding the case of State of Arizona vs. Terry Bressi. We
17 took a brief break. We didn't discuss anything of substance while we
18 were on our break.

19 This checkpoint was, would you call it a joint operation of
20 the Sheriff's Department, and Border Patrol or was it simply operated
21 by Border Patrol with you standing by?

22 A. Simply operated by Border Patrol. Just happens to be on a
23 public roadway which is within Pima County.

24 Q. Yeah.

25 A. That's kind of how we, kind of how we view it.

1 Q. And you were there because you'd been asked to go there by
2 the watch commander?

3 A. As far as I remember, yes.

4 Q. So, at the time you went over to contact Mr. Bressi, you
5 didn't know why Frye was waving you over, did you?

6 A. Honestly don't know. I, I'm trying to remember if there
7 was interaction between Frye and I, if he said anything to me or not.
8 I just noted that, that the car was there for a really long time.

9 Most the time - so, give you an example. Canadian comes
10 through, and I don't know why it's Canadians. I don't know if they
11 just, they don't have their passports ready or whatever.

12 But the Border Patrol agents will frequently move them into
13 the secondary area, and then to do their document check. I don't know
14 if that's Border Patrol's attempt to relieve the line of, of the car
15 to get it off the line to keep traffic moving, or what the logic is
16 behind that.

17 Q. And it could be because they're - they've announced that
18 they're Canadian citizens and they want them to identify their
19 identification, -

20 A. Could be, whatever.

21 Q. - you know.

22 A. It just - so, -

23 Q. Yeah.

24 A. - I would tell you from the DUI checkpoint perspective, our
25 goal is not to obtrusive. If there's a car in the line, and it holds

1 up the line, or holding up everybody behind us, and the goal is to
2 keep traffic moving. I mean we don't want to delay people. We don't
3 want to restrict the, the usage of the roadway.

4 So, let's say that I have a lost motorist. They just pull
5 on over there and I'll come up and talk to you as opposed to holding
6 all the traffic up while I answer their question.

7 I don't know if that's the same concept that the Border
8 Patrol uses, or what. But it seemed to me like it was - I mean it was
9 an excessive amount of time that he was stopped there.

10 Q. Did you have authority when you're working at the
11 checkpoint at any time with Operation Stone Garden, that if you
12 thought that the line was too long that you'd go tell Border Patrol,
13 "Let the, let the traffic through."? Could you order them, or direct
14 them to do that?

15 A. Don't know.

16 Q. Did you ever?

17 A. I've never done that. Be kind of exciting. Traffic gets
18 pretty heavy through there in the afternoon when all the people are
19 coming back from, -

20 Q. Yeah.

21 A. - back into town. But never done such a thing. I don't
22 know if I would have that authority or not.

23 Q. Did anybody ever tell you, you could direct the activities
24 of Border Patrol when you're working at the checkpoint?

25 A. No.

1 Q. Now do you recall Mr. Bressi asking you who was detaining
2 you at the time that you approached him?

3 A. Don't really remember the interaction with Mr. Bressi -

4 Q. Okay.

5 A. - at that point. I mean I know he's video taping it, or
6 filming it or something. So, I would have to defer to that, which I
7 don't have a copy of. So, I mean, that video probably is the best
8 evidence of whatever was said between us. And I, I mean, to be honest
9 with you, I would, I would prefer to rely on that than -

10 Q. Okay.

11 A. - try to remember on my own memory.

12 Q. All right. Agent Frye, before you had your interaction
13 with Mr. Bressi, to your knowledge, had never told Mr. Bressi he was
14 free to leave, had he?

15 A. I honestly don't know. If, if, what I -

16 Q. Did you ever tell Mr. Bressi that he was required to answer
17 Frye's questions?

18 A. Don't know.

19 Q. And you don't even know what questions Border Patrol's
20 permitted to ask somebody at a, at a checkpoint?

21 A. What questions they're permitted to ask? No, I don't know
22 what the questions they're permitted to ask.

23 Q. After Mr. - did you tell Mr. Bressi to leave the
24 checkpoint?

25 A. Ultimately, I did, yes.

1 Q. Okay.

2 A. My goal is to get him off the line at that point so the
3 traffic could start moving again.

4 Q. And once you told him that he could leave, he left, right?

5 A. Not exactly. I mean he, he moved, but he didn't leave
6 leave.

7 Q. What do you mean "leave leave"?

8 A. He didn't reenter the - he didn't continue traveling on the
9 roadway. I think he knew exactly what I was doing, and he pulled over
10 before, before, before he actually left.

11 Q. Well, he drove out of the checkpoint, the area that was
12 designated a checkpoint, right?

13 A. Yes.

14 Q. Drove some distance down the highway and then pulled off on
15 the side of the road.

16 A. I would not call it some distance. It was, it was walking
17 distance.

18 Q. And, and you, as soon as he left the checkpoint, got in
19 your patrol vehicle to follow him, right?

20 A. Which was completely unnecessary. Could have just walked
21 to where he was.

22 Q. But you drove?

23 A. I did because I thought he was going to continue driving.

24 Q. Now what - and did you pull in behind him?

25 A. Yes.

1 Q. Was your intention to cite him at that point?

2 A. Yes.

3 Q. Okay. Did you activate your, your emergency lights?

4 A. Don't think so, 'cause he was - I think he was still - he
5 was outside of the Border - so, the Border Patrol has put up new -
6 like a barrier. Not a fence, but a new line because of the all
7 protests they've had. He was outside of that, but not outside of the
8 general area that I would consider part of, quote, unquote, "the
9 checkpoint".

10 In other words, there's like a large dirt area where cars
11 park and things like that. He was still in that part. That's why I
12 say, it was within walking distance.

13 Q. Did - once you had pulled in behind Mr. Bressi with the
14 intention to cite, cite him, did you then approach him on the driver's
15 side?

16 A. Yes, sir.

17 Q. Did he ask you why he was being detained?

18 A. I'm sure he did.

19 Q. Did he - did you tell him?

20 A. I don't remember if I did or not. He was inside the car.
21 I was afraid he wasn't going to get out. I really didn't want to have
22 to deal with that, so, I told him to step out at that point.

23 Q. Did he step out?

24 A. After some argument, yes.

25 Q. Did he ask you on what basis you were detaining him?

1 A. I'm sure he did.

2 Q. Do you know if you ever told him?

3 A. Don't recall.

4 Q. Were you arresting him for his refusal to, to drive into
5 the secondary area?

6 A. No.

7 Q. Are there any, are there any policies or regulations
8 governing how long the point person at Border Patrol can detain a
9 driver while they're questioning them in primary?

10 A. I have no idea.

11 Q. Have you ever investigated or cited a Border Patrol agent
12 for obstructing the highway at the checkpoint when they are detaining
13 a driver without any reasonable suspicion of a crime or immigration or
14 citizenship violation?

15 A. Have I ever cited a Border Patrol agent? No, sir.

16 Q. Or question them regarding obstructing the highway?

17 A. Have I ever questioned them? Do you mean about or the
18 amount of time or, - I guess I'm a little confused.

19 Q. Yeah. If they were, if they were detaining a driver where
20 they had no reasonable suspicion to believe they'd committed a crime
21 or that they were anything other than U.S. citizens, detaining them at
22 the primary where cars are lining up behind them and not letting them
23 go. Have you ever confronted them and said, "Why are you obstructing
24 the highway?"

25 A. I see what you're saying. No, I have not.

1 Q. Did Mr. Bressi tell you that Agent Frye was the one who had
2 been blocking the traffic by refusing to let him proceed?

3 A. I don't think so. But from my vantage point, Officer Frye
4 was not in the roadway.

5 Q. No. I'm just saying Officer Frye's the one that told Mr.
6 Bressi not to, to - would not allow Mr. Bressi to leave, is that
7 right?

8 A. I don't know.

9 Q. During the time you were with Mr. Bressi, did he ever
10 indicate to you that he would like to be on his way?

11 A. I don't recall if he did or not.

12 Q. Why did you make a determination not to arrest Mr. Bressi
13 at the checkpoint, or tell him that you were going to arrest him for
14 obstructing traffic at the checkpoint?

15 A. Again, going back to just not wanting to detain everybody
16 else that's behind him any further, not wanting to block the roadway,
17 and frankly, the position that he is in, it's probably a little bit
18 more - it's - to me it's less safe to be in - for all of us to be in
19 that position as opposed to letting him go, and then stopping him
20 later down the road.

21 Q. Did you ever tell him to pull into secondary because you
22 wanted to investigate him for an obstructing traffic violation?

23 A. That, I thought I might have. I think I may have also told
24 him, "Please answer the agent's questions and you can be on your way,"
25 because - and again, if I'm wrong, I'm wrong, but from a human

1 person's standpoint and from a lawful, lawful, abiding citizen type
2 person, to me it just seems reasonable, especially when you already
3 know you're a U.S. citizen to simply say "yes".

4 And I apologize, it's outside the scope of everything here,
5 but I probably asked him that. I'm, I'm probably sure I used
6 something along those lines. I don't remember if I told him to go
7 secondary or not, though. I thought I might have.

8 I'm just being honest. And, and just being honest with you
9 and saying as a personal - as a, as another human being, how hard is
10 it to tell someone "yes". And that would have been the end of it.
11 But he chooses to do this frequently with those guys.

12 Q. And, and you find it annoying, and I guess the Border
13 Patrol finds it annoying.

14 A. Well, so -

15 Q. Is that true?

16 A. (Inaudible)

17 Q. You find it annoying?

18 A. I find it a little bit annoying because - so, part of it is
19 trying to understand. And again, I'm not sure if he's a Libertarian.
20 That's just some of the stuff I read. And I'm like, okay, trying to
21 put myself in his shoes. I believe I want a free government.

22 So, does that - but that also means that you're not, you
23 don't want to stop illegal immigration? You're okay with that? And
24 you're okay with drugs coming through here. I mean, and again, I'm
25 not saying, so, should, should we just, as, as officers just recognize

1 Mr. Bressi specifically and go, "I know Mr. Bressi, so, I'm just gonna
2 let him go because I recognize him specifically."

3 Q. Well, -

4 A. They, they also stop me when I'm in my patrol car, too, -

5 Q. So, -

6 A. - you know.

7 Q. - let me ask you a question. So, what - did you ever ask
8 Agent Frye, or the other agents there, what's their purpose of asking
9 someone who they know is a U.S. citizen whether they're a U.S. citizen
10 and detaining them when they refuse to answer?

11 A. I don't know that I've ever asked them. I think they may
12 have talked about it. I mean, it's the same concept of a DUI
13 checkpoint. Why would I ask a Sun Tran bus driver if they've been
14 drinking? I know perfectly well the Sun Tran bus driving hasn't been
15 drinking, right? They - but also -

16 Q. The odds are they haven't, but you don't -

17 A. But, but -

18 Q. - know whether they have or not.

19 A. But I still ask them.

20 Q. Right.

21 A. Even fire, fire department personnel, when they come
22 through the checkpoint, "Have you been drinking?" Security guards,
23 "Have you been drinking?" I don't, I don't, I don't segue based on
24 who's coming through.

1 Even, even another deputy, who's in a patrol car, I might
2 ask that question. Might be a little bit of banter, a little bit of
3 joking. At the same time, the principal applies. It's still the same
4 principal. "Have you been drinking?"

5 Q. And when you're operating sobriety checkpoints, that's your
6 purpose in being there, and you've got specific regulations, rules and
7 training on how to operate it?

8 A. Yes, sir.

9 Q. And if they refuse to answer, you let them go?

10 A. In that circumstance, yes. But I'm not a federal agent and
11 I don't know their rules. So, honestly don't know.

12 Q. If, if Agent Frye was detaining him for, for an immigration
13 inspection, what's your authority to tell him to leave?

14 A. Frye didn't seem like he was doing very good. I could
15 clearly see that Mr. Bressi was a U.S. citizen, a Caucasian male,
16 spoke English. There was no rise to me that gave me that this was an
17 immigration issue.

18 I, I still did not know it was Mr. Bressi until after I'd
19 stopped him. But the cameras and all those kinds of things started to
20 give me a clue as to what we're dealing with and what kind of person.
21 I decided to just step in and be authoritative at that point.

22 I'm a little aggressive in, in my job sometimes. So, - and
23 I don't mean physically aggressive. I just mean, okay, let's take
24 charge and let's make this, let's make this happen.

1 So, I've had a couple people approach me at the checkpoint
2 who were Constitutionalists, 15, 20-minute conversation. It was
3 nothing like this. It was actually a pretty interesting conversation,
4 because I like to hear other people's point of view.

5 Q. Well, do you know how long Mr. Bressi was detained at the
6 checkpoint?

7 A. After the, the incident?

8 Q. (Inaudible) there with Frye and -

9 A. With Frye?

10 Q. - he told him to leave?

11 A. I think - I mean my, my estimation was at least a minute.
12 I think after watching the video, it was more like a minute and a
13 half, maybe even almost two minutes. Seems like a pretty long time to
14 me, given that most people -

15 Q. Where'd you watch the video? Thought you told me you
16 didn't have it.

17 A. Say that again.

18 Q. Thought you told me you didn't have the video.

19 A. I don't remember saying that.

20 Q. When, when did you watch it?

21 A. In the Conex (sic). They have a camera, or a computer
22 inside the Conex.

23 Q. Okay.

24 A. So, -

25 Q. The Border Patrol video?

1 A. Yes, sir.

2 Q. So, they had a video as well?

3 A. Yeah. I don't have video.

4 Q. Okay.

5 A. Border Patrol has a video. Sorry. I want to make sure
6 that was clear.

7 Q. Right.

8 A. I don't, I don't have a video camera. I don't carry a
9 video. We don't -

10 Q. Okay.

11 A. None of us have - but the Border Patrol cameras that are
12 outside (inaudible)

13 Q. All right. So, you watched the video afterwards?

14 A. Yes, sir.

15 Q. On that shift?

16 A. Yes.

17 Q. Okay. When Mr., when Mr. Bressi asked you why you were
18 detaining him, did you threaten to handcuff him and take him to jail?

19 A. I did handcuff him eventually. I don't remember
20 threatening to take him to jail. There was an issue of - my, my, my
21 sincere concern was whether or not he would sign the citation.
22 Because it's a criminal offense, we, we could sign the citation and
23 release the person.

1 If they do not sign the citation, however, they have to go
2 to jail. Did not want to take him back out of handcuffs and then have
3 to put them back on.

4 Q. So, before you handcuffed him, did you ever threaten to
5 handcuff him and take him to jail?

6 A. No, sir. I believe I handcuffed him almost immediately,
7 just given how I felt. Given the, given the actions and I mean the
8 overall circumstances led me to do that.

9 Q. What was - what did you mean by the driver attempted to
10 goad you into some type of a legal verbal (inaudible) challenge?

11 A. Well, Mr. Bressi was trying to ask me questions and
12 questioning me. You know, I know he really wants to know am I doing
13 Stone Garden? I think that was one of his, his questions that he
14 likes to ask, or did ask.

15 Q. Did you tell him?

16 A. I don't remember if I did or not. You know, part of me,
17 part of me thinks that's none of his business. I now know that
18 apparently you guys full access to my financial records or my pay
19 statements or something like that?

20 Q. Not as far as I know.

21 A. I think Bressi requested them. So, the - my under- -- and
22 my understanding from talking to our legal advisor that he is
23 apparently entitled to those. So, apparently, I'm supposed to divulge
24 to people that I am or, you know - but to be honest with you, I didn't
25 know that I needed to or tell him exactly what I was doing.

1 You know, when people are nice to me, I'm nice back. If he
2 would - if he was polite and cooperative, I might have been more than
3 willing to have a discussion with him. But he was not polite. He was
4 not cooperative, and didn't - the, the less talking with him, the
5 better. When people start asking -

6 Q. And his questions related to why he was being detained,
7 right? "Why am I being detained?"

8 A. Some of the questions -

9 Q. "What operation are you working?" What else did he ask
10 you?

11 A. Some of the questions may have been related to that, but
12 also some of the questions were seemingly, you know, checkpoint-
13 related, federally related, things like that. Don't know the answer
14 to those.

15 Q. You indicated in your report that he got close to you. How
16 close did he get to you?

17 A. Within striking distance.

18 Q. Do you know whether you ever approached him, or whether he
19 was approaching you?

20 A. He seemed to be approaching me. That's the way I felt.

21 Q. Did you ever tell him to just stay in one place?

22 A. Don't recall that I gave him that opportunity because I put
23 him in handcuffs almost immediately after that.

24 Q. Did he have to turn around for you to put the handcuffs on
25 him?

1 A. Yes, sir.

2 Q. Did he do that?

3 A. He did.

4 Q. You weren't - we talked about this earlier about your
5 questions at a checkpoint. You hadn't consumed any alcohol prior to
6 working that shift, had you?

7 A. No, sir.

8 Q. Were you taking any drugs or medication that would in any
9 way have affected your, your perceptions?

10 A. No, sir.

11 Q. Do you have any medical conditions that were affecting you
12 that day?

13 A. Don't think that's any of your business, sir, but I do not.

14 Q. Just affecting you that day.

15 A. Again, I don't think that's any of your business. But, no,
16 I do not. I'm an asthmatic. How's that? And I have allergies. Is
17 that - does that answer your question?

18 Q. Were you taking any steroids that day?

19 A. No, sir. I'm not prescribed any steroids.

20 Q. Are drivers required to sign civil traffic citations, or
21 just criminal citations?

22 A. Civil citations, no, sir, they're not required. They could
23 be served. Criminal citations they're required to sign. By signing,
24 it's just releasing them and they agree to show up in court. And
25 that's what I explained to Mr. Bressi.

1 Q. At the time that you handcuffed him, had you already
2 printed out a citation, or had you told him that you were going - that
3 - did you have a citation prepared that you said you were gonna serve
4 on him?

5 A. No, sir. I do not believe I had that prepared yet. I
6 believe - I'm trying to remember the, the timeline here, but he did
7 ask for the supervisor. I asked the supervisor to respond. So, there
8 were a few minutes of down time.

9 The citation in this case was completed electronically. We
10 have a electronic safety issue program. So, no printed citation was
11 provided to him. He did ask a question about that, and I explained to
12 him that that's, that's what I had available. And that then he
13 indicated he was willing to do that.

14 Q. Okay.

15 A. He wanted to basically kind of know what was on there,
16 which was fine. It's not a problem. So, I kind of explained that to
17 him, took him out of handcuffs. He signed it, and a citation was
18 printed for him.

19 Q. Other than approaching you in a way that you felt
20 uncomfortable with, he was never physically aggressive with you in any
21 way, was he?

22 A. Well, I think I noted when I was handcuffing him, he tensed
23 up. I specifically told him not to do that. But other than that, no.
24 I think he started to curse at me at some point. I didn't appreciate
25 that. There's no reason to curse at me.

1 Q. The three agents that we talked about, the Border Patrol
2 agents, those are the only ones you recollect being on duty that day,
3 is that right? There may have been others there, but those are the
4 ones you know of?

5 A. Yeah. I honestly don't remember if there was, like I said,
6 I don't know if there was a canine there at the time. Normally, they
7 would have the supervisor, a canine and I think two to three other
8 agents there. But I don't, I don't remember the numbers.

9 Q. All right.

10 A. Now Fuentes and Lopez came over during our interaction.
11 And then I think Frye either stayed on the, the point, but I
12 documented his name, obviously, because he was at the point. And
13 Lopez and Fuentes because they had come over and had interaction with,
14 with the dealings.

15 Q. While you were - while you had Mr. Bressi detained up the
16 road a little ways?

17 A. Yes, sir.

18 Q. Okay.

19 A. Yeah.

20 Q. What was their purpose in going there?

21 A. Probably to make sure that I was safe.

22 Q. Okay. They weren't, they weren't making any immigration or
23 nationalization inquiries, citizenship inquiries at that point?

24 A. No, I don't think so. I think that they - I'm, I'm
25 assuming. I don't know this for sure. I don't know what they, they

1 put in their report, if they did one. I'm pretty sure Fuentes
2 recognized who it was, and I think Lopez may have also.

3 And, you know, having had contacts with this guy in the
4 past, I'm sure they came over as a - served as a backup officer type
5 situation.

6 Q. Okay.

7 A. Since I was, you know, I mean we're - that's how we do it
8 as cops.

9 Q. After you cited and released Mr. Bressi, did you, did you
10 make any inquiries on your - through your data bases on Mr. Bressi?
11 Did you run him for criminal history or anything like that after you'd
12 released him?

13 A. I would have run him before I released him.

14 Q. Okay.

15 A. Yeah.

16 Q. Anything afterwards?

17 A. Probably did. I probably looked his name up several times.
18 I looked his name up this morning to pull the time of the incident,
19 'cause I don't think that's actually in my case report. So, -

20 Q. Did you get - were you able to re-create what the time of
21 the incident was?

22 A. So, 4:47 was the view. So, there's a radio log that's
23 associated with this call, and it looks like that's about when it
24 happened.

25 Q. Okay.

1 A So, -

2 Q. When would you have first radioed in?

3 A. It would have either been when he - probably when he pulled
4 just beyond the checkpoint.

5 Q. Okay. When he left is when you would have radioed and -

6 A. Yeah, I don't, -

7 Q. - said that you were making a -

8 A. - don't think I would have radioed in.

9 Q. - traffic stop?

10 A. Uh-huh. I don't think I would have radioed in prior to
11 that.

12 Q. Okay. Did you, did you attempt to contact anyone either at
13 the sheriff's department or (inaudible) the Border Patrol regarding
14 Mr. Bressi, just to make inquiry about him as a person, or the
15 interactions they'd had with him?

16 A. I don't think so. I think the only thing I'd done is look
17 at the websites and just kind of look at it to see - one of the
18 concerns I had was would, would he put up a video of it? And I kind
19 of wanted to watch it. Part of it is I'd like to know what he said.
20 I mean, to be honest with you, I mean he's got, he's got video, right?
21 And I know the cops had -

22 Q. Right.

23 A. It, it would be -

24 Q. Border Patrol didn't have any audio on their video?

1 A. No, sir. I don't believe they do. I don't believe they do
2 even now. It's - none of them do body cams or anything.

3 Q. Did Fuentes or Lopez give you any information about Mr.
4 Bressi before, you know, when they went over there as backup and
5 before you released him? Did they tell you anything about Mr. Bressi
6 before that?

7 A. They did not tell me anything about him. I think Fuentes
8 was extremely - trying to find the right words. That he wasn't - he
9 was pleased, like -

10 Q. That Mr. Bressi was getting cited?

11 A. Yes. Given their previous interactions with this guy and
12 the difficulties they've had, -

13 Q. They don't like him?

14 A. I don't know if they like him or not.

15 Q. Well, he, he was expressing some kind of pleasure at the
16 fact that Mr. Bressi was getting charged with a crime?

17 A. I seem to recall something like that, yes.

18 Q. Okay.

19 A. I'm not gonna lie.

20 Q. Were they laughing at him?

21 A. Was Fuentes laughing at him?

22 Q. Yeah.

23 A. I don't recall if he was laughing or not.

24 Q. How about Lopez?

1 A. I thought Lopez was kind of telling Fuentes to tone, tone
2 it down a little bit. Like, "Hey, we're being recorded." And think
3 Fuentes made a statement like, "I just don't care. I really don't
4 care."

5 And, you know, I don't know that anything they did was
6 inappropriate. Obviously, it might be perceived that way, but I think
7 they were just simply expressing a opinion, -

8 Q. Okay.

9 A. - you know?

10 Q. I'm almost done. Oh. Now, on this particular incident,
11 you wrote, you wrote an incident report?

12 A. Yes, sir.

13 Q. Did you - the, the Daily Activity Report you wrote, was,
14 was there anything more extensive or specifically related to Mr.
15 Bressi's interaction that you submitted on your D-A-R?

16 A. If anything, it would have been more of just a very brief
17 summation. I don't think it was - it was definitely not as lengthy as
18 this. I don't know that I would have indi- -- you know, indicated
19 like, Mr. Bressi's had multiple contacts.

20 I don't think I needed to. I think I just - "Bressi came
21 into checkpoint. Bressi failed to move, move out of checkpoint.
22 Bressi arrested." It - something along those lines.

23 Q. Now the Daily Activity Reports, are those paper documents
24 you fill out, or are they, are they -

25 A. Electronic.

1 Q. - electronic? So, so, you've got a program to enter the
2 Daily Activity Reports?

3 A. Yeah. It's a word document. It's not anything fancy.

4 Q. Okay.

5 A. Did they not give you a copy of that?

6 Q. I don't have a copy of that to my knowledge.

7 A. Did you request it? I'm assuming that -

8 Q. Yeah, we did.

9 A. Did - they weren't able to give it to you or -

10 Q. Well, we've requested it through the prosecutor, and I
11 think he got a little bit annoyed at our request, and so he didn't.

12 A. Oh.

13 Q. I mean, that's my characterization.

14 A. Okay.

15 Q. He may have just asked and not gotten it.

16 A. Okay.

17 Q. But we haven't received it.

18 A. Yeah, 'cause, you know, like, like that document, I could
19 care less. I mean it's not, it's not gonna - I don't think it's gonna
20 shake the, shake the ground or shake the earth that we walk on, so -

21 Q. Are you able to give me a copy of it? Well, you probably
22 should - if you have it, you should probably send it to the
23 prosecutor.

24 A. See I can find it for you, okay?

25 Q. That, that would be the better protocol.

1 A. Well, yeah, I don't want - I don't think we want to do
2 that, do we? But let me see if I have it. So, they - I think they
3 purge them. Not, not purge them, but they remove them from the folder
4 that we access.

5 Q. Uh-huh.

6 A. And then they save them somewhere else. So, I'm a little,
7 I'm a little, like I say, I'm just kind of confused as to why you
8 wouldn't have that 'cause it's not anything that's - what was the date
9 on this again, if you will?

10 Q. Let's see. April -

11 A. Has it been that long ago? It's April? Good Lord. Okay.
12 April 10th.

13 Q. Yeah.

14 A. All right. Here we go. I can read it to you verbatim if
15 you don't mind, but I have it right here.

16 Q. Sure.

17 A. "Vehicle entered BP checkpoint. Agent Frye went to make
18 contact with driver who refused to answer questions and began video
19 taping agent. After about 1.5 minutes, agent waved me over and I told
20 driver to answer BP questions, or pull into secondary. Driver
21 refused. I had PC to arrest driver for obstructing thoroughfare."

22 "So, I told him to move so that he would no longer block
23 traffic. He pulled just outside of the checkpoint, at which point I
24 made contact with him and arrested him. He video taped all agents and
25 myself during contact."

1 Q. Okay.

2 A. Is that okay?

3 Q. Yeah, that's good. I appreciate you reading it to me.

4 A. Do you want me to send this to - it's Ian (ph.), right?

5 Q. It's - yeah. It's Ian - yeah.

6 A. (Inaudible)

7 Q. (Inaudible)

8 A. So, I'm trying to figure how best do this so I don't get,
9 get anybody in trouble.

10 Q. Just send him an e-mail and, -

11 A. Okay.

12 Q. - and say - you can attach it or not, but what I'd say is,
13 "I did an interview with Mr. Sherick. He asked me about my D-A-R
14 report and I retrieved it, and here's a copy of it."

15 A. Okay. I'll do that.

16 Q. That way -

17 A. It doesn't hurt my feelings.

18 Q. - we're in good shape.

19 A. Good night. Let's see here. Do you want me to put the CR
20 number in here or anything? You have it? I can just put -

21 A. I do have it, yeah.

22 Q. Okay.

23 A. Like I say, he'll probably know, but -

24 Q. It's 17-706020.

1 A. Okay. Got it. I'm sending it to him right now. Okay.

2 Done.

3 Q. Okay. So, I've just got a couple more.

4 A. Yes, sir.

5 Q. Do you know whether you had made any - given any citations
6 or made any arrests for obstructing the highway before this incident
7 with Mr. Bressi?

8 A. Yes.

9 Q. And do you know when that was? And would you be able to -

10 A. So, not, not involving Mr. Bressi, obviously, and not
11 involving the checkpoint, correct?

12 Q. No. At the checkpoint.

13 A. No, not at the checkpoint. I've written parking violations
14 previously at the checkpoint.

15 Q. Okay.

16 A. Like an illegal parking violation.

17 Q. How about since Mr. Bressi's arrest if you've cited or
18 arrested anybody for obstructing the thoroughfare at the checkpoint?

19 A. No, sir.

20 Q. Okay. That's all I've got. Appreciate your cooperation.

21 (End of Interview.)

I hereby certify that, to the best of my ability the foregoing is a true and accurate transcription of the original tape-recorded conversation in the case reference on page 1 above.

Transcription Completed: 02/09/18

/s/ Kathleen R. Krassow
KATHLEEN R. KRASSOW - Owner
M&M Typing Service