

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Manuel de Jesus Ortega)
Melendres, et al.,)
)
 Plaintiffs,)
) No. CV 07-2513-PHX-GMS
vs.)
)
Joseph M. Arpaio, et al.,)
)
 Defendants.)
)

VIDEOTAPED DEPOSITION OF JOSEPH M. ARPAIO

Phoenix, Arizona
December 16, 2009
8:58 a.m.

CERTIFIED COPY

Reported by:
CARRIE SMALANSKAS
Registered Professional Reporter
Certified Realtime Reporter
Certified LiveNote Reporter
Arizona CR No. 50355

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VIDEOTAPED DEPOSITION OF JOSEPH M. ARPAIO
 was taken on December 16, 2009, commencing at 8:58 a.m.
 at the law offices of Steptoe & Johnson, L.L.P., One Collier
 Center, 201 East Washington Street, Phoenix, Arizona,
 before Carrie Smalanskas, RPR, CRR, CLR, a Certified
 Reporter in the State of Arizona.

COUNSEL APPEARING:

For the Plaintiffs:

Steptoe & Johnson, L.L.P.
 By: DAVID J. BODNEY
 PETER KOZINETS
 AARON LOCKWOOD

Collier Center
 201 East Washington Street
 Phoenix, Arizona 85004

For the Defendants:

Schmitt, Schneck, Smyth & Herrod, P.C.
 By: TIMOTHY J. CASEY
 1221 East Osborn Road
 Suite 105
 Phoenix, Arizona 85014

Also present: Holly Rye, videographer
 Brian Sands

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VIDEO TECHNICIAN: We are going on the record
 at 8:58 a.m. This is the videotaped deposition of
 Sheriff Joseph M. Arpaio taken by plaintiffs in the
 matter of Manuel de Jesus Ortega Melendres, et al., versus
 Joseph M. Arpaio, et al., Case No. CV 07-2513-PHX-GMS in
 the United States District Court, District of Arizona.

This deposition is being conducted at Steptoe &
 Johnson, LLP, located at 201 East Washington, Phoenix,
 Arizona.

The court reporter is Carrie Smalanskas from the
 firm of Carrie Reporting, LLC, located at 4021 North 75th
 Street, Scottsdale, Arizona.

The certified legal video specialist is
 Holly Rye with Litigation Video Specialists, LLC, located
 at 3104 East Camelback Road, Phoenix, Arizona.

Will the attorneys please introduce themselves,
 plaintiffs first.

MR. BODNEY: Good morning. David Bodney from
 the firm of Steptoe & Johnson, LLP, on behalf of the
 plaintiffs.

MR. CASEY: Do you want to announce the other
 colleagues in the room?

MR. BODNEY: Sure. Peter Kozinets and Aaron
 Lockwood.

MR. CASEY: And my name is Tim Casey
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1 representing the defendants in this lawsuit, Sheriff
2 Joseph M. Arpaio and the MCSO.
3 THE VIDEOGRAPHER: Will the court reporter
4 please swear in the witness?

5
6 JOSEPH M. ARPAIO,
7 a witness herein, having been first duly sworn by the
8 Certified Court Reporter to speak the truth and nothing
9 but the truth, was examined and testified as follows:

10 EXAMINATION

11 BY MR. BODNEY:

12 Q. Good morning, Sheriff Arpaio.

13 A. Good morning. Before we get started, I have to
14 apologize. I have a touch of the flu. So I am going to
15 try to stay far away, so please bear with me. I want to
16 get through this. I know you are very busy. You have a
17 tough schedule. I do. So I hope I can get through it
18 today.

19 Q. Thank you. I'm sorry to hear about the flu.

20 A. It is tough out there.

21 Q. It is.

22 Well, please state your full name for the
23 record.

24 A. Joseph M. Arpaio, A-r-p-a-i-o.
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1 Q. And, Sheriff Arpaio, you have been deposed
2 before?

3 A. Yes, sir.

4 Q. Many times?

5 A. Not that many, but before.

6 Q. You are a veteran of the deposition process?

7 MR. CASEY: Objection to form.

8 THE WITNESS: I don't believe so, but ...

9 Q. BY MR. BODNEY: Well, let's just --

10 A. But I have been deposed before.

11 Q. Okay. I would like to just review a few basic
12 ground rules before we get into any substance.

13 You understand that you are one of the named
14 defendants in this lawsuit?

15 A. Yes, sir.

16 Q. And that I represent the plaintiffs?

17 A. Yes.

18 Q. You understand that you must answer questions
19 audibly?

20 A. Yes.

21 Q. Thank you.

22 You understand that you must wait until I finish
23 asking my question before you answer the question? Yes?

24 A. I will try, yes.

25 Q. Thank you. Because the court reporter --
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1 A. Right.

2 Q. -- can't take the two of us talking at the same
3 time for transcription purposes.

4 If I ask you a question, Sheriff, that you don't
5 understand, will you please let me know and give me an
6 opportunity to rephrase it?

7 A. Yes.

8 Q. And if you do answer a question, is it fair for
9 us to assume that you understood it?

10 A. Yes.

11 Q. Thank you.

12 Have you taken any medications or drugs that --
13 today that would -- or within the last 24, 48 hours that
14 might impair your ability to answer questions truthfully
15 and completely?

16 A. I took a cough drop this morning and an aspirin,
17 so that is about it.

18 Q. Okay. So I guess the answer would be no?

19 A. No.

20 Q. Okay. And I do hope you are feeling better.

21 A. Thank you.

22 Q. Any reason you might not be able to answer
23 questions fully and completely today?

24 A. No.

25 Q. Okay. As your lawyer indicated, if you do need
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1 to take a break, please let me know, and all I ask is that
2 you finish answering the question before we take a break,
3 but any time you need to pause or get something to drink,
4 just let us know and we can take a break.

5 A. Okay.

6 Q. Okay. Sheriff, would -- would you say that we
7 have a problem with illegal immigration in our country
8 today?

9 A. Yes.

10 Q. Would you say that the problem is particularly
11 acute in Arizona?

12 A. Yes.

13 Q. What is the root of that problem as you see it?

14 A. Well, I see it as an economic situation,
15 diplomatic law enforcement situation and close to the
16 border.

17 Q. Okay. In Arizona, most of the illegal
18 immigrants are coming from Mexico in your experience?

19 A. Yes.

20 Q. Maybe as many as 99 percent?

21 A. I am not sure of the percentage.

22 Q. But a very high percentage?

23 A. Yes.

24 Q. Yes.

25 And you believe we need to do something about
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1 it?

2 A. Yes.

3 Q. And you have written a book, Joe's Law, that

4 addresses the problem and some of the things you think we

5 should do about it?

6 A. A few chapters of the book, yes.

7 Q. Right. Related to the immigration issue --

8 A. Yes.

9 Q. -- illegal immigration issue.

10 A. Yes.

11 Q. Would you agree that there are reliable ways to

12 tell if someone is an illegal immigrant?

13 MR. CASEY: Objection to form.

14 Q. BY MR. BODNEY: In your experience, are there

15 ways that one can tell that someone is an illegal

16 immigrant in our state?

17 MR. CASEY: Objection to form.

18 THE WITNESS: I -- it is a tough question to

19 answer. Can you repeat that again?

20 Q. BY MR. BODNEY: Well, sure.

21 I guess I'm just wondering, for example, you

22 would agree that there are -- with Mexicans, Latinos,

23 those persons have brown skin, right?

24 MR. CASEY: Objection to form.

25 THE WITNESS: Well, not necessarily.

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1 Q. BY MR. BODNEY: In your experience, by and

2 large, do the Mexicans, the illegal immigrants who come

3 into Arizona have brown skin?

4 A. Well, if you are talking about the Hispanics, as

5 a rule how they get here, yes, they do have certain

6 appearances.

7 Q. And those appearances are readily observable,

8 skin color?

9 A. Yeah.

10 Q. I want to ask you a couple of questions about

11 the book Joe's Law. It is titled Joe's Law: America's

12 Toughest Sheriff Takes on Illegal Immigration, Drugs and

13 Everything Else That Threatens America. And you co-wrote

14 that book?

15 A. Yes.

16 Q. And you were, at least according to the cover,

17 listed as the lead author?

18 A. Yes.

19 Q. Does the book reflect your views?

20 A. I am not sure, to the best of my knowledge, I

21 haven't reviewed the book recently. In fact, I haven't

22 even read the book --

23 Q. Okay.

24 A. -- totally.

25 Q. But you have read substantial parts of the book?

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1 A. Yes.

2 Q. And have you read the parts that do relate to

3 the illegal immigration problem?

4 A. Yeah, I may have.

5 Q. Have you taken steps to promote the book?

6 A. Not really.

7 Q. Appearances, television, radio, anything like

8 that?

9 A. I believe when the book was published, I did a

10 few national television shows.

11 Q. Do you remember which shows those were, Sheriff?

12 A. I do not. Probably Fox. I can't remember.

13 Q. CNN?

14 A. I'm not sure. I have been on several times on

15 other matters, so I'm not sure. It is about a year and a

16 half ago, I believe.

17 Q. All right. And the book, as I remember, was

18 written in two thousand -- or published in 2008?

19 A. Yes.

20 Q. How is the book selling?

21 A. Don't know.

22 Q. That is just not something you pay attention to?

23 A. That's right.

24 Q. You wrote a book before that called America's

25 Toughest Sheriff: How We Can Win the War Against Crime?

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1 A. Yes.

2 Q. And that was published in 1996?

3 A. Yes.

4 Q. There was nothing in that book about illegal

5 immigration, was there?

6 A. I don't recall.

7 Q. You don't recall anything about illegal

8 immigration in the book?

9 A. No, I do not. Let me just clarify. That book

10 was written in conjunction with Lance Sherman,

11 co-author --

12 Q. Okay.

13 A. -- so we joined forces and wrote the book.

14 Q. And it is Lance Sherman who was the co-author of

15 Joe's Law?

16 A. Yes.

17 Q. In Joe's Law, you refer to the illegal

18 immigration problem and about the Mexicans who want to

19 take back Arizona and parts of the United States, a

20 reconquista. Do you remember that?

21 A. Once again, I am going to say that my co-author

22 did a lot of research, and many parts of the book was

23 attributed to him.

24 Q. Okay. Do you -- do you remember this line from

25 the book, or if not the line specifically, the substance,

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1 the general essence of the line? You said there is a,
2 quote, growing movement, close quote, among Mexican
3 nationals and Mexican-Americans that contends, and I quote
4 again, that massive immigration over the border will speed
5 and guarantee the reconquista of these lands, returning
6 them to Mexico, close quote.

7 Is that something you believe?

8 A. I am not familiar with that. Once again, this
9 is something injected by the co-author.

10 Q. Okay.

11 A. And I am not familiar with that whole situation.

12 Q. Let me just ask the court reporter to mark the
13 title page and pages 48 and 49 of Joe's Law as Exhibit 1
14 to the deposition.

15 (Deposition Exhibit No. 1 was marked for
16 identification by the reporter.)

17 Q. BY MR. BODNEY: Here's a copy of what the court
18 reporter has marked to your deposition. And, Sheriff, I
19 would just draw your attention to the bottom of the page,
20 numbered paragraph 2, that begins, quote, my parents did
21 not regard any inch of American soil as somehow belonging
22 to Italy, so their arrival here never constituted a,
23 quote, reconquest, closed quote, of that land.

24 A. Where do you see -- in what paragraph,
25 Counselor?

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1 Q. It is numbered paragraph 2 --

2 A. Okay. Okay.

3 Q. -- at the bottom of page 48.

4 If you would, just take a couple of seconds and
5 read through those few sentences.

6 This is a section, Sheriff, if I understand
7 correctly, that contrasts your parents' experience as
8 immigrants from Italy to this country with immigrants from
9 Mexico into the Southwestern United States?

10 A. I am going to say again I did no research. This
11 is my co-author --

12 Q. Mr. Sherman --

13 A. -- his part of the book. So this is what he was
14 saying, not me.

15 Q. Okay. And -- and my question is whether because
16 it refers to your parents' experience coming from Italy
17 and the difference between how they approached immigration
18 and how Mexicans coming to this country approach
19 immigration, whether you agree with this notion, and I
20 quote, that massive immigration over the border will speed
21 and guarantee the reconquista of these lands, returning
22 them to Mexico.

23 Is that -- is that part of what threatens
24 America?

25 A. No. I am going to say again I did not say this.

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1 It was him that said it. The only thing -- the whole
2 thrust of my comment regarding my parents, as far as I
3 personally is concerned, is my parents came here legally
4 and I was talking about others that come here illegally.
5 That was the difference in my philosophy.

6 Q. Okay. So the reconquista concern as something
7 threatening America is not a view you share?

8 A. No.

9 Q. Okay. If you would, Sheriff, just one more
10 thing on this page, right at the middle of the page before
11 numbered paragraph 1, it says, and I quote, my parents,
12 like all other immigrants exclusive of those from Mexico
13 held to certain hopes and truths, close quote.

14 A. What paragraph is that? I'm sorry.

15 Q. It is the third paragraph on the page right
16 before numbered paragraph 1.

17 A. So the question?

18 Q. Do you agree with that statement --

19 A. Well --

20 Q. -- referring to your parents, their beliefs and
21 how they differ from all other immigrants exclusive of
22 those from Mexico?

23 A. No, I don't agree with that.

24 Q. And why not?

25 A. Well, when it says all -- all from Mexico, we
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1 have people every day that come from Mexico legally, U.S.
2 citizens. So I don't agree with that as a total blanket
3 people from Mexico.

4 Q. Did you review these paragraphs before the book
5 was published?

6 A. Oh, I went over them briefly. I didn't read
7 word by word. I had confidence in my co-author and, as I
8 say, I haven't read the whole book yet to this day.

9 Q. Do you have any intention of changing the book
10 to reflect your current views?

11 A. It is a little late to change it unless I write
12 a new one.

13 Q. In a second edition, perhaps?

14 A. I don't know. I have no interest right now.

15 Q. So you are comfortable leaving the words as they
16 stand in the book?

17 A. Once again, it is the co-author that helped
18 write the book. Everybody that writes books don't agree
19 with what is in the book. You do know that. We try to do
20 as accurate a book as possible, but sometimes it doesn't
21 come out that way.

22 Q. So when you reviewed the -- well, did you review
23 galley of this book before it was published?

24 A. Not every word, but I did go over the
25 preliminary. You call it galley, but not every word. I

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1 have confidence again with my co-author, and, as I say, he
2 was a co-author. He had a right to interject his own
3 feeling in the book. That's why his name is on it.

4 Q. Sure. And so, Sheriff, when -- when he wrote
5 sections regarding your personal experiences or your
6 beliefs or your parents' experiences, did you confer with
7 him about those issues before he wrote these statements?

8 A. Well, I -- he did realize my folks came from
9 Italy, and I have lived in foreign countries myself, but
10 he had his own opinion somewhat on the illegal immigration
11 or subjects that you are talking about.

12 Q. Is it possible that you were comfortable with
13 these views when you first reviewed them sometime in 2008
14 but that over time now in December of 2009 your views have
15 changed?

16 A. No. I don't recall what sections you are asking
17 me that I reviewed. I don't recall that.

18 Q. I am referring just to this page 48.

19 A. I don't recall word by word whether I reviewed
20 that page.

21 Q. Okay. Do you remember giving an interview
22 earlier this year to Alexander Provan of GQ Magazine?

23 A. I have given so many interviews, I don't recall.

24 Q. There was --

25 A. I know I was interviewed by CQ, I believe.

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1 context.

2 Q. But that reflects your views --

3 MR. CASEY: Objection to form.

4 Q. BY MR. BODNEY: -- that statement?

5 A. It reflects my views only those that come across
6 the border and do not go through the proper checks,
7 through the regular ports to come in here with no checks
8 at all. And there is no way to determine whether they
9 have a disease or not. I can talk about the swine flu,
10 tuberculosis, and I believe I was referring to those
11 instances when people come across without doing the proper
12 checks.

13 Q. -- Okay. Let me just ask the court reporter to
14 mark as Exhibit 2 to your deposition a copy of an article
15 that appeared as a GQ feature on men.style.com, and this
16 is the article we just discussed. It is labeled ORT
17 000528 through 000535. And those are just the Bates
18 labels at the bottom of the page so that we lawyers can
19 keep track of these documents.

20 (Deposition Exhibit No. 2 was marked for
21 identification by the reporter.)

22 Q. BY MR. BODNEY: I show you what the court
23 reporter has marked as Exhibit 2 to your deposition and
24 ask you, Sheriff, whether you ever saw this story written
25 by Alexander Provan. It is titled the "The Vigilante."

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1 Q. By GQ?

2 A. Was it CQ? GQ? Whatever.

3 Q. GQ. I think it is short for Gentlemen's
4 Quarterly.

5 And according to his article, he went to your
6 home and spoke with you and your wife about --

7 A. It's a possibility.

8 Q. -- your views.

9 Okay. Does that ring a bell or no?

10 A. I have had others. I am trying to figure out
11 which one this fellow was, but if you say he came to my
12 house, he came to my house.

13 Q. In his article he refers to --

14 A. Okay.

15 Q. -- meeting with you and talking with -- with
16 your wife.

17 Here's what he quoted you as saying, quote, all
18 these people that come over, they could come with disease.
19 There is no control, no health checks or anything. They
20 check fruits and vegetables. How come they don't check
21 people? No one talks about that. They are all dirty,
22 close quote.

23 Do you remember saying that to Mr. Provan?

24 A. I may have. I am not sure whether it was taken
25 out of context if that was said. Could have been out of

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1 A. I don't recall.

2 Q. Don't recall.

3 And if you look on the page labeled ORT 533, you
4 will see the statement that you testified about a moment
5 ago. So if you turn to 00533 and go about two-thirds or
6 three-quarters of the way down the page, you will see a
7 paragraph that begins, quote, my wife has a point about
8 them coming over, close quote, Joe says. Quote, all these
9 people that come over, they could come with disease, and
10 then the statement goes on, and no one talks about that
11 they are all dirty, et cetera.

12 Do you see that paragraph?

13 A. Yes.

14 Q. Any reason to disbelieve that this was your
15 statement to Mr. Provan when he met with you and your
16 wife?

17 A. Is this the person you said he came to my house?

18 Q. That's what the --

19 A. GQ?

20 Q. Yes, Alexander Provan.

21 A. First of all, my wife doesn't talk like that,
22 and my wife doesn't get involved in her philosophical
23 views, so I --

24 Q. Well, he's -- he's referring to a statement she
25 said in the preceding paragraph, you see. The quote says
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1 in the paragraph above, quote, they used to stop them from
 2 coming across the border, close quote, Ava remembers.
 3 Do you see that?
 4 A. Um-hum.
 5 THE COURT REPORTER: Is that a "Yes"? I need a
 6 verbal response.
 7 MR. CASEY: Sheriff?
 8 THE WITNESS: Oh, I'm sorry. I was reading and
 9 trying to answer. I apologize.
 10 What was the question?
 11 Q. BY MR. BODNEY: So your answer was yes to that
 12 last question? You --
 13 A. Could you repeat it? You were talking about my
 14 wife's comments?
 15 Q. Yeah. I was just asking, do -- do you see that
 16 comment that the writer attributes to your wife? And --
 17 and I gather from the way this reads, she made a statement
 18 and that sparked your statement which follows it.
 19 A. I don't recall my wife making statements like
 20 that.
 21 Q. Okay. All right.
 22 But as we discussed, the previous statement does
 23 reflect your views, the one that you have testified about
 24 people coming across the border and so on --
 25 MR. CASEY: Objection.
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1 Q. BY MR. BODNEY: -- risk of disease?
 2 MR. CASEY: Objection to form.
 3 Q. BY MR. BODNEY: You have no reason to disagree
 4 with the statement that you have testified about a few
 5 moments ago, quote, all these people, all the way down to
 6 the end of that paragraph?
 7 A. About health checks and so on, yes.
 8 Q. Right. Through the end of that paragraph. Fair
 9 enough?
 10 A. Well, okay.
 11 Q. It goes down and says, I sent out 200 inmates
 12 into the desert, they picked up 18 tons of garbage that
 13 they bring in, the baby diapers and all that. Where's
 14 everybody who wants to preserve the desert, closed quote.
 15 Sound like you?
 16 A. Yes.
 17 Q. Okay. You also said, Sheriff, that illegal
 18 immigration presents a threat to public health in the form
 19 of swine flu risk.
 20 Do you recall issuing a press release to that
 21 effect?
 22 A. I believe I did.
 23 Q. And -- and said that the risk of swine flu
 24 underscores the need for law enforcement by the sheriff's
 25 office, right? Aimed at protecting against illegal
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1 immigrants?
 2 A. I may have said that, but, once again, I am
 3 confused as to the question --
 4 Q. Okay.
 5 A. -- the law enforcement part of it.
 6 Q. Okay. I will -- I don't want to confuse you.
 7 Let me be as specific about this as -- as I possibly can.
 8 On April 28th, 2009, MCSO, Maricopa County
 9 Sheriff's Office, issued a press release that begins, and
 10 I will quote, Maricopa County Sheriff Joe Arpaio says that
 11 it is estimated that over 90 percent of all illegal aliens
 12 arrested by his anti-human smuggling unit come from areas
 13 south of Mexico City where the swine flu has already
 14 killed nearly 150 people, close quote.
 15 Do you remember issuing a press release
 16 containing those words or words to that effect?
 17 A. Well, my public information officer prepares the
 18 press releases.
 19 Q. And who is that?
 20 A. Well, I have many of them. Not "many." but I
 21 have three or four --
 22 Q. Okay.
 23 A. -- to prepare releases.
 24 Q. Do you know who prepared this press release?
 25 A. No, I do not.
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1 Q. Pardon me for interrupting you. Go ahead.
 2 A. To answer that part, we were concerned that the
 3 areas near Mexico City were prevalent for the swine flu,
 4 and many of the people we arrested came from that area.
 5 Q. Let me ask the court reporter to mark as
 6 Exhibit 3 to your deposition a copy of the April 28th,
 7 2009, press release.
 8 (Deposition Exhibit No. 3 was marked for
 9 identification by the reporter.)
 10 Q. BY MR. BODNEY: I show you, Sheriff Arpaio, what
 11 the court reporter has marked as Exhibit 3 to your
 12 deposition. Do you recognize this as one of your office's
 13 press releases?
 14 A. Yes.
 15 Q. And the first sentence begins with a statement
 16 attributed to you. It says, and I quote, Maricopa County
 17 Sheriff Joe Arpaio says it is estimated that over
 18 90 percent of all illegal aliens arrested by his
 19 anti-human smuggling unit come from areas south of Mexico
 20 City where the swine flu has already killed nearly 150
 21 people, close quote.
 22 Are you comfortable with your public relations
 23 office attributing that statement to you? In other words,
 24 does it reflect your view?
 25 A. Well, first of all, this is not in quotes --
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1 Q. Right.
 2 A. -- number one.
 3 Q. Right.
 4 A. And number two, as far as statistics are
 5 concerned, this is something you have to deal with my
 6 office. I do not analyze statistics.
 7 Q. So you are not comfortable as you sit here today
 8 saying that over 90 percent of all illegal aliens arrested
 9 by your anti-human smuggling unit come from areas south of
 10 Mexico City where the swine flu has already killed nearly
 11 150 people?
 12 A. I am not saying that.
 13 MR. CASEY: Objection. Excuse me. Objection to
 14 form.
 15 Q. BY MR. BODNEY: I am just trying to understand
 16 whether that -- that statement containing the percentage
 17 is something you are comfortable saying.
 18 A. If my staff came up with it, yes.
 19 Q. Okay. Do you have any reason to believe that
 20 your staff didn't come up with this press release and the
 21 statements contained in it?
 22 A. I don't know.
 23 Q. I mean, it looks to you --
 24 A. You would have to ask the staff.
 25 Q. Okay. But you have no reason to believe that
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1 this is anything but your press release? I mean, I assume
 2 you have seen it before?
 3 A. Yeah. I can't remember now, but I presume I saw
 4 it previous to dissemination.
 5 Q. Okay. And -- and if your staff put that
 6 percentage figure in the press release, you are
 7 comfortable with the integrity of your staff's work, I
 8 assume?
 9 A. Yes.
 10 Q. Okay. Do you know what your staff would have
 11 done to verify that estimate?
 12 A. No. They have -- I presume they went to those
 13 that are knowledgeable about our illegal immigration
 14 programs.
 15 Q. Okay. And does that -- just based on your
 16 experience, does that sound about right, that -- that over
 17 90 percent of all illegal aliens arrested by your
 18 anti-human smuggling unit come from areas south of Mexico
 19 City within the country of Mexico?
 20 A. I'm sure they were talking about the time period
 21 of the epidemic that was occurring.
 22 Q. So that would have -- as best you can testify
 23 to, it is your view that that would have been true on or
 24 about April 28th, 2009?
 25 A. As I say, my staff will be able to answer that
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1 question better than I can.
 2 Q. Sheriff, if -- if you were to direct me or one
 3 of the lawyers representing the plaintiffs to that staff
 4 person who prepared that estimate, who would you say we
 5 should talk to?
 6 A. I don't recall, but I am sure Brian Sands or
 7 people under his jurisdiction probably could answer that.
 8 Q. Okay. If you will look at the last paragraph on
 9 this page, Sheriff, Exhibit 3, the last sentence says, and
 10 I quote, tuberculosis and chickenpox have already
 11 presented health concerns in the jails, and both diseases
 12 are primarily brought in by illegal immigrants, close
 13 quote.
 14 Do you see that statement?
 15 A. Yes.
 16 Q. Do you agree with it?
 17 A. Once again, this is information brought to me to
 18 my attention by my staff.
 19 Q. So you have no reason to disbelieve that
 20 information from your staff?
 21 A. This is brought to me by my staff.
 22 Q. And it is not something that you independently
 23 researched?
 24 A. I did not.
 25 Q. Does it reflect your general experience? In
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1 other words, that those two diseases, tuberculosis and
 2 chickenpox, are, quote, primarily brought in by illegal
 3 immigrants, close quote?
 4 A. I do not know.
 5 Q. When you read something like this in a press
 6 release by your office before it is issued, do you ever
 7 ask Mr. Sands or others to prove to you that these
 8 statements are correct?
 9 A. No, I do not ask them to prove it. I have
 10 confidence in my staff. I have a large staff, about,
 11 what, 3,800 employees. I am known to delegate to my
 12 staff, and I have complete confidence in my staff. So
 13 when they say something, I would presume it is correct.
 14 Q. As a lawman, in your experience, Sheriff, have
 15 you ever had statements like these brought to you in a
 16 news release that caused you to say to Mr. Sands or
 17 someone from the press office, "Where did you come up with
 18 that?" and to probe the veracity of these statements?
 19 A. Are you talking about my 48 years' experience in
 20 law enforcement?
 21 Q. Or the -- or the nearly 17 years you have been
 22 our sheriff here in Maricopa County. Any time over the
 23 last 17 years as sheriff where you had to do that?
 24 A. That is a tough one to answer. I do a lot of
 25 press releases, but I would imagine there has been times
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1 where I asked about it, yes.

2 Q. Do you remember ever asking that question in
3 connection with the statements your office has issued
4 concerning illegal immigration?

5 A. I may have. I don't -- I don't recall the
6 subject matter, but I am sure at times I may have talked
7 to my staff to get public information on people.

8 Q. Okay. And -- and just so I am clear about this
9 and the record is clear, you don't recall questioning your
10 staff about these two statements that, number one, over
11 90 percent of all illegal aliens arrested by your
12 anti-human smuggling unit come from areas south of Mexico
13 City, and, number two, that tuberculosis and chickenpox
14 are primarily brought in by illegal immigrants?

15 A. Are you talking about questioning my staff about
16 those statistics?

17 Q. Right.

18 A. No.

19 Q. No?

20 A. But I think I tried to clarify paragraph 1.

21 Q. By saying --

22 A. Time period.

23 Q. Time period.

24 Probably was accurate in your view as of

25 April --

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1 Mexico illegally you are going to jail?

2 A. I don't know if I said "from Mexico." You keep
3 saying "Mexico." Is that the quote?

4 Q. The beginning of your sentence -- let me just
5 show you this because I -- I am not trying to trick you or
6 anything with this. I believe this is Exhibit 4, and I'll
7 ask our court reporter to mark it for us.

8 (Deposition Exhibit No. 4 was marked for
9 identification by the reporter.)

10 Q. BY MR. BODNEY: Sheriff, if you look about
11 two-thirds of the way down -- I'm sorry, practically at
12 the bottom of the page, you will see a paragraph that
13 begins, and I quote, I have compassion for the Mexican
14 people, but if you come here illegally you are going to
15 jail, close quote, said Sheriff Arpaio, an elected
16 Republican, whose county is the fourth most populous in
17 the country and among the fastest growing.

18 Do you see that paragraph?

19 A. Yes.

20 Q. Does that statement reflect your view?

21 A. Only if you are violating the law it reflects my
22 view.

23 Q. Okay. So if -- if you are here illegally, is
24 that a violation of the law almost by definition?

25 A. Yes, but you need probable cause to enforce that
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1 A. That's when this was all going on.

2 Q. -- of this year?

3 Okay. Fair enough. Thank you.

4 Sheriff, in recent years you have taken a
5 get-tough position on illegal immigration, haven't you?

6 A. Along with other crimes, yes.

7 Q. Would it be fair to say that illegal immigration
8 over the last few years has been a top priority of your
9 office?

10 A. One of my top priorities.

11 Q. Okay. Do you recall speaking -- and this will
12 go back a few years, so I can show you the article, but in
13 May of 2006 -- to Randal Archibold of The New York Times,
14 and you said, and I will quote from his article, quote, I
15 have compassion for the Mexican people, but if you come
16 here illegally you are going to jail, close quote.

17 Do you remember saying that?

18 A. How can I remember all these questions you are
19 asking me when I deal with media -- thousands. I -- I
20 can't remember that quote.

21 Q. Okay. Does it reflect your view?

22 A. Will you repeat the question, please?

23 Q. Sure.

24 I guess the question would be this: Is it your
25 view that if someone comes into Maricopa County from
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1 law.

2 Q. Okay. And what -- what is probable cause?

3 A. Are you talking about in law enforcement in
4 general?

5 Q. In general.

6 A. Well, that is tough -- that is difficult to
7 answer. Every case is different, but when I say "probable
8 cause," say you have a reason --

9 Q. Okay.

10 A. -- to investigate and to develop the case.

11 Q. Okay. A reason to investigate and develop the
12 case would be probable cause?

13 A. In general -- generalities, yes.

14 Q. Okay. I have read a statement attributed to you
15 also from May of 2006. I believe it first appeared in The
16 Washington Post, statements made to John Pomfret and Sonya
17 Geis, and then it appears to have run in The Seattle
18 Times, and you say this, and I'll quote, my message to the
19 illegals is this: Stay out of Maricopa County, because
20 I'm the sheriff here, close quote.

21 Does that sound like your view?

22 A. My view is for all criminals to stay out of
23 Maricopa County. If you say that illegals are criminals,
24 which they are when they cross the border in a sense, that
25 was my message. I say that for everybody, drug dealers

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1 and whatever.

2 Q. This -- this story begins with a line, and I
3 quote, Sheriff Joe Arpaio thinks he has found the answer
4 to illegal immigrants in the United States. It is not the
5 National Guard. And it's not a guest-worker program.
6 Fuhgeddaboutdit! growled Arpaio, his Boston accent
7 unbleached by the desert sun. The sheriff's solution:
8 Lock 'em up, close quote.

9 A. First of all, I don't have a Boston accent, so
10 you can take the veracity of that reporter and what he is
11 saying as garbage.

12 Q. Are you originally from Boston?

13 A. No.

14 Q. Massachusetts?

15 A. I am from Springfield, which has no accent.
16 Near Hartford, Connecticut.

17 Q. A different part of Massachusetts?

18 A. Yes, it is. The good part.

19 Q. Let me ask our court reporter to mark as
20 Exhibit 5 to your deposition a copy of this story as -- as
21 we printed it from Westlaw. It bears production numbers
22 ORT 000078 through 80.

23 (Deposition Exhibit No. 5 was marked for
24 identification by the reporter.)

25 Q. BY MR. BODNEY: Sheriff, first, do you remember
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1 Q. BY MR. BODNEY: I apologize, "Not in my county.
2 I am going to put them on chain gangs, in tents and feed
3 them bologna sandwiches."

4 Does that reflect your view?

5 A. It reflects my view on everyone that is
6 convicted will live in the tents, eat the same menu. So
7 there is no difference from any other person, whether you
8 are here violating a law and have been convicted as to
9 anyone else.

10 Q. Do you recall whether you sought out these
11 reporters in May of 2006, The New York Times and The
12 Washington Post?

13 A. In general terms, I would say that 99 percent,
14 they call me. I don't call them. So I would almost
15 imagine when you are talking about all these newspapers,
16 they have called me. I have not called them.

17 Q. Is it fair to say that those calls occur after
18 your office issues a press release?

19 A. I don't know. I don't have the statistics on
20 that, but I -- I really don't believe so.

21 Q. Do you know how large a subscriber group
22 receives your press releases?

23 A. No, I -- I --

24 Q. In other words, to continue, do you have any
25 idea, is it in the hundreds of persons who receive your
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1 speaking with reporters from The Washington Post about
2 your approach to illegal immigration in 2006?

3 A. You know, I -- I don't remember. I will confirm
4 that I have talked to the Post several times, but I can't
5 remember this one.

6 Q. Okay. Does that statement reflect your view,
7 "My message to the illegals is this: Stay out of Maricopa
8 County, because I'm the sheriff here"?

9 A. I don't recall saying it in that context. I
10 don't recall.

11 Q. But no reason to disagree that you made that
12 statement to the press back in 2006?

13 MR. CASEY: Objection to form.

14 THE WITNESS: To stay out of Maricopa County?

15 Q. BY MR. BODNEY: Right.

16 A. I may have.

17 Q. Okay. Just a little further down the page,
18 Sheriff, it says, and there are quotes around this
19 attributing the statement to you, quote, if you get caught
20 by immigration, you get a free ride back to Mexico in an
21 air-conditioned bus, Arpaio said. A free ride? Not in my
22 country (sic). I am going to put them on chain gangs, in
23 tents and feed them bologna sandwiches, close quote.

24 MR. CASEY: Objection to form. You said "Not in
25 my country." I think it says "county."

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1 press releases?

2 A. I -- I just know locally that, as you well know,
3 the majority of the media does receive my press releases.
4 In fact, we have them on our web.

5 Q. Do you -- do you know when you began putting the
6 press releases on your website?

7 A. I am not sure whether it was two years ago
8 or ...

9 Q. Okay. Do you know whether there are any special
10 protocols for distributing a press release to a wider
11 national audience than the local media? In other words,
12 does The New York Times and Washington Post routine -- do
13 they routinely receive your press releases?

14 A. I don't know. I am not saying yes or no, but
15 that is something my staff can answer.

16 Q. Okay. But no reason to think that you didn't
17 make this statement to the reporters in May of 2006,
18 quote, "If you get caught by immigration," all the way
19 down to "bologna sandwiches"?

20 A. No. That's probably taken out of context. As
21 you know, when I say something, they always edit and ...

22 Q. But the part that is in quotes, does that sound
23 sufficiently like you for you to be comfortable with that
24 statement?

25 MR. CASEY: Objection to form.
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1 THE WITNESS: No. I -- I said -- to note what I
 2 said, what they could have left out was the fact that we
 3 treat everybody the same. It doesn't matter whether they
 4 are here illegally living in the tents.
 5 Q. BY MR. BODNEY: Do you remember making that
 6 statement to these reporters back in May of 2006?
 7 A. I can't remember, but I may have, and once
 8 again, I will say it is probably taken out of context.
 9 Q. Okay. But this is reflective of a get-tough
 10 policy on illegal immigration in Maricopa County that you
 11 initiated at about that time, isn't it?
 12 A. You are talking about nineteen ninety -- 2006?
 13 Q. 2006.
 14 A. I believe that is when the state laws were
 15 passed, yes.
 16 Q. Right. And so your office announced that it was
 17 going to get tough on illegal immigration at about that
 18 time; isn't that right?
 19 A. After the laws were passed.
 20 Q. Okay. And do you know whether you -- can you
 21 remember taking any special steps to alert the media to
 22 this new policy?
 23 A. I may have.
 24 Q. Do you recall what any of those steps might have
 25 been, other than speaking to reporters from The New York
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1 Times and Washington Post?
 2 A. I believe we formed a specialized smuggling
 3 unit. So I did let the media know that.
 4 Q. Can you tell us what you recall about the
 5 formation of the anti-human smuggling unit?
 6 A. Well, I established a policy, and I am sure that
 7 Chief Sands, who runs that operation, has more information
 8 as to the mechanics of that unit.
 9 Q. But what does the unit mean to you? What is the
 10 unit?
 11 A. It means it is a specialized unit with a main
 12 objective to arrest those that violate the law and come
 13 into this county illegally, the same as drug units, animal
 14 control units that I have. I could go on and on.
 15 Q. Do you know how many deputies you assigned to
 16 that unit when it was created in 2006?
 17 A. I am not sure.
 18 Q. Do you know how many deputies are members of
 19 that unit today?
 20 A. I believe it is about 15.
 21 Q. 15, 1-5?
 22 A. Yes.
 23 Q. Are you aware of any special training that the
 24 unit receives?
 25 A. Yes.
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1 Q. And what training is that?
 2 A. They were trained by the U.S. government.
 3 Q. Part of the 287 --
 4 A. I believe most -- most of them -- most of them
 5 have. I am not sure how many. But the majority have been
 6 trained under the 287(g) program under ICE, Immigration
 7 and Customs Enforcement, which is under Homeland Security.
 8 Q. I'm sorry. I didn't mean to interrupt you when
 9 you were saying that.
 10 Do you know anything about that training program
 11 that some of -- some or all of these 15 deputies received?
 12 A. I have not gone through -- gone through the
 13 program myself, and this is something that, as I say, my
 14 staff has knowledge of.
 15 Q. Do you know whether the -- the training program
 16 contains a component, Sheriff, aimed at reducing the risk
 17 of racial profiling?
 18 A. I believe it may have.
 19 Q. You are not sure?
 20 A. I say: I believe it may have. I never read it
 21 myself.
 22 Q. Okay. Do you have an interest in that subject?
 23 A. I have an interest in all subjects relating to
 24 enforcing the law.
 25 Q. Have you ever created a special training program
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1 for your team, for your deputies, to reduce the risk of
 2 racial profiling?
 3 A. I am sure, once again, not having all the nuts
 4 and bolts of it, the 287(g) program did address that
 5 issue.
 6 Q. Okay. But you're -- you're -- you haven't
 7 created or approved such a specific training program
 8 yourself for MCSO, have you?
 9 A. I don't believe so at that time.
 10 Q. Okay.
 11 A. Because we had the training from the government.
 12 Q. Do you think it would be a good idea to create a
 13 regular training program designed to reduce the risk of
 14 racial profiling in illegal immigration operations or
 15 other aspects of law enforcement?
 16 MR. CASEY: Objection to form.
 17 THE WITNESS: Well, I -- we do not racial
 18 profile. So if we do not racial profile, why would I do a
 19 training program?
 20 Q. BY MR. BODNEY: You don't think there is even a
 21 risk of racial profiling occurring today?
 22 A. Once again, I have confidence in my staff and
 23 they know how to supervise our deputies and our detention
 24 officers, so I rely on their expertise and management
 25 abilities.
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1 Q. Okay. In March 2007, you held a news conference
2 to discuss the then new 287(g) agreement with ICE,
3 correct?

4 A. I may have.

5 Q. Okay. You remember entering into that
6 memorandum of agreement with the federal government in or
7 about March of 2007?

8 A. I know we entered into an agreement. I don't
9 recall the news conference.

10 Q. Okay. By the way, just so we are clear about
11 this, if I say "MCSO," we understand that we are talking
12 about the Maricopa County Sheriff's Office, okay?

13 A. Yes.

14 Q. And if I say or you say "ICE," we'll understand
15 that we are referring to the U.S. Immigration and Customs
16 Enforcement, okay?

17 A. Yes.

18 Q. And I simply am trying to understand whether
19 certain statements attributed to you are ones that you
20 remember or if you don't remember them, whether they are
21 reflective of your views or would have been reflective of
22 your views at the time.

23 A. Yes.

24 Q. So The Arizona Republic ran a story in or about
25 -- on or about March 2, 2007. The headline read: Arpaio
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1 press conference?

2 MR. CASEY: Objection to form.

3 THE WITNESS: I -- I -- no, I don't think it is
4 possible in that context.

5 Q. BY MR. BODNEY: Okay.

6 A. But I may -- what we may be talking about, and I
7 go back to another press conference, when I encourage
8 people to arrest people even if they are illegal, but that
9 was pursuant to another violation, because once they are
10 arrested and booked into our jail on another crime, even
11 though they may be illegal, our detention officers under
12 the 287(g) investigates everybody that comes into that
13 jail.

14 So if you arrest someone on another state
15 violation and that person happens to be illegal, that is
16 the time when you kick in the illegal immigration
17 enforcement that we have been trained to do.

18 Q. Okay.

19 A. I hope I clarified -- I never said that in that
20 context.

21 Q. You never said that your plan is to, quote, go
22 after illegals, not the crime first?

23 A. Never. "Not the crime first," I don't recall
24 ever saying that.

25 Q. Or saying, quote, it's a pure program. You go
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1 Stays Silent on Real ICE Plan.

2 And it discussed a press conference that you
3 held and attributes this quotation to you, quote, ours is
4 an operation where we want to go after illegals, not the
5 crime first, close quote.

6 He said, quote, it's a pure program. You go
7 after them, and you lock them up, close quote.

8 Do you remember making that statement?

9 A. Once again, that was taken out of context. If I
10 remember way back in those days -- and if you repeat that,
11 maybe I can clarify.

12 Q. Sure.

13 We are talking about a press conference that
14 took place in -- in or about March of 2007, and you are
15 quoted as talking about an operation where you said that
16 you, quote, go after illegals, not the crime first, close
17 quote. And then it says, quote, it's a pure program. You
18 go after them and you lock them up, close quote.

19 A. Who was the reporter? Keiffer?

20 Q. No. Richard Ruelas.

21 A. Oh, okay. I don't recall ever saying that. We
22 don't lock up people being here illegally until we have
23 probable cause and most of the time another crime has been
24 involved.

25 Q. Is it possible you made that statement at the
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1 after them, and you lock them up, close quote?

2 A. I -- I just clarified that is what I said --

3 Q. Okay.

4 A. -- that you have another crime and you do arrest
5 them under that other crime.

6 Now, there may be many instances where police
7 will not arrest them but give them a summons to appear in
8 court and that type of thing.

9 Q. He also quotes you as saying, and I quote, we
10 want to stop illegals coming into this country and put
11 them in jail, close quote, Arpaio says.

12 A. I may have said that, just another crime that we
13 enforce.

14 Q. Okay. Let me ask our court reporter to mark
15 as Exhibit 6 to your deposition a copy of this story from
16 The Arizona Republic dated March 2, 2007, which bears
17 Bates Nos. ORT 000084 through 85.

18 (Deposition Exhibit No. 6 was marked for
19 identification by the reporter.)

20 Q. BY MR. BODNEY: Sheriff, if you look about a
21 little more than halfway down the page, you will see a
22 paragraph that begins, quote, ours is an operation where
23 we want to -- and I quote -- go after illegals, not the
24 crime first, close quote.

25 And then it says, quote, it's a pure program.
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1 You go after them, and you lock them up, close quote.

2 Did you say those things?

3 A. I don't recall it in that context, but you have
4 to understand, under the 287(g) program, we have the right
5 to arrest, detain those that are here illegally but have
6 not committed a crime. So that may be the context he's
7 talking about.

8 Q. And when you say that, Sheriff, you are
9 referring to the powers your office had, as you understand
10 them, when the 287(g) agreement related to jail and street
11 operations, the old agreement?

12 A. Yes.

13 Q. Okay. Okay. Do you recall ever reading this
14 story back in 2007?

15 A. No, I don't recall.

16 Q. Do you recall the press conference at which you
17 discussed your pure program?

18 A. I may have. I am not going to deny it, but I
19 don't recall it.

20 Q. Okay. Fair enough.

21 To help refresh your recollection, I am going to
22 ask Mr. Lockwood, with greater technical skills than I
23 have, to just show for you a videotape of what we
24 understand to be your press conference --

25 A. Okay.

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1 Q. -- the one that Mr. Ruelas was referring to, and
2 ask our videographer to capture it on tape, if she can.

3 MR. CASEY: Can you lay some foundation for what
4 is the basis for that representation that this is the
5 press conference?

6 MR. BODNEY: Sure. Let's go off the record.

7 MR. CASEY: I mean, you -- I mean, you can --
8 well, on the record, but I don't care if it is on the
9 videotape, you can just make an offer of proof, but I just
10 kind of want to have that.

11 MR. BODNEY: Of course. Let's go off the record
12 for just a moment.

13 MR. CASEY: Okay.

14 VIDEO TECHNICIAN: We are off the record at
15 10:01 a.m.

16 (Recess ensued from 10:01 a.m. until 10:02 a.m.)

17 VIDEO TECHNICIAN: We are back on the record at
18 10:02 a.m.

19 MR. CASEY: Is there an emergency over there?

20 MR. BODNEY: No, it is just the wire. There we
21 go. Thank you. Too much cord.

22 Q. BY MR. BODNEY: Okay. This -- we represent that
23 this was captured from YouTube, and it was a videotape of
24 the sheriff's press conference that occurred during the
25 week of February 26th, 2007, so a few days before

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1 Mr. Ruelas' article appeared.

2 MR. CASEY: Let me just put an objection on the
3 record. There is -- to the form and the lack of
4 foundation. There is also a fundamental question of
5 authenticity based on something pulled off of YouTube.
6 There has been no establishment of who did the filming.
7 There has been no establishment who did the posting.
8 There is no establishment of what -- in fact, whether the
9 YouTube posting purporting to represent a particular
10 conference is, in fact, representing that conference.
11 There is no evidence of any chain of custody or lack of
12 editing.

13 Just have that for the record.

14 MR. BODNEY: Absolutely. Yeah.

15 MR. CASEY: All right. Please proceed. Sorry.

16 Q. BY MR. BODNEY: The limited purpose of
17 introducing this video is to provide the best evidence
18 that we could find of the press conference itself. So,
19 Sheriff, if you look at this and think it is doctored or
20 prepared by some radical group who changed your words, I
21 want you to tell me, and I don't want you or this court to
22 rely on anything that is fabricated.

23 But it does contain the statements that we have
24 been talking about, about this pure program. So I just
25 want to play it and see if it refreshes your recollection

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1 at all.

2 (Videotape excerpt was played.)

3 Q. BY MR. BODNEY: Sheriff, any reason to believe
4 that that wasn't you at the press conference making those
5 statements?

6 A. No. I presume, but you cut it off. I don't
7 know if there is more explanation. I tried to explain it
8 just previous to the video what the philosophy was.

9 Q. And in the interest of time, we have focused on
10 these statements, and we will make as much of this
11 videotape available to your counsel as we have, and if
12 there is anything you think that you said at the
13 conference that puts this in context, I want you to be
14 able to rely on that, too.

15 But my question was about your statement that
16 "It's a pure program. You go after them, and you lock
17 them up."

18 A. Well, I am going to say again under that 287(g)
19 agreement, we have the authority to enforce illegal
20 immigration laws. That is pure, that law itself. That is
21 what I was referring to, utilizing the 287(g) training and
22 agreement.

23 Q. So which law were you referring to? The federal
24 law?

25 A. The -- the -- the agreement with 287(g) that
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1 gave us further authority to -- when we come across
2 illegals pursuant to our normal law enforcement
3 activities, including traffic violations or what have you,
4 if we come across someone that is also here illegally but
5 was not charged, we have the authority to pursue that
6 under that 287(g) agreement. So that is when you are
7 talking about the pure. We had that extra authority.

8 Q. So the pure program refers to the added power
9 that the 287(g) agreement gave your office?

10 A. Yes, sir.

11 Q. Okay. And what did you mean when you said that
12 you want to go after illegals, not the crime first? What
13 did you mean by that?

14 A. Once again, I am talking about those instances
15 that I just explained to you, that there is no crime other
16 than the fact they are here illegally under that federal
17 situation, and we had the authority to -- to act as ICE
18 agents the same way that ICE would do the same thing.

19 Q. So just to help me understand, how would you go
20 after illegals, not the crime first? How do you do that?

21 MR. CASEY: Objection to form.

22 THE WITNESS: It is the crime and then after the
23 crime or the circumstances involving that situation that
24 put us in that area of responsibility by enforcing the
25 287(g). I just said that there -- if there is no crime,

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1 we still would pursue the detainment or arrest strictly in
2 a pure sense of them being here illegally, because we have
3 the training and the authority to do that under the
4 federal laws.

5 Q. BY MR. BODNEY: So you were announcing a new
6 operation to go after these illegals, right?

7 A. I was announcing all aspects of our enforcement
8 activities, including the state law, but we were
9 concentrating on that new agreement that we signed with
10 the agent in charge of ICE in Washington to be able to
11 enforce the federal immigration laws also.

12 Q. Do you think there are any risks associated with
13 a pure program where you announce that you are going after
14 illegals, not the crime first?

15 MR. CASEY: Objection to form.

16 THE WITNESS: Once again, we have had no
17 problems with that, and that was a very minimal part of
18 our operations, where you come across someone that has not
19 committed a crime first.

20 Q. BY MR. BODNEY: Have you read the complaint in
21 this lawsuit, Sheriff?

22 A. I did not.

23 Q. You have not read the first amended complaint in
24 the case?

25 A. I don't recall.

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1 Q. Have you read about one of the plaintiffs here
2 who was a passenger in a vehicle and wound up spending the
3 better part of the day in custody?

4 A. I don't have the facts of that situation.

5 Q. Is there a chance that he might have been one of
6 those illegals that your office went after first, not
7 going after the crime first?

8 MR. CASEY: Objection to form.

9 THE WITNESS: That is something you have to ask
10 my staff.

11 Q. BY MR. BODNEY: Why have you not read the first
12 amended complaint in this case?

13 A. I may have read it briefly, but I didn't go into
14 all the facts. My lawyers are handling that case.

15 Q. Did you have the interest in this first amended
16 complaint to say to anyone, "I want you to get to the
17 bottom of those racial profiling charges"?

18 A. Once again, I am sure that my staff have looked
19 into it. On a day-to-day basis, they are doing this
20 enforcement. And also my legal staff have looked into it.

21 Q. There are plaintiffs, I will represent to you,
22 Sheriff, in this case who claim to have been harassed and
23 interrogated, humiliated, detained, for six, seven, eight
24 hours in the case of at least one of them and others who
25 were -- had -- had a weapon -- weapons pulled on them.

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1 Do you have enough interest in those allegations
2 to want to know whether there is any truth to them?

3 A. Well, I am sure that my staff is very
4 knowledgeable about those situations, and our lawyers, and
5 justice will prevail.

6 Q. Okay. Do you know who on your staff -- did you
7 direct anyone, though, on your staff to get to the bottom
8 of those charges, find out if there is any truth to them?
9 Did you ever say that to anybody?

10 A. Well, I am sure they know -- they realize about
11 the lawsuit, and I am sure that we have competent legal
12 representation I have confidence in, so that's something
13 they're looking into.

14 Q. That's -- that's your assumption?

15 A. Yes.

16 Q. Okay. Do you believe that you had a pure
17 program? In other words, you don't have any reason to
18 disagree with that statement?

19 A. No. I have a -- no. I tried to explain the
20 word "pure" if I used that word.

21 Q. That's --

22 A. I presume, yeah.

23 Q. Yeah.

24 A. But I am going to say again I am with the agent
25 in charge of ICE, and we are talking about enforcing the

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1 illegal immigration laws. He didn't seem to have any
 2 problems with that word.
 3 Q. Who was that agent?
 4 A. The agent in charge?
 5 Q. Right.
 6 A. Pena, P-e-n-a.
 7 Q. Alonzo Pena?
 8 A. Yes.
 9 Q. And he was the agent in charge of ICE locally?
 10 A. Yes. I believe -- I believe he was at the time.
 11 Now he is in Washington.
 12 Q. Do you know when he left for Washington?
 13 A. Maybe, a rough guess, a couple of years ago --
 14 Q. Have you met --
 15 A. -- probably. I am not sure, but ...
 16 Q. Have you met with him ever, apart from this
 17 press conference?
 18 A. Oh, we have met constantly -- constantly met
 19 together while working on that program while he was agent
 20 in charge.
 21 Q. When was the last time you spoke with him?
 22 A. May have been several months ago.
 23 Q. What did you discuss?
 24 A. This is when he was in Washington, I believe,
 25 and he came down. We discussed the policies of 287(g).
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1 Q. Anything more specific than that?
 2 A. Well, it was the policies and the continuation
 3 of our agreement.
 4 Q. Were you negotiating a new agreement with him?
 5 A. Yes.
 6 Q. Do you remember what he said to you?
 7 A. No.
 8 Q. How long was the meeting?
 9 A. Probably 15, 20 minutes, if I recall.
 10 Q. Okay. Where did it take place?
 11 A. In my office.
 12 Q. Who else was there?
 13 A. I believe that Chief Sands was present and the
 14 chief deputy.
 15 Q. David Hendershott?
 16 A. Yes.
 17 Q. Anybody else?
 18 A. Not that I can recall. He may have had
 19 assistants with him from Washington.
 20 Q. And -- and were you working to extend the
 21 contract?
 22 A. Yes, the full contract.
 23 Q. So for jail and street authority?
 24 A. Yes.
 25 Q. Did he discuss the pros and cons of extending
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1 the street authority of that contract at that time?
 2 A. I don't recall all the details.
 3 Q. Can you remember anything else about that
 4 meeting, any --
 5 A. Only, if I recall, is that he would take our
 6 concerns back to Washington.
 7 Q. Did he bring any of his concerns or Washington's
 8 concerns to you during that meeting?
 9 A. Not that I can recall.
 10 Q. What concerns did you communicate to him?
 11 A. The only concern I had since it was such a
 12 successful program for three years that we probably would
 13 like to continue it.
 14 Q. And did you think the program would be continued
 15 at that time or did you know?
 16 A. I think at that time we thought it would be
 17 continued, both aspects, jail and the street enforcement.
 18 Q. And I apologize for asking the same question, if
 19 this is the same question, but approximately when did that
 20 meeting take place?
 21 A. I think several months -- I don't have the date.
 22 Probably several months ago.
 23 Q. And you have not met with him since?
 24 A. No.
 25 Q. Have you spoken with him since?
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1 A. Not that I can recall.
 2 Q. Have you spoken with anyone from ICE who
 3 explained ICE's decision to discontinue your office's
 4 street-level enforcement activities under 287(g)?
 5 A. I think my -- much of the negotiations and
 6 communications were done by Chief Sands with the local
 7 people here in this office in Phoenix.
 8 Q. And who would those other people be?
 9 A. Probably officials of ICE.
 10 Q. I see. Not -- not others from your office as
 11 well as Chief Sands? In other words, would Chief Sands
 12 have brought others from MCSO to negotiate a continuation
 13 of the agreement?
 14 A. You will have to ask him.
 15 Q. Okay. In July of 2007, you issued another press
 16 release about the illegal immigration enforcement
 17 operations of your office, and you -- you said that MCSO
 18 was targeting profile vehicles and quickly becoming a
 19 full-fledged, anti-immigration agency.
 20 Do you remember issuing a press release on that
 21 subject?
 22 A. I don't remember.
 23 Q. Okay. Let me ask our court reporter to mark as
 24 Exhibit 7 to your deposition a copy of a news release
 25 dated July 20, 2007, which bears the production numbers
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1 ORT 000421 and 000422. The headline reads: Sheriff's
2 Crackdown on Illegal Immigration Heats Up.
3 (Deposition Exhibit No. 7 was marked for
4 identification by the reporter.)

5 MR. CASEY: If you wouldn't mind handing that
6 back and I would like you to use the original --

7 THE WITNESS: This one here?

8 MR. CASEY: Yes, sir. Just so you can use --
9 refer to the exhibit number, if appropriate.

10 MR. BODNEY: That's fine. I was just trying to
11 save a little time.

12 Q. BY MR. BODNEY: Take a moment, Sheriff, if you
13 would, to look at the document and familiarize yourself
14 with it.

15 My first question is simply whether you
16 recognize it as a news release of MCSO.

17 A. Yes, sir.

18 Q. And the line beneath the headline reads, and I
19 quote, hundreds of deputies/volunteer posse targeting
20 profile vehicles, close quote.

21 Do you see that?

22 A. Um-hum. Yes.

23 Q. What does it mean to target profile vehicles?

24 A. Once again, I didn't write the press release.

25 Q. Okay.

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1 A. It was written by my public relations, as far as
2 headlines and that type of thing, and you know, being in
3 the media business --

4 Q. Sometimes the headlines are written by persons
5 other than you?

6 A. Yes.

7 Q. Okay. And is -- would you say this is a case of
8 that, where someone in your public relations office wrote
9 these headlines?

10 A. I would imagine so.

11 Q. And would it again be true that you would have
12 reviewed the press release, read it before it was issued?

13 A. Probably, yes.

14 Q. Okay. So when you saw that headline, what did
15 it mean to you to have "Hundreds of deputies/volunteer
16 posse targeting profile vehicles"?

17 A. Well, I think when you look at the whole
18 situation in context -- remember, this is 2007. That is
19 just when we had the human smuggling law put into effect.
20 I took that very serious as a Class 4 felony and also with
21 the training -- 160 of my officers trained by ICE.

22 So when you have the -- the -- all the deputies
23 being trained to be able to enforce the illegal
24 immigration laws above and beyond other law enforcement
25 agencies, and when we had the new law, I determined to

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1 start the crackdown to enforce that Class 4 felony human
2 smuggling law. And we have done this many times on DUI
3 task force, drugs, where we crack down on drugs, and we
4 send the posse out.

5 So this is the context of this press release.

6 Q. And do you remember where you were sending the
7 posse at that time?

8 A. I don't remember, unless it states here in
9 the --

10 Q. Well, in the second paragraph, Sheriff, towards
11 the bottom -- well, why don't I read it real quickly.

12 Quote, Arpaio said more than 200 armed Sheriff's
13 deputies, reserves and volunteer posse along with the full
14 resources of the Sheriff's Office including SWAT,
15 aviation, electronic surveillance, night vision, and hi
16 power weaponry --

17 MR. CASEY: "Hi tech."

18 Q. BY MR. BODNEY: I'm sorry.

19 -- "hi tech weaponry, will saturate valley
20 cities as well as roadways and highways commonly used as
21 transportation corridors for human trafficking."

22 So -- so would you be saturating Valley cities
23 as part of that effort as this press release says?

24 A. It also says highways where human smugglers are
25 prone to come in, cities where you have drop houses that

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1 house the smugglers and their cargo. So this is a
2 consolidated effort to utilize our new laws and the new
3 authority from ICE.

4 Q. Right. So -- so your office was -- was taking
5 its operation to the Valley cities, meaning the Phoenix
6 metropolitan area, correct?

7 A. Yes.

8 Q. As well as roadways and highways to -- commonly
9 used for human trafficking, correct?

10 A. Yes.

11 Q. And is -- does that paragraph describe what you
12 understood to be the targeting of profile vehicles?

13 A. No. This is not just -- this is not just the
14 human smuggling also. It was also when we do crime
15 suppression, which this was, that we do have the expertise
16 now and the authority if we come across any illegal aliens
17 that we would enforce the federal law too and the state
18 law.

19 Q. Sure. But this was all under the crackdown on
20 illegal immigration, wasn't it?

21 A. Yes.

22 Q. Okay. Sheriff, our videographer has notified me
23 that she just has a few minutes of tape left in her
24 camera. So if it's a good time for you, why don't we take
25 a few minutes' break, 5 minutes, 10 minutes, and we will

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1 reconvene after our court reporter has a chance to fix her
2 machine.

3 VIDEO TECHNICIAN: This is the end of tape No. 1
4 in the continuing deposition of Sheriff Joseph M. Arpaio.
5 Today's date is December 16th, 2009. The time is
6 10:24 a.m.

7 (Recess ensued from 10:24 a.m. until 10:37 a.m.)

8 VIDEO TECHNICIAN: We are back on the record.
9 This is the beginning of tape No. 2 in the continuing
10 deposition of Sheriff Joseph M. Arpaio. Today's date is
11 December 16th, 2009. The time is 10:37 a.m.

12 Q. BY MR. BODNEY: Sheriff, we were reviewing the
13 July 20, 2007, press -- news release from your office,
14 Bates Nos. ORT 421 and 422. Do you still have that
15 exhibit before you, Exhibit 7?

16 A. Yes, sir.

17 Q. Okay. Sheriff, what in your estimation would
18 constitute a, quote, target vehicle, close quote?

19 A. Relating to?

20 Q. This saturation patrol through Valley cities,
21 roadways and highways.

22 A. You know, this is something I said before that I
23 have almost 4,000 employees, so many different divisions
24 and responsibilities, and I do delegate. So I believe
25 this would be something that people running these programs
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1 would be able to explain more than I. They have the
2 illegal immigration training and so on.

3 Q. When you read the phrase "profile vehicle," what
4 did that phrase mean to you?

5 A. Well, I didn't put this in the -- in the press
6 release. It was something my public relations people
7 interpreted certain aspects of that operation, but I think
8 the profile semantics meant more on cracking down on that
9 certain crime.

10 Q. Okay. Do the employees of your office have
11 access to these news releases?

12 A. They are, I believe, on our web, so they have
13 access any time to go to our website.

14 Q. Are they posted physically anywhere in the
15 office or available anywhere in the office?

16 A. I am not sure.

17 Q. Okay.

18 A. We have three, four thousand employees.

19 Q. And how many are in this public relations -- is
20 that the name of the group, the public relations office
21 or --

22 A. Yeah, that is pretty close.

23 Q. Okay. How many employees are in the public
24 relations office?

25 A. We have one that is the head of it, Lisa
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1 Allen --

2 Q. Okay.

3 A. -- and probably three deputies.

4 Q. Does Lisa Allen draft these press releases?

5 A. She does quite often, along with other employees
6 that I have.

7 Q. And then you review them with Lisa Allen after
8 you -- before you send them to the media?

9 A. I normally look at them, if I am in the office,
10 yes.

11 Q. So if we can just focus on the notion of
12 targeting profile vehicles for a moment, as you are
13 driving down the street thinking about the problem of
14 illegal immigration, what would constitute a profile
15 vehicle?

16 A. Once again, I believe this is mainly a human
17 smuggling operation, as it said in the paragraph. That is
18 one aspect. And the people that are members of my human
19 smuggling operation have been trained by ICE and they know
20 what the probable cause and suspicions are and you can --
21 and I am sure that they would be glad to give that
22 information.

23 Q. Are there any indicators of a profile vehicle to
24 your mind?

25 A. Once again, I haven't been through the 287(g)
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1 training, and I am sure that our employees understand the
2 parameters because of their training and their expertise.

3 Q. Sheriff, have you had any recent training on
4 racial profiling?

5 A. Me?

6 Q. Yes.

7 A. As the sheriff?

8 Q. Yes.

9 A. No.

10 Q. Do you recall ever having training on racial
11 profiling?

12 A. As the sheriff?

13 Q. Yes.

14 A. No.

15 Q. In some other capacity, have you received
16 training on racial profiling --

17 A. Not that I can recall.

18 Q. -- how to detect it and how to avoid it
19 happening?

20 A. No.

21 Q. Okay. You are the head of MCSO, correct?

22 A. Yes.

23 Q. And you are the final decision-maker at MCSO?

24 A. Yes.

25 Q. Your instructions are final?

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1 A. My instructions are final?

2 Q. In other words, as the final decision-maker if
3 you issued instructions, your instructions would be the
4 final word at MCSO?

5 A. Yes.

6 Q. How do your directives, your instructions to
7 your officers get implemented?

8 A. Once again, we have -- I keep repeating how many
9 employees -- I think that's important. I kind of look at
10 myself as a CEO of The Republic or Coca-Cola, what have
11 you, and I have been a manager for many, many years in the
12 federal system, too. So it is my philosophy to delegate
13 to my staff, and I have confidence in my staff and
14 policies are followed by my staff.

15 Q. Well, for example, when illegal immigration
16 became a top priority of your office in 2006, how did you
17 decide to make it a top priority? What happened?

18 A. Well, you say "top." I say I have many
19 priorities. It is one of my priorities. However, we did
20 concentrate on that illegal immigration situation because
21 of the laws, as I mentioned previously. We never had laws
22 before to enforce, state laws.

23 Q. So, for example, did you meet with the county
24 attorney, Andrew Thomas, about the importance of your
25 office taking steps to enforce that law?

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1 legislature, something like that?

2 A. It was around 1.6, I believe.

3 Q. Did you support that request for funds from the
4 legislature?

5 A. Subsequently to the passage of the law. Because
6 we enforced the law, they gave us the money.

7 Q. So you advocated for the funds as well?

8 A. I am not sure if I went there or they came to
9 me -- who initiated the money. But it came and we used it
10 for that program.

11 Q. Did you advocate for the funds? In other words,
12 did you say those funds would be useful to this law
13 enforcement operation?

14 A. I sure would not turn it down because it was
15 very important to use the funds for this human smuggling
16 operation.

17 Q. And the funds pay for deputies' salaries? The
18 funds pay for equipment? Help me understand --

19 A. Yeah. I am sure Brian Sands has more details on
20 the finance part of that.

21 Q. But your understanding is that sum of
22 \$1.6 million or so gets translated into law enforcement
23 resources to fight the crime of illegal immigration?

24 A. Yes, sir.

25 Q. And to help your -- your deputies do their job?

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1 A. I don't have to meet with the county attorney as
2 the sheriff. I enforce the laws, and -- and the district
3 attorneys, county attorneys, U.S. attorneys prosecute.

4 However, we did meet, especially on the illegal
5 immigration, especially on the human smuggling side of it,
6 the new law. And I asked for an opinion, and he came up
7 with an opinion that said that we can enforce not only the
8 smuggler but the co-conspirators. So I had that law and
9 also we had the authority from the -- about the same time
10 I decided to sign the agreement with the federal
11 government.

12 So we had the tools. Also, the state
13 legislature gave my office about \$1.6 million to enforce
14 the human smuggling laws. So I had the money and the
15 laws, and why not take advantage of those laws and the
16 money specifically geared to enforcing the human smuggling
17 law?

18 Q. Did you support the human smuggling law? In
19 other words, did you advocate for it?

20 A. You know, if I recall way back, I was given a
21 speech and my friend, Lou Ruggiero, Channel 12, I think it
22 was before the legislature and I believe that's the only
23 time I went public saying I do support it. Yes, I did
24 support the human smuggling felony law.

25 Q. And was it \$1.7 million from the state

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1 A. Yes.

2 Q. And so when illegal immigration became one of
3 your office's top priorities back in 2006, were you the
4 driving force behind this prioritization of the illegal
5 immigration issue?

6 A. Well, I don't know if I was the driving force.
7 I don't run police departments or mayors or the DPS, but I
8 just took it upon myself, as the elected sheriff, to
9 determine that I would enforce all the laws.

10 Q. And so -- and what I am trying to understand is
11 whether there is someone else in your office who came to
12 you and said, "Sheriff, this is the most important issue
13 confronting us today. We need to make it a priority" or
14 whether these were your perceptions of the threats and --
15 and the responses that you, as the elected sheriff, needed
16 to take to address this issue?

17 A. No. I think I made it in conjunction with my
18 staff because it was a new law and, of course, I had to
19 determine how to enforce new laws. So we worked together
20 with my staff to come up with an operational plan.

21 Q. And as you developed this operational plan
22 starting back in 2006, who among your staff helped you
23 devise the program?

24 A. I believe -- I believe Brian Sands was initially
25 involved to begin with. I am not 100 percent correct, but

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1 I believe he was. He sure is now.

2 Q. And for the record -- and pardon me for
3 interrupting -- but it is the same Mr. Sands who is with
4 us today?

5 A. He is the chief --

6 Q. Chief Sands?

7 A. -- of the operation, yes.

8 Q. And were there other others who helped you
9 create and implement this illegal immigration crackdown?

10 MR. CASEY: Objection to form.

11 THE WITNESS: Well, it wasn't just for the human
12 smuggling, per se. We also had our jail program that we
13 launched under the 287(g) agreement, came about the same
14 time. So my head of custody, Jerry Sheridan, organized
15 that part of the program.

16 Q. BY MR. BODNEY: So Jerry Sheridan focused on the
17 jail side, correct?

18 A. Yes.

19 Q. And Chief Sands focused on the street side?

20 A. Yes.

21 Q. Were they active in making the enforcement of
22 illegal immigration a priority before you sought the
23 287(g) agreement?

24 A. I am not sure at the time of the passage of that
25 by the legislature. I will tell you this, that even prior
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1 was saying is that we had the tools, the money and the
2 training to concentrate on this specific problem of
3 illegal immigration.

4 Q. So you would defined -- define full-fledged,
5 anti-illegal immigration agency as one that has the tools,
6 the money and the training to enforce the laws against
7 illegal immigration?

8 A. Within the agency.

9 Q. Within MCSO?

10 A. It is not the whole agency.

11 Q. Right.

12 A. Within the agency.

13 Q. I understand.

14 A. A component of the agency.

15 Q. You weren't saying --

16 A. To everybody.

17 Q. -- that MCSO is ICE?

18 A. Yes, that's correct.

19 Q. Okay. And then you say, and I quote, in the
20 jails and on the streets, we have our employees trained
21 and anxious to make a large dent in the illegal
22 immigration problem, close quote. If we just focus on
23 that for a moment.

24 My question is: What steps did your office take
25 to make your employees, quote, anxious to make a large
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1 to the passage, I did form a five-man smuggling unit, not
2 only on the illegal immigration but on any smuggling
3 coming into our county.

4 Q. Contraband?

5 A. Any type of human smuggling.

6 Q. Oh, human smuggling, okay.

7 A. And then the law was passed, and we increased it
8 and enforced the law.

9 Q. And when was that, Sheriff?

10 A. I -- I think it was around 2007.

11 Q. Okay. The -- the press release on page 2,
12 labeled ORT 000422 attributes this quotation to you,
13 Sheriff. It says, quote, we are quickly becoming a
14 full-fledged anti-illegal immigration agency, close quote.

15 Do you see that quote?

16 A. Yeah, I do.

17 Q. Is it fair to say that those are your words?

18 A. Yes.

19 Q. And you believe that statement?

20 A. Well, only on -- no, it is not a full-fledged
21 illegal immigration agency organization. We are
22 concentrating on that problem.

23 When I was head of the federal drug enforcement
24 and became sheriff, everybody thought it would be a
25 full-fledged drug operation. We do all crimes. What I

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1 dent in the illegal immigration problem, close quote?

2 A. Well, once again, when you operate an agency,
3 you have to have the tools and the law. So I will say
4 again we finally had the authority from the federal
5 government to enforce the illegal immigration laws in the
6 jail. They never had this authority before.

7 Q. So when you were -- and, by the way, this was
8 your statement, the one we just read in quotes?

9 A. Well, you know, it is there, but --

10 Q. Right. But you --

11 A. -- but -- I stand by it if it is there, but ...

12 Q. Okay. So let me ask you this question about the
13 statement, Sheriff. When you say you have your employees
14 anxious to make a large dent in the illegal immigration
15 problem, what steps was the office taking to make your
16 employees anxious to make a large dent in the problem?

17 A. Because, once again, we never had the laws or
18 the authority. When you get new laws, new authority, I
19 think it makes law enforcement people excited. They can
20 enforce other laws now to do their duties for the people
21 they serve, and I -- I -- I believe that that anxious was
22 that now they have the tools to do their job, and they are
23 anxious to go forward and do it.

24 Q. And as effectively the CEO of MCSO, do you view
25 your job as one that -- that helps to get your -- your

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1 staff, your employees, excited about what they do?

2 A. Well, I try to get them -- get them the tools to
3 do their job, whether it is financial, the money, the
4 equipment, or the laws. So I think that is important.

5 Q. What effect, Sheriff, do you think the speeches
6 that you give publicly have on rallying your troops,
7 getting your deputies excited about enforcing the law?

8 A. What speeches?

9 Q. Do you give speeches publicly about the illegal
10 immigration problem?

11 A. I give speeches about the sheriff's office,
12 which includes many programs that we have, including the
13 illegal immigration problem.

14 Q. And it would be fair to say in the last couple
15 of years you have given a number of speeches at which you
16 have addressed illegal immigration as one of the threats
17 to our country?

18 A. That is correct, but I have been giving speeches
19 17 years, one or two a day. So this is nothing unusual
20 for me to give speeches in the last two years.

21 Q. And -- and -- and when you give the speeches, do
22 you give them sometimes with a view toward rallying your
23 troops, your deputies, the members of your team?

24 MR. CASEY: Objection to form.

25 THE WITNESS: I am not talking to my troops. I
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1 read about what you say?

2 A. Never thought of that. Not a bad idea. But I
3 never thought about my employees reading the -- they don't
4 read newspapers. I don't even think they watch TV. So I
5 don't give speeches for my -- if I want to talk to my
6 employees, I talk directly to the employees. I don't have
7 to go through a speech.

8 Q. So how would you talk directly to your employees
9 about illegal immigration? Can you remember a time when
10 you have gone to your employees to talk about illegal
11 immigration?

12 A. No. I cannot talk to employees -- because I
13 have 3,000. I would have to have the Chase baseball
14 field. But I kind of -- I have an open door policy. When
15 I meet the deputies or detention officers, I shake their
16 hands. I don't talk about illegal immigration. I talk
17 about "Thank you for the job you are doing." If that
18 talks about illegal immigration, that is okay, but there
19 are times when Brian Sands has these operations that I
20 will be there and I say "Hello" and talk to the employees
21 and thank them for their support overall.

22 Q. Can you remember any time you have given a
23 speech like the one you just described at a sweep where
24 there were illegal immigration arrests?

25 MR. CASEY: Objection to form. You may want to
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1 am talking to the people that I serve in this county. The
2 speeches I give are to all different organizations and
3 elements of society.

4 Q. BY MR. BODNEY: So can you give us an example of
5 the kinds of groups to whom you have given your speeches
6 lately, just in the last few months?

7 A. There is different clubs, associations, clubs
8 that come from here the -- that want me to open up their
9 conferences from all over the country. So I speak. I am
10 the elected sheriff. I don't have anything to hide, so I
11 speak.

12 Q. National conferences, local conferences?

13 A. Oh, they come from everywhere.

14 Q. And the media, national, local?

15 A. Well, they seem like they come here especially
16 in the wintertime. So I do get many visits from around
17 the world that want to talk to the sheriff, not just on
18 illegal immigrations, just how we operate the office.

19 Q. The BBC? Did you give an interview in London to
20 the BBC?

21 A. I went to England, paid by them, but that was
22 over the prison issues.

23 Q. When you give these speeches to groups --
24 international, national, local -- do you give them with
25 the understanding that your employees, your deputies, may

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1 define "sweep."

2 Q. BY MR. BODNEY: Have you ever been to one of
3 your sweeps in the Valley where -- where illegal
4 immigration arrests were made?

5 A. No. I have been to crime suppression operations
6 where we arrest many people for all different types of
7 crimes, if that is what you are referring as a "sweep."

8 Q. Okay. So -- so what would your definition of a
9 crime suppression operation be?

10 A. Well, to me, it is just like all other
11 operations, when you go after DULs, warrants. We just
12 arrested 61 people for not paying child support. I call
13 that a suppression operation, and during the course of
14 that operation we came up with some warrants. So I call
15 these -- they are crime suppression operations.

16 Q. Do you ever use the term "sweep"?

17 A. I never use it, I don't think. I know the media
18 does.

19 Q. Okay. So that is not a term your office uses?

20 A. No.

21 Q. It is a media term?

22 A. Yeah.

23 Q. And "crime suppression operation" is the term
24 that your office uses?

25 A. Yes. It should be. That is what the psychology
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1 and the operation is all about.

2 Q. Suppressing crime?

3 A. Um-hum.

4 THE COURT REPORTER: Is that a "Yes"?

5 THE WITNESS: Yes. I'm sorry.

6 Q. BY MR. BODNEY: And so, for example, Sheriff,
7 this news releases that the court reporter has marked as
8 Exhibit 7, when it talks about the hundreds of deputies
9 and volunteer posse targeting profile vehicles, the 200
10 armed sheriff's deputies, reserves and volunteer posse,
11 those are references to a crime suppression operation?

12 A. It is a combination of the human smuggling and
13 the crime suppression.

14 Q. Okay. And just so I understand and we are on
15 the same page definitionally, when this refers to you
16 saying that more than 200 armed sheriff's deputies,
17 reserves and volunteer posse, along with the full
18 resources of the sheriff's office will saturate Valley
19 cities, as well as roadways and highways, your news
20 release is referring to a crime suppression operation?

21 A. And a human smuggling operation. I am talking
22 about this -- we are talking about this one instance here.

23 Q. Okay.

24 A. And the same way when we have an operation after
25 the DUIs, drugs, and all that. This happened to be a
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1 A. Well, the past two, three years.

2 Q. The past two or three years?

3 A. I am a leader, as they say, in Tent City and
4 chain gangs and everything else. This is just another
5 subject that they call me a leader in.

6 Q. Okay. And you are comfortable with that
7 characterization as it relates to the fight against
8 illegal immigration?

9 A. I have no problem with it.

10 Q. Do you have an understanding of, in rough
11 percentage terms, how many of the arrests during your
12 crime suppression operations were for 287(g) offenses?

13 A. You know, I -- I don't have the statistics
14 before me. I am sure we have some, and I am sure Chief
15 Sands or someone can get you that information.

16 Q. Does 50 percent sound about right?

17 A. I don't know.

18 Q. Do you keep copies of your speeches to public
19 conventions and groups and so on?

20 A. Well, the big secret is I don't prepare
21 speeches. If I don't have a speech, I can't keep copies
22 of it.

23 Q. So you don't write them down?

24 A. No, never.

25 Q. It is a stream of consciousness?

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1 human smuggling operation, this one.

2 Q. So would it be fair to say that human smuggling
3 operations can be a subset of a crime suppression
4 operation?

5 A. Could be, yes.

6 Q. Okay. And so it would be fair to characterize
7 this operation of more than 200 armed officers as a crime
8 suppression operation and one that had a focus on human
9 smuggling too?

10 A. That's -- that's the way I look at it. Once
11 again, Chief Sands can elaborate more on that operation.

12 Q. Okay. By the way, the -- the opening paragraph
13 describes you as having been, and I quote, at the
14 forefront of the fight against illegal immigration during
15 the past two years, close quote.

16 Do you think that is a fair characterization?

17 A. I got a good public relations official, but I --
18 I would agree that we -- because of the new laws and the
19 authority from ICE with 160 officers, I believe no one in
20 the country has that -- resources that -- it shows that we
21 have the resources to do the job.

22 Q. And so you have been comfortable being
23 characterized by your public relations staff as a leader
24 in the fight against illegal immigration over the past
25 several years, right?

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1 A. It is out of my mouth. Gets me in trouble
2 sometimes.

3 Q. Well, and it has also gotten you a lot of
4 support at the polls, hasn't it?

5 A. My speeches?

6 Q. The --

7 A. I don't know about speeches. I don't talk to
8 400 million people. That is pretty hard to do. I think
9 what -- I get the support that my dedicated officers are
10 enforcing all the laws of this state, county.

11 Q. And what steps, Sheriff, do you personally take
12 to ensure that they are?

13 A. I have a good staff, and I meet with my staff, I
14 delegate to my staff, and if there is issues that come up,
15 they are settled.

16 Q. How would you describe your daily duties as
17 sheriff?

18 A. Well, right now I am here, but I -- I work
19 pretty hard. I -- maybe 14 hours a day, 7 days a week.
20 So I am out there. I work at it. It is a big
21 organization, a lot of responsibility. So I -- once
22 again, I stick around. I don't play golf or do anything
23 else. I work. So that is -- in essence, that is my
24 personality, and that is how I operate this office.

25 Q. And so, Sheriff, as you prioritize your work,
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1 your daily grind, what are the things that you view
2 yourself as -- as responsible for doing on a daily basis
3 as sheriff?

4 A. Well, nothing is the same. There is always --
5 every day is different around this county, but I usually
6 come in early. I do my paperwork. I meet with my staff.
7 I go out. Sometimes I give speeches at night, attend
8 functions. So I can go on and on. But I am around, let
9 me put it that way.

10 Q. Sheriff, do you have daily meetings with your
11 staff? In other words, do you have any standing meetings
12 with particular staff members?

13 A. Well, we have staff meetings at least twice a
14 week, but I talk to my staff all the time. I am not
15 contradicting what I said that I delegate, yes, but I
16 still talk to my staff.

17 Q. And the standing meetings twice a week, who
18 participates?

19 A. All the staff, including the chief deputy and my
20 chiefs and deputy chiefs.

21 Q. So it would be David Hendershott? Yes?

22 A. He is the chief deputy, yes.

23 Q. And Brian Sands?

24 A. Yes.

25 Q. Who else?

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1 staff meetings?

2 A. No.

3 Q. Has anyone suggested it to you at those staff
4 meetings?

5 A. Not that I can recall.

6 Q. Do you think that there is a risk of racial
7 profiling by other law enforcement agencies around the
8 country?

9 A. I have no idea. I have -- I know how I operate
10 as the elected sheriff in this county, and I just don't
11 get involved in other law enforcement agencies, whether
12 they're sheriffs or chiefs of police, their policies. I
13 concentrate on my situation here in Maricopa County.

14 Q. Have you heard about other law enforcement
15 agencies that have been accused of racial profiling,
16 either in news accounts or otherwise?

17 A. I can't remember. I am sure it probably exists,
18 but I am not familiar.

19 Q. Are you a member of the National Sheriffs'
20 Association?

21 A. Yes, I am.

22 Q. Have you attended any of their conferences?

23 A. Not every year, but on occasion I do.

24 Q. Have you read anything the National Sheriffs'
25 Association has written, for example, about the swine flu
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1 A. Do I have to go through the whole list? I mean,
2 we have a list.

3 Q. How many persons?

4 A. I would say about 15, 20 in my staff meeting.

5 Q. I see. So twice a week you meet with about 15
6 or 20 of your top staff members?

7 A. Yes.

8 Q. And have you ever met with them to discuss the
9 approach your office was taking to illegal immigration?

10 A. In the staff meeting?

11 Q. Yes.

12 A. Sure. We discuss all our operations.

13 Q. Have you ever issued any directives to your
14 staff with respect to the enforcement of the illegal
15 immigration laws at those meetings?

16 A. Well, it was just another issue that we enforce.
17 We do talk about the enforcement of illegal immigration as
18 an important part of our operation, but we talk about
19 homicides, drugs. You name it, we -- personnel matters.
20 We talk about everything.

21 Q. At these staff meetings, Sheriff, have you ever
22 talked about this racial profiling lawsuit?

23 A. Not that I can recall.

24 Q. Have you ever talked about the need to implement
25 a policy to reduce the risk of racial profiling at those

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1 public health risk?

2 A. No.

3 Q. Have you ever seen anything published by the
4 National Sheriffs' Association that would suggest illegal
5 immigrants pose a greater risk of swine flu than the
6 general prison population?

7 A. I don't recall.

8 Q. Have you been to any training offered by the
9 National Sheriffs' Association?

10 A. Well, I have been to conferences but not where I
11 am being trained as the sheriff by other sheriffs, no.

12 Q. How do you measure success?

13 A. How do you measure success?

14 Q. And just to be more specific, with the illegal
15 immigration operations that your office undertook.

16 A. So you are specifically asking me the question:
17 Success on illegal immigration?

18 Q. Right. How -- how do you measure success in
19 that realm?

20 A. How I measure success? That is a tough
21 question, but I will try to answer it.

22 Other than statistics, I think in general terms
23 when a crime has gone down, for example, whether the
24 illegal immigration situation has subsided, that maybe
25 people now will understand that you come across -- into

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1 this country, you have to do it legally.

2 So I look at it as a deterrent overall, not just
3 how many arrests you make. That is how I measure success
4 on any crime.

5 Q. And how do you know if your policies have
6 succeeded as a deterrent?

7 A. Well, I really don't know. I don't -- I look at
8 it in that respect, but, on the other hand, I am a law
9 enforcement official and it is my job to enforce all the
10 laws and if you violate the law, you go to jail. It
11 doesn't matter whether -- how it works in the diplomatic
12 stage or the political stage. Our job is to arrest people
13 that violate the law, period.

14 Q. And on the illegal immigration crackdown, do you
15 think your program has succeeded as a deterrent?

16 A. You know, that is very difficult to answer. I
17 don't know.

18 I do know that publications or whatever say that
19 we don't have as many illegal immigrants here as before.

20 Once again, am I going to believe in what you
21 read in the media or the statistics all the time? There
22 is always statistics out there.

23 So I don't know. But you know what? It doesn't
24 matter, because they are here, they violate the law, they
25 are going to be held accountable. It doesn't matter

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1 Q. Right.

2 A. But I -- I -- it is just difficult to understand
3 what the word "threat" means. I could say it is a threat
4 in a sense because of the economic situation. The -- that
5 could be a threat. So it is how you define "threat."

6 Q. So you still see illegal immigration as a kind
7 of threat to America?

8 A. I -- I look at anybody that violates the law as
9 a threat to America, whether it is a dope peddler, a
10 killer, a sex violator. That is a threat to the people of
11 this country that live in the United States of America.
12 That is a threat.

13 So illegal immigration could be conceived as
14 another threat but not a threat like terrorism or they're
15 going to blow up buildings and so on.

16 Q. Okay. And so you are not sure whether your
17 crackdown on illegal immigration has deterred illegal
18 immigration into Maricopa County?

19 A. We don't have any statistics for that, but all I
20 can do is repeat, since you quote a lot of the newspapers,
21 my interviews -- I am not trying to be sarcastic to you,
22 but when you look at published reports, everybody is
23 saying that the illegal immigration situation has
24 subsided. They are not coming into the country as before.
25 So I presume some headway is being made.

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1 whether we're reducing the crime in that sense.

2 Politically, I would like to see that happen,
3 but, once again, we have to do what we took an oath of
4 office to do.

5 Q. Do you still view illegal immigration as a
6 threat to our country as Joe's Law says on its cover?

7 A. I don't think I put that title up there.

8 Q. That was your co-author's title?

9 A. Or the publisher. You know how that works.

10 Q. Uh-huh. But I think you testified that illegal
11 immigration is, in your view, a threat to America.

12 A. No. I think when you say "threat," I don't look
13 at it as a terrorist threat. I could connect all these
14 dots like some people do on the border, the terrorism,
15 crossing the border. I could go on and on. Or that some
16 illegal immigrants do commit other crimes as evidenced by
17 how many people we have in jail, the statistics, but I
18 don't know. I don't call it a threat on America, per se.

19 Q. You know that is what is on the cover of your
20 book --

21 A. Oh, okay.

22 Q. -- and on its title?

23 A. Everybody doesn't believe what you read in the
24 books, right? I am just telling you that that was there
25 and whoever put that title there, I didn't oppose it.

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1 Q. As you look back on your office's approach
2 toward the illegal immigration problem in Maricopa County,
3 do you think that there have been any excesses, which, if
4 you had it to do over again, you would try to avoid?

5 MR. CASEY: Objection to form.

6 THE WITNESS: Not that I know of.

7 Q. BY MR. BODNEY: No?

8 And is today the first day that you have said
9 that illegal immigration is -- is something less than the
10 threat to America that you have on the title of your book?
11 In other words, have you ever before told the public, the
12 book-reading or purchasing public, that you don't really
13 view illegal immigration as a threat to America?

14 MR. CASEY: Objection to form.

15 THE WITNESS: I think it is semantics, again,
16 against threat. I think I constantly talk about the
17 economic situation, taking up jobs, a violation of the
18 law. You are not supposed to violate the law. I say that
19 constantly.

20 So if you don't want to use the word "threat" --
21 in a sense, maybe it is a threat, but I think you were
22 using the word of "threat" as something else, like a
23 terrorist type of thing. I am not trying to read your
24 mind, but that is the way I am trying to answer your
25 question.

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1 It's -- everybody that violates a law is a
2 threat to their community and to the United States.

3 Q. BY MR. BODNEY: And -- and just to be clear and
4 finish this piece of the deposition, you -- you view
5 illegal immigration as a -- as a threat and one of your
6 office's top priorities over the last few years?

7 MR. CASEY: Objection to form.

8 THE WITNESS: That is not true. I just said,
9 anyone that violates the law is a threat. Anyone.
10 Whether it's the drug trafficker or someone that came into
11 this country illegally is a threat to society, a threat to
12 the community. It violates the law, is a threat.

13 Q. BY MR. BODNEY: Okay. So the title of the book,
14 Joe's Law: America's Toughest Sheriff Takes on Illegal
15 Immigration, Drugs and Everything Else That Threatens
16 America --

17 A. Didn't I just say "drugs"? It says "drugs,"
18 doesn't it?

19 Q. Well, the first item that you take on in this
20 book is illegal immigration, correct?

21 A. Okay. I put it in Chapter 15 or put it in
22 Chapter 1. It said drugs and anything else that threatens
23 America. I even forgot the title, but I just answered
24 your question pursuant to the title.

25 Q. Okay. Fair enough.

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1 immigration as a serious crime, have you?

2 A. What time span, Counselor, are you -- you mean
3 always in my growing up or what?

4 Q. Well, before 2005.

5 A. It wasn't a top issue at that time.

6 Q. Do you remember when Patrick Haab pulled a gun
7 on seven suspected illegal aliens in the desert in April
8 of 2005?

9 A. Yes, I do.

10 Q. Do you remember saying at that time, and I
11 quote, being illegal is not a serious crime. You can't go
12 to jail for being an illegal alien, close quote?

13 A. Once again, I don't -- I don't understand the
14 whole context of that.

15 Q. If you would, Sheriff, return to Exhibit 2, I
16 believe, the GQ article before you labeled ORT 00528
17 through 535 and turn to page 530. At the middle of the
18 page you are quoted as saying, and I quote, you don't go
19 around pulling guns on people, close quote, Arpaio said
20 after arresting him.

21 Quote, being illegal is not a serious crime.
22 You can't go to jail for being an illegal alien, close
23 quote.

24 You said that, did you not?

25 A. I -- once again, I may have said it. This is
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1 Do you recall your last speech on illegal
2 immigration?

3 A. The last one? I am trying to think what I did
4 yesterday.

5 Q. Might have been as recent as yesterday?

6 A. Well, I gave three speeches Saturday. It all
7 had to do with dogs. So I didn't talk about illegal
8 immigration. It was the dogs. That was my last three
9 speeches a couple of days ago. So I don't -- I don't
10 recall.

11 But to answer your question, right now at this
12 time, most of my speeches, people do ask me about illegal
13 immigration. That is on their mind.

14 Q. And do you still identify illegal immigration in
15 those speeches as a top law enforcement priority of your
16 office?

17 A. I always say it is an important issue facing our
18 nation and our county.

19 Q. Have you ever spoken at any of these groups
20 about the whole reconquista notion?

21 A. I have no history of what you are even saying.

22 Q. So you --

23 A. You can talk to my co-author on that one. I am
24 not a big history buff.

25 Q. Okay. Now, you haven't always viewed illegal
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1 the GQ that I would almost imagine misquoted me and have
2 their own agenda, but it -- so I don't recall every aspect
3 of that comment.

4 Q. I think that that's what you were quoted as
5 saying at the time, if I am not mistaken. Do you remember
6 commenting on the Haab incident at the time?

7 A. I -- I do -- if I recall, I do remember saying
8 that you just don't pull guns on people --

9 Q. Right.

10 A. -- because they look like they are from Mexico,
11 and I -- and we arrested that person.

12 Q. Right. And he was acquitted, if I am not
13 mistaken?

14 A. The charges were never pursued.

15 Q. And do you recall taking some heat in the media
16 for not pursuing the illegal immigration issue more
17 seriously at the time?

18 A. You mean after the arrest? Taking heat for not
19 doing what?

20 Q. Taking heat for making the arrest and saying
21 being illegal is not a serious crime, you can't go to jail
22 for being an illegal alien.

23 Do you recall taking heat on conservative talk
24 radio?

25 A. I don't listen. That doesn't bother me. Taking
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1 heat, I do that every day. So that doesn't have anything
2 to do with me doing my job.

3 Q. Or people maybe thinking less of the job you
4 were doing because you were not tough enough on illegal
5 immigration at the time?

6 A. No. Never entered my mind. I did -- my people
7 did what they took an oath of office to do, and that is
8 the way it was.

9 Q. So you remember the Haab incident and making the
10 statement that being illegal is not a serious crime, you
11 can't go to jail for being an illegal alien?

12 A. I don't recall that. I am just saying that he
13 was arrested for pulling guns on some people because they
14 looked like they were from Mexico and illegal. I remember
15 that.

16 Q. Okay.

17 A. Now, saying that you can't go to jail for --
18 that may have been done before my 287(g) agreement and the
19 new human smuggling law.

20 Q. Right. I think it was.

21 A. That was before.

22 Q. Right. I think --

23 A. Things have changed since then.

24 Q. That's right. So -- so -- and I appreciate the
25 clarification because I meant to make clear that that was
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1 a statement that you made at the time in or around April
2 of 2005 when the Patrick Haab incident occurred. So you
3 have no reason to think you didn't make that statement?

4 A. I may have. I don't remember making it. I do
5 remember stating that you don't pull guns on people just
6 because they look like -- their appearance or whatever,
7 they came from another country.

8 Q. And what changed between April of 2005 when you
9 made that statement and May of 2006 when you told the
10 national press, quote, if you are here illegally, you are
11 going to jail, close quote?

12 MR. CASEY: Objection to form.

13 THE WITNESS: What changed was the fact that we
14 have a new state law and also subsequently joined forces
15 with the federal government to enforce the illegal
16 immigration laws. We never had that before. So now that
17 we have it, I am enforcing all the laws.

18 Q. BY MR. BODNEY: Okay.

19 A. Regardless of my personal opinions or whatever,
20 I am enforcing the laws.

21 Q. Would you agree that your current get-tough
22 policy on illegal immigration, this pure policy that we
23 discussed, has proven to be popular in Maricopa County?

24 MR. CASEY: Objection to form.

25 THE WITNESS: Well, you keep saying my "pure
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1 policy." That is just one little part of our illegal
2 immigration laws.

3 My policy is to enforce all the laws and assist
4 the federal government in enforcing the laws. Whether it
5 is popular or not doesn't matter to me, because when I do
6 something, I don't put up a smoke screen or leak things to
7 the papers so they can go out front to see how the people
8 feel. I do it. If people like what I am doing, that is
9 good; if they don't like what I am doing, I am still going
10 to enforce the laws.

11 Q. BY MR. BODNEY: And -- and issuing press
12 releases that identify yourself as a leader in the
13 anti-illegal immigration effort, as being at the forefront
14 of that effort for the past two or three years, has proven
15 to be popular in this county, has it not?

16 MR. CASEY: Objection to form.

17 THE WITNESS: I haven't taken any polls to see
18 specifically if they -- if it is popular. I do know that
19 there have been polls taken -- I haven't taken them --
20 that show that the people of the county want something
21 done about illegal immigration.

22 Q. BY MR. BODNEY: And which polls are you
23 referring to?

24 A. I don't know. I don't --

25 Q. But you have read those polls?

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1 A. I have heard polls supporting the -- doing
2 something about illegal immigration.

3 Q. And how did you become aware of those polls?

4 A. I don't know. By reading the paper or watching
5 TV. Maybe other ways too, from the legislature or
6 whatever, but ...

7 Q. Have you discussed the popularity of your policy
8 against illegal immigration with your staff?

9 A. No. I don't get involved in politics with my
10 staff or anyone else when I am enforcing the laws. There
11 are things that may not be popular, but I still do it.

12 Q. Do you have a political team with whom you
13 consult?

14 A. I am the political team.

15 Q. Do you have any political consultants?

16 A. No.

17 Q. Jason Rose?

18 A. He doesn't consult with me.

19 Q. He doesn't consult with you?

20 A. No. He is not my campaign manager.

21 Q. Do you have a campaign manager other than
22 yourself?

23 A. I have one that raises money. That is it.

24 Q. And who is that?

25 A. To give you my fundraiser?

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1 MR. CASEY: What -- yeah, what relevance does
2 that have in this case?
3 MR. BODNEY: Sure.
4 Q. BY MR. BODNEY: I'm just trying to understand
5 the persons with whom you consult about the popularity of
6 this pure policy against illegal immigration.
7 A. The answer is: I don't consult with anyone.
8 Q. So is it your testimony, Sheriff, that you have
9 never discussed how these various steps your office has
10 taken to make illegal immigration one of your top
11 priorities plays politically?
12 A. No. I -- I -- I decided to enforce those laws
13 and to join forces with the federal government. It had
14 nothing to do with the politics or popularity. It had to
15 do with enforcing the laws, getting the job done. That is
16 what I have done for almost 50 years in law enforcement.
17 Q. And you are not terribly concerned, I assume,
18 about the public concluding that one consequence of this
19 pure policy against immigration, illegal immigration, is
20 racial profiling?
21 MR. CASEY: Objection to form.
22 THE WITNESS: No. I am not -- you say my
23 concern with the public?
24 Q. BY MR. BODNEY: You are not worried about the
25 public believing that you --
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1 A. No.
2 Q. -- racially profile, do you?
3 A. No, I am not concerned what they say, the
4 public, in that regard because I know we are doing the
5 right thing.
6 Q. Any other reasons?
7 A. Of what?
8 Q. Why you are not concerned about the public
9 thinking that your office may have engaged in racial
10 profiling.
11 A. Well, you know what? I feel very comfortable
12 with how we operate, and I know what we do. So if the
13 public has a concern with it, that is their concern.
14 I will tell you this: You are sending me a
15 whole bunch of press releases. I never get a nice press
16 release. So if you think I am concerned about all these
17 hits I get every day, I am not concerned. I still do the
18 job regardless of all the media and certain organizations
19 that don't like what I am doing, but I am still doing it.
20 Q. Sure.
21 Sheriff, let me ask you to look at Exhibit 2,
22 the news article from GQ?
23 A. Actually, this GQ never hit the magazine. I
24 think this is a website. But where is it?
25 Q. It's Exhibit 2, called "The Vigilante" by
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1 Alexander Provan.
2 A. Exhibit 2. Okay.
3 Q. And I am just asking you about some of the
4 things that he quoted you as saying.
5 Look, if you would, again, at page 533. We were
6 -- at 533. We were on that page previously. About
7 halfway down you say, and I quote, but with what's going
8 on now with the border violence and everything, it's not
9 good timing for Congress to do amnesty. People are gonna
10 go crazy. So you think the public is gonna worry about
11 the federal government saying I racially profile, with
12 everything else that's going on, close quote.
13 A. I am trying to find this.
14 Q. It is the paragraph that begins "Joe is
15 unfazed."
16 A. Oh, that is after that I eat spaghetti or eat
17 pasta? You know --
18 Q. It's about midway down the page.
19 A. You know what? You know what? I look at this
20 about my wife and everything, I don't remember all this.
21 This guy must have been living in a fantasy land, whoever
22 wrote this article.
23 Q. Well, I am just asking whether you made those
24 statements, "People are gonna go crazy. So you think the
25 public is gonna worry about the federal government saying
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1 I racially profile, with everything else that's going on,"
2 close quote?
3 A. Well, I think -- in that regard, I -- I -- I am
4 trying to put it in context. I don't remember saying
5 that. I did -- I remember about amnesty. I do know
6 that --
7 Q. You discussed that with Mr. Provan?
8 A. I don't remember this.
9 Q. Okay.
10 A. You keep coming up with this CQ -- QC or CQ.
11 Q. GQ.
12 A. What is it?
13 Q. GQ.
14 A. GQ.
15 Q. And he relates being in your home discussing
16 these issues with you and your wife. I am just wanting to
17 -- to get your impression of whether you said that or if
18 you don't remember whether you said it, if that is your
19 view.
20 A. The only -- I did -- may have talked about
21 amnesty, but as far as the federal government, whatever --
22 if I made comments about that, I don't remember. I may
23 have.
24 Q. Do you -- do you think this is a bad time for
25 Congress to try and pass an amnesty bill?
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1 A. You mean personally --
 2 Q. Personally.
 3 A. -- or law enforcementwise?
 4 Do I think it is a bad time? No, I think --
 5 Q. Do you think the timing is good?
 6 A. -- having spent 25 years with the justice
 7 department, I know a little about the federal government.
 8 Also regional director in Mexico. You know my background.
 9 Q. Sure.
 10 A. I -- I -- I firmly believe that it is time that
 11 someone does something about this situation. I am just
 12 enforcing the laws.
 13 Q. Right.
 14 A. If they want to change the laws, that is up to
 15 them, but ...
 16 Q. I am just wondering, Sheriff, whether -- whether
 17 it is your view that the public is not going to worry
 18 about the federal government saying that you racially
 19 profile with all these other things like border violence
 20 going on now?
 21 A. I don't remember saying it that way, what the
 22 public feels about alleged racial profiling.
 23 Q. Do you remember discussing racial profiling?
 24 A. I don't recall.
 25 Q. Okay. If you would, let's look at page 529.
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1 Second paragraph, Sheriff, begins, and I quote: Why'd he
 2 have to blister me?
 3 I'm sorry, page 529, second paragraph, and I am
 4 looking at the statement that says, "You know what it is?
 5 It's this civil rights, all that crap," close quote.
 6 Do you remember making that statement to the
 7 reporter this year?
 8 A. I don't remember. I have had so many reporters
 9 I talk to.
 10 Q. But is that your view of this racial profiling
 11 allegation, that it is just civil rights crap?
 12 A. Well, I am not going to get into all the facts
 13 why I feel that way, but I do realize it's political, and
 14 I -- I have full confidence in my staff, how they conduct
 15 themselves in this illegal immigration.
 16 Q. Just to be clear, when I am talking now about
 17 racial profiling, I am focusing on the lawsuit filed by my
 18 clients --
 19 A. Okay.
 20 Q. -- the five individuals and the organization and
 21 their allegations that they have been subjected to racial
 22 profiling. Is it your view that that's just a lot of
 23 civil rights crap?
 24 A. Well, we will see what happens. I don't have
 25 any view now exactly, only the fact that I say that I know
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1 my people are doing the right thing, and I have confidence
 2 in my people. So if I have confidence in my people that
 3 they are doing the right thing, I may -- I am not
 4 disturbed at lawsuits, but -- and everybody has the right
 5 to sue and put their side of the story and we have the
 6 right to, with our competent attorney -- and let the facts
 7 speak to it, you know, let the justice system figure it
 8 out.
 9 Q. And if I understand the earlier quotation
 10 correctly, it is your view that the public isn't going to
 11 worry about racial profiling accusations against your
 12 office either?
 13 MR. CASEY: Objection to form.
 14 THE WITNESS: No.
 15 Q. BY MR. BODNEY: Is that your view?
 16 A. No, it isn't my view.
 17 Q. You think there is a risk that the public may be
 18 concerned?
 19 A. I don't know. I don't take polls every day to
 20 see how they feel. We just do our job. So I don't know
 21 how the public will feel about racial profiling.
 22 Q. If -- have you read -- you testified that you
 23 had not read the first amended complaint in this case,
 24 correct?
 25 A. Not fully, no.
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1 Q. Do you have any idea what laws this complaint
 2 says you and MCSO have violated?
 3 MR. CASEY: Objection to form.
 4 THE WITNESS: It is something my lawyer is
 5 handling.
 6 Q. BY MR. BODNEY: Are you aware of this lawsuit
 7 alleging violations of the equal protection clause of the
 8 U.S. Constitution?
 9 A. Once again, that is something that my legal
 10 people are taking up.
 11 Q. Have you ever heard that before, that this
 12 lawsuit involves an equal protection claim?
 13 A. No.
 14 Q. Do you know what an equal protection claim is?
 15 A. I haven't studied the law. I -- I rely on my
 16 experts.
 17 Q. Okay. Would you agree with the statement that
 18 the 14th Amendment to the United States Constitution says
 19 that no state shall, quote, deny to any person within its
 20 jurisdiction the equal protection of the laws, close
 21 quote?
 22 A. If that's what the law says, I agree with that.
 23 Q. Have you ever heard it before?
 24 A. I may have. I don't recall.
 25 Q. Are you aware of this lawsuit containing a 4th
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1 Amendment claim against the defendants?
 2 A. Once again, I let my legal people take care of
 3 it.
 4 Q. Are you aware of what the 4th Amendment claim in
 5 this lawsuit is?
 6 A. I didn't read the whole lawsuit.
 7 Q. Do you know what the 4th Amendment says about
 8 searches and seizures?
 9 A. Yeah.
 10 Q. So if I were to quote the relevant portion of
 11 the 4th Amendment, would you agree that it says, and I
 12 quote, the right of the people to be secure in their
 13 persons, houses, papers, and effects against unreasonable
 14 searches and seizures shall not be violated --
 15 A. Yes.
 16 Q. -- close quote?
 17 Does that sound right to you?
 18 A. Yes.
 19 Q. And do you support that provision of the United
 20 States Constitution personally?
 21 A. Yes.
 22 MR. CASEY: Objection to form.
 23 THE WITNESS: Yes.
 24 Q. BY MR. BODNEY: Sure. And would you -- and
 25 again, I am just -- I am not trying to raise a legal
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1 question here. I am interested to know whether you
 2 believe that the 4th Amendment's protections against
 3 unreasonable searches and seizures would include a
 4 person's vehicle?
 5 A. I -- it all depends on the circumstances.
 6 Q. Is it your belief that the 4th Amendment might
 7 protect against an unreasonable search and seizure of a
 8 vehicle?
 9 MR. CASEY: Objection to form.
 10 THE WITNESS: Yes.
 11 Q. BY MR. BODNEY: Okay. So the 4th Amendment
 12 might apply to unreasonable searches and seizures of motor
 13 vehicles?
 14 MR. CASEY: Same objection.
 15 THE WITNESS: Yes.
 16 Q. BY MR. BODNEY: Okay. Are you aware of this
 17 lawsuit having a claim that the defendants violated
 18 Article 2, Section 8 of the Arizona Constitution?
 19 A. Once again, I am going to say my attorneys are
 20 handling that. I didn't read the whole lawsuit.
 21 Q. Okay. Are you familiar with the Arizona
 22 Constitution's counterpart to the 4th Amendment protection
 23 against unreasonable searches and seizures?
 24 A. I don't have the law before me, but if it is in
 25 the law, I agree with it.
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1 Q. Have you ever suggested training to your
 2 employees, your deputies, about compliance with these
 3 federal and state constitutional protections?
 4 A. I am sure that my -- all my people get this
 5 training through their academies and follow-up courses and
 6 training.
 7 Q. And how do you know that?
 8 A. Well, I just -- how do I know it?
 9 Q. It is your assumption?
 10 A. I haven't looked at the -- I am sure that our
 11 officers get this training. How do I know it? Because it
 12 is there.
 13 Q. But you don't get this training?
 14 A. I as a sheriff?
 15 Q. Correct.
 16 A. No, I don't get the training.
 17 Q. Or you as an individual in any capacity, you do
 18 not get this kind of training?
 19 A. No. I have been in law enforcement for
 20 50 years. I think I know a little about it. 48 years,
 21 I'm sorry.
 22 Q. And I respect your years of service, Sheriff. I
 23 want to ask you one more question about the complaint.
 24 Do you -- in fact, with each passing year I
 25 respect it more and more.
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1 Do you understand that this lawsuit does not
 2 seek money damages against the sheriff's office?
 3 A. Something, once again, my lawyers are dealing
 4 with, I guess.
 5 Q. Do you understand, Sheriff, the -- the
 6 difference between a claim for injunctive relief and one
 7 for money damages?
 8 A. I believe so.
 9 Q. And do you know what kind of relief this lawsuit
 10 even seeks?
 11 A. No.
 12 Q. Okay. Do you have any interest in finding out?
 13 A. Yes.
 14 Q. And how would you go about that?
 15 MR. CASEY: Objection. I am going to instruct
 16 the witness not to answer to the extent that you will
 17 raise any conversations that have occurred either between
 18 me and you or you and any lawyers representing you
 19 regarding a DOJ investigation that is pending.
 20 Q. BY MR. BODNEY: How would you go about learning
 21 what sort of relief this lawsuit seeks?
 22 A. I would defer to my attorneys.
 23 Q. And I don't want to get into any of that, any of
 24 those privileged conversations.
 25 Is it your belief that this lawsuit is brought
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1 by the justice department?
 2 A. No.
 3 Q. Okay. And you were first elected in 1993?
 4 A. Took office January of '93.
 5 Q. Elected in --
 6 A. Yes, sir.
 7 Q. -- 1992?
 8 And you have been elected five times now?
 9 A. Yes.
 10 Q. What are your duties as defined by Arizona
 11 statute?
 12 MR. CASEY: I'm sorry. I was conferring with
 13 Mr. -- or Chief Sands.
 14 Could you read the question back for me, Carrie,
 15 please?
 16 I apologize for interrupting, David.
 17 MR. BODNEY: That's fine. I'm happy to repeat
 18 it.
 19 Q. BY MR. BODNEY: What are your duties as defined
 20 by Arizona statute?
 21 A. Well, in summary, without going into all the
 22 duties, is to enforce all the laws, run the jail system,
 23 search and rescue. That's basically it.
 24 Q. Do you think any of these anti-illegal
 25 immigration operations have resulted in disturbances of
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1 and defend those two constitutions?
 2 A. Yes.
 3 Q. And how many officers report to you currently?
 4 A. You mean in the organization?
 5 Q. Yes, sir.
 6 A. They report to me through my staff.
 7 Q. Right.
 8 A. Well, I am not sure how you want to break it up,
 9 but we have about, I would say, 3,500 now employees,
 10 secretarial, detention officers and deputy sheriffs.
 11 Q. How many posse members are there currently?
 12 A. Oh, we average around 2,800, 3,000.
 13 Q. Have those numbers increased since the
 14 anti-illegal operations stepped up?
 15 A. Not that I know of.
 16 Q. What is racial profiling?
 17 A. That is a tough question. I -- all I can say is
 18 that we don't enforce the law by the way that people look.
 19 So I --
 20 Q. It is --
 21 A. That's how I would define it, how you look, and
 22 we don't do that.
 23 Q. Do you recall having made some statements that
 24 suggest you can tell an illegal immigrant by the way they
 25 look --
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1 the peace?
 2 A. We have had some demonstrations. But I -- I
 3 don't know all the facts about who has been disturbing the
 4 peace. Once again, Chief Sands operates that program.
 5 Q. Have -- how do you find out about disturbances
 6 of the peace in connection with these crime suppression
 7 operations?
 8 A. Well, I'm -- I'm told by the chief or his staff.
 9 Q. Have you ever had occasions where you have read
 10 about it in a newspaper and then asked one of your staff
 11 members to tell you what happened from his or her
 12 perspective?
 13 A. I think they keep me abreast if there is some
 14 serious situations.
 15 In fact, I -- all I have to do is go in front of
 16 the Wells Fargo building every day to go to work and we
 17 have people out there.
 18 Q. There are protesters there?
 19 A. Yeah. But that doesn't bother me.
 20 Q. Is it your duty to support and defend the
 21 Constitution of the United States?
 22 A. Yes.
 23 Q. And the Constitution of the State of Arizona?
 24 A. All the laws of the State of Arizona.
 25 Q. And you have taken an oath of office to support
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1 A. Well, that's --
 2 Q. -- that you have made publicly?
 3 A. Yeah. That was a criteria by ICE subsequent to
 4 an investigation, but that is already when someone is
 5 detained. But we don't do it on street corners because
 6 someone looks -- from Mexico, and I think the Haab case --
 7 or the -- Haab --
 8 Q. H-a-a-b.
 9 A. -- reiterates how I feel about it.
 10 Q. Is racial profiling wrong?
 11 A. Yes, it is.
 12 Q. And why is that?
 13 A. Well, we are -- we are a country of laws, and
 14 you should have probable cause when you enforce the laws.
 15 You should not do it by race or ethnic background.
 16 Q. So racial profiling -- you would agree that
 17 racial profiling concerns the invidious use of race or
 18 ethnicity as a criterion in conducting stops, searches and
 19 other law enforcement procedures?
 20 A. As it stands alone, yes.
 21 Q. Okay. Do you think racial profiling is
 22 ineffective? Would you agree with that statement?
 23 MR. CASEY: Objection to form.
 24 THE WITNESS: Is ineffective?
 25 Q. BY MR. BODNEY: In other words, even though one
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1 might argue that the vast majority of illegal immigrants
2 are Hispanic, and, therefore, if one just started stopping
3 Hispanics, one would have a good or statistically probable
4 chance of finding illegal immigrants among them versus
5 some other segment of the Arizona population, it is still
6 racial profiling, and it is wrong?

7 MR. CASEY: I am going to object to the form.

8 THE WITNESS: Well, all I can say, we don't do
9 that. We don't stop people by their appearance. So we
10 follow the laws.

11 Q. BY MR. BODNEY: And how do you know --

12 MR. CASEY: Were you done with your answer,
13 Sheriff?

14 THE WITNESS: Yes.

15 MR. CASEY: Okay. I'm sorry.

16 Q. BY MR. BODNEY: How do you know that your
17 officers on the street are avoiding the risk of racial
18 profiling?

19 A. Once again, I have staff that supervises my
20 officers, and I am sure if there was any problems, they
21 would bring it to me.

22 Q. That is based on trust over years of dealing
23 with those staff persons?

24 A. Their knowledge and professionalism. They
25 wouldn't be in that position -- I would not put them in if
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1 that term, but that would be wrong.

2 Q. Okay. Does racial profiling perpetuate
3 stereotypes?

4 A. It could.

5 Q. Do you think it does?

6 A. I don't know.

7 Q. Do you think racial stereotypes are harmful to
8 democracy -- our democracy?

9 A. Yes.

10 Q. And why is that so?

11 A. Well, you know, I grew up -- my mother and
12 father came from Italy. So when I grew up, there was a
13 lot of prejudice against Italians, so I lived through it,
14 put up with it, but it wasn't right.

15 Q. Do you think there is a lot of prejudice against
16 Hispanics in our community?

17 A. I don't believe so. I -- I don't -- I haven't
18 really come across that.

19 Q. You are not aware of the use of racial epithets
20 towards Hispanics in our community?

21 A. No. I -- in fact, after all those years living
22 in Mexico and so on, I don't think I know a -- what you
23 just said, believe it or not.

24 Q. A Latino?

25 A. I don't know if that is wrong, Latino. I don't
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1 they didn't know how to do the job.

2 Q. And do you think that racial profiling is
3 morally wrong?

4 A. If -- if it is just to grab people who look like
5 they are from -- with no probable cause, no information, I
6 would believe that that is wrong. Just because they are
7 Italian or German and to grab them for that reason, yeah,
8 that is wrong --

9 Q. Do you think --

10 A. -- without any reason whatsoever.

11 Q. Do you think it would have been wrong to grab
12 persons who appeared to be German in January of 1942?

13 A. I -- I don't go back that far. I don't --

14 Q. Well, during World War II if we found
15 German-speaking people?

16 A. Yeah, I would -- yes.

17 Q. And that would be morally wrong?

18 MR. CASEY: Object to the form.

19 THE WITNESS: Under what circumstances are we
20 talking about? Are we talking about the Second World War?

21 Q. BY MR. BODNEY: During the Second World War.
22 A. And what happened?

23 Q. Well, you mentioned that just stopping someone
24 because he or she looked German would be racial profiling?

25 A. Well, I am sure in those days they didn't use
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1 know. I don't know what is politically correct on some of
2 these ethnic comments that people make. So I don't know
3 the bad names that you are talking about.

4 Q. Well --

5 A. I don't know if Latino is a bad name.

6 Q. No, but if -- if someone used a pejorative term
7 directed towards an Hispanic, one of your officers, would
8 that be evidence of racial profiling?

9 A. I don't know.

10 Q. Could it be?

11 A. Could be.

12 Q. So if one of your officers called one of my
13 clients in the context of a detention a spic, would that
14 be racial profiling?

15 A. I don't know.

16 Q. But it could be?

17 A. It could be.

18 Q. It could be.

19 A. But I doubt it.

20 Q. You doubt that it occurred or you doubt --

21 A. No. You are saying that one word, would that
22 person be prejudiced against the person? I don't know. I
23 can't read the minds of my officers.

24 Q. Are you aware -- and I am not trying to harp
25 upon a point because you said you hadn't read the first
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1 amended complaint, but you also said you may have been
2 aware of parts of it. Are you aware of the allegations
3 that Mr. Ortega has made about some of your deputies?

4 A. No.

5 Q. So you are not aware that Mr. Ortega was a
6 passenger in a vehicle that was stopped on September 26th,
7 2007, are you?

8 A. No.

9 Q. And you are not aware that the driver was told
10 by your officers that he was being stopped for speeding,
11 are you?

12 MR. CASEY: Objection to form.

13 THE WITNESS: I don't have all the information
14 about that incident.

15 Q. BY MR. BODNEY: Or that the driver was not given
16 a citation or taken into custody?

17 A. No.

18 Q. You don't know about that?

19 A. No.

20 Q. And you are not aware of the officers looking at
21 Mr. Ortega sitting in the vehicle and asking Mr. Ortega to
22 produce identification?

23 A. No.

24 Q. If that had happened, would that be appropriate
25 under Section 287(g)?

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1 to be present for him to turn to one of the passengers and
2 say, "Produce some identification"?

3 MR. CASEY: Objection to the form.

4 THE WITNESS: Once again, I am going to say I
5 wasn't there. I don't understand the circumstances
6 surrounding that stop, whether there is a smell of
7 marijuana or whatever.

8 Q. BY MR. BODNEY: Okay.

9 A. I don't understand that -- the circumstances --

10 Q. Okay. So if --

11 A. -- and I am not going to second-guess something
12 when I have no knowledge of it.

13 Q. But I think you have -- you have answered the
14 question. If there had been a smell of marijuana, that
15 might have given the officer cause to ask the other fellow
16 to produce his identification?

17 A. Well, that's one example. I'm not saying that
18 occurred.

19 Q. Right. I understand. I understand.

20 Assume that -- that our client produced his visa
21 with his photograph on it and produced that he -- assume
22 that he produced other evidence of his identification.
23 Would it be appropriate to tell him to exit the vehicle?

24 MR. CASEY: Objection to form.

25 THE WITNESS: You know, once again, you are
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1 MR. CASEY: Objection to form.

2 THE WITNESS: Once again, I don't have all the
3 information. I will say this: In my experience every
4 case is different. It is hard for me to second-guess not
5 being there or listening -- being advised by the deputy or
6 my supervisor.

7 Q. BY MR. BODNEY: Well, if it is true, if there
8 were persons in this vehicle and the driver was stopped
9 for speeding but not issued a citation, would it be
10 appropriate to ask the passenger to produce
11 identification?

12 A. Depends on the circumstances. I presume that is
13 a decision that the deputies have to make on the scene.

14 Q. What circumstance would be necessary for it to
15 be appropriate to ask the passenger to produce
16 identification?

17 A. Once again, that will have to be up to the
18 deputies to explain. I can't second-guess the deputy when
19 I -- I was not there. I don't have the whole picture of
20 what is occurring.

21 Q. Okay. And I understand that. And I am really
22 not trying to get you to assume facts that didn't exist.

23 I am just asking you whether if this stop
24 occurred as I have just described, what else would the
25 officer need to know? What other circumstance would have

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1 asking -- I didn't go through any of this training with
2 visas and the 287(g) and so on. This is something my
3 people went through, so I can't answer that.

4 Q. BY MR. BODNEY: Let me just read you these
5 paragraphs before we have to change tape and ask you
6 whether you think this is appropriate behavior if it
7 happened, as we have alleged in this complaint in federal
8 court that it does -- did.

9 Quote, the sheriff's officers then took
10 everything out of Mr. Ortega's pockets, including his
11 wallet and a small bottle of lotion that Mr. Ortega
12 occasionally applies to his face so that his skin does not
13 become dry. The sheriff's officers, upon removal of the
14 small bottle of lotion from Mr. Ortega's pocket, asked
15 Mr. Ortega in a confrontational manner: How many times a
16 week do you jack off?

17 Is that appropriate behavior?

18 MR. CASEY: Objection to form.

19 Q. BY MR. BODNEY: Assume it happened as it says on
20 page 18 of the first amended complaint in this lawsuit.

21 MR. CASEY: Same objection.

22 Q. BY MR. BODNEY: Would that be appropriate
23 behavior?

24 MR. CASEY: I am raising my hand. Same
25 objection.

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1 THE WITNESS: I -- once again, I don't -- I
 2 wasn't there. I don't have all the knowledge of what
 3 occurred.
 4 Q. BY MR. BODNEY: So that might be an appropriate
 5 statement?
 6 A. It could be, but I -- once again, I have no
 7 knowledge of all the circumstances what could have caused
 8 that.
 9 Q. What could possibly have made that statement
 10 appropriate?
 11 A. I don't know.
 12 Q. But your testimony is it could have been
 13 appropriate?
 14 A. I didn't say that.
 15 Q. You didn't say it could be?
 16 A. No, I said I don't know the circumstances. I
 17 don't know if that happened.
 18 Q. But take it outside of this complaint for a
 19 moment and assume just what I have told you, would it ever
 20 be appropriate for one of your deputies to turn to a
 21 fellow who has a small bottle of lotion in his pocket and
 22 say: How many times a week do you jack off?
 23 Would that ever be appropriate?
 24 A. Well, I don't believe it would be, but I am --
 25 once again, I don't know what occurred at that -- in that
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1 situation.
 2 Q. So is it your testimony that something else
 3 might have occurred in this situation that could have made
 4 that statement appropriate?
 5 MR. CASEY: Objection to form.
 6 THE WITNESS: I have no idea. I have no idea
 7 what occurred.
 8 Q. BY MR. BODNEY: Possible?
 9 MR. CASEY: Same objection.
 10 THE WITNESS: Don't know.
 11 Q. BY MR. BODNEY: Don't know. Okay.
 12 MR. BODNEY: I think we are out of tape. Let's
 13 take a break. Thank you.
 14 VIDEO TECHNICIAN: This is the end of tape No. 2
 15 in the continuing deposition of Sheriff Joseph M. Arpaio.
 16 Today's date is December 16th, 2009. The time is
 17 12:04 p.m.
 18 (Recess ensued from 12:04 p.m. until 12:21 p.m.)
 19 VIDEO TECHNICIAN: We are back on the record.
 20 This is the beginning of tape No. 3 in the continuing
 21 deposition of Sheriff Joseph M. Arpaio. Today's date is
 22 December 16th, 2009. The time is 12:21 p.m.
 23 MR. BODNEY: Thank you.
 24 Q. BY MR. BODNEY: Sheriff Arpaio, we were
 25 discussing the allegations of Mr. Ortega, one of the
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1 plaintiffs in this lawsuit, right before the break. And I
 2 take it you are not aware of his specific allegations in
 3 this lawsuit?
 4 A. Not that I can recall.
 5 Q. So you are -- you are not aware of him having
 6 been handcuffed --
 7 A. No.
 8 Q. -- with his arms behind his back?
 9 A. No.
 10 Q. That he -- Mr. Ortega had a broken wrist that
 11 did not heal correctly and that Mr. Ortega asked the
 12 sheriff's officers to please be careful in handcuffing
 13 him, but he was handled roughly. You're not aware of
 14 that?
 15 A. I am not aware.
 16 Q. That he was kept with his hands cuffed behind
 17 his back for 40 minutes?
 18 A. No.
 19 Q. Hadn't heard that before?
 20 A. No.
 21 Q. That he was taken to the sheriff's office in
 22 Cave Creek where he was placed in a holding cell for four
 23 hours. Had you heard that?
 24 A. Not that I can remember.
 25 Q. Can you think of any reason based on the facts
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1 that I described that he should be placed in a holding
 2 cell for four hours?
 3 A. I don't know. Once again, I wasn't there.
 4 Q. Did you know that he was then taken to the local
 5 ICE office in Phoenix --
 6 A. I don't recall.
 7 Q. -- where his handcuffs were removed?
 8 A. I don't recall.
 9 Q. That his hands were swollen and he was in pain?
 10 A. I don't recall.
 11 Q. So you were not familiar with -- with this
 12 allegation on page 20 of the first amended complaint, the
 13 ICE official asked for Mr. Ortega's documents. He took a
 14 quick look at the documents and said: These documents are
 15 good. The ICE official told Mr. Ortega he was free to
 16 leave.
 17 MR. CASEY: Objection to form.
 18 Q. BY MR. BODNEY: You have not heard that
 19 allegation before?
 20 A. Not that I can recall.
 21 Q. Or this one, same page, Mr. Ortega had been in
 22 custody for about nine hours. During that time Mr. Ortega
 23 was never, A, given any water; B, given any food; C, told
 24 his rights; or D, given the name of any of the officers
 25 involved.
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1 Had you heard that before?
 2 A. No.
 3 Q. Are you aware of Mr. Ortega's fear based on his
 4 experience with MCSO?
 5 A. Fear?
 6 Q. That he is, from paragraph 79, frightful that --
 7 to walk on the street or be seen in public in Maricopa
 8 County because he fears that the sheriff's officers will
 9 come and arrest him again because he is Latino and does
 10 not speak English?
 11 A. I am not familiar.
 12 Q. Or that he is afraid that sheriff's officers
 13 will hurt him physically if they pick him up again?
 14 A. Not familiar.
 15 Q. Does that sound like racial profiling to you?
 16 MR. CASEY: Objection to form.
 17 THE WITNESS: I don't know. Wasn't there.
 18 Q. BY MR. BODNEY: You would need to know more
 19 facts?
 20 A. I am sure my staff will have the facts.
 21 Q. Are you sufficiently interested in that
 22 allegation to want to know more about the facts?
 23 MR. CASEY: Objection to form.
 24 I am instructing him not to answer to the extent
 25 it calls for any decision on your part whether you wish to
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1 talk to counsel, that is me, about anything in this
 2 lawsuit. I don't think the plaintiffs are entitled to
 3 know whether or not you have intention to talk to your
 4 lawyer about these issues.
 5 So separate and apart from that, you may answer.
 6 Q. BY MR. BODNEY: Yeah, putting conversations with
 7 your lawyer to one side outside of this deposition room,
 8 do any of those facts cause you to think it might be a
 9 good idea to learn more about these allegations from your
 10 staff?
 11 A. Well, once again, I think if my staff would be
 12 concerned and would advise me if there was serious
 13 consequences that you are talking about. It has not been
 14 brought to my attention.
 15 Q. Well, it has been brought to your attention in
 16 the deposition today, correct?
 17 A. You just did.
 18 Q. Right. Does -- does your knowledge of these
 19 allegations cause you to want to know more to get to the
 20 bottom of them and find out if there is any truth to them?
 21 MR. CASEY: Objection to form.
 22 THE WITNESS: It would be a -- something that my
 23 staff -- if they thought it was serious enough, they would
 24 let me know.
 25 Q. BY MR. BODNEY: But you are not sufficiently
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1 concerned based on what you have heard to say to your
 2 staff "I want to learn more"?
 3 A. Well, I -- if that is -- that circumstance
 4 occurred way back, I am sure that if -- it would have been
 5 brought to my attention, not just today, but I am sure my
 6 staff probably knew about the situation. So they would
 7 have brought it to my attention if it was something that
 8 they feel was done wrong.
 9 Q. Do you think that these allegations are
 10 sufficiently serious to want to ask your staff for more
 11 information about them --
 12 MR. CASEY: Objection.
 13 Q. BY MR. BODNEY: -- to get to the bottom of them?
 14 MR. CASEY: Objection to the form.
 15 THE WITNESS: If they were true, I would say
 16 yes.
 17 Q. BY MR. BODNEY: And does the fact that five
 18 individuals have alleged racial profiling in this case
 19 cause you to be concerned enough to want to find out more
 20 about the details of these incidences from your staff?
 21 A. Well, you know, when you arrest thousands of
 22 people, 35,000 that we investigate and detain, illegal
 23 immigrants, that is a large number, and you are talking
 24 about five.
 25 So it -- once again, if my staff figured there
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1 was something wrong in those five, I am sure that they
 2 would have informed me or my other staff members.
 3 Q. Are you concerned that if it could have happened
 4 to these five, it could have happened to scores of others?
 5 A. There is always that possibility, but we had no
 6 information.
 7 Q. Do you understand that these individuals in this
 8 organization are seeking class certification in this case
 9 to be named as class representatives of a class of persons
 10 in motor vehicles in Maricopa County?
 11 A. I am not familiar with that.
 12 Q. Are you familiar with the justice department's
 13 10-page guidance regarding the use of race by federal law
 14 enforcement agencies?
 15 A. No.
 16 Q. Have you ever seen it?
 17 A. Not that I can recall.
 18 Q. Let me ask the court reporter to mark as
 19 Exhibit 8, I believe, to your deposition a document
 20 titled, quote, Guidance Regarding the Use of Race by
 21 Federal Law Enforcement Agencies, close quote. It is
 22 dated June 2003 and bears the production numbers ORT 37
 23 through 46.
 24 (Deposition Exhibit No. 8 was marked for
 25 identification by the reporter.)
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1 MR. BODNEY: Why don't we take a short break and
2 go off the record.

3 VIDEO TECHNICIAN: We are going off the record
4 at 12:30 p.m.

5 (Recess ensued from 12:30 p.m. until 12:32 p.m.)

6 VIDEO TECHNICIAN: We are back on the record at
7 12:32 p.m.

8 MR. BODNEY: Thank you.

9 Q. BY MR. BODNEY: Sheriff, I show you what the
10 court reporter has marked as Exhibit 8 to your deposition,
11 the 10-page, quote, Guidance Regarding the Use of Race by
12 Federal Law Enforcement Agencies, close quote, dated
13 June 2003.

14 Have you ever seen this document before?

15 A. No, I did not.

16 Q. And you've -- you've never read it before?

17 A. No.

18 Q. Okay. Have you had a chance to look at it over
19 the past few minutes?

20 A. Just briefly, yes.

21 Q. Okay. On the first page, ORT 37, the document
22 states, and I quote, racial profiling in law enforcement
23 is not merely wrong, but also ineffective, close quote.

24 Do you see that in the --

25 A. Yes.

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1 Q. And -- and you are not testifying that -- that
2 racial profiling doesn't occur in our society, are you?

3 A. No.

4 Q. Okay. If you would, look at the paragraph
5 numbered 1 at the bottom of this page, and the first
6 bullet beneath it, it says, and I quote, in making routine
7 or spontaneous law enforcement decisions, such as ordinary
8 traffic stops, federal law enforcement officers may not
9 use race or ethnicity to any degree except that officers
10 may rely on race and ethnicity in a specific suspect
11 description, close quote.

12 Do you see that?

13 A. Yes.

14 Q. Do you agree with that statement as it applies
15 to MCSO?

16 A. I mean, this applies to federal -- this is a
17 federal agency policy --

18 Q. Right.

19 A. -- federal law enforcement policy.

20 Q. Right. And do you agree with that policy as it
21 applies to MCSO as a 287(g) partner with the federal
22 government?

23 A. As far as racial profiling, I agree. On the
24 other hand, there may be circumstances when you stop
25 someone to enforce that 287(g) agreement, but, in essence,
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1 Q. -- third paragraph?

2 A. Yes.

3 Q. Do you agree with that statement?

4 A. It is just one statement. It depends on the
5 circumstances, but, in essence, yes.

6 Q. Can you think of circumstances where racial
7 profiling in law enforcement would be effective?

8 A. Not right now.

9 Q. And then it says, and I quote, race-based
10 assumptions in law enforcement perpetuate negative racial
11 stereotypes that are harmful to our rich and diverse
12 democracy and materially impair our efforts to maintain a
13 fair and just society, close quote.

14 Do you agree with that statement?

15 A. Yes.

16 Q. And you see, Sheriff, at the top of the page,
17 where former president George W. Bush declared that racial
18 profiling is, quote, wrong, and we will end it in America,
19 close quote?

20 Do you see that?

21 A. Yes.

22 Q. Do you agree that ending racial profiling is a
23 solid objective in our country that we should end racial
24 profiling?

25 A. If it does occur, yes.

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1 in summary, yes, I do agree with it.

2 Q. So to enforce the 287(g) agreement, would it be
3 appropriate in your judgment to use race or ethnicity?

4 MR. CASEY: Objection to form.

5 Q. BY MR. BODNEY: In other words, in your
6 judgment, would it be appropriate to use race or ethnicity
7 during an ordinary traffic stop?

8 MR. CASEY: I am going to object to the form.
9 "During" is -- I don't know whether you are talking about
10 making the traffic stop, after the stop, during the
11 investigation.

12 Q. BY MR. BODNEY: I'm sorry. In making the stop.

13 A. The answer is -- what was the question again?

14 Q. Yes. Do you think it is appropriate in making a
15 routine law enforcement decision, such as an ordinary
16 traffic stop, for MCSO to rely on race or ethnicity?

17 A. For the stop?

18 Q. Yes.

19 A. The answer is no.

20 Q. Not for the stop?

21 A. (Witness nods head.)

22 Q. You can think of no circumstance where race or
23 ethnicity would be an appropriate indicia of a crime
24 occurring?

25 A. No. I am saying it is inappropriate to stop the
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1 vehicle just because of the race standing alone.

2 Is that what your question is?

3 Q. Yes.

4 What if your officers had seen an Hispanic day
5 laborer on a street corner, dirty, who got into an old
6 pickup truck, rusted old pickup truck, with four or five
7 other guys with the same description who looked like they
8 came from Mexico, would it be appropriate to make a
9 routine traffic stop based on the facts I have just given
10 you?

11 MR. CASEY: Objection to form.

12 THE WITNESS: We make traffic stops on viola- --
13 like we do every day with hundreds of people. It doesn't
14 matter what they look like. It is a matter that they
15 violated the traffic laws.

16 Q. BY MR. BODNEY: Well, you would recognize --

17 A. Depending -- it doesn't matter who they are.
18 Whether they look like they are from Mexico or China, it
19 doesn't matter.

20 Q. But we had a policy in place at MCSO to get
21 tough on illegal immigration, correct? Yes?

22 A. One of our priorities, yes.

23 Q. We have that policy still in place, correct?

24 A. Get tough on illegal immigration along with drug
25 traffickers and everything else.

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1 It says, and I quote, some have argued that
2 overall discrepancies in certain crime rates among racial
3 groups could justify using race as a factor in general
4 traffic enforcement activities and would produce a greater
5 number of arrests for non-traffic offenses (e.g.,
6 narcotics trafficking), close quote.

7 Do you see that statement?

8 A. Yes.

9 Q. Do you think that overall discrepancies in
10 certain crime rates among racial groups could justify
11 using race as a factor in general traffic enforcement
12 activities and would produce a greater number of arrests
13 for nontraffic offenses?

14 A. I am going to say again, when we do the traffic,
15 we enforce, outlaw equally. It doesn't matter who -- you
16 know, who is driving the car or whatever.

17 Q. You agree that your officers could readily
18 detect if an Hispanic person were driving the car,
19 correct?

20 MR. CASEY: Objection to form.

21 THE WITNESS: I didn't say that.

22 Q. BY MR. BODNEY: Could you? Could you readily
23 detect whether the driver was Hispanic?

24 A. Well, I -- if they go to the car wash every day
25 and get the car cleaned -- and I don't know how you can
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1 Q. Yes. It is one of the top priorities, isn't it?

2 A. Yes.

3 Q. And we have had crime suppression operations
4 aimed at implementing this -- this pure policy of stopping
5 illegal immigration, right?

6 MR. CASEY: Objection to form.

7 THE WITNESS: The crime suppression is to stop
8 all violations of the law.

9 Q. BY MR. BODNEY: Including --

10 A. I have said that many times.

11 Q. Okay.

12 A. No matter who they are.

13 Q. Okay. So you agree with this statement, that it
14 -- that MCSO, as part of its 287(g) partnership with the
15 federal government, may not use race or ethnicity in
16 making routine or spontaneous law enforcement decisions
17 such as ordinary traffic stops?

18 A. I am going to say again, the appearance or
19 whatever should have no bearing on enforcing the traffic
20 laws.

21 Q. So you would agree with that statement?

22 A. Yes.

23 Q. Okay. Here's another statement from the federal
24 guidelines on page ORT 39. At the bottom of -- well, it
25 is the largest paragraph on that page, Sheriff.

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1 detect someone at night. So it doesn't matter who is in
2 the car. It is the violation that occurs.

3 Q. Okay. So you agree with the statement in this
4 policy that says, quote, whatever the motivation, it is
5 patently unacceptable and thus prohibited under this
6 guidance for federal law enforcement officers to act on
7 the belief that race or ethnicity signals a higher risk of
8 criminality. This is the core of racial profiling and it
9 must not occur, close quote.

10 Do you agree with that statement as it applies
11 to MCSO in its partnership with the federal government
12 under 287(g)?

13 A. We have been following all the rules and
14 regulations of the 287(g) to federal government. They
15 have had no problems with our operations. So evidently we
16 are doing everything right. If we were doing something
17 wrong -- according to these federal guidelines you are
18 talking about, this is federal law enforcement.

19 Q. Right.

20 A. Since we were designated as federal law
21 enforcement officials --

22 Q. Right.

23 A. -- and monitored by ICE constantly, evidently we
24 have been doing -- we have been complying.

25 Q. Now, ICE doesn't oversee all of your crime
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1 suppression operations, does it?
 2 A. They are well in contact with us and every once
 3 -- sometimes they are on scene.
 4 Q. Only sometimes they are on scene, correct?
 5 A. But we deal with them -- during the whole
 6 operation, we are dealing with the ICE officials.
 7 Q. During every crime suppression operation?
 8 A. Yes, if we come across any illegals.
 9 Q. And how many crime suppression operations with
 10 illegal immigrants in mind has your office held?
 11 MR. CASEY: Objection to form.
 12 Q. BY MR. BODNEY: Do you know?
 13 A. I believe it may have been around 13.
 14 Q. 13 to date?
 15 A. To the best of my knowledge.
 16 Q. And you have issued press releases in connection
 17 with those operations?
 18 A. I am not sure on every one, but I would presume
 19 we did on the majority.
 20 Q. Is the 287(g) program designed to allow agencies
 21 like MCSO to perform random street operations?
 22 A. Well, I am sure if it wasn't, we wouldn't be
 23 doing it. We have been doing it for three years.
 24 Q. So it is your view that it is?
 25 A. They have no problems with it. They -- we let
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1 them know every time we do an operation. They never say:
 2 Don't do it.
 3 Q. Is it your view that the 280(c) -- 287(g)
 4 program is designed to allow agencies like MCSO to affect
 5 issues such as excessive occupancy and day laborer
 6 activities?
 7 A. Now, the day laborer activities is another law,
 8 a state law that we enforce.
 9 Q. Let me ask the court reporter to mark as
 10 Exhibit 9 to your deposition --
 11 A. I'm sorry. You said day laborers?
 12 Q. Correct.
 13 A. I was talking about the employer --
 14 Q. Employer sanction?
 15 A. But could you repeat the day laborer question
 16 again? I thought you were talking about the laborers in
 17 the workplace.
 18 Q. No.
 19 The question was: Is it your view that the
 20 287(g) program is designed to allow agencies like MCSO to
 21 affect issues such as excessive occupancy and day laborer
 22 activities?
 23 MR. CASEY: Objection to form.
 24 THE WITNESS: I am not sure in general terms,
 25 that program, if we come across any illegal immigrants
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1 while enforcing the state laws, that we can enforce that
 2 federal law.
 3 Q. BY MR. BODNEY: Let me ask the court reporter to
 4 mark as Exhibit 9 a document dated September 24th, 2007,
 5 entitled 287(g) of the Immigration and Nationality Act.
 6 It bears the production numbers ORT 30 through ORT 36.
 7 (Deposition Exhibit No. 9 was marked for
 8 identification by the reporter.)
 9 Q. BY MR. BODNEY: Sheriff, I show you what the
 10 court reporter has marked as Exhibit 9 to your deposition
 11 and ask you to turn your -- well, first ask you, have you
 12 seen this fact sheet before? It is a fact sheet about
 13 Section 287(g) of the Immigration and Nationality Act.
 14 A. That, I don't recall.
 15 Q. Sheriff, when I have referred to 287(g) or you
 16 have referred to 287(g) in our deposition -- in your
 17 deposition today, you understand that we are referring to
 18 Section 287(g) of the Immigration and Nationality Act,
 19 correct?
 20 A. Yes.
 21 Q. So if we continue to refer to 287(g), that's
 22 what we mean?
 23 A. Yes.
 24 Q. Okay. So if you would, please, take a look at
 25 page 33, ORT 33. The first paragraph follows the question
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1 in bold print, quote, what is the program not designed to
 2 do, close quote.
 3 And then it reads, and I quote, the 287(g)
 4 program is not designed to allow state and local agencies
 5 to perform random street operations. It is not designed
 6 to impact issues such as excessive occupancy and day
 7 laborer activities, close quote.
 8 Does -- does that statement differ with your
 9 understanding of the authority MCSO enjoyed under 287(g)?
 10 MR. CASEY: Objection to form.
 11 THE WITNESS: Once again, our staff, Chief
 12 Sands, has been in constant communication with the ICE
 13 officials. They know what we are doing, how we are
 14 enforcing the 287(g). We have great results of their
 15 review of our operations. So evidently we were doing
 16 something right regardless of what this paragraph says.
 17 Maybe they -- maybe they give us special attention.
 18 Q. BY MR. BODNEY: Well, it would seem as though
 19 MCSO has been conducting operations that do not comport
 20 with the statement we just read, right?
 21 MR. CASEY: Objection to form.
 22 Q. BY MR. BODNEY: In other words, your agency has
 23 been performing random street operations, hasn't it?
 24 MR. CASEY: Objection.
 25 THE WITNESS: We -- we do not do random street
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1 operations. They are well-planned. We look at statistics
2 regarding the crime in that area. We look at calls from
3 citizens, our hotlines that come into our workplace, we
4 coordinate it with ICE, and then we perform our duties.

5 Q. BY MR. BODNEY: So to your mind, what your
6 office has been doing for the past three or four years
7 would not constitute a random street operation?

8 A. I don't like the word "random." It is
9 well-organized and we have a reason, probable cause, to
10 conduct the investigation like we do with any other
11 subject matter.

12 As far as the excessive occupancy, I don't know
13 if you are talking about the workplace occupancy. I don't
14 know if that is what they mean here, too, but they have to
15 realize we have a state law that pertains to that type of
16 enforcement.

17 Q. So do you think the state law conflicts with
18 this ICE fact sheet on what the program is not designed to
19 do?

20 A. No, I don't think it conflicts. I think it
21 supports the illegal immigration problem that we have
22 because if we do come across during the workplace
23 operation any of those that would show are illegally here,
24 we turn it over to ICE and it is up to them to determine
25 what they do.

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1 Q. Okay. We'll -- we -- after a lunch break, we
2 can return to the subject of these crime suppression
3 operations.

4 Sheriff, your testimony is you have never seen
5 this fact sheet before today?

6 A. I don't recall this fact sheet.

7 Q. And you have never read it before today?

8 A. Not this one. I read a lot of reports, but I
9 don't remember this one.

10 Q. Did you seek approval from the federal
11 government for MCSO's 287(g) program?

12 A. Did you say whether I initiated it or --

13 Q. Yes.

14 A. Actually, they -- they came to me constantly
15 requesting that we join forces, especially in the jails,
16 and it was my recommendation that we also do the
17 fieldwork, too, and that is how that came about.

18 Q. So you initiated the negotiation of the field
19 level aspect of the 287(g) agreement with the federal
20 government?

21 A. It was a package type of agreement.

22 Q. But the street operations were operational
23 authority you sought?

24 A. Along with the jail.

25 Q. Along with the jail?

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1 A. But they -- they -- they tried to emphasize the
2 jail also. So we decided to have an agreement on both
3 sides of the problem.

4 Q. And when you say you initiated that, was it
5 Mr. Sands who initiated that on your behalf or do you
6 remember this being your idea?

7 A. I believe it was Mr. Sands and the -- and the
8 head of our jail operation, Jerry Sheridan.

9 Q. And you say that they were constantly -- they,
10 the federal government, were constantly approaching you
11 about the 287(g) agreement. Do you recall who from the
12 federal government was constantly approaching you?

13 A. Well, they were not constantly approaching me.
14 They were constantly approaching my staff.

15 Q. Do you know who those federal approachers were?

16 A. I believe it was Pena and other people that work
17 locally in the office.

18 Q. And that would be the --

19 A. Kidd and a few others.

20 Q. Jason Kidd?

21 A. Yeah.

22 Q. Okay. And Alonzo Pena?

23 A. I believe -- they change hands so many times,
24 ICE does, but I believe he was there at the time.

25 MR. BODNEY: It is about five minutes before
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1 1:00 by my watch. Shall we take a lunch break now?

2 THE WITNESS: If you want to. I can keep going.

3 MR. BODNEY: Shall we go off the record?

4 VIDEO TECHNICIAN: We're off the record at
5 12:54 p.m.

6 (Recess ensued from 12:54 p.m. until 1:57 p.m.)

7 VIDEO TECHNICIAN: We are back on the record at
8 1:57 p.m.

9 Q. BY MR. BODNEY: All right. Sheriff Arpaio, we
10 are back on the record, and I would ask you to turn your
11 attention back to Exhibit 9, the fact sheet about the
12 287(g) agreement, and in particular I would ask you to
13 take a look at the page marked ORT 000034.

14 A. I don't see any --

15 Q. On the bottom right --

16 A. I see 37, 38 -- is this the guidance?

17 Q. No. This is the one that is labeled fact sheet.
18 The first page is 34.

19 A. I see 34.

20 Q. And if you look toward the bottom of the page,
21 the question in bold face asks, and I quote, does a person
22 need to be convicted of a state crime for officers to use
23 the 287(g) authority, close quote.

24 Do you see that question?

25 A. Yes, sir.

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1 Q. And the first statement beneath that reads, and
2 I quote, officers trained and certified in the 287(g)
3 program may use their authority when dealing with someone
4 suspected of a state crime that is more than a traffic
5 offense, close quote.

6 Do you see that statement?

7 MR. CASEY: Object to form.

8 THE WITNESS: "That is more than a traffic
9 offense."

10 Q. BY MR. BODNEY: "More than a traffic offense."

11 Now, you testified earlier, Sheriff, that you
12 hadn't read this fact sheet before the deposition today,
13 that you hadn't seen it before, right?

14 A. Yes.

15 Q. It appears to be a document prepared by the U.S.
16 Immigration and Customs Enforcement Agency?

17 A. Yes.

18 Q. And I would just ask you whether that statement,
19 the one I just read, reflects any conflict with MCSO's
20 policy under 287(g)?

21 A. Well, we -- we enforce the traffic violations
22 first, not the 287(g).

23 Q. Right.

24 A. It is after that that we kick in that training
25 and authority from the 287(g).

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1 THE WITNESS: We have enforced the traffic
2 violations.

3 Q. BY MR. BODNEY: Right.

4 A. That is what the -- if they were criminal, that
5 is what the arrests were for was traffic, criminal-type
6 state law violations.

7 Q. So, in other words, your -- in your view your
8 officers were free to cite persons for violating the
9 traffic laws and then cite persons inside the vehicle for
10 federal immigration law violations, too, after the state
11 law violation had been found?

12 A. I am just going to say again that my -- that my
13 staff has made the arrangements with ICE to perform these
14 type of duties that you are referring to --

15 Q. Okay.

16 A. -- and we haven't had any problems. They said
17 it was okay.

18 Q. But you --

19 A. We technically report in a sense when we are
20 enforcing the 287(g) to ICE.

21 Q. But you don't have ICE officers with MCSO
22 deputies every time they make a traffic stop that results
23 in a 287(g) citation, do you?

24 A. That's -- no, we do not.

25 Q. Okay. In October of 2007, Sheriff, your office
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1 Q. But -- but this fact sheet indicates that
2 agencies such as MCSO may use their authority only, quote,
3 when dealing with someone suspected of a state crime that
4 is more than a traffic offense, close quote.

5 Isn't it true that your deputies have detained
6 and arrested many individuals for 287(g) violations,
7 federal immigration violations, on traffic offenses?

8 MR. CASEY: Objection to form.

9 Q. BY MR. BODNEY: In connection with traffic
10 offenses?

11 A. Well, you have these guidelines, I presume,
12 which can be changed and which had been because my
13 officials have communicated, worked with the ICE -- the
14 local people here, and they agree with everything we have
15 done enforcing the 287(g) program.

16 Q. How can you say that?

17 A. Because we know. We -- we have been doing it in
18 conjunction with ICE. They know when we detain someone.
19 They know all the circumstances when they get the phone
20 call or the information, and they had no problem with it.

21 Q. But you would agree that you have detained and
22 arrested numerous individuals in connection with 287(g)
23 immigration violations on or in connection with traffic
24 offenses?

25 MR. CASEY: Objection to form.

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1 issued a news release titled, quote, Sheriff Arpaio Goes
2 After Day Laborers, close quote.

3 Do you remember issuing a news release to that
4 effect?

5 A. No. I may have, but I don't remember it.

6 Q. Okay. Let me ask our court reporter to mark as
7 Exhibit 10 to your deposition a news release bearing the
8 headline, quote, Sheriff Arpaio Goes After Day Laborers,
9 close quote. Exhibit 10 is dated October 4, 2007, and it
10 bears production number ORT 000104.

11 (Deposition Exhibit No. 10 was marked for
12 identification by the reporter.)

13 Q. BY MR. BODNEY: Sheriff, I show you what has
14 been marked as Exhibit 10 to your deposition. Does this
15 appear to be a true and correct copy of one of your news
16 releases?

17 A. Yes, sir.

18 Q. And is this the sort of thing that you would
19 have reviewed before it was issued like the others?

20 A. I may have. I don't recall reviewing this, but
21 I could have.

22 Q. In the next to the last paragraph, Sheriff, it
23 says, and I quote -- and, by the way, this quote is
24 attributed to you. Quote, my office continues to enforce
25 state and federal immigration, not for cosmetic purposes
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1 but because I take the problems of illegal immigration
2 seriously, says Sheriff Arpaio. Quote, there is no
3 sanctuary in this country (sic) for those who violate the
4 law. As far as I am concerned the only sanctuary for
5 illegal aliens is in Mexico, close quote. Is that your
6 statement?

7 A. I believe it's country -- I'm sorry, it's
8 "county."

9 Q. "County." I misspoke. I apologize.
10 "In this county for those who violate the law."
11 Is that your statement, Sheriff?

12 A. That's what I'm reading.

13 Q. And you stand --

14 A. I can't remember way back, but I presume if it's
15 in quotes, it was repeated by my public relations staff.

16 Q. And you stand by that statement, quote, as far
17 as I am concerned the only sanctuary for illegal aliens is
18 in Mexico, close quote?

19 A. With explanation.

20 Q. Okay. Is there any further explanation in this
21 press release that you felt necessary?

22 A. No. I am going back to that paragraph that you
23 are repeating.

24 Q. Right.

25 A. As you know, in a quote, everything -- you
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1 and did the law enforcement operation in Cave Creek -- I
2 believe it's Cave Creek.

3 Q. Yes.

4 A. I'm sorry, Queen Creek. It is Queen Creek,
5 which, by the way, we are the -- contract city. We are
6 the law enforcement in that town, and I would imagine, you
7 can talk to my staff on that, I was -- I would imagine
8 that the complaints were coming in from citizens.

9 Q. And, Sheriff, this refers to operations in Queen
10 Creek, Cave Creek, and Wickenburg.

11 A. All those areas, other than Wickenburg, we do
12 the law enforcement. They do not have law enforcement.

13 Q. You mentioned Chief Sands. You oversee his
14 activities, do you not?

15 A. All my chiefs I oversee.

16 Q. And you would agree that being a day laborer is
17 not a crime in Arizona, is it?

18 A. It is not a crime.

19 Q. But is it your view that day laborers are
20 disproportionately illegal immigrants from Mexico?

21 A. I don't know. I never did a survey. Maybe
22 Chief Sands would know, but I don't have statistics on
23 that.

24 Q. Do you have any sense based on your experience
25 whether you would assume a substantial number of day
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1 expect sometimes when you make a quote that the media will
2 call you and you can explain your situation more so.

3 Q. Okay.

4 A. But when I mentioned the sanctuary in the
5 county, there are some people that think we have a
6 sanctuary area, people are not enforcing illegal
7 immigration laws.

8 When I mentioned Mexico, I was only mentioning
9 it in the vein that when you bring people back to Mexico,
10 they come back across, back and forth and back and forth.
11 So that's what I meant with the sanctuary situation in
12 Mexico.

13 Q. Okay. So with that explanation, you still stand
14 by the statement, quote, as far as I am concerned the only
15 sanctuary for illegal aliens is in Mexico, close quote?

16 A. With the explanation that I gave saying that
17 people come across the border and then they go back and
18 they keep coming back across without much interference by
19 the Mexican government.

20 Q. The headline or title of this press release
21 says, "Sheriff Arpaio Goes After Day Laborers." What,
22 Sheriff Arpaio, were you going after them for?

23 A. Well, once again, I didn't lead this operation,
24 as I mentioned several times. Chief Sands and his people
25 are the ones that evidently came up with the information

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1 laborers in Maricopa County come from Mexico, the same
2 persons you were referring to as going back and forth and
3 back and forth?

4 A. Well, I would presume we do have statistics from
5 those that have been arrested on state charges and so on
6 as to what country they came from if they are illegal,
7 maybe even where they were, what their jobs were. We do
8 that with everybody that we arrest. We find out where
9 they are from, what jobs -- you know, I can go on and on.

10 Q. So do you have statistical analyses of where
11 these arrestees are from?

12 A. I don't know. Chief Sands and his staff may
13 keep those statistics.

14 Q. Have you ever seen them?

15 A. I don't recall on -- for that subject. I do
16 know that I have seen stats on the number of arrests and
17 so on.

18 Q. And what do those show with respect to how many
19 of the persons arrested in these crime suppression
20 operations are Hispanics?

21 A. I don't know the separation as Hispanics. I do
22 know that there was a violation of the law and they
23 happened to be Hispanic, that we would know that normally
24 because of the 287(g) training, the questioning. I could
25 go on and on.

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1 Q. Have you seen those statistics?
 2 A. Which ones are you talking about?
 3 Q. The ones you just referenced about the --
 4 A. The ones that have been arrested?
 5 Q. Yes.
 6 A. Yes. I have seen statistics.
 7 Q. And of those persons arrested in the crime
 8 suppression operations, what percentage are Hispanics?
 9 A. Well, in the crime suppression, I don't have
 10 those figures because we arrest so many people doing those
 11 suppression operations from all different ethnic
 12 backgrounds, all different types of violations of the law.
 13 So I don't have that breakdown that -- we may have them
 14 somewhere in the office.
 15 Q. So you can't testify, as you sit here today, as
 16 to what those statistics reflect?
 17 A. No.
 18 Q. You don't know, for example, how many of the day
 19 laborers arrested were either Hispanics or from Mexico?
 20 A. No. I don't have the figure.
 21 Q. Do you have a sense of what that number would be
 22 or what that percentage would be?
 23 A. I -- you mean -- you're talking about day
 24 laborers? We got so many different programs going on
 25 here. Day laborers?

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1 figures in front of me, but I know at one point it was
 2 like 18 percent, 20 percent that were in jail for all
 3 types of crimes, murders all the way down that were here
 4 illegally.
 5 Q. 18 to 20 percent?
 6 A. I don't have the current figure because our
 7 population has gone down.
 8 Q. And how many of those persons are Caucasians,
 9 those illegal immigrants in your jails?
 10 A. I believe the -- very few illegals are
 11 Caucasian.
 12 Q. And the vast majority are from Mexico?
 13 A. Or Central America.
 14 Q. Or Central America. Okay.
 15 And, Sheriff, the next to the last paragraph in
 16 this news release I guess we have talked about and you
 17 have explained, so thank you. Let me move to another
 18 topic.
 19 By the way, would you have -- would your office
 20 have documents reflecting the breakdown -- the current
 21 breakdown, for example, of the inmate population who are
 22 in jail for being illegal immigrants? Would your office
 23 have documents reflecting the names of those persons and
 24 the dates of their arrests, and their national origin or
 25 race?

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1 Q. Day laborers. The ones referenced in this --
 2 A. I don't have even statistics of how many day
 3 laborers we had come in contact with. I don't have them.
 4 Q. Are you familiar with the outcome of this
 5 operation which says it was in response to Queen Creek
 6 citizen complaints?
 7 A. I am reading the -- the situation you mention
 8 here in the press release.
 9 Q. It is my understanding, Sheriff, that in the
 10 second paragraph when it says, quote, sheriff's deputies
 11 contacted the 16 illegals during traffic investigations.
 12 Investigations into the complaints about day
 13 laborers shouting at school children, none of those
 14 illegals were arrested for shouting at school children?
 15 A. I don't know.
 16 Q. You don't know what --
 17 A. I don't know how many people were arrested and
 18 what types of crime you are talking about, other than the
 19 fact that it was mentioned that 16 illegals were arrested
 20 during traffic investigations.
 21 Q. How many illegal aliens are in custody in your
 22 jails today, illegal immigrants?
 23 A. Well, it fluctuates, because we used to have
 24 10,000 in jail. I believe it is down to 8,000, whatever.
 25 I would guess -- this is -- once again, I don't have the

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1 Could we get a snapshot today, for example, if
 2 we wanted to -- to know precisely how many of the inmates
 3 who are booked in jail for illegal immigration reasons are
 4 from Mexico, other countries in Central America and the
 5 very few who are Caucasians?
 6 A. I am not sure if we have that. We can look into
 7 it. On the other hand, you said booked into jails just
 8 for being here illegally. People booked into our jail are
 9 booked into jail for all different types of crimes, and
 10 they happen to be illegal, too, but we do not book people
 11 into jail just because they are illegal. We turn them
 12 over to the ICE.
 13 Q. Right. Right.
 14 In connection with your crime suppression
 15 operations where the news releases refer to illegal
 16 immigration as part of that crime suppression operation,
 17 in other words, expecting to find and crack down on
 18 illegal immigration, are you aware of any persons who were
 19 arrested and found to be illegal immigrants who were
 20 Caucasian?
 21 A. You know, I -- I don't have those figures. I am
 22 sure they may have. I do remember because it is very
 23 recent and it was sort of an unusual circumstance, but I
 24 believe we arrested maybe six people that came from China
 25 through South America or Cuba or Mexico City and so -- and

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1 I remember that, but I don't have the figures on those
2 that were Caucasian.

3 Q. Okay. Do any Caucasian arrestees for
4 immigration violations in connection with your crime
5 suppression operations come to mind?

6 A. No. I don't know, but it could have. As I
7 said, the only reason the four or six I mentioned was
8 somewhat unusual coming all the way from China through the
9 border to get in the United States illegally.

10 Q. But you are not aware of Caucasian persons from
11 Canada, the United Kingdom, Italy, Germany, so on, being
12 arrested for illegal immigration violations in connection
13 with these crime suppression operations?

14 A. I don't know. I don't have the figures on the
15 crime suppression operations that you are talking about.

16 Q. Can you think of a single one where that
17 happened?

18 A. Not to my memory right now. We have been doing
19 this for quite a period of time.

20 Q. Okay. Sheriff, you mentioned the factors that
21 go into the site selection when you conduct these
22 operations. Who beyond Chief Sands is involved in
23 selecting sites?

24 A. Well, I would imagine he has supervisors working
25 for him and deputies in the human smuggling unit, and so I

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1 presume that he knows how to evaluate the information and
2 he decides where to conduct the operations.

3 Q. But is it your testimony that you have wholly
4 delegated to Chief Sands the duty of determining where
5 these crime sweeps or suppression operations should take
6 place?

7 A. That is correct.

8 Q. Have you ever questioned him about his site
9 selection?

10 A. Well, when you say "question," I may ask him
11 what is going to happen, but it is not questioning in the
12 sense that he has to prove his case to me. I have
13 confidence. He is a specialist in this type of activity,
14 so I have confidence of the decisions that he and his
15 supervisors make.

16 Q. What about after the fact? Have you ever felt
17 the need to approach Chief Sands after a crime suppression
18 operation and say to him, "Why did you pick this area?"
19 Mesa, for example. "Why did you pick Cave Creek?" Have
20 you ever felt the need to question him after his selection
21 of a site about the propriety of a location?

22 A. No. I usually know before.

23 Q. And you have never had occasion before the
24 operation to tell him that you think further study may be
25 necessary?

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1 A. No. As I say, I have confidence in his ability
2 for doing this type of work, and I have no problems with
3 it.

4 Q. So when you say that you, quote, usually know
5 before, close quote, the site selection --

6 A. Um-hum.

7 Q. -- does that mean that you do confer with Chief
8 Sands before he arrives with finality at the site itself,
9 before he makes the site selection?

10 A. Yes. I confer with him, but I don't tell him
11 how to do it. He is the expert at it, but I sure know
12 what is going on.

13 Q. Have you ever told him, "Chief, I think we need
14 to go to this town or that town or the other location"?

15 A. He usually tells me.

16 Q. But have you ever had to tell him?

17 A. Not that I can recall.

18 Q. Is it possible?

19 A. It sure is.

20 Q. Okay. And do you remember the names of any of
21 the top officers with whom Chief Sands confers to make
22 these site selections?

23 A. Oh, he has Lieutenant Sousa and various
24 sergeants and Dave Trombi, who is the deputy chief, so he
25 confers with all these professionals. As I said, I have

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1 confidence in them, so I feel very comfortable as to their
2 decisions.

3 Q. Have you ever sat through a meeting with Chief
4 Sands, Lieutenant Sousa, Dave Trombi, as they arrived at a
5 site selection?

6 A. There may have been occasions, not exactly to
7 make the decision as to the site, but maybe on the
8 mechanics of following through on that information.

9 Q. Okay. Let me ask the court reporter to mark as
10 Exhibit 11 to your deposition a news release dated
11 January 18, 2008, from Maricopa County Sheriff's Office.
12 It bears production numbers ORT 000107 through 108.
13 (Deposition Exhibit No. 11 was marked for
14 identification by the reporter.)

15 Q. BY MR. BODNEY: Sheriff, I show you what the
16 court reporter has marked as Exhibit 11 to your
17 deposition. Does this appear to be a true and correct
18 copy of your office's news release?

19 A. Yes.

20 Q. And this refers to, in the title, and I quote,
21 Sheriff Mobilizes Posse in Central Phoenix, close quote.
22 Do you see that?

23 A. Yes.

24 Q. Do you view Central Phoenix as a major smuggling
25 route, human smuggling unit?

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1 A. You are talking about Central Phoenix?
 2 Q. Central Phoenix.
 3 A. Well, I say -- I think there is a very important
 4 area, especially when you talk about drop houses, that
 5 pertains to human smuggling.
 6 Q. And was this operation aimed at drop houses on
 7 or about January 18th, 2008?
 8 A. I believe it was aimed at a crime suppression
 9 operation for all different types of crime.
 10 Q. Between 16th and 40th Streets and Indian School
 11 and McDowell Roads?
 12 A. That is what the press release says.
 13 Q. And it indicates that you were sending out
 14 hundreds of volunteer posse members, reserves and deputies
 15 during a major crime suppression operation in Central
 16 Phoenix --
 17 A. Yes.
 18 Q. -- is that correct?
 19 If you were not targeting illegal aliens or
 20 illegal immigrants, how were you able to say in this news
 21 release that there were, quote, illegal immigration
 22 arrests anticipated, close quote?
 23 A. Well, I think the information came as to
 24 property and other crimes. People were complaining. They
 25 were not satisfied with law enforcement in that area and
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1 also they had some -- they had information that there may
 2 be some illegal immigration activity. So we had a dual
 3 purpose for going into that area.
 4 Q. And what caused you to anticipate arrests of
 5 illegal immigrants?
 6 A. Well, that is something that Chief Sands can
 7 answer, but I do think, if I recall, there were many
 8 business people that were complaining, so I turned that
 9 over to Chief Sands to take action.
 10 Q. Do you remember who those businesspeople were?
 11 A. I do not.
 12 Q. Did you get letters from them?
 13 A. I believe it could have been a -- somewhat like
 14 a petition --
 15 Q. Okay.
 16 A. -- with all the names of the business people in
 17 that area.
 18 Q. Do you know whether your office still has that
 19 petition?
 20 A. I don't know.
 21 Q. Would you have any objection to your counsel
 22 producing it, if he could find it?
 23 A. It is up to my counsel.
 24 Q. You don't object?
 25 A. It is what he says.
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1 Q. Okay. I don't believe we have seen that
 2 petition.
 3 Well, Chief, on page 108, the second page of
 4 this two-page exhibit, there is a quote attributed to you.
 5 You say that you, quote, anticipate that many illegal
 6 immigrants will be arrested as this Central Phoenix
 7 neighborhood remains a popular spot for day laborers,
 8 close quote. And if we just focus on that statement
 9 there, I am wondering whether you believe that being a day
 10 laborer is synonymous with being an illegal immigrant in
 11 Maricopa County.
 12 A. No. I think -- I am not sure what that petition
 13 said, but I am going as to what the businesspeople
 14 complained. They may have said that there is day laborers
 15 in the area like there is thieves and burglars. So that
 16 may have been one of their concerns.
 17 Q. But if the day laborers are simply gathered in a
 18 spot where it is lawful for them to gather, what authority
 19 would your office have to arrest them?
 20 A. None. I think this says under the state and
 21 federal immigration laws.
 22 Q. And yet you anticipated that many illegal
 23 immigrants will be arrested because the neighborhood
 24 remains a popular spot for day laborers?
 25 A. Yes. For violating the state and federal laws.
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1 Q. In other words, you expected these day laborers
 2 to be in violation of state and federal laws?
 3 A. If they were. As I say, this was a crime
 4 suppression operation, a crime area, and if we came across
 5 any people that happen to be here illegally, we have the
 6 training to take action. And this is something that we
 7 have the law and the training and the federal authority to
 8 do so. So, naturally, if we come across that situation,
 9 we are going to enforce that law, that immigration law.
 10 Q. Do you remember how many illegal immigration
 11 arrests your office made in connection with this
 12 January 2008 sweep?
 13 A. No.
 14 Q. And do you know what state crime these day
 15 laborers committed?
 16 A. No. I do not have the statistics on that, but
 17 those that have been arrested surely committed a state
 18 crime.
 19 Q. Wouldn't you agree that there is a temptation to
 20 target a certain group to find a state crime when you send
 21 out news releases saying illegal immigration arrests
 22 anticipated?
 23 A. Well, I think it is no more when you go into a
 24 drug-infested area to enforce the drug laws and you know
 25 that drugs is prevalent in that area, but as you are
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1 enforcing the laws on a crime suppression or warrant
2 roundup that you anticipate it, maybe you come across some
3 drug violators.

4 Q. But this press release doesn't say anything
5 about mobilizing the posse to find drug violators, does
6 it?

7 A. No. It says to find property thieves -- theft
8 and so on. That's why they were concerned about the crime
9 in that area. That's why they called me.

10 Q. And do you remember who any of these business
11 owners were?

12 A. No. I think I mentioned earlier I don't
13 remember. I do -- as I said, I had a list.

14 Q. Okay. Because the last paragraph indicates that
15 there was going to be a briefing on January 18th, 2008, at
16 the northwest corner of 32nd Street and Thomas at which
17 you would be joined by some of the business owners who
18 requested your assistance.

19 A. I think there were two or three at the time, but
20 I don't remember who they were.

21 Q. This news release refers to a quote,
22 zero-tolerance stance on crime, close quote. What does
23 that mean?

24 A. Well, when it is -- we do -- we do many
25 operations with zero tolerance. What it really means is
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1 that area. They were concerned about crime in their
2 neighborhood.

3 Q. What did you do to investigate who was
4 committing those crimes that the business owners were
5 concerned about?

6 A. Well, we were not using this operation as an
7 investigative operation. It was more as a crime
8 deterrence suppression operation.

9 Q. But doesn't that approach presuppose that these
10 day laborers were the ones who were committing these
11 burglaries?

12 A. No. I don't even know how many day laborers we
13 picked up. Quite frankly, I am sure we arrested many
14 people for all different types of violations of the law,
15 including outstanding warrants, drug warrants, drugs. We
16 always do that on crime suppression operations.

17 Q. Would it be fair to say that this sweep netted
18 some illegal immigrants?

19 A. That may be a fair statement, but I don't have
20 the figures before me.

21 Q. But do you remember illegal immigrants being
22 arrested as a result of this sweep?

23 A. I don't remember this particular --

24 Q. Or operation, crime suppression?

25 A. -- suppression operation. But I would not be
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1 if we come across someone that has violated the law, that
2 they will be booked into the jail. It more has to do with
3 whether you allow them to leave and then come back to
4 court or whether we book them directly into the jail for
5 violating the crime.

6 Q. And do you recall how many illegals were
7 detained or arrested in connection with this operation?

8 A. I do not.

9 Q. Wouldn't you agree that there is a risk of
10 targeting Latinos because of the focus on day laborers so
11 many of whom are, as you have testified, from Mexico?

12 A. What type of risk are you referring to?

13 Q. Well, a risk that your deputies would be looking
14 for crimes committed by Hispanics who happen to be day
15 laborers?

16 A. We look for people that commit the crimes first,
17 as I said many times, and if -- after that, if they happen
18 to be illegal immigrants, we have the authority and the
19 expertise to pursue that.

20 Q. Do you remember what those business leaders told
21 you about these day laborers?

22 A. Well, they were more concerned about the crime.

23 Q. What crime?

24 A. The crime in that area, the burglaries and
25 larcenies and interfering with their business overall in
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1 surprised if we did arrest some illegal immigrants in the
2 process.

3 Q. Do you remember, Sheriff, intensifying your
4 search for human smugglers in August of 2008 using 100
5 deputies and posse to head to the West Valley in
6 connection with an immigration operation?

7 A. I know we have done operations in the West
8 Valley, but I don't remember the one you are talking
9 about.

10 Q. Let me ask the court reporter to mark as
11 Exhibit 12 to your deposition a two-page exhibit which
12 bears production numbers ORT 000425 and 000426.

13 (Deposition Exhibit No. 12 was marked for
14 identification by the reporter.)

15 Q. BY MR. BODNEY: I show you what the court
16 reporter has marked as Exhibit 12, Sheriff Arpaio, to your
17 deposition and ask whether this appears to be an official
18 news release of MCSO.

19 A. Yes.

20 Q. And on the first page this news release says,
21 and I quote, first illegal immigration operation largely
22 funded by private citizens, close quote.

23 Do you see that?

24 A. Yes.

25 Q. So it would be fair to say that before
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1 August 13, 2008, your office had conducted other illegal
2 immigration operations?

3 A. Yes.

4 Q. But this was the first one that was largely
5 funded by private citizens?

6 A. Not all the money but some of the money used,
7 yes.

8 Q. It looks like, as I read the last full paragraph
9 on this first page, private citizens came forward to offer
10 support and so far had donated over \$36,000 to the
11 sheriff's office, some of which would be used to fund the
12 August 13, 2008, operation.

13 Does that sound about right?

14 A. Yes.

15 Q. And do you know how much money your office has
16 received in private donations since August of 2008 from
17 private citizens to fund illegal immigration operations?

18 A. I don't have the complete figures but could be
19 around 45,000.

20 Q. That would be the total number that private
21 citizens have donated to MCSO to fund illegal immigration
22 operations?

23 A. Approximately so far.

24 Q. And do you maintain a list of the donors?

25 A. We do.

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1 in this county, close quote.

2 Is that a fair and accurate statement by you
3 reflecting your views?

4 A. Along with acting respectfully and
5 professionally as we continue your statement.

6 Q. Okay.

7 A. So, yes.

8 Q. So do you believe that launching an illegal
9 immigration operation largely funded by private citizens
10 does the will of the majority of the citizens in the
11 county?

12 A. No, I didn't solicit the money. I didn't ask
13 for it. It came to me, and, of course, I followed the
14 proper procedures to be able to utilize that money for
15 that purpose.

16 Q. Maybe a different question then is whether you
17 believe that continuing these illegal immigration
18 operations does the will of the majority in the county as
19 your statement indicated?

20 A. Well, I think I mentioned earlier that many
21 polls done in this county and across the nation shows that
22 the majority of the people want something done about the
23 illegal immigration problem.

24 Q. And you believe that these illegal immigration
25 operations where hundreds of your deputies and posse
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1 Q. And if your lawyer does not object, would you
2 have any objection to producing that list in this
3 litigation?

4 MR. CASEY: What relevance does that have in
5 discovery purposes to know a list of private donors?

6 MR. BODNEY: We can talk about it outside the
7 deposition.

8 BY MR. BODNEY: Do you have any objection if
9 your lawyer has no objection?

10 A. Well, I may have some objection as far as
11 privacy and that type -- and security and that type of
12 situation.

13 Q. So some of these persons may have been assured
14 of confidentiality when they contributed?

15 A. No, not necessarily, but I don't think that they
16 figure their names would be in the front page.

17 Q. Okay. How many persons approximately are we
18 talking about here?

19 A. I do not know.

20 Q. But you would be able to tell us how many
21 private citizens contributed?

22 A. Yes, I believe so.

23 Q. Okay. And, Sheriff, on the second page, the
24 last paragraph, you are quoted as saying, quote, I am
25 proud to be doing the will of the majority of the citizens

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1 members fan out across Central Phoenix or the West Valley
2 or Mesa expecting to arrest illegal immigrants does the
3 will of the majority of the people of the county?

4 MR. CASEY: Objection to form.

5 THE WITNESS: Well, I -- I -- I don't know. All
6 I can tell you is that I have about \$1.6 million given to
7 my organization from the state legislature who represent
8 the people of this state and this county since they are
9 elected officials, and if they are giving us \$1.6 million
10 to enforce that law, I would assume that the public wants
11 those laws enforced.

12 Q. BY MR. BODNEY: So is that -- is that a fair
13 reflection of the total dollars your office receives to
14 fight illegal immigration, \$1.6 million?

15 A. Well, I think we also get \$800,000 more to
16 enforce the illegal immigration laws relating to employers
17 and employees.

18 Q. Okay. And then in addition to the 1.6 million
19 and the 800,000, you have gotten approximately \$45,000 to
20 date from private citizens?

21 A. Well, the majority of the money that we
22 received, the fact that the former governor took away the
23 \$1.6 million, and I would imagine when that was
24 publicized, the people were excited and angry and they
25 just tried to help me with the funding to continue our

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1 enforcement.
2 Now, we still get trickles in here and there,
3 but the majority of the money I believe came after I lost
4 that \$1.6 million.

5 Q. Do you have any other sources of funding for
6 your illegal immigration operations today?

7 A. Not that I -- well, I have 1.6 million back from
8 the legislature. So I do have that money, plus about
9 800,000 for the employer sanction law.

10 Q. Do you use other general operating funds to
11 finance the illegal immigration operation?

12 A. Well, sometimes on our crime suppression, which
13 is totally a law enforcement operation, we are enforcing
14 all the laws, and this is our normal duties for our
15 deputies to do is to arrest people that violate the law,
16 and we have funds to do that.

17 Q. Sheriff, I assume that you are aware of a series
18 that ran in the East Valley Tribune that was entitled
19 "Reasonable Doubt." Do you remember it was a multipart
20 newspaper series that ran in July of 2008?

21 A. Are we talking about newspapers again?

22 Q. The Tribune newspaper. Do you remember that?

23 A. I am familiar. I think the two guys won a
24 Pulitzer prize.

25 Q. The two reporters won a Pulitzer prize for that.
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1 Do you see that paragraph?

2 MR. CASEY: Objection to form.

3 MR. BODNEY: I am just trying to put a marker on
4 the page.

5 MR. CASEY: I understand that, but I still have
6 to make -- you still need to understand I need to make my
7 objection.

8 MR. BODNEY: Okay.

9 Q. BY MR. BODNEY: Can you see that --

10 A. Yes.

11 Q. -- Sheriff?

12 Then the next sentence reads, and I quote,
13 arrest reports and e-mails sent regularly to ICE by
14 deputies document that, quote, reliable, empirical data,
15 close quote, is nonexistent. Instead, deputies either
16 don't justify the operation or say it is in response to
17 business owners' complaints, close quote.

18 Do you see that?

19 MR. CASEY: Objection to form.

20 THE WITNESS: Yeah.

21 Q. BY MR. BODNEY: Is reliable, empirical data with
22 respect to site location nonexistent?

23 A. You know, this is what a reporter is saying.
24 That is his opinion, and also this is something that my --
25 Chief Sands and his subordinates will have to answer, if
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1 A. I commend them for that.

2 Q. Have you read the series?

3 A. I read part of it.

4 Q. Let me ask the court reporter to mark as
5 Exhibit 13 to your deposition a copy of "Reasonable Doubt
6 Part III," and it is titled, quote, Sweeps and Saturation
7 Patrols Violate Federal Civil Rights Regulations, close
8 quote.

9 This is dated July 11, 2008, and bears
10 production numbers ORT 59 through 65.

11 (Deposition Exhibit No. 13 was marked for
12 identification by the reporter.)

13 Q. BY MR. BODNEY: Sheriff Arpaio, I show you what
14 our court reporter has marked as Exhibit 13 to your
15 deposition. Do you recall reading this newspaper series?

16 A. Oh, I may have read some of it. I don't recall
17 the whole -- all the articles.

18 Q. So you -- you read it occasionally as it was
19 published?

20 A. Yes.

21 Q. On page 60, the second page of this exhibit,
22 there is a statement about three-quarters of the way down
23 the page. The paragraph begins, "But MCSO sweeps could be
24 textbook examples in the federal field guide of what not
25 to do."

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1 they can.

2 Q. After this series came out, did you ever
3 question Chief Sands about these statements, for example,
4 that deputies either don't justify the operation or say it
5 is in response to business owners' complaints?

6 A. No.

7 MR. CASEY: Objection to form.

8 THE WITNESS: No. I don't recall questioning
9 him as to what I read in the newspapers.

10 Q. BY MR. BODNEY: Is there nothing that -- that --
11 that you have read in the newspaper that caused you to
12 question any of your subordinates about?

13 A. You know, I would -- I am not speaking for the
14 chief or our public relations, but I would imagine they
15 read this article too, possibly. So if they did, they
16 understand what is in it or what the reporter is saying.

17 Q. But you felt no responsibility to investigate
18 whether these statements were true?

19 A. Why would I investigate every day that the media
20 talks about me? I would be investigating forever.

21 Q. What if we limit it to one Pulitzer
22 prize-winning series about these sweeps?

23 MR. CASEY: Objection to --

24 I'm sorry. Go ahead.

25 Q. BY MR. BODNEY: Did you find -- would you think
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1 there is any need to ask your subordinates about whether
2 any of these statements are true?

3 MR. CASEY: Objection to form to the predicate
4 of the question.

5 You can answer, sir.

6 Q. BY MR. BODNEY: It is your understanding that
7 this series won a Pulitzer prize, correct?

8 A. I am sure because they associated themselves
9 with the sheriff, but I don't care what prize they won. I
10 go by facts and evidence, not what awards they get. I
11 commend them for that. That's an honor, I presume, for
12 journalists to win that prize.

13 Q. But there is nothing in this series that caused
14 you to approach any of your subordinates and say, "Is it
15 true that reliable, empirical data is nonexistent"?

16 A. I am sure my subordinates read the article. I
17 am sure my public relations people read the article.

18 Q. Do you remember any conversations with your
19 subordinates or public relations people about the article?

20 A. Well, as -- I am not afraid to say this, but
21 they don't give too much credence to what they read in the
22 newspapers. I'm not trying to --

23 Q. So that was their --

24 A. I am not trying to insult journalists, but this
25 is a newspaper series how they look at things.

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1 A. Oh, 60.

2 Q. Very last paragraph on 60.

3 A. Oh, I thought you said 61. Okay, yes.

4 Q. And now if you'll turn to the top of page 61, it
5 says, and I quote, Sousa, head of the human smuggling
6 unit, went on to explain how deputies in patrol cars
7 watched for vehicles that appeared to pick up illegal
8 immigrants. Then, once they spotted a vehicle picking
9 someone up, detectives in undercover cars, quote, would
10 establish probable cause for a traffic stop, close quote.

11 Do you see that?

12 A. Um-hum. Yes.

13 MR. CASEY: Objection to form.

14 Q. BY MR. BODNEY: You have read those words,
15 right?

16 A. Right now.

17 Q. Yes. Do you recall ever reading them before?

18 A. No.

19 Q. Do you recall ever discussing that with anyone
20 else?

21 A. No.

22 Q. Does the process described in the sentence I
23 just read reflect your understanding of how the human
24 smuggling unit operates?

25 A. You are going to have to ask Sands or Sousa
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1 Q. And that was your subordinates' reaction to the
2 story? They didn't give it much credence?

3 A. Oh, I am sure they looked at it.

4 Q. How do you know that?

5 A. Because they mentioned it to me on some of the
6 things they disagree with in the article. I don't know
7 what, but I am sure there were many, many pages they
8 disagreed with.

9 Q. If you will look at the bottom of page 60 and
10 the top of page 61, it refers to one of your illegal
11 immigration operations that was, quote, based on
12 information from the local businesses in reference to the
13 day laborers in the area, close quote.

14 Do you see that?

15 A. We are on 61?

16 Q. Bottom of page 60. Sorry.

17 A. Oh, the bottom of 61?

18 Q. Right. There is a reference to an e-mail
19 message to Jason Kidd, ICE's acting special agent in
20 charge in Arizona.

21 A. This is 61, the bottom. I am trying to find it
22 about e-mails.

23 Q. Just -- the very last paragraph --

24 A. 61?

25 Q. -- on page 60.

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1 about that situation if it really did exist. So I can't
2 comment on something what a reporter said. I wasn't there
3 during the traffic stop if that is what occurred.

4 MR. BODNEY: Okay. I see we need to change tape
5 once again, so why don't we take a five-minute break.

6 Thank you.

7 VIDEO TECHNICIAN: This is the end of tape No. 3
8 in the continuing deposition of Sheriff Joe Arpaio.

9 Today's date is December 16, 2009. The time is 2:52 p.m.
10 (Recess ensued from 2:52 p.m. until 3:08 p.m.)

11 VIDEO TECHNICIAN: We are back on the record.
12 This is the beginning of tape No. 4 in the continuing
13 deposition of Sheriff Joseph M. Arpaio. Today's date is
14 December 16th, 2009. The time is 3:08 p.m.

15 MR. BODNEY: Thank you.

16 Q. BY MR. BODNEY: Sheriff Arpaio, a few minutes
17 ago we talked about sources of funding for your office.

18 One quick follow-up question. Are you aware of any
19 federal funding that the human smuggling unit receives for
20 illegal immigration operations?

21 A. Only that the instructors, the manuals, the
22 teaching, that all comes from the federal government, but
23 that is the only -- only thing I can believe -- I remember
24 coming from the government.

25 Q. And not limited now to the human smuggling unit
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1 but to your office's illegal immigration operations on a
2 broad scale, are you aware of any other federal funds that
3 your office receives?

4 A. Regarding the immigration?

5 Q. On immigration. Immigration, anti- --

6 A. I don't recall. I don't believe so.

7 Q. Do you -- do the members of the human smuggling
8 unit receive overtime pay from the federal government, to
9 your knowledge?

10 A. You will have to ask Sands.

11 Q. Okay. Turning back to Exhibit 13, the series
12 that appeared in the Tribune, I would ask you to turn your
13 attention, Sheriff, to page 62. Well, I will tell you
14 what. Let's go back a page to the bottom of page 61, if
15 you would, please.

16 The article describes a -- an activity -- a
17 two-day sweep through Mesa, and it says: The operation
18 came at the request of seven East Valley lawmakers who
19 wrote a letter to Arpaio in April asking for immigration
20 enforcement in their communities.

21 I am going to stop there.

22 Do you remember receiving a letter from East
23 Valley lawmakers in April of 2007?

24 A. I believe I did.

25 Q. Do you remember who those lawmakers were?
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1 don't have it, I don't have it.

2 MR. BODNEY: Okay. I would just ask again --

3 MR. CASEY: We will do another search.

4 MR. BODNEY: -- to check on that.

5 Q. BY MR. BODNEY: And the article indicates that
6 Representative Russell Pearce, a Republican from Mesa, the
7 previous year helped secure more than a million dollars in
8 state funding for MCSO's immigration work.

9 Do you see that statement, Sheriff?

10 A. Yes.

11 Q. And do you remember that happening; in other
12 words, that Representative Pearce helped secure more than
13 a million dollars in state funding for your office's
14 immigration work?

15 A. Well, he -- I think he was involved. I am not
16 sure whether he was the only one, and I believe this went
17 through the Department of Public Safety and the
18 governor's -- a lot of bureaucrats -- bureaucratic
19 situations evolved, but I know he was one of the
20 legislators that supported this.

21 Q. Do you remember the exact amount?

22 A. I believe it was about 1.6 million that we ended
23 up with and then it was taken away. Then I got it back
24 this year.

25 Q. So this was the same \$1.6 million that you
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1 A. No. Well, some -- they are all in the East
2 Valley, in that area, Senator Pearce and --

3 Q. Russell Pearce?

4 A. Russell Pearce, Senator Gray and many of the
5 legislators that cover that area.

6 Q. So you received their letter?

7 A. Yes.

8 Q. And do you have a copy of it still?

9 A. I may have.

10 Q. If you still have the letter, would you have any
11 objection, assuming your lawyer has no objection, to
12 producing it in this litigation?

13 A. If my lawyer has no objection, I don't.

14 MR. BODNEY: Okay. I think we would make a
15 request for that letter, Tim, if it has not been produced.

16 MR. CASEY: I will just put on the record that I
17 will work with my client to search again, because I will
18 tell you that some of the correspondence, including this
19 one from the lawmakers, that my clients have in the course
20 of the last 18 months searched for these sort of things,
21 and we will search again. As of this time, or this date,
22 I don't recall ever receiving it.

23 MR. BODNEY: Okay.

24 MR. CASEY: And just about -- well, everything I
25 get from my client, I turn over to you folks. So if you
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1 testified about previously today?

2 A. Yes, I believe so.

3 Q. Okay. And your understanding is that
4 Representative Pearce was one of those legislators who
5 helped secure that funding?

6 A. Yes.

7 Q. And the article then says that these Mesa sweeps
8 were a favor to officials who helped the sheriff's office,
9 and that is attributed to you. It says that you made that
10 statement to the Tribune after the letter was made public.

11 Do you remember having a conversation with any
12 Tribune reporters about that favor?

13 A. I don't see me saying that.

14 Q. Well, please look at the next quotation which is
15 attributed to you, and it says, and I quote, I have a
16 strange old philosophy that if someone does something for
17 you, gives you resources, gives you money, I think if they
18 want something back, we ought to do it, close quote, he
19 said.

20 A. Yeah. I was speaking that the legislature gave
21 me that money to enforce the illegal immigration laws and
22 since they are elected officials and they have a problem
23 in their area that they ask me to enforce the laws in that
24 area, I should do that. And I do it everywhere around the
25 county, not just Mesa, but they had a problem, if I

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1 recall, in that area.

2 So I respond to citizens, legislators, you name
3 it, to pursue this immigration enforcement.

4 Q. So the statement attributed to you there about
5 your strange old philosophy is accurate?

6 A. The philosophy is when you receive money for a
7 certain program, that you should follow through and
8 utilize that money for that program. These legislators
9 were instrumental in ensuring that I received the
10 resources to enforce that new human smuggling law.

11 Q. Just to clarify, are you saying that you did not
12 make this quotation to the reporters?

13 A. No. I am -- I am explaining their quotation.

14 Q. Okay.

15 A. You don't -- I don't believe what I read in the
16 newspapers with these reporters. They have their way of
17 writing, and I have my way of telling the facts.

18 Q. So is it your testimony today, Sheriff, that the
19 statement that appears in quotation marks in this story
20 was said by you to the reporters and now you are
21 elaborating on it or explaining it, putting it in context?

22 A. That is correct.

23 Q. Okay. So that's what you told them when the
24 story was written and you are explaining really what you
25 meant or giving it even more context than appears in the
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1 legislators that were responsible, some of them, for me
2 obtaining the money to fight this problem.

3 Q. So, Sheriff, what steps do you take to vet, if
4 you will, to investigate the allegations that people like
5 these eight East Valley legislators made to you? In other
6 words, before you initiate a large-scale crime suppression
7 operation aimed at illegal immigrants in the East Valley
8 based on what eight legislators tell you, what steps does
9 your office do independently to verify that there is a
10 problem worth investigating?

11 A. Well, I think Chief Sands can answer that letter
12 -- that comment, but I -- if I recall earlier in the
13 deposition, I did mention we have certain criteria that we
14 follow -- that we follow, whether there is crime in the
15 neighborhood, complaints, intelligence and that is all
16 part of the big picture. We did not go into that area
17 just because seven legislators asked me to do it.

18 Q. Isn't that kind of circular in the sense that
19 you have said if you get complaints, you conduct an
20 investigation?

21 A. Um-hum.

22 Q. And then when I ask what investigation you
23 conduct to determine whether the complaints warrant a
24 sweep operation, you have said we get complaints?

25 A. No. And I also said we look into the area --
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1 story?

2 A. Yes, if that comment is correct. I don't recall
3 making that comment, but if it is, I am explaining the
4 reason I made the comment.

5 Q. Okay. And, again, just to be clear, you don't
6 doubt that you made that statement, do you?

7 A. I am not sure.

8 Q. Okay.

9 A. I am not saying no; I am not saying yes.

10 Q. Okay.

11 A. I don't recall.

12 Q. But what you meant by it was when -- when eight
13 East Valley legislators help you secure \$1.6 million for
14 immigration enforcement, when they come to you and say we
15 want you to spend some of your effort here in the East
16 Valley, your strange old philosophy is you ought to do it?

17 A. Not that I should do it, but it is no different
18 than anyone else coming to me. On the other hand, they
19 were responsible for me receiving that money and if they
20 have a complaint and a problem, I think it is only
21 appropriate when legislators ask you.

22 Now, if it was on the West side, I would do the
23 same thing.

24 Q. Okay.

25 A. It just happened to be that these are the
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1 Q. Okay.

2 A. -- to the crime in that area. We research the
3 area. How much crime is in that specific area? So we do
4 intelligence gathering, too.

5 Q. And what intelligence gathering did you do
6 before the Mesa sweeps?

7 A. Oh, I am sure Chief Sands can -- it was
8 delegated to him before we went into that area, so I would
9 presume he followed the same criteria we do with every
10 crime suppression operation.

11 Q. When you got the letter from the eight East
12 Valley legislators, what did you do with it?

13 A. I gave it to Chief Sands.

14 Q. Did you tell him to follow up on it?

15 A. I told him these people had information about
16 their area, and I have to say this again, they are
17 legislators and have citizens that report -- give them
18 information every day. So they are good sources of
19 information when you talk about legislators covering a
20 certain area. So I am sure a lot of the constituents that
21 they have would be reporting information to them and then
22 they, in turn, would be asking me to take some action.

23 Q. And so you directed Chief Sands to take some
24 action in turn?

25 A. I gave him the information, told him to check it
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1 out, and see what he comes up with.
 2 Q. What did he tell you he came up with?
 3 A. Well, I don't recall all the details, but I do
 4 know it was enough to justify -- or not really justify, to
 5 -- to put the resources in that area to enforce the -- the
 6 laws.
 7 Q. Do you have any idea of what sort of things he
 8 looked at?
 9 A. No.
 10 Q. Were you curious to find out?
 11 A. No, I wasn't curious to find out. I go by what
 12 he -- his -- his evaluation comes up with, and I am very
 13 comfortable with that and we go forward.
 14 Q. So if he were to testify that so long as there
 15 is crime occurring in some part of the county, that is
 16 justification alone to conduct a crime suppression
 17 operation, you would agree with it?
 18 MR. CASEY: Objection to form.
 19 THE WITNESS: I can't speak for him as to the
 20 criteria. He is the one that makes the decision. He does
 21 the research.
 22 Q. BY MR. BODNEY: Is there anything he could do in
 23 connection with his site selection that you would find
 24 fault in?
 25 A. I don't have anything in my mind right now. I
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1 -- if it -- I presume if some issue did come up, I would
 2 have to make a decision at the time.
 3 Q. So you gave Chief Sands a letter, told him to
 4 follow up on it, and he did?
 5 A. Yes.
 6 Q. And do you know what the outcome of that sweep
 7 operation was?
 8 A. Well, I don't have the statistics, but I do
 9 know, if I recall, in that incident, and I am not sure
 10 which one we are talking about, but we did make several
 11 arrests.
 12 Q. Of immigration violations?
 13 A. Of all types of criminal activity.
 14 Q. And you did find illegal immigrants?
 15 A. I don't know, but I would presume we did. I
 16 don't have the statistics.
 17 Q. Okay. If you would turn, please, to the next
 18 page, Sheriff, it is ORT 63, and about two-thirds of the
 19 way down the page there is a paragraph that begins, "The
 20 sheriff's office files reports to ICE when it makes
 21 illegal immigration arrests."
 22 Do you see that?
 23 A. Yes.
 24 Q. And then it says, "but agents are not present."
 25 And then there is a quote attributed to Jason Kidd, the
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1 ICE agent who oversees the partnership within MCSO. Agent
 2 Kidd is quoted as saying, and I quote, we obviously don't
 3 supervise them doing their operations, close quote.
 4 Do you see that remark?
 5 A. Yes.
 6 MR. CASEY: Objection to form.
 7 Q. BY MR. BODNEY: Is that your -- in your
 8 experience, is that a fair statement, that ICE doesn't
 9 supervise MCSO doing its operations?
 10 A. Well, once again, I believe that is semantics.
 11 I did say previously that we do keep in touch with ICE
 12 constantly whenever we are involved in any 287(g)
 13 immigration programs, and if I recall under the contract
 14 there is some type of supervision by ICE over the conduct
 15 of our officers.
 16 Q. And I take it you are not the person who
 17 communicates with ICE about each of these operations, are
 18 you?
 19 A. I am not.
 20 Q. And can you testify today that someone from your
 21 office communicated with ICE about each and every crime
 22 suppression operation you conducted?
 23 A. I cannot.
 24 Q. But if someone from your office did communicate
 25 with ICE, do you know who that would be?
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1 A. I am not sure whether it was Chief Sands or
 2 Lieutenant Sousa or others.
 3 Q. Okay. On the first page of this July 11th,
 4 2008, Tribune article, about three-quarters of the way
 5 down the page, it says, and I quote, but the sheriff's
 6 office conducts large-scale operations without any
 7 evidence of criminal activity, close quote.
 8 Is that a true statement?
 9 MR. CASEY: Objection to form.
 10 Q. BY MR. BODNEY: Well, you see the statement in
 11 front of you, don't you?
 12 MR. CASEY: Same objection.
 13 Q. BY MR. BODNEY: My only question is whether you
 14 agree with that statement that appears in the article.
 15 A. I -- I -- I don't understand the quotes -- the
 16 writings of the author of this article.
 17 Q. Well, for example, with the East Valley sweeps
 18 that the -- or sweep that the legislators asked you to
 19 conduct, were you aware of any evidence of criminality
 20 before conducting that operation?
 21 A. Once again, I will say that Chief Sands
 22 evaluates the situation in the neighborhood. I can go on
 23 and on to see what the crime situation is in that
 24 neighborhood before we start our operation.
 25 Q. Do you recall Chief Sands coming back to you and
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1 saying, "Sheriff, here's what we found on the ground in
2 Mesa?"

3 A. I don't recall.

4 Q. "There is a problem with day laborers"?

5 A. I don't recall.

6 Q. Okay. Do you believe that so long as there is
7 crime somewhere in the county your office could, as part
8 of its 287(g) authority, conduct an illegal immigration
9 operation on a large-scale basis in that community?

10 A. Once again, we do crime suppression operations.
11 We arrest anyone that violates any law.

12 Q. Do you have any doubt, Sheriff, that if we were
13 to take a random square mile anywhere in the metropolitan
14 Phoenix area we could find crime?

15 A. It depends on the level of crime. I am sure
16 Paradise Valley doesn't have the same crime statistics as
17 maybe another area.

18 Q. But there is crime in Paradise Valley just as
19 there is crime in Mesa, isn't there?

20 A. It depends on the extent of the crime.

21 Q. But in MCSO's view, so long as there were
22 traffic violations, you could stop and make arrests and
23 also detain persons for illegal immigration violations,
24 too, correct?

25 A. Well, I don't think the crime suppression is
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1 specifically just for a traffic violation. We do -- we
2 have done other enforcement activities during these
3 suppression operations, not just traffic.

4 Q. For example, in Guadalupe, there were traffic
5 stops made, correct?

6 A. The town of Guadalupe?

7 Q. The town of Guadalupe.

8 A. Um-hum.

9 Q. There were traffic stops made?

10 A. Yes.

11 Q. It would be fair to say that if one were just to
12 single out the town of Guadalupe, we could agree that, as
13 we speak, unfortunately, there is crime taking place in
14 that town, right?

15 A. Much crime for that one-mile area.

16 Q. So -- so in your view, your office would have
17 the authority virtually at any time to conduct a crime
18 suppression operation aimed at illegal immigrants in
19 Guadalupe?

20 A. Well, first of all, in Guadalupe, we are the
21 police department. We are the only law enforcement.

22 Q. By contract?

23 A. So every hour, every minute we are enforcing all
24 the laws in Guadalupe.

25 Q. So you know that there is crime taking place in
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1 Guadalupe at any given time, correct?

2 A. By being on the scene day to day, yes.

3 Q. And wouldn't it be fair to say if we include
4 traffic violations within our definition of crime, that
5 there is crime taking place at any given time in the city
6 of Phoenix, East Valley, West Valley, North and South,
7 correct?

8 A. Unfortunately, yes.

9 Q. So your office would have the leeway, as you
10 interpret Section 287(g), based on that ongoing crime to
11 conduct a crime suppression operation, at the time and
12 place of your choosing?

13 A. Once again, even those areas where we don't have
14 full control, like Cave Creek and Guadalupe, we do
15 research to determine what the activity is in that area --
16 in the areas that we are not 100 percent responsible for,
17 contract cities.

18 Q. And, Sheriff, when you say "we," you are
19 referring to Chief Sands and his group?

20 A. My office.

21 Q. Your office.

22 Is that research reduced to writing?

23 A. I don't know. I would presume it is. You will
24 have to talk to, once again, Chief Sands.

25 Q. So if your office has done any written research
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1 into crime as a first step before initiating a major crime
2 suppression operation, you would have produced it in this
3 litigation, correct?

4 A. I don't know. First of all, I said I don't know
5 if he did prepare something, what -- what format.

6 Q. I may have misunderstood you, Sheriff. I
7 thought you said that we, referring to MCSO, your office,
8 conducts research before it initiates a crime suppression
9 operation.

10 A. I said that Chief Sands in these types of
11 operations receives information, intelligence, probably
12 some from informants, prior to initiating these
13 operations. Now, the format documenting, that will have
14 to be left up to Chief Sands.

15 Q. Okay. Personally, you are not aware of whether
16 that research is in writing, are you?

17 A. I am not sure as to the format. Whether it is a
18 formalized report or not, I am sure that Chief Sands and
19 his subordinates can answer that.

20 MR. BODNEY: Okay. Well, can we -- to the
21 extent our prior requests don't subsume this request, if
22 there are any writings that reflect the research that MCSO
23 does prior to initiating a crime suppression operation
24 aimed at illegal immigration, we would ask for them now.

25 MR. CASEY: In fact, we searched for that and
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1 have produced to you everything we could find. In fact,
2 operations plans that have been produced to you, not all
3 of them, but some of them contain that very data.

4 MR. BODNEY: So you have produced everything, to
5 your knowledge?

6 MR. CASEY: Well, I can only tell you everything
7 that I have received, everything that my client has
8 searched for, and from my understanding they have
9 conducted numerous comprehensive searches for documents
10 they have turned over.

11 We can and always will be glad to do continuing
12 searches, but I can just share with you that everything I
13 have been provided by my client after their comprehensive
14 searches have been produced, and from my memory some of
15 the operations plans actually contain the very statistical
16 data, if you will, about crime in an area before the sweep
17 was conducted.

18 MR. BODNEY: Okay. Just to be clear, the
19 sheriff has testified to approximately 13 crime
20 suppression operations involving illegal immigration and
21 that he believes Chief Sands or his group conducts
22 research before these operations are commenced. All I am
23 saying is that if there are documents within the meaning
24 of the federal rules that reflect that research, we would
25 like to see them.

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1 And, of course, if you have any objections, you
2 can make them.

3 MR. CASEY: I have no objection. I can just
4 tell you at this point the only documents that I am aware
5 of have been produced and those are the data that is
6 contained within the saturation -- excuse me, the
7 operation plans themselves. So if you look at the
8 operations plans for the various patrols, they either will
9 contain them or they won't. That is the only thing I have
10 been provided where I have ever seen criminal statistics.

11 MR. BODNEY: Okay. All right. Fair enough.

12 Q. BY MR. BODNEY: Sheriff, you are familiar with a
13 crime suppression operation that took place in the
14 Palomino neighborhood in North Phoenix in March of 2008?

15 A. I don't remember Palomino. I --

16 Q. Bell and Cave Creek Roads?

17 A. Bell and Cave Creek. I believe that was one of
18 our operations.

19 Q. Was that one of the operations that was
20 conducted in response to local businesses' complaints?

21 A. I am not sure if that was the -- the timing of
22 it, if that was pertaining to that area.

23 (Off the record.)

24 Q. BY MR. BODNEY: Let me ask the court reporter to
25 mark a copy of a news article from The Arizona Republic

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1 dated April 25, 2008, which bears production numbers ORT
2 66 through 68, and this will be Exhibit 14 to your
3 deposition.

4 (Deposition Exhibit No. 14 was marked for
5 identification by the reporter.)

6 Q. BY MR. BODNEY: If you would, Sheriff, on --
7 well, I show you what the court reporter has marked as
8 Exhibit 14 to your deposition. Do you recall having ever
9 seen this article by Daniel Gonzales of The Arizona
10 Republic?

11 A. I don't recall -- are you talking about
12 Palomino?

13 Q. It is referenced in here, yes, uh-huh.

14 A. Do we have the right one? Well, I see it is
15 referenced in there somewhere.

16 Q. Well --

17 A. It says Mesa.

18 Q. It refers to Mesa on the first page and then in
19 Guadalupe and then toward the -- again, about
20 three-quarters of the way down the page on the page marked
21 ORT, O-R-T, 67, the reporter refers to you saying --
22 talking about the eight state legislators who recently
23 signed a letter asking you to conduct immigration
24 operations in the East Valley.

25 After that it says that you had a crime sweep in
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1 the Palomino neighborhood in North Phoenix and it was in
2 response to a request from business owners in the area.

3 Do you remember that?

4 A. I remember a group of business people asking me
5 to come in to an area.

6 Q. Do you remember being told that those business
7 owners signed a petition that had been circulated by a man
8 named Buffalo Rick Galeener, or Galeener, G-a-l-e-e-n-e-r,
9 who went door to door looking for signatures?

10 A. I don't recall whether -- I may be recalling the
11 article I read, but I have no knowledge of that.

12 Q. Do you know who Rick Galeener is?

13 A. I am not sure. I think I may have met him at
14 one or two demonstrations, but to this day, I don't
15 remember what he looks like.

16 Q. Do you -- isn't it true that Mr. Galeener is a
17 member of the United for a Sovereign America?

18 A. I don't know.

19 Q. Do you know what United for a Sovereign America
20 is?

21 A. No, I do not.

22 Q. You never heard of it?

23 A. I heard of it, but I did no research on it nor
24 am I involved in it.

25 Q. Let me ask the court reporter to mark as
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1 Exhibit 15 to your deposition a copy of an article that
2 appeared in The New Times. It bears production numbers
3 ORT 443 through 451.

4 (Deposition Exhibit No. 15 was marked for
5 identification by the reporter.)

6 Q. BY MR. BODNEY: I show you what the court
7 reporter has marked as Exhibit 15 to your deposition. It
8 is a copy of an article by Stephen Lemons in New Times and
9 draw your attention to pages 448 and 449.

10 First of all, have you ever seen this article
11 before?

12 A. I may have. I usually don't read -- I only read
13 newspapers.

14 Q. So you usually don't read New Times?

15 A. I wouldn't waste my time.

16 Q. But did anyone bring this story to your
17 attention?

18 A. Which story are we talking about?

19 Q. This article by Stephen Lemons.

20 A. The vicious front page you are talking about?

21 Q. That's right. The one that's got -- it is
22 called Ja, Joe, spelled J-a, Joe, exclamation point.

23 A. I presume that is me.

24 Q. Presume.

25 Have you seen this one before?

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1 Transmissions on East Bell Road, said a man named Buffalo
2 Rick Galeener went door to door looking for signatures.

3 Do you know of Ken's Transmissions?

4 MR. CASEY: Objection to form.

5 THE WITNESS: No.

6 Q. BY MR. BODNEY: Have you ever heard of Ken's
7 Transmissions?

8 A. No.

9 Q. Do you know Kenneth Nadeau?

10 A. No.

11 Q. Do you know whether his name or his business's
12 name was one of the eight on the petition?

13 A. I don't recall.

14 Q. The New Times article goes on to say that not
15 long after MCSO set up its command center in a parking lot
16 at Bell and Cave Creek Roads on March 27th about 700
17 anti-Arpaio demonstrators encircled the provisional
18 headquarters held back by MCSO barricades.

19 Do you remember that?

20 MR. CASEY: Objection to form.

21 THE WITNESS: No.

22 Q. BY MR. BODNEY: Do you remember this particular
23 crime suppression operation now?

24 A. Where was the operation?

25 Q. Bell and Cave Creek Roads, March 27th.
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1 A. I may have.

2 Q. This was published this year in 2009, and on
3 page 448, it says that it was Galeener who instigated you
4 to bring one of your anti-immigration sweeps to Bell and
5 Cave Creek Roads.

6 Do you see that?

7 MR. CASEY: Objection. Form.

8 THE WITNESS: What paragraph are we on?

9 Q. BY MR. BODNEY: Third column from the left that
10 begins "Indeed."

11 A. From the left? From the left?

12 Q. Yeah.

13 A. What page?

14 Q. Page 448. It says that Galeener was able to
15 find eight businesses out of hundreds in the busy Bell
16 Road corridor willing to request an MCSO sweep in writing.

17 A. I have no knowledge of that.

18 Q. Do you remember receiving a petition signed by
19 eight businesses located near the busy Bell Road corridor?

20 A. Yes.

21 Q. Do you remember who those businesses were?

22 A. No. I answered that earlier. I don't remember
23 who the businesses were.

24 Q. According to the article in The Arizona
25 Republic, Exhibit 14, Kenneth Nadeau, owner of Ken's
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1 A. 700 protesters? Are you saying you are
2 quoting --

3 Q. First, I am asking whether you remember that
4 particular crime suppression operation.

5 A. I vaguely remember that. I don't recall whether
6 I was there or not.

7 Q. Do you recall that this was one of those
8 operations that was commenced in reaction to complaints
9 from the business community?

10 A. I believe so.

11 Q. And do you have any reason to disagree with the
12 statement that you got a petition with eight businesses
13 listed on it?

14 A. As I testified to, I recall receiving a petition
15 with businesses on it.

16 Q. And do you remember what you did with that
17 petition when you received it?

18 A. I believe I gave it to Chief Sands.

19 Q. Do you recall what you told him?

20 A. Told him to look into it.

21 Q. Did you tell him to do something about it?

22 A. It was up to him to make the decision.

23 Q. Do you remember anything else you said to him
24 other than look into it?

25 A. No.

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1 Q. Did you ask him to explain to you what process
2 he would follow as he looked into it?

3 A. No, because, as I mentioned several times,
4 whenever we start these operations, he has his protocol in
5 obtaining information from citizens or other sources
6 before he initiates an operation.

7 Q. According to these sources, Rick Galeener,
8 Buffalo Rick Galeener, circulated this petition. Did you
9 ever investigate that allegation?

10 MR. CASEY: Objection to form.

11 THE WITNESS: What allegation?

12 Q. BY MR. BODNEY: The allegation that these eight
13 businesses who asked you to enforce illegal immigration at
14 Bell and Cave Creek Roads were brought together by a
15 member of the United for a Sovereign America.

16 A. I don't know. Once again, I gave this
17 information to Chief Sands.

18 Q. Have you ever heard that United for Sovereign
19 America is a nativist extremist group?

20 MR. CASEY: Objection to form.

21 What is a nativist?

22 MR. BODNEY: Well, ask the sheriff.

23 THE WITNESS: I don't know.

24 Q. BY MR. BODNEY: Have you ever heard of the term
25 "extremist group"?

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1 organizations have identified United for a Sovereign
2 America as either extremist or having a virulent
3 anti-immigration and anti-Latino position?

4 A. No. What -- what I do not condone is racist
5 groups, regardless of what -- the name you give to it. I
6 do not associate with racist groups.

7 Q. Let me put it this way, Sheriff. If you knew
8 that that letter from these eight business persons around
9 Cave Creek and Bell Roads had been put together at the
10 instigation of someone who operates a Web page called,
11 quote, I Hate Illegals, close quote, would it have made
12 any difference in your decision to hand that petition to
13 Chief Sands and say "Look into it"?

14 A. Not really because, once again, we don't rely on
15 just one source and I would presume that he would have
16 looked into that area with other intelligence and the
17 statistics as to that area. Not stand-alone on just one
18 allegation or five or six or seven, even -- I even went
19 back to the legislators when they asked me to go into
20 their area, happened to be about seven or eight of them,
21 too. We didn't rely just on what they said. We relied on
22 other statistics and study of the area.

23 Q. But you don't know that firsthand, do you,
24 Sheriff? I mean, you are relying on Chief Sands to do
25 that research, right?

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1 A. I have heard of extremist groups. I believe
2 that is a -- semantics or an overall word that people use.

3 Q. The Southern Poverty Law Center, have you ever
4 heard of it?

5 A. I have no knowledge of that organization.

6 Q. Have you heard of the Anti-Defamation League?

7 A. Yes.

8 Q. According to Exhibit 14, The Arizona Republic
9 article, the Anti-Defamation League of Arizona says that
10 United for Sovereign America has a, quote, virulently
11 anti-immigration and anti-Latino ideology, close quote.
12 That is on page ORT 67.

13 A. Um-hum.

14 MR. CASEY: There is no question pending. He is
15 just reading from the hearsay article.

16 Objection to form.

17 MR. BODNEY: I am just trying to ask questions
18 about the sheriff's knowledge of this organization.

19 Q. BY MR. BODNEY: Had you ever heard today that
20 Buffalo Rick Galeener was a member of United for a
21 Sovereign America?

22 A. Before today?

23 Q. Before today.

24 A. I don't recall.

25 Q. Does it concern you to know that at least two

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1 A. I know how he performs his research.

2 Q. Well, how did he perform his research in Mesa?

3 A. Well, I know his policies on doing it. As far
4 as the individual areas that we are talking about, I do
5 not micromanage. He decides.

6 Q. Are his policies committed to writing?

7 A. His policies? We have policy manuals. I am not
8 sure whether he has his own policies.

9 Q. Do you have any policy manual that relates to
10 site selection for crime suppression operations?

11 A. I don't recall.

12 Q. You are not aware of any?

13 A. No.

14 Q. Are you --

15 A. There could be, but I don't recall.

16 Q. You have not seen it?

17 A. No.

18 Q. Are you aware of any policy manual that relates
19 to the reduction of risk of racial profiling in law
20 enforcement by your office?

21 A. Once again, we do have the manuals from ICE that
22 addresses this issue.

23 Q. You know that the ICE manuals address the racial
24 profiling issue?

25 A. That's what I was told. I didn't read the whole
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1 manual. I didn't go through the 287(g) program, but I do
2 know that our officers have training in that regard.

3 Q. But your office itself has promulgated no
4 written policy on racial profiling?

5 A. We may have. I am not sure.

6 Q. Would you need to approve that policy before it
7 is issued?

8 A. My chief deputy approves it.

9 Q. And do you know whether -- Chief Deputy Sands?

10 A. Hendershott.

11 Q. Do you know whether Chief Deputy Hendershott
12 ever approved a written policy on racial profiling?

13 A. I do not.

14 Q. You are not aware of one, are you?

15 A. As of now, no.

16 Q. Referring back to this article by Mr. Lemons on
17 page 449, the left-hand column, first full paragraph
18 refers to an address on March 20th --

19 A. What page are we on?

20 Q. 449.

21 A. 449?

22 Q. -- refers to an address at the Sunnyslope VFW
23 Post that you gave. Do you recall addressing the
24 Sunnyslope VFW?

25 A. I address so many organizations, but I believe I
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1 philosophy they are, when I give a speech.

2 So I was talking to this group. They asked me
3 to talk, and when I said support, I presume we were
4 talking also about illegal immigration, and I appreciated
5 their support in assisting my office -- not exactly my
6 office, but the approving of our enforcement of also the
7 illegal immigration laws.

8 Q. And do you remember saying, "I appreciate your
9 support. You're on the right track. You're doing what
10 you should be doing," in reference to illegal immigration?

11 A. I am talking, once again, about illegal
12 immigration and I appreciated their support and supporting
13 my office in enforcing the laws, including the illegal
14 immigration laws.

15 Q. Do you remember saying, quote, the good news is
16 all these people are leaving. They are going to other
17 states or back to Mexico, close quote?

18 Do you remember making that statement?

19 A. I don't remember that, but I could have -- could
20 have made that.

21 Q. You could have made that statement?

22 A. Yeah.

23 Q. Do you remember -- so if I understand you
24 correctly, you are saying if Mr. Galeener had been present
25 at that speech or other members of United for a Sovereign

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1 was at a VFW.

2 Q. You are quoted in this story as saying, and I
3 quote. I appreciate your support, close quote. He told
4 the U.S.A. crowd, including neo-Nazi Elton Hall, quote,
5 you're on the right track. You're doing what you should
6 be doing, close quote.

7 U.S.A. refers to United for a Sovereign America.

8 Do you remember saying at the Sunnyslope VFW, "You are on
9 the right track. You're doing what you should be doing"?

10 MR. CASEY: Objection to form.

11 THE WITNESS: Where are we here? I can't find
12 it.

13 Q. BY MR. BODNEY: I'm sorry. Page 449.

14 A. What paragraph?

15 Q. The second full paragraph. It begins with the
16 words "I appreciate your support."

17 A. Yes, I see it now.

18 Q. And do you recall making that statement to
19 persons attending your address at the Sunnyslope VFW Post?

20 A. First of all, I don't know who is in the
21 audience. As I mentioned previously, I average one or two
22 speeches a day. I do not check out who I am talking
23 before. I do not do FBI searches, whether it's on the
24 street that I meet people or in a meeting. So when I talk
25 to groups, I have no knowledge what background, what

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1 America, you did not intentionally tip them off to an
2 upcoming sweep on March 27th?

3 A. No. I was asked to talk at the VFW, which I
4 have a great respect for that organization. When you are
5 at a VFW forum, I would envision that -- that people there
6 would be supportive of my operations of the sheriff's
7 office, not just illegal immigration.

8 So, once again, I do not check people out, who
9 they are, when I give speeches.

10 Q. And I think you said that you may have seen or
11 read this article by Mr. Lemons before today, right?

12 A. Yes.

13 Q. Did you take any steps to determine whether the
14 petition you received that prompted the crime suppression
15 operation on or about March 27th at the intersection of
16 Cave Creek and Bell Roads had been put together by a
17 virulent anti-Latino extremist?

18 A. No. Once again, I received this petition with
19 many names -- several names, maybe eight or nine, and I
20 gave it to my chief and let him handle it.

21 Q. No, I understand. I guess what I am asking is
22 do you remember having seen or read this article before
23 today, reading those words about an extremist who brought
24 these petition signers together to prompt your sweep at
25 Cave Creek and Bell Roads?

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1 A. No, I --

2 Q. Do you remember ever hearing about that before
3 today?

4 A. See, the time sequence, I am not sure whether
5 this petition came before this article, which I believe it
6 did. So I had no knowledge. I got a letter from business
7 people, and I gave it to my chief to look into it.

8 Q. And then the crime suppression operation
9 happened after that, right?

10 A. I presume that's what happened after he
11 organized the organization.

12 Q. Now, what I am asking is, did you become aware
13 subsequently of these allegations that the fellow who put
14 the petition together was a virulent anti-immigration,
15 anti-Latino member of an extremist group, somebody who
16 operates a Web page called "I Hate Illegals"?

17 MR. CASEY: Objection.

18 Q. BY MR. BODNEY: Have you ever become aware of
19 those facts before today?

20 MR. CASEY: Hold on.

21 Objection to form.

22 You may answer, sir.

23 Q. BY MR. BODNEY: Those allegations -- just assume
24 they are allegations, they are not facts, they are just
25 allegations, from this article or from me. As you sit

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1 person against Latinos, a member of an extremist group
2 with his own Web page called "I Hate Illegals," assume
3 those statements are true or have been alleged to be true,
4 do you feel any need to investigate those facts now?

5 MR. CASEY: Objection to the form of the
6 question.

7 THE WITNESS: Well, I am going to say again we
8 do not stand alone, three, four, six people, that file a
9 complaint with my office. We give that information to
10 Chief Sands and he follows through with many other
11 variables regarding that area before we conduct an
12 operation. So it doesn't mean that we were relying on
13 this letter.

14 Q. BY MR. BODNEY: Okay. But if I understand your
15 testimony, you are not aware of what other variables Chief
16 Sands relied on before this sweep began, are you?

17 A. I am trying to say in generic terms or policies
18 that I know that he follows certain procedures -- I
19 mentioned that -- statistics, the crime problems in that
20 area. There is a lot of other variables that he follows.

21 Q. That is your supposition?

22 MR. CASEY: Objection to form.

23 THE WITNESS: I believe --

24 Q. BY MR. BODNEY: Isn't that a supposition, unless
25 you have actually discussed those particular variables

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1 here today, have you ever heard them before today?

2 A. I may have heard about this fellow. As I said,
3 I don't know him, but I may have heard that he's involved
4 in some organization, but I didn't pay that much attention
5 to it.

6 Q. And after hearing about his -- have you heard
7 that he had helped put this petition together that
8 prompted your crime suppression operation?

9 A. No.

10 Q. Okay. So if I understand your testimony
11 correctly, Sheriff, you are saying that the first time you
12 heard that someone who is a virulent anti-Latino extremist
13 may have been responsible for putting together the
14 petition that prompted this crime suppression operation is
15 at this deposition today?

16 MR. CASEY: Objection to form.

17 THE WITNESS: Once again, I didn't know this
18 fellow. After the fact, after our operation, I heard some
19 rumbles about this fellow. I don't know if I saw it in
20 the New Times or whatever, and that's all the knowledge I
21 have.

22 Q. BY MR. BODNEY: So now my question to you,
23 Sheriff, is just this. Having heard these allegations
24 about how this crime suppression operation may have come
25 into being, that it may have been prompted by a bigoted

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1 with him or seen the research in connection with this
2 Palomino neighborhood raid?

3 A. In general terms, that is how we perform our
4 operations and he carries it out and he does research or
5 whatever he does to do the operation.

6 Q. And that's what you expected him to do here?

7 A. Yes.

8 Q. Okay. But you never felt the need to check with
9 him to see if this operation was based on anything more
10 than this petition?

11 A. I delegate the operations to him, and I feel
12 confident that he knows how to accomplish them.

13 Q. Now back to my original question. Based on all
14 you have heard at the deposition about how this petition
15 may have come into being, do you have any concern that one
16 of your crime suppression sweeps in the Palomino
17 neighborhood may have been prompted by anti-Hispanic
18 beliefs?

19 MR. CASEY: Objection to form.

20 THE WITNESS: Once again, you don't just rely on
21 one person. The other seven or eight may not have been
22 part of this organization, so you are relying on one
23 person. I do not approve of that person, if it is true,
24 his philosophies. I don't approve of that. On the other
25 hand, you have to balance out the information you receive

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1 from all different sources including other businesspeople.
2 Q. BY MR. BODNEY: But, Sheriff, aren't you relying
3 on one person, Chief Sands?

4 A. Well, I presume it is not just him. He has
5 people that work for him that I rely on.

6 Q. But when you hear about allegations like the
7 ones you have testified about today that this may have
8 been prompted by someone with a bigoted agenda, does that
9 cause you, as the chief officer of your agency, to want to
10 conduct any further inquiry into whether that raid may
11 have been misplaced?

12 A. Once again, that is just one source that we are
13 talking about. In that petition, if I recall, there were
14 other businesspeople that had a concern, and also I am
15 going to say it again that Chief Sands has his protocol or
16 his policies before conducting these type of operations.

17 Q. Do you know whether he interviewed those
18 businesspersons --

19 A. I do not.

20 Q. -- before the operation?

21 A. I do not.

22 Q. Do you know whether his protocols would require
23 him to conduct interviews of the people who ask for these
24 operations?

25 A. I do not.

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1 MR. CASEY: Yeah. The objection is to form is,
2 one, it has been asked and answered. He also explained to
3 you earlier that after probable cause is established
4 during the course of --

5 MR. BODNEY: What is the basis?

6 MR. CASEY: You asked me and I am telling you,
7 David.

8 MR. BODNEY: The legal basis.

9 MR. CASEY: The legal basis is asked and
10 answered.

11 MR. BODNEY: Okay.

12 MR. CASEY: He's already told you what it is
13 about and now you are coming back and you are arguing with
14 him.

15 MR. BODNEY: No, I don't want to do that.

16 Let me just show you the comments that we
17 probably all have in mind, comments that you made in the,
18 first, local media. This is a news clip from a broadcast
19 that appeared on or about October 19, 2009, on KPHO,
20 Channel 5.

21 THE WITNESS: My favorite station.
22 (Videotape excerpt was played.)

23 MR. CASEY: I object to the predicate, the TV
24 announcer's -- anchorperson's comments at the beginning as
25 to form.

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1 Q. Okay. Are you concerned at all that the use by
2 your office in press releases and perhaps on the stump of
3 the term "illegals" in Maricopa County is a kind of code
4 for Hispanics or Mexicans?

5 MR. CASEY: Objection to form.

6 THE WITNESS: No. When I say illegal immigrants
7 or aliens, that pertains to anyone that violates that law,
8 not just Hispanics. I will have to admit, and I think it
9 is no secret, we are really close to Mexico. So because
10 of that situation, you have many people arrested for
11 violating that type of law that come from the Latin
12 America/Mexico area.

13 Q. BY MR. BODNEY: Are you worried that there could
14 be confusion on the part of officers who view this pure
15 policy as one that might allow targeting profile vehicles
16 based on the Hispanic race of its drivers or occupants?

17 A. My officers are professional. They do not
18 racial profile. So I am very comfortable how my
19 organization operates.

20 Q. Well, what did you mean then, Sheriff, by some
21 of your comments saying that you can tell Mexicans by the
22 way they dress?

23 MR. CASEY: Objection to form.

24 THE WITNESS: Once again --

25 MR. BODNEY: We can back up. What is the basis?
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1 Q. BY MR. BODNEY: That is fine. We are really
2 just focusing on your statements. You made those
3 statements at a press conference, did you not?

4 A. If I recall, it was out of context as usual by
5 the TV media.

6 Q. Okay. But you made those statements?

7 A. Made others too.

8 Q. Okay. When you said that you can tell illegal
9 immigrants because they, quote, look like they just came
10 from Mexico, close quote, what factors are you focusing on
11 that allow you to tell that somebody just came from
12 Mexico?

13 A. You know, I think I was explaining in full
14 context the criteria that our people have learned pursuant
15 to ICE policies when you are talking about enforcing the
16 human smuggling laws.

17 Q. So just asking you based on all your years in
18 law enforcement --

19 A. Um-hum.

20 Q. -- what are the facts that would allow you to
21 conclude that somebody looks like he or she just came from
22 Mexico?

23 A. Well, once again, to put it in proper
24 perspective, there is other elements -- and, once again, I
25 didn't go through the 287(g) program -- but as you enforce
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1 that law and you stop someone and you get 10 people in a
2 vehicle, they don't speak English, they have dirty
3 clothes, they have no identification, they don't know each
4 other, they came from Mexico, I was talking about a
5 criteria that ICE has and we have to enforce the illegal
6 immigration laws.

7 Q. So focusing on the policy that MCSO has,
8 Sheriff, I am just trying to identify those factors that
9 allow you to conclude that somebody looks like he just
10 came from Mexico.

11 One is dirty? Yes?

12 A. When you have 12 or 15 people in a vehicle that
13 have not showered for four days, they're in a vehicle, I
14 think that is kind of -- pretty good evidence that it may
15 have been smuggled into this country. They are not clean,
16 they have old clothes, and they haven't taken a shower for
17 weeks.

18 Q. What if it is two or three people who look dirty
19 in a vehicle?

20 A. All depends on the situation at the time of the
21 incident. I am not going to second-guess my deputies.
22 They are well-trained and they know how to react depending
23 on what the circumstances are at that time.

24 Q. So are you saying that two factors that allow
25 you to reasonably believe that someone looks like they

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1 Q. But what is your system? In other words, what
2 allows you to know that these persons look like they just
3 came from Mexico?

4 A. I am talking about his system that I delegate
5 this program to him. He has the knowledge and the
6 policies to --

7 Q. Has he ever --

8 A. -- enforce this.

9 Q. Pardon me for interrupting.

10 Has he ever said to you what allows him to
11 determine if somebody looks like he just came from Mexico?

12 A. Has he told me?

13 Q. Yes.

14 A. I am sure we have had conversations in two, two
15 and a half years.

16 Q. What -- what -- since -- since he is the person
17 to whom you delegated this important responsibility, what
18 has he told you that allows him to determine whether
19 somebody looks like he just came from Mexico?

20 A. I am sure he -- he has told me many times he is
21 following the criteria of the ICE federal regulations.

22 Q. What do you understand those ICE regulations to
23 be?

24 A. I just gave you in summary a couple incidents
25 regarding when you asked me the quotes that I made on that
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1 just came from Mexico are they're dirty and speaking
2 Spanish?

3 A. I said no iden- -- it is all a package deal.
4 Not just one or two.

5 Q. So you have to have all these factors?

6 A. Once again, it is all at the circumstance when
7 our people stop the vehicles, look at the whole picture
8 and then go on from there.

9 Q. But some of the factors that allow your officers
10 to conclude that someone looks like he just came from
11 Mexico is speaking Spanish and being dirty?

12 A. No identification.

13 Q. No identification is another factor that would
14 be useful in allowing you to make that determination?

15 A. Admitting that they came here illegally.

16 Q. What if they didn't admit that they came here
17 illegally?

18 A. Well, that is something that my deputies have to
19 make the decision at the time.

20 Q. What if they -- they are confronted by an
21 officer who doesn't speak Spanish and they are not able to
22 admit that they came here illegally or maybe they deny
23 that they came here illegally?

24 A. I am sure Chief Sands has a system that will
25 rectify that language barrier.

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1 television station was taken out of context. I was just
2 giving you the other reasons that I was talking about that
3 they did not show on the TV.

4 Q. But just to be clear about it, you are not
5 saying that all of those factors must be present for you
6 to determine if somebody looks like he just came from
7 Mexico, are you?

8 A. I am saying that they are following the policy
9 of the ICE regulations and also Deputy Sands' policies.

10 Q. So if your officer encounters an old beat-up
11 pickup truck, okay, rusty, and there are, let's say, three
12 dirty guys who speak Spanish in that vehicle, is that
13 enough cause to ask for their identification papers?

14 A. Once again, that is something the deputy has to
15 decide at the scene.

16 Q. Could be?

17 A. I mean, there is a lot of variables when you
18 stop a car, regardless of illegal immigration or any types
19 of other crimes.

20 Q. Dirty, brown skin, speaks Spanish, basis to ask
21 for papers?

22 MR. CASEY: Objection to form.

23 THE WITNESS: I didn't say that.

24 Q. BY MR. BODNEY: Sorry?

25 A. I didn't say that.

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1 Q. No, I know. I am asking the question. If your
2 officers encounter a motor vehicle in Maricopa County with
3 three guys -- brown skin, speak Spanish, they're dirty --
4 is that a basis to ask for their identification, their
5 passport or other citizenship papers?

6 A. Every case is different. I am not going to
7 comment unless I was there myself and looked at all of the
8 variables. It is difficult to make a decision right here
9 sitting in this chair as to what my deputies would do at
10 that time.

11 Q. Okay. And I am not speaking about an incident
12 that we allege happened in this lawsuit, okay?

13 A. Um-hum, yes.

14 Q. I am asking you to work with me through a simple
15 hypothetical. And I want you to assume that your officers
16 encounter an old pickup truck. It is rusty. It has got
17 three guys in it. Brown skin. They speak Spanish and
18 they are dirty. Do you believe -- and it failed to
19 indicate a left turn.

20 Would that give your officers cause to stop the
21 vehicle and interrogate the persons inside the car about
22 their citizenship?

23 MR. CASEY: Objection to form.

24 THE WITNESS: I think when you have a violation
25 of law -- even though you say a left-hand turn signal, it
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1 with white males speaking with an Irish brogue, three guys
2 in a pickup truck, it is a little rusty, what do you look
3 for?

4 A. Once again, I am going to say it is up to the
5 deputy that makes that stop to determine what he will ask
6 for and go on from there. I can't give you a blanket
7 policy.

8 Q. Would you agree that that leaves open a fair
9 degree of arbitrariness in the manner in which those
10 decisions can be made, arrest decisions, detention
11 decisions?

12 A. Well, I think on any type of law enforcement
13 that you have to look at the situation as it's occurring,
14 especially on traffic stops, which is a very dangerous
15 part of law enforcement.

16 Q. Would you admit that it allows -- the policy
17 that MCSO has been following under the 287(g) agreement,
18 that it allows officers to arrest brown-skinned guys
19 speaking Spanish who look dirty on the pretext of a
20 traffic violation but in the hope of achieving your
21 illegal immigration crackdown?

22 MR. CASEY: Objection to form.

23 Q. BY MR. BODNEY: Is that a possibility?

24 MR. CASEY: Form.

25 THE WITNESS: I don't think so, because -- let
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1 is still a violation -- that the deputy has the right to
2 question people inside that car as to -- ask for their
3 identification. That is sort of good police work.

4 Q. BY MR. BODNEY: Because that seems like evidence
5 that these guys might be here from Mexico --

6 MR. CASEY: Objection.

7 Q. BY MR. BODNEY: -- as you put it? They look
8 like they just came from Mexico --

9 MR. CASEY: Objection to form.

10 Q. BY MR. BODNEY: -- is that right?

11 A. No. I don't care where they came from.

12 Q. But they might be here illegally?

13 A. It doesn't matter where they came from. They
14 could be U.S. citizens. They could be Irish. It doesn't
15 matter.

16 Q. Do you have any other particular indicia for
17 determining if an Irishman is here illegally?

18 A. Different policies?

19 Q. Sure. If you hear -- are you familiar with an
20 Irish accent? Have you ever heard somebody speak with an
21 Irish brogue coming from Massachusetts?

22 A. Yeah.

23 Q. Once or twice?

24 A. Yeah, from Boston.

25 Q. Do you have any -- any protocols for dealing
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1 me put it this way. If the person has the identification,
2 didn't violate the law, is a U.S. citizen, I don't know
3 what the big concern is because a deputy for safety
4 reasons and other law enforcement reasons is asking
5 someone for their identification no matter who they are or
6 what their dress, what appearance they have.

7 Q. BY MR. BODNEY: Sheriff, would it be fair to say
8 that -- that your deputies understand your policies over
9 the last two or three years to get tough on illegal
10 immigration?

11 A. No. I -- I have a lot of respect for my
12 deputies, because they arrest all different types of
13 violators. They do understand that there is a new law
14 that they took an oath of office to enforce as the human
15 smuggling law and 100 of my deputies do understand that
16 they went through five weeks of intensive training by the
17 federal government. They have the federal credentials.

18 So I am sure that they were rather honored, many
19 of them, to be able to enforce a federal law along with
20 their other duties.

21 Q. But your officers have been cracking down on
22 illegal immigration not simply through the human smuggling
23 law, correct? In other words, they are finding minor
24 traffic violations and then asking the drivers and
25 occupants of these vehicles to produce identification of
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1 citizenship, right?

2 MR. CASEY: Objection to form.

3 Q. BY MR. BODNEY: You know that is happening,
4 isn't it?

5 A. It all depends on the circumstances, but your
6 question is, did my officers overreact to my policies. I
7 thought that is what you asked.

8 Q. No. Not overreact, but it would be fair to say
9 that you have communicated through the Maricopa County
10 Sheriff's Office your get-tough policy on illegal
11 immigration. Your officers know that it is one of your
12 top priorities, correct?

13 A. I would presume that they do, especially those
14 that have been assigned to enforce the illegal immigration
15 laws.

16 Q. And don't you think that some of them might be
17 persuaded to please you, to achieve your policy, by
18 finding persons who appear to be from Mexico and seeing if
19 they can arrest them for illegal immigration violations?

20 A. No. I don't agree with that assessment, no.

21 Q. You don't think there is any risk of that at
22 all?

23 A. No. My people enforce all the laws. They do
24 not get a promotion as to how many illegal immigrants they
25 arrest. There is no quota system. They are just doing

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1 Okay. So these will all be edited into your
2 deposition transcript.

3 MR. CASEY: Well, wait. When you say
4 "transcript," they're on the videotape. They're not part
5 of the transcript because Carrie hasn't been taking them.
6 It can't go in the transcript. It is not in the
7 transcript. It may be on the videotape.

8 MR. BODNEY: Well, let's go back and just play
9 them again, so you can get them in the transcript. Yeah,
10 very quickly.

11 MR. CASEY: Can I have just a standing objection
12 to the questions asked by whoever the questioner is?

13 MR. BODNEY: No.

14 VIDEO TECHNICIAN: Can we go off the record for
15 one second?

16 MR. BODNEY: Yes.

17 VIDEO TECHNICIAN: Off the record at 4:22 p.m.
18 (Recess ensued from 4:22 p.m. until 4:34 p.m.)

19 VIDEO TECHNICIAN: We are back on the record at
20 4:34 p.m.

21 MR. BODNEY: Thank you.

22 For the record, I am going to ask the
23 videographer and court reporter to include and transcribe
24 the three videotapes about which you have previously
25 testified today.

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1 their job and doing it good.

2 Q. Okay. Let's take a look at one more of your
3 statements if I may, Sheriff. This was an interview on or
4 about October 16, 2009, with Rick Sanchez of CNN. We will
5 show your statement to Mr. Sanchez. It is a similar kind
6 of statement.

7 (Videotape excerpt was played.)

8 MR. CASEY: I object to the form, to the -- what
9 was the fellow's name? Sanchez?

10 MR. BODNEY: Rick Sanchez.

11 MR. CASEY: Yeah, Rick Sanchez's commentary and
12 questions. I don't know if the court reporter -- I didn't
13 see you taking down what was said.

14 THE COURT REPORTER: I'm not typing the tape.

15 MR. CASEY: Yeah, you're not typing the tape,
16 right.

17 MR. BODNEY: We will make these tapes an exhibit
18 to the deposition.

19 MR. CASEY: Yeah, yeah, okay. But I just want
20 to record that I object to the form on Mr. Sanchez's
21 comments and questions.

22 MR. BODNEY: That's fine. We will need to make
23 these various video- or audiotapes part of the record, and
24 they are part of the video record, if I am not mistaken,
25 right?

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1 The first is the videotape of your statement at
2 a press conference during the week of February 26th, 2007,
3 which appears on YouTube.

4 MR. CASEY: And I am going to make my record as
5 the YouTube video. There is no authentication. There is
6 also no foundation also for the purported date offered by
7 plaintiffs' counsel.

8 There is also, as to the authentication, an
9 additional element on that. There is no evidence that the
10 tape has not been altered or otherwise changed from, I
11 guess what you could say, the -- what is depicted as
12 Sheriff Arpaio talking about.

13 MR. BODNEY: Your prior objections stand.

14 MR. CASEY: Yeah.

15 MR. BODNEY: Okay.

16 MR. CASEY: But I do -- I just don't know -- I
17 just want to make them again. So I asked you if I could
18 have a standing objection. You said "No." So I am going
19 to make them again.

20 MR. BODNEY: Well, your objections previously
21 made stand as does the prior testimony from the witness,
22 so rather than waste time with it, why don't we just roll
23 the tape and feel free to make objections as you feel
24 appropriate.

25 MR. CASEY: Okay. Thank you.

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(Videotape excerpt was transcribed as follows:)

"MR. ARPAIO: -- situation. Ours is a -- a -- an operation but it is the state law or the federal to go after illegals, not the crime first, and if they happen to be illegals, my program, my philosophy, is a pure program. You go after the illegals. I am not afraid to say that. And you go after them and you lock them up and --"

(Videotape excerpt transcription concluded.)

EXAMINATION (cont'd.)

BY MR. BODNEY:

Q. That is the first one. And you have no reason to disagree that you had this press conference back then in February of 2007, do you?

A. No.

Q. Okay. Do you have any reason to believe, Sheriff, that that is not you or that those were not the statements that you made?

A. You mean here?

Q. Yes.

A. No.

Q. Okay. Let's go to the second clip from KPHO, which appeared on or about October 19, 2009.

MR. CASEY: And I am going to -- I am just going to make this objection as to the news reporter or
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Q. Right. Okay.

And then the third videotape that we have discussed here in the deposition so far is the one from CNN, a program hosted by Rick Sanchez that appeared on that cable news network on or about April 16, 2009.

MR. CASEY: And let me make my objection as to the CNN portion. As to anchor, I understand his name is Mr. Sanchez. No authentication, no foundation for the entire tape. As to Mr. Sanchez's comments, it's inadmissible hearsay, inadmissible lay opinion and argumentative.

(Videotape excerpt was transcribed as follows:)

"RICK SANCHEZ: Detain people who haven't committed a crime. How do you prove that they are not illegal?"

"MR. ARPAIO: It has to do with their conduct, what type of clothes they are wearing, their speech, they admit it, they have phony IDs. A lot of variables involved.

"RICK SANCHEZ: You judge people and arrest them based on their speech and the clothes that they are wearing, sir?"

"MR. ARPAIO: Well, when they are a vehicle with someone that has committed a crime, we have the right to talk to those people. When they admit they are here
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anchorwoman's comments. Same objection: no authentication, no foundation, also inadmissible hearsay and inadmissible lay opinion.

MR. BODNEY: You know, if -- okay. That's fine.

(Videotape excerpt was transcribed as follows:)

"NEWS ANCHOR: Sheriff Joe Arpaio has taken a lot of heat lately for his crime sweeps and immigration enforcement. He says he is not racially profiling, not violating anyone's civil rights, but listen to what he told us about how he goes after undocumented immigrants.

"MR. ARPAIO: Certain criteria, no identification, looks like they just came from Mexico and they admit it, so that's enough."

(Videotape excerpt transcription concluded.)

EXAMINATION (cont'd.)

BY MR. BODNEY:

Q. Sheriff, do you have any reason to believe that that person was anyone other than you who made those statements at a press conference back in October of this year?

A. No.

Q. Okay. Or that this is a true and correct copy of those statements as they appeared on KPHO?

A. That part of it, yes.

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illegally, we take action.

"RICK SANCHEZ: But you just told me -- let's go back here. You just told me that you arrest a -- people and turn them over to the feds even if they haven't committed a crime.

"MR. ARPAIO: The federal -- no. They did commit a crime. They are here illegally.

"RICK SANCHEZ: Well, how did you know they were here illegally? And then you went on to tell me it was because of the clothes they wore.

"MR. ARPAIO: Well, you look at the federal law. The federal law specifies it's the speech, the clothes, the environment, the erratic behavior. It is right in the law."

(Videotape excerpt transcription concluded.)

EXAMINATION (cont'd.)

BY MR. BODNEY:

Q. And, Sheriff Arpaio, you have no doubt the person speaking on this videotape to Rick Sanchez was you?

A. No doubt.

Q. And that you spoke with him from here in Phoenix on or about October 16th --

A. Yes.

Q. -- 2009?

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1 A. Yes.
 2 Q. And did you see this program after it aired?
 3 A. I believe I did.
 4 Q. And this appears to be a true and correct copy
 5 of that -- so much of the program as we have captured here
 6 to reflect your statements?

7 A. Yes.
 8 Q. Okay. Thank you.
 9 Let me ask you about these Palomino sweeps, just
 10 a few questions further.

11 Do you remember seeing The Arizona Republic
 12 special report titled "Crime-sweep Records Raise
 13 Suspicions of Racial Profiling" that appeared in The
 14 Arizona Republic on Sunday, October 5, 2008?

15 A. I don't remember.

16 Q. Let me ask the court reporter to mark as
 17 Exhibit 16 to your deposition a copy of that Republic
 18 special report.

19 (Deposition Exhibit No. 16 was marked for
 20 identification by the reporter.)

21 Q. BY MR. BODNEY: Sheriff Arpaio, I show you what
 22 our court reporter has marked as Exhibit 16 to your
 23 deposition. It is an Arizona Republic special report
 24 titled, quote, Crime Sweep Records Raise Suspicions of
 25 Racial Profiling, close quote. It bears the date

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1 October 5, 2008, and production numbers ORT 69 through 73.
 2 And first let me just ask you whether you saw this article
 3 in the Sunday newspaper.

4 A. I may have looked at this article. I don't
 5 recall the detail.

6 Q. Do you remember seeing it?

7 A. I believe I saw this article.

8 Q. Okay. And you see the article begins by saying,
 9 and I quote, arrest records from crime sweeps conducted by
 10 the Maricopa County Sheriff's Office add substantial
 11 weight to claims that deputies used racial profiling to
 12 pull Latino motorists over to search for illegal
 13 immigrants, close quote. That is the first paragraph on
 14 page 69, ORT 69.

15 Did you read that paragraph before today?

16 A. I am reading it now.

17 Q. Okay. Do -- do you have concerns based on your
 18 review of this October 2008 story about racial profiling
 19 by MCSO?

20 A. No, I do not because, once again, we do not
 21 racial profile regardless of what lawyers -- oh, lawyers
 22 -- regardless of what reporters say --

23 Q. Okay.

24 A. -- and --

25 Q. Does it -- there is a photograph on page ORT 71
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1 of a man who appears to be -- or who is named as Jose
 2 Romero of Phoenix who was stopped during a June crime
 3 sweep, and he is quoted on that page, second column, in the
 4 first full paragraph as saying, quote, we are all
 5 brown-skinned and that seemed to be the first thing he
 6 looked at, close quote, said Romero, a U.S. citizen, who,
 7 along with the other landscapers, was handcuffed while the
 8 deputies searched the pickup.

9 Are you at all concerned as you read through
 10 this article that the common denominator in these arrests
 11 during traffic operations, crime suppression operations
 12 happening on the streets including motor vehicles seems to
 13 be that the arrestees are all brown-skinned?

14 MR. CASEY: Objection to form.

15 THE WITNESS: I haven't read this whole article,
 16 but I don't know if they use statistics because we stop
 17 many people -- many people during the crime suppression
 18 contact. Maybe 100, 200, 300 we contact. So I don't know
 19 why people are concerned with a -- with a few that we
 20 contact that happen to be here illegally. We talk about
 21 those that we arrest. We don't talk about those that we
 22 stop and do not arrest.

23 Q. BY MR. BODNEY: But you don't keep any records
 24 of those you stop and do not arrest, do you?

25 A. I don't believe we do.

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1 Q. The records that you keep, to the extent we have
 2 seen them, relate to those persons who were stopped and
 3 arrested?

4 MR. CASEY: Objection to form.

5 Q. BY MR. BODNEY: Is that your understanding?

6 A. Well, we do keep a record of those that we
 7 arrest, everybody.

8 Q. Right.

9 A. But just those that we stop --

10 Q. Short of an arrest --

11 A. -- I don't believe -- you can ask Chief Sands
 12 about that. I don't believe we keep a record of those
 13 contacts we make during the operations.

14 Q. Do you think it might be intimidating to a large
 15 community of brown-skinned people to have sheriff's
 16 deputies stop them and ask for them -- for their
 17 identification, their proof of citizenship?

18 MR. CASEY: Objection to form.

19 Q. BY MR. BODNEY: Do you think that might be
 20 intimidating?

21 MR. CASEY: Same objection.

22 THE WITNESS: Well, no more intimidating than
 23 stopping 300 Caucasians.

24 Q. BY MR. BODNEY: But your officers are not
 25 stopping 300 Caucasians and asking them for citizenship
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1 papers, are they?

2 A. Well, they are contacting many, many people in
3 these operations.

4 Q. But we have no -- no records reflecting the
5 stops -- the contacts short of arrests, do we?

6 A. Well, we are still doing it whether we have a
7 record or don't have a record, or I would hope that you
8 would take the -- take the word of a -- my officials that
9 work for me and my deputies. I am not sure whether they
10 keep a record every time they stop someone.

11 Q. And would you take the word of the Hispanic
12 citizens or Mexican nationals who are here legally who say
13 that they have been stopped in their view based on the
14 color of their skin and nothing more?

15 MR. CASEY: Objection to form.

16 THE WITNESS: Well, once again, that is their
17 allegations. We are law enforcement officers, took an
18 oath of office, oath of office to enforce all the laws,
19 and if my people say they stopped two, three hundred, if
20 that is what the figure is, and tell our supervisors that,
21 then I tend to believe they stopped two, three hundred
22 people.

23 Once again, I don't know if we are keeping stats
24 of those that we just come in contact with.

25 Q. BY MR. BODNEY: Well, I understand that on
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1 MR. CASEY: Objection to form.

2 Q. BY MR. BODNEY: Does that give you pause?

3 MR. CASEY: Same objection.

4 THE WITNESS: I am going to say again that we
5 stop many people during those operations, contacts. So
6 we're not just contacting those that you say we are doing
7 because they look like they're from another country.

8 Q. BY MR. BODNEY: But your office has no records
9 of those persons who were merely stopped but not cited; is
10 that correct?

11 A. Once again, I am not sure whether we keep
12 statistics of that.

13 Q. But you are not aware of those statistics --
14 records?

15 A. Right now, I'm not sure whether we are doing
16 that or not.

17 MR. BODNEY: Why don't we take a break so we can
18 change the videotape. Take five minutes.

19 THE WITNESS: Okay.

20 VIDEO TECHNICIAN: This is the end of tape No. 4
21 in the continuing videotaped deposition of Sheriff Joe
22 Arpaio. Today's date is December 16, 2009. The time is
23 4:50 p.m.

24 (Recess ensued from 4:50 p.m. until 4:55 p.m.)

25 VIDEO TECHNICIAN: We are back on the record.
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1 average 70 percent of the persons arrested had Hispanic
2 surnames according to your records, MCSO records.

3 Does that give you pause?

4 MR. CASEY: Objection to form.

5 Q. BY MR. BODNEY: Well, let's look at the article
6 on page 72, the -- I'm sorry, we are about out of tape,
7 aren't we? Two minutes.

8 Just take a look at the third paragraph on the
9 far right-hand column that begins "For instance," and that
10 refers to the same March 27, 28 crime suppression patrol
11 that occurred in the Palomino neighborhood near Cave Creek
12 and Bell Roads in Phoenix. Deputies made a total of 54
13 arrests. Of those, 69 percent had Hispanic surnames and
14 52 percent were arrested for immigration violations.

15 Do those statistics give you any pause at all
16 that racial profiling might be taking place?

17 MR. CASEY: Objection to form.

18 THE WITNESS: No, they do not.

19 Q. BY MR. BODNEY: None whatsoever?

20 A. No. Once again, we are -- it is pursuant to
21 enforcing all the laws.

22 Q. Or that 73 percent of those arrested for what
23 one person in this article, Professor Harris, called
24 highly discretionary violations, like cracked windshields
25 and broken taillights, had Hispanic surnames?

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1 This is the beginning of tape No. 5 in the continuing
2 deposition of Sheriff Joseph M. Arpaio. Today's date is
3 December 16, 2009. The time is 4:55 p.m.

4 Q. BY MR. BODNEY: Sheriff Arpaio, would you agree
5 that a violation for having a cracked windshield is a
6 highly discretionary violation -- discretionary with your
7 officers?

8 A. We enforce it every day.

9 Q. But on a discretionary basis?

10 A. Yes.

11 Q. And would you say the same is true for no
12 visible license plate, highly discretionary?

13 A. Every day the -- our deputies enforce all the
14 laws. I don't know how many -- how they invoke
15 discretionary reason why not doing it, but I -- I don't
16 have statistics how many cracked windshields we have, but
17 I do know my deputies enforce all the traffic vio --
18 laws.

19 Q. And just to circle back on this sweep that took
20 place in March 2008 in the Palomino neighborhood of
21 Phoenix, these statistics from your office's arrest
22 records indicate that 73 percent of those arrested for
23 highly discretionary violations, like the cracked
24 windshield, had Hispanic surnames. Does the fact that
25 nearly three-quarters of those arrests were made on

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1 persons with Hispanic surnames give you any concern about
2 racial profiling?

3 MR. CASEY: Objection to form.

4 THE WITNESS: No -- no. It just so happened
5 that that is -- that was the result.

6 Q. BY MR. BODNEY: Do you know whether the Palomino
7 neighborhood demographically is three-quarters Hispanic?

8 A. I don't know.

9 Q. Would that matter to you in -- in being
10 concerned about whether there might be racial profiling
11 taking place?

12 A. No. As I say, we go into areas regarding the
13 crime problem. If the crime problem happens to be in that
14 area and there is many Hispanics living there, I don't
15 think that makes a difference in trying to stop crime.

16 Q. But now, Sheriff, you have a lot of discretion
17 to determine which areas of Maricopa County your officers
18 go into with their crime suppression operations, don't
19 you?

20 A. Yes.

21 Q. And so, for example, you could go into an area
22 if you wanted to get even with somebody, couldn't you?

23 MR. CASEY: Objection to form.

24 THE WITNESS: To get even with someone?

25 Q. BY MR. BODNEY: To get even with somebody as a
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1 progress.

2 Q. So you have no reason to dispute that you said
3 that to Mr. Montini?

4 A. I may have, but it was in the context that we
5 have another operation, not political payback or whatever
6 you said.

7 Q. Okay. Well, let's mark then as Exhibit 17 --

8 MR. CASEY: Also, how much time have we been in
9 actual testimony, Carrie? Has anyone kept track of that?
10 Because we're now at the seven-hour mark, and I know that
11 we have taken breaks. My practice is to be flexible, you
12 know, within reason. I'm allowing you to finish your
13 question, but I just want to kind of get a gauge of where
14 we are at.

15 VIDEO TECHNICIAN: We're at 5 hours and
16 55 minutes on the record.

17 MR. CASEY: Thank you.

18 Q. BY MR. BODNEY: Let's mark as Exhibit 17 this
19 article by E.J. Montini of The Arizona Republic dated
20 November 18, 2007. It bears production numbers ORT 76 and
21 77.

22 (Deposition Exhibit No. 17 was marked for
23 identification by the reporter.)

24 Q. BY MR. BODNEY: I show you, Sheriff Arpaio, what
25 our court reporter has marked as Exhibit 17 to your
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1 form of payback, political payback?

2 A. We don't do that.

3 Q. Do you remember saying in November of 2007 to
4 E.J. Montini, and I quote -- you are referring now to the
5 former Mesa police chief, George Gascon -- he doesn't like
6 me too much, I guess, Arpaio told me earlier this month,
7 but that's all right. My deputies will be going to arrest
8 illegals right in his town, close quote.

9 Do you remember saying that to E.J. Montini?

10 A. Well, E.J. has a way of twisting words around,
11 so I don't recall if it was in that context, but -- so I
12 don't understand the question that you are asking me from
13 a columnist.

14 Q. Do you remember a former Mesa police chief,
15 George Gascon, being publicly critical of your immigration
16 enforcement efforts?

17 A. Yes, I do.

18 Q. And do you remember talking with E.J. Montini
19 back in November of 2007 about former Chief Gascon's
20 criticism?

21 A. I may have.

22 Q. And you may have told Mr. Montini that you were
23 planning to send deputies, quote, right down there to the
24 Main Street in Mesa and arrest some illegals, close quote?

25 A. If I said that, we had another operation in
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1 deposition. Do you recall reading this account by
2 Mr. Montini of a conversation he had with you?

3 A. You know, I may have. Let me just say this. In
4 all my conversations with E.J., we banter back and forth.
5 That's what he does. He is pretty good at it, and we have
6 fun talking. It doesn't mean everything he or I say is
7 100 percent true.

8 Q. Okay. But do you have any reason to disagree
9 that you made these statements to E.J. Montini?

10 A. I may have.

11 Q. Okay. Do you recall whether your deputies did
12 go to arrest illegals right in his town -- his town of
13 Mesa?

14 A. I am just looking to see which operation that
15 was.

16 Q. Sure.

17 A. I don't see it here. If I knew the operation, I
18 am sure I had a reason.

19 Q. Do you recall sending deputies into Mesa after
20 former Chief Gascon had been critical of your illegal
21 immigration operations?

22 A. I may have. I know we have gone in there two or
23 three times.

24 Q. Do you know how that decision was made?

25 A. It was made because information we received from
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1 informers that worked for the City of Mesa and other
2 intelligence gathered by Chief Sands.

3 Q. Were these confidential informants? In other
4 words, who were -- were these businesses again or were
5 these legislators in East --

6 A. No. They were city employees.

7 Q. City employees who expressed concern about
8 illegal immigrants working in the city?

9 A. Yes.

10 Q. I see. Okay.

11 Do you remember speaking with William Finnegan
12 of The New Yorker earlier this year?

13 A. Yes.

14 Q. And did you ever read his profile of you titled
15 quote, Sheriff Joe, close quote?

16 A. I believe I did.

17 Q. And the subtitle of this profile is, quote, Joe
18 Arpaio is tough on prisoners and undocumented immigrants.
19 What about crime? Close quote.

20 Let's ask our court reporter to mark this as
21 Exhibit 18 to your deposition. It bears the production
22 numbers ORT 454 through 465.

23 (Deposition Exhibit No. 18 was marked for
24 identification by the reporter.)

25 Q. BY MR. BODNEY: Sheriff, I show you what our
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1 So the next lady says, Joe is not my hero.

2 Then she says she's the wife of the mayor of
3 Mesa.

4 I knew it, Arpaio said to one of his men. I
5 never trusted that mayor. He's pro-immigrant. He's never
6 going to fire that chief. We gotta get -- we gotta raid
7 Mesa again, close quote.

8 Did you read those words before today?

9 MR. CASEY: Objection to form.

10 THE WITNESS: I don't remember everything that
11 he said in this long article.

12 Q. BY MR. BODNEY: Well, I am just focusing on that
13 one --

14 A. Okay.

15 Q. -- one experience, and he -- he says that when
16 you heard that someone who was purportedly the wife of the
17 mayor of Mesa say, "Joe is not my hero," you responded by
18 saying: I knew it. I never trusted that mayor. He's
19 pro-immigrant. He's never going to fire that chief. We
20 gotta raid Mesa again.

21 A. Well, I think that was tongue in cheek with the
22 sergeant who reported that, which he should have done. I
23 do have security constantly because of the threats that I
24 receive because of the illegal immigration situation, and
25 he reported the conduct of the person in the -- before a
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1 court reporter has marked as Exhibit 18 to your
2 deposition. It is a copy of the July 20, 2009, article
3 that appeared in The New Yorker, a profile titled, quote,
4 Sheriff Joe, close quote. And you saw this article before
5 today?

6 A. Yes.

7 Q. And you spoke with William Finnegan?

8 A. Yes.

9 Q. And you read all or part of this article?

10 A. Quite a while back.

11 Q. Maybe back when it was published in July or
12 thereabouts?

13 A. Yes.

14 Q. Okay. In the interest of time, let me ask you
15 to turn to one incident that is described on pages ORT 460
16 and 461. And I will just read this and ask you, Sheriff,
17 to read along with me and then I will ask you a couple of
18 questions.

19 Quote, on the way back to Phoenix from the
20 tents, the Sheriff got a call, which he put on
21 speakerphone. Someone named Jim, who sounded like a
22 deputy, was calling from the courthouse. He said he was
23 observing jury selection in a case there.

24 Sheriff, there was a lady who said, Let's put it
25 this way. Joe's my hero.

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1 jury, the remarks she made about this sheriff and my law
2 enforcement activities in Mesa. But that was a
3 tongue-in-cheek statement that I made to the sergeant.

4 Q. So the sergeant reported this incident to you
5 because it was a security issue; in other words, some
6 woman who said she was the wife of the mayor of Mesa said
7 that you were not her hero?

8 A. No. I think it went further than that. I think
9 her conduct -- I don't have all the facts, but it wasn't
10 just that. I think she mentioned I don't like his
11 operations or something like that before a jury. And he
12 reported it to me.

13 Q. Okay. So she was participating in what is known
14 as juror voir dire?

15 A. Picking a jury.

16 Q. Picking a jury?

17 A. Where you are challenged.

18 Q. And is it your understanding that this woman
19 was, in fact, the wife of the mayor of Mesa?

20 A. I took the word of her that she went up and
21 said, "You won't believe who I am, but I am the wife --
22 I'm the chief's wife" -- or whatever -- not the first
23 lady. She says, "I am the first lady of the mayor of
24 Mesa."

25 So I would imagine she was the first lady of the
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1 mayor of Mesa.
 2 Q. And the mayor of Mesa at this time here in 2009
 3 is -- is who?
 4 A. Smith.
 5 Q. Mayor Smith?
 6 A. We had some problems with Mesa, and he visited
 7 me with his city manager. He was concerned about me
 8 enforcing the laws at the city hall. So I would -- and
 9 the sergeant knew that and just let me know that she had
 10 some comments in public with many people in the audience
 11 listening to her comments about her displeasure with the
 12 sheriff.
 13 Q. And does this statement attributed to you in
 14 quotations marks reflect what you said upon hearing that
 15 the mayor's wife had said that you are not her hero?
 16 A. She went further than that, as I just said.
 17 Q. Okay. Whatever else it was that she said, upon
 18 hearing her statements derogatory of you, did you then
 19 say, quote, I knew it, I never trusted that mayor. He's
 20 pro-immigrant. He's never going to fire that chief. We
 21 gotta raid Mesa again?
 22 A. Well, that was tongue in cheek. The reporter
 23 happened to be listening to it, since I do have an
 24 open-door policy with reporters. Maybe I should start
 25 being a little more careful, but I have nothing to hide.
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1 So I am telling you that was a tongue-in-cheek comment I
 2 made.
 3 Q. So did you raid Mesa at any time after you
 4 learned about the mayor's wife's statements?
 5 A. You know, I don't know that. I don't recall
 6 whether we did or did not.
 7 Q. Is it possible that you did?
 8 A. If it was, it had nothing to do with her being
 9 in the courtroom.
 10 Q. Did you discuss her being in the courtroom with
 11 Chief Sands?
 12 A. I believe I did. I am not sure.
 13 Q. When did you have that conversation?
 14 A. I don't recall.
 15 Q. Would it have been shortly after you heard the
 16 news in front of this New Yorker reporter, Mr. Finnegan?
 17 A. May have been then or it may have been after
 18 this article came out.
 19 Q. Did you direct Chief Sands to conduct another
 20 raid in Mesa?
 21 A. No, I did not. Not over this article -- or
 22 these comments.
 23 Q. Did you direct him to find a basis to conduct
 24 more raids in Mesa?
 25 A. No.
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1 Q. So it is your testimony that these remarks were
 2 entirely tongue in cheek?
 3 A. Yes.
 4 Q. Would you agree that it is not always possible
 5 to tell when somebody is talking tongue in cheek when they
 6 make statements like these?
 7 A. Well, I -- I don't know what the reporter -- I
 8 -- I would imagine the reporter knew. Of course, you
 9 would never see that in the article, but I think the
 10 sergeant who I said this to knew it was tongue in cheek.
 11 Q. Well, now, is it a true statement that you never
 12 trusted that mayor, Mayor Smith?
 13 A. Well, we had some disagreements over the illegal
 14 immigration situation. We have had some problems with the
 15 chief of police, trying to voice our problems.
 16 Q. Do you trust him?
 17 A. Do I trust the mayor?
 18 Q. Yes.
 19 A. You mean today?
 20 Q. Today.
 21 A. Well, I have had no meetings or concerns with
 22 his city for a long time, but I would presume if he came
 23 to visit me again to my office, we could have a nice
 24 conversation.
 25 Q. But back to my question. Is it a true statement
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1 that you never trusted that mayor, Mayor Smith?
 2 A. I -- I said tongue in cheek. Again, my comments
 3 were tongue in cheek to the sergeant.
 4 Q. Okay. So that statement doesn't really reflect
 5 the degree of trust you have in the mayor?
 6 A. That is correct.
 7 Q. Okay. Is it your view that the mayor of Mesa is
 8 pro-immigrant?
 9 A. I don't know. I haven't been involved in
 10 several months with the -- with Mesa.
 11 Q. Do you -- did you think at the time when you
 12 learned of the mayor's wife's statements in court that the
 13 mayor was pro-immigrant?
 14 A. No. I said this is a tongue-in-cheek response
 15 that I said.
 16 Q. Okay. I am just trying to find out which piece
 17 of this, if any, bears some kernel of truth.
 18 A. It is all tongue in cheek.
 19 Q. Entirely.
 20 Were you worried that the mayor was never going
 21 to fire Chief Gascon?
 22 A. It wasn't my concern.
 23 Q. Even though Chief Gascon was critical of your
 24 anti-immigration activities?
 25 A. Doesn't matter.
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1 Q. Okay. Do you sometimes, Sheriff, say some
2 things with -- with one audience in mind that is kind of
3 an official reason and then other times give the real
4 reason, your reason, for things?
5 A. You say sometimes I do that?
6 Q. I am asking, do you do that?
7 MR. CASEY: Objection to form.
8 THE WITNESS: I think everybody knows where I'm
9 coming from. I don't have to switch speeches. I usually
10 stick with my philosophy.
11 Q. BY MR. BODNEY: All right. Do you -- do you
12 remember giving a speech this year in Houston?
13 A. Yes.
14 Q. And to whom did you give that speech?
15 A. I don't even recall. It was some group. I
16 think it was having to do with illegal immigration.
17 Q. Was it before Texans for Immigration Reform?
18 A. I believe it was.
19 Q. And U.S. Border Watch?
20 A. I am not sure if they were a part of it.
21 Q. Was it at the Norris Convention Center?
22 A. I don't remember the name of the center. I
23 don't even remember if it was convention center. It could
24 have been a hotel.
25 Q. Do you remember how many people were in
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1 MR. BODNEY: I am just asking the witness if he
2 remembers making a statement --
3 THE WITNESS: I may have.
4 MR. BODNEY: -- about that.
5 Q. BY MR. BODNEY: Do you remember saying, and I
6 quote, that's the official reason. I always have an
7 official reason so I can win the lawsuits and then I have
8 my reason, and my reason is they hate pink. They may like
9 it in California but they don't like it in Arizona, close
10 quote?
11 A. I may have said that.
12 Q. Any reason to believe you didn't say that?
13 A. Any reason to believe I did not?
14 Q. Right.
15 A. I said: I may have.
16 Q. I am asking whether you remember making the
17 statement.
18 A. I'm not saying that I did or did not, but I may
19 have. I don't prepare speeches.
20 Q. Let me mark as Exhibit 19 a copy of an article
21 from the Houston news, and this appeared on the worldwide
22 web under the title "The Notorious Sheriff of Phoenix
23 Drops In On Houston," and this refers to that -- actually,
24 yeah, that -- that speech which was given in September of
25 2009.
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1 attendance?
2 A. It was a large crowd, I believe.
3 Q. Approximately?
4 A. 200.
5 Q. 200 people?
6 Were you doing a book signing?
7 A. No.
8 Q. No?
9 A. I think they had some books there, but that
10 wasn't the reason I went.
11 Q. What was the reason you went?
12 A. They asked me to speak.
13 Q. About illegal immigration?
14 A. Yes. And my policies in the jails, the Tent
15 City and that type of thing.
16 Q. And do you -- do you remember what you told them
17 about illegal immigration?
18 A. I -- I talk about the whole program, the
19 problems, how it affects the county, the United States and
20 how we enforce the laws.
21 Q. Do you remember discussing the reasons -- strike
22 that.
23 Do you remember discussing the pink underwear
24 that you force your inmates to wear?
25 MR. CASEY: Objection to form.
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1 A. Okay.
2 Q. This -- this document is dated September 14,
3 2009, and it refers to a Saturday speech that you gave on
4 September 14, 2009.
5 (Deposition Exhibit No. 19 was marked for
6 identification by the reporter.)
7 THE WITNESS: Is this the Political Animals?
8 Liana Lopez, is this the article you are talking about?
9 Q. BY MR. BODNEY: No, it's --
10 A. By Liana, Political Animals. Right there.
11 Q. By Liana Lopez and it appeared on the
12 houstonpress.com.
13 A. Is it a blog?
14 Q. I guess the reason I introduced it is so you can
15 look at the statement attributed to you on the last page,
16 and it is the fourth paragraph from the bottom. And I
17 would like to just play a clip, if I may, that -- that
18 contains these same words and ask you, if you would, to
19 listen to them and to ask our court reporter to transcribe
20 them.
21 (Videotape excerpt was transcribed as follows:)
22 "MR. ARPAIO: They're smuggled out and they sell
23 them on the black market. So I had an idea let's make it
24 pink because nobody wears pink underwear. So if they are
25 coming out, that is our underwear. That's the official
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1 reason. I always -- I always have an official reason so I
2 can win the lawsuits and then I have my reason and my
3 reason is they hate pink."

4 (Videotape excerpt transcription concluded.)

6 EXAMINATION (cont'd.)

7 BY MR. BODNEY:

8 Q. Is that your voice?

9 A. It sounds like it.

10 Q. Okay.

11 A. I didn't know we had spies in the audience, but,
12 like I said, I speak off the cuff. I throw humor in my
13 speeches. I presume that is why everybody in the world
14 wants me to talk. So I don't prepare speeches, but if I
15 said that, I said it.

16 Q. And -- and that is the honest truth, what you
17 said?

18 A. Well, I think you forget some other parts when I
19 try to talk about the official reason why they -- we went
20 to pink underwear, if you look at the whole context of my
21 speech.

22 Q. So what was the official reason you went to pink
23 underwear?

24 A. Official reason, they were smuggling the white
25 underwear out of the jail system, over 50,000, and selling
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1 can win lawsuits, that may be different from your reasons?

2 A. No. I think when I establish policies, I always
3 look at the possibility of being sued and I always make
4 sure that we are doing the right thing in case we were
5 sued, we can win the lawsuit. So I am very careful --

6 Q. Okay.

7 A. -- on how we conduct our business.

8 Q. And when you began these saturation patrols,
9 these illegal immigration operations, this pure policy of
10 going after illegal immigrants, not the crime first, did
11 you review the law governing racial profiling?

12 MR. CASEY: Objection to form.

13 THE WITNESS: Well, let me just say you keep
14 saying "pure." I have said over and over again that we
15 enforce all the laws, and pursuant to a violation of a
16 state law that we then enter the illegal immigration
17 picture.

18 Q. BY MR. BODNEY: In your book, Joe's Law,
19 Sheriff, you note that illegal immigration has been a
20 problem in the United States going back to the '60s,
21 right?

22 A. I believe my co-author did a little research.

23 Q. And yet you began this get-tough policy on
24 illegal immigration in 2006?

25 A. After the state laws were passed.

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1 it on the black market. So I decided to dye the underwear
2 pink because nobody at that time wore pink, and it's easy
3 to detect when you check out of the jail by looking under
4 their belt. So that is the reason that -- that we went
5 with the pink underwear.

6 Q. So the official reason, as you say, quote, so I
7 can win the lawsuits, close quote, is they were smuggling
8 the white underwear out of the prisons?

9 A. Um-hum.

10 Q. And the real reason or what you called, quote,
11 my reason, close quote, is the inmates hate pink?

12 A. Another humorous comment that the sheriff makes
13 when he gives speeches sometimes.

14 Q. Okay.

15 A. Keep the audience awake.

16 Q. And does the sheriff sometimes give official
17 reasons in this lawsuit that are not the real reasons or
18 your reasons?

19 A. I said that this was a personal comment that I
20 made about the pink underwear in a joking way. This is
21 not a court of law when I give speeches.

22 Q. I understand.

23 A. It is an audience that wants to hear the
24 sheriff.

25 Q. But your conscience about giving reasons so you
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1 Q. After the state laws were passed.

2 And it is -- is it possible that your reason for
3 moving forward on this get-tough policy is because it is
4 popular or might become popular?

5 MR. CASEY: Objection to form. Asked and
6 answered.

7 THE WITNESS: I --

8 Q. BY MR. BODNEY: I don't mean to waste your time
9 if I --

10 A. No.

11 Q. -- have asked you this.

12 A. No. No. I could say no with a straight no, but
13 -- maybe I should not say this, but I have been sheriff
14 for 17 years. I have been reelected 15 years without the
15 illegal immigration problem, so I don't do this for
16 politics.

17 Q. Okay. And do you conduct these raids ever
18 because -- well, asked and answered. I won't go into that
19 now.

20 Let me just ask you about this litigation
21 briefly. Have you ever been instructed to retain any
22 documents that might be relevant to this lawsuit?

23 A. Me?

24 Q. You.

25 A. I don't recall.

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1 Q. So to the best of your knowledge --
 2 A. I have not.
 3 Q. -- you have not been instructed to retain
 4 documents?
 5 A. Not that I can recall.
 6 Q. Okay. Do you maintain documents in your office?
 7 A. The -- I do have some documents, yes.
 8 Q. Do any of the documents that you have in your
 9 office at home or at work, do they bear on the illegal
 10 immigration enforcement subject at all?
 11 A. Yeah. I have some documents on the 287(g)
 12 contracts and things like that.
 13 Q. Did anyone since this lawsuit was first filed
 14 tell you to save those documents?
 15 A. Not that I can recall.
 16 Q. Have you discarded any documents in your office
 17 relating to illegal immigration since December of 2007?
 18 A. Not that I can recall.
 19 Q. Is it possible that you have not retained
 20 documents relating to this subject over the last two
 21 years?
 22 MR. CASEY: Objection to form.
 23 THE WITNESS: I don't -- I don't believe so. I
 24 keep pretty good files. Not that I am writing another
 25 book, but I -- which I am not, but I keep pretty good
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1 files.
 2 Q. BY MR. BODNEY: So -- so what kind of file do
 3 you have on illegal immigration?
 4 A. I -- I mentioned I have contracts, illegal
 5 immigration. Maybe -- I have press releases and press
 6 articles, those type of things, and I am talking about my
 7 personal drawers.
 8 Q. Okay. At work?
 9 A. Yes.
 10 Q. And do you have any letters in that file, any
 11 correspondence?
 12 A. I have a lot of letters of -- thousands of them
 13 from around the country and the world and I keep those.
 14 Q. But I am referring now to correspondence
 15 relating to illegal immigration enforcement.
 16 A. No. I think my secretary or the -- the people
 17 that keep the reports have those.
 18 Q. Have you ever instructed your secretary to
 19 retain files relating to illegal immigration or racial
 20 profiling?
 21 A. No.
 22 Q. Do you know whether she has any files relating
 23 to illegal immigration or racial profiling?
 24 A. No, I don't know.
 25 Q. She may; she may not?
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1 A. Yes.
 2 Q. But no one has ever told you to -- to preserve
 3 those files, have they?
 4 A. My personal files?
 5 Q. Correct, your personal files.
 6 A. Not that I can recall.
 7 Q. Or your secretary's personal files.
 8 A. I don't know.
 9 Q. Will you in response to my request here today
 10 preserve those files and make them available to your
 11 counsel for review and possible production in this case?
 12 MR. CASEY: That's fine.
 13 THE WITNESS: That's all right.
 14 Q. BY MR. BODNEY: Okay. What sort of documents,
 15 Sheriff, do you regularly create? In other words -- I
 16 gather you don't use e-mail?
 17 A. No. I have a 40-year old Smith Corona
 18 typewriter.
 19 Q. So you use that typewriter?
 20 A. Yeah. I don't have computers or e-mails.
 21 Q. And do you still use carbon copies or just type
 22 on it?
 23 A. On the typewriter?
 24 Q. On the typewriter.
 25 A. No. You know, I can't -- I can't find carbon
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1 copies, so --
 2 Q. Okay.
 3 A. But I'll make some notes. I don't do much of
 4 that work myself. I have a secretary that does.
 5 Q. Do you keep a diary?
 6 A. No.
 7 Q. A calendar?
 8 A. My secretary I believe does.
 9 Q. Has anyone ever asked you to preserve that
 10 calendar for purposes of this litigation --
 11 A. No.
 12 Q. -- or for purposes of retaining information
 13 relating to illegal enforcement -- illegal immigration
 14 enforcement?
 15 A. No.
 16 Q. Will you preserve that calendar and make it
 17 available for your counsel and his review in this
 18 litigation?
 19 A. That is up to the attorney, and you have to
 20 understand I have security issues.
 21 Q. Of course. Of course.
 22 But I am just saying, you have no objection on
 23 my request to preserving the calendar and sharing it with
 24 Mr. Casey for his review?
 25 MR. CASEY: I -- can you explain for me what his
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1 calendar -- how it would be reasonably calculated to lead
2 to the discovery of admissible evidence on whether or not
3 there is racial profiling going on in this case?

4 MR. BODNEY: We could be here all day but, of
5 course. I mean, there could be press conferences. There
6 could be meetings with your staff on the subject. There
7 could be a host of markings in the calendar that might jog
8 your memory about --

9 MR. CASEY: You -- you've -- you've sold me.
10 All right. So I will ask the client to preserve those and
11 provide those to me.

12 I will tell you that I will have to obviously
13 work with the client to make sure that if there are any
14 things that he mentioned that somehow are related to
15 security concerns that we take care of that in some way
16 before we produce it.

17 MR. BODNEY: Oh, positively.

18 MR. CASEY: And I've expressed this to your
19 co-counsel before. It is not my concern about you, but we
20 have had issues because of the illegal immigration debate
21 in our society, there are people on both sides that get
22 information and may wish to use it for their own ends, so
23 it is not directed at you, but it would be for protection
24 if it was disseminated outside the four corners of our
25 litigation.

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1 MR. BODNEY: I would trust you to follow the
2 federal rules on -- on what must be produced, and we do
3 not want to see anything that would harm a confidential
4 informant or legitimate security concerns.

5 THE WITNESS: I would imagine that pertains to
6 me too?

7 MR. BODNEY: Absolutely. Absolutely.

8 Q. BY MR. BODNEY: So you don't have a computer at
9 work?

10 A. No.

11 Q. And you don't have one at home?

12 A. I don't have one. My wife does, but I don't
13 know how to work it.

14 Q. Do you have a cell phone?

15 A. I just have a cell phone just to dial.

16 Q. Dial cell phone. So you don't make text
17 messages on your phone?

18 A. No.

19 Q. Do you write letters?

20 A. I type letters with my old-fashioned typewriter.

21 Q. Do you keep photocopies of those letters?

22 A. No. You are talking about personal at the house
23 or the office?

24 Q. Referring to either illegal immigration or the
25 possibility of --

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1 A. No. My secretary does the paperwork.

2 Q. Okay. So she would have any letters that you --
3 she would have copies of any letters you sent that might
4 bear on the subject of this litigation?

5 A. I don't know.

6 Q. Okay. But you will preserve those as well and
7 share them with Mr. Casey?

8 A. If we have them.

9 Q. Sure.

10 Why don't you use e-mail?

11 A. I am old-fashioned. I like to talk to people.

12 Q. Okay.

13 A. Which I do almost every day in speeches, in
14 Houston and everywhere else.

15 Q. Is there any other place, Sheriff, where you
16 would look for records that -- that you might have either
17 received or sent relating to illegal immigration
18 enforcement?

19 A. Not that I know. This is something handled by
20 my secretary and clerical staff.

21 Q. Okay.

22 MR. BODNEY: Let's take a real quick break and I
23 may be through. I may just have a couple more questions
24 and we will wrap it up with --

25 MR. CASEY: Okay.

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1 VIDEO TECHNICIAN: We are off the record at
2 5:34 p.m.

3 (Recess ensued from 5:34 p.m. until 5:41 p.m.)

4 VIDEO TECHNICIAN: We are back on the record at
5 5:41 p.m.

6 MR. BODNEY: Okay. Thank you.

7 Q. BY MR. BODNEY: Sheriff Arpaio, I would like to
8 just show you two final video clips and ask you if you
9 remember participating in these interviews and what your
10 thoughts are about some of your statements.

11 The first is -- actually, they are both from
12 your appearance on or about October 9, 2009, on FOX, the
13 network, the Glenn Beck show, Refounding America, I
14 believe is its title.

15 MR. CASEY: I am going to make another
16 objection, authentication, foundation, inadmissible
17 hearsay, inadmissible lay opinion as to --

18 Is that Glenn Beck on the screen?

19 -- Mr. Beck's comments.

20 MR. BODNEY: That's fine.

21 (Videotape excerpt was transcribed as follows:)

22 "GLENN BECK: You know, the one thing I like
23 about you, Joe, is that you have always been a man of your
24 word. How did you just sign something that said, "Okay,
25 that's cool," but now you are telling me you are going to

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1 do it anyway?
 2 "MR. ARPAIO: Yeah, because I really don't need
 3 them. I did it to be a good partner. They trained 100 of
 4 my deputies, and I really don't need the federal
 5 government. In fact, it is going to be great not to be
 6 under their umbrella because I don't have to worry about
 7 their bureaucratic policies and supervision, but I am
 8 going to do the same thing. Nothing has changed.

9 "GLENN BECK: Okay. So I'm just -- I'm trying
 10 to understand this. They said that you can't enforce the
 11 federal laws. So how are you going to enforce it and
 12 still be a man of your word?

13 "MR. ARPAIO: Because I'm going to enforce the
 14 state laws, and there is a federal law that they don't
 15 seem to understand is there --

16 "GLENN BECK: Which is?

17 "MR. ARPAIO: -- that I will enforce also.

18 "GLENN BECK: Which is what?

19 "MR. ARPAIO: Which is that local law
 20 enforcement comes across some people that have an erratic
 21 or scared or whatever -- they are worried, and if they
 22 have their speech, what they look like, if they just look
 23 like they came from another country, we can take care of
 24 that situation. But I don't need that anyway, Glenn.

25 "GLENN BECK: Wait, wait, wait. Hang on, hang
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1 Q. Okay. There's nothing, as you look at this
 2 videotape, to believe that it had been doctored in some
 3 way or that your words were altered, do you?

4 A. I don't know.

5 Q. You don't know anything to support the notion
 6 that your statements were changed in any way, do you?

7 A. No.

8 Q. No. Okay.

9 And so my question to you is, first, did you
 10 make those statements on the Glenn Beck show?

11 A. Along with other statements.

12 Q. Okay. And did you make the statement, quote, I
 13 really don't need the federal government, close quote?

14 A. Yes.

15 Q. And is it your view that it is great not to be
 16 under their umbrella?

17 A. Being a federal official for 25 years,
 18 understanding the bureaucracy in the federal government
 19 and understanding that I still have the authority to
 20 enforce the state laws, that was my message that I was
 21 trying to pass on, that we still have our state laws,
 22 nothing has changed, other than the fact that instead of
 23 doing all the paperwork and technically arresting or
 24 detaining illegals, now all we have to do is call ICE and
 25 turn them over. So that took a lot of workload off of our
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1 on.

2 "MR. ARPAIO: I can still do the job.

3 "GLENN BECK: When was that -- when was that law
 4 written? Because all I hear about is that sounds like
 5 profiling, and the government is saying you can't profile
 6 anybody.

7 "MR. ARPAIO: Well, that law in 1996, part of
 8 the -- the comprehensive law that was passed is in there."
 9 (Videotape excerpt transcription concluded.)

10 EXAMINATION (cont'd.)

11 BY MR. BODNEY:

12 Q. So, Sheriff Arpaio, first relating to some of
 13 your attorney's objections, there is no doubt that that is
 14 you on the video screen, is there?

15 A. That is me.

16 Q. Okay. No doubt that those were the words you
 17 spoke with Glenn Beck?

18 A. In context -- out of context probably it is.

19 Q. Okay. And we included Mr. Beck's questions to
 20 give some context to your answers. Do you have any doubt
 21 that that is Glenn Beck on the screen?

22 A. No, that is Glenn Beck.

23 Q. Or that those were Glenn's words?

24 A. I listened to them right now.

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1 deputies.

2 Q. So you don't have to comply with any ICE
 3 regulations relating to street operations anymore, do you?

4 MR. CASEY: Objection to form.

5 THE WITNESS: In the -- in the -- in that part
 6 of our contract that's -- yes. Other than the fact that
 7 we do call ICE when we come across illegals that have no,
 8 really, state crime involved, and they agree to either
 9 accept them or not accept them.

10 Q. BY MR. BODNEY: And -- and when you said that
 11 you don't have to worry about the federal government's,
 12 quote, bureaucratic policies and supervision, close quote,
 13 what did you have in mind?

14 A. I was talking about the 287(g) agreement where
 15 when we have -- my deputies have been sworn in as ICE
 16 agents, now they are no longer ICE agents. They had to
 17 turn in their credentials, and they are not under -- we
 18 are not under their supervision or federal policies.

19 Q. You no longer have to follow the federal
 20 guidelines on racial profiling that we discussed earlier
 21 in your deposition?

22 A. I was --

23 MR. CASEY: Objection to form.

24 THE WITNESS: I was talking about the law
 25 enforcement operations on the 287(g) agreement.

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1 Q. BY MR. BODNEY: Okay. Do your comments extend
2 to the ICE guidelines on racial profiling? In other
3 words, are you pleased not to have to worry about those
4 bureaucratic policies and supervision?

5 A. No, that's not true. We -- we are very happy
6 that our people went through the five-week training on the
7 -- including the racial profiling issue, and that helps
8 our deputies when they are performing their duties under
9 the state immigration laws.

10 Q. Do you know when the last time your deputies had
11 any racial profiling training?

12 A. I don't know the dates when they went through
13 the training, the federal training. I believe it has been
14 a constant type of training, not just a one-time
15 situation.

16 Q. How do you know that? What do you base that
17 belief on?

18 A. Because when our deputies go to their training,
19 we don't do it all at one time.

20 Q. Oh, I see.

21 A. We do it in segments.

22 Q. In a staggered training?

23 A. Yes.

24 Q. But your deputies are no longer receiving that
25 training?

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1 MR. CASEY: Same objection as before. No
2 authentication, no foundation, and as to the questioning
3 done by whoever it is, inadmissible hearsay and
4 inadmissible lay opinion.

5 MR. BODNEY: Well, again, the journalists who
6 appear on these tapes are -- and their comments are not
7 being used for the truth of the statements they make but
8 simply to provide context to the questions that you were
9 asked and that you answered. And I don't think there is
10 any doubt or debate about the journalists being who they
11 appear to be, Glenn Beck, Rick Sanchez, and so on or that
12 the witness, Defendant Arpaio, was the person who made
13 these statements.

14 So let's just take a look at the last one and
15 also --

16 (Videotape excerpt was transcribed as follows:)

17 "GLENN BECK: Happens to be staying at a Holiday
18 Inn Express. Maybe he can fix it.

19 "MR. ARPAIO: Well, first of all, he had
20 security reasons. When you put a bunch of people together
21 from a foreign country, first thing they want to do is
22 escape and go back home. I don't know about a hotel. You
23 are going to have to spend a lot of money to make that a
24 secure place, number one.

25 "Number two, Glenn, they like to fight each
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1 A. Not from the ICE contract.

2 Q. And are they receiving any training on racial
3 profiling from any other source?

4 A. I am not sure. We may have in-house training in
5 that regard. I believe when people are hired, all these
6 subjects are part of their teachings.

7 Q. Do you have any documents in-house on the racial
8 profiling training that your deputies have received over
9 the last three years?

10 A. I don't have them. My staff may have them.

11 Q. And presumably if there were any such written
12 materials or videotapes, your attorneys would have
13 produced them in this case?

14 A. I don't know.

15 Q. But you have not seen them, have you? You have
16 never seen any written materials or videotapes on racial
17 profiling administered in-house by MCSO, have you?

18 A. On racial profiling?

19 Q. On racial profiling.

20 A. You mean on how not to racial profile?

21 Q. How not to racial profile.

22 A. No.

23 Q. No.

24 Let's take a look at one other final segment
25 from FOX.

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1 other.

2 "GLENN BECK: All right. All right. Okay.
3 Joe, thank you very much. I appreciate it. Keep up the
4 good work, my friend."

5 (Videotape excerpt transcription concluded.)

6 THE WITNESS: What was that about?

7 EXAMINATION (cont'd.)

8 BY MR. BODNEY:

9 Q. It was a question -- well, again, that is no
10 doubt you on that show?

11 A. That's me.

12 Q. Those are your words?

13 A. (Witness nods head.)

14 Q. Yes?

15 A. I guess they are. I am sure that is not the
16 only words, but ...

17 Q. Right. And -- and that was Mr. Beck questioning
18 you?

19 A. Yes.

20 Q. When you were talking about these illegal
21 immigrants in -- in jails, what led you to believe that
22 they, quote, like to fight, close quote?

23 A. I don't understand the context of my statements
24 there.

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1 Q. Is it your belief that -- that the illegal
2 immigrants in your jails like to fight?

3 A. I -- I may have been talking about the whole
4 jail system. So I don't understand what the question was.
5 I didn't see a question there. I just heard the tail end
6 of fighting.

7 Q. Right. And just to segue from the videotape, is
8 it your belief that inmates like to fight?

9 A. No. I -- I don't know what that was about,
10 but --

11 Q. We can forget about what it was about for the
12 moment.

13 A. Well, I believe it may have been where we have
14 some racial problems in our jails where the
15 African-Americans fight the Hispanics and back and forth.
16 Sometimes we try to isolate them so we don't have any
17 danger, assaults against the Hispanics or the African --
18 African-Americans.

19 Q. Now, you have isolated from the rest of the
20 prison population this year 200-plus illegal immigrants,
21 did you not?

22 A. No. I -- I -- I placed those that have been
23 sentenced -- they are all convicted of crimes -- into
24 tents, and I placed them in a separate area along with
25 Caucasian and other people. They are all together,
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1 because those are the people that once they leave the jail
2 system, they have to go somewhere else, whether it is
3 Prescott or to stand trial because their cases are not
4 finished.

5 The immigration -- the illegals are together
6 because, once again, when they leave, they are not going
7 back on street. They have to be dealt with and normally
8 they will be deported back to their countries.

9 So I put them all together, so it is easy when
10 the time comes to be able to discharge them not on the
11 streets but send them somewhere else.

12 Q. They were force-marched, were they not, from one
13 location to this segregated tent facility?

14 MR. CASEY: Excuse me. Hold on.

15 David, what -- this line of questioning about
16 that, what does that have to do in terms of being
17 reasonably calculated to lead to the discovery of
18 admissible evidence regarding traffic stops conducted by
19 MCSO personnel during saturation patrols?

20 MR. BODNEY: I think we already established that
21 a very substantial percentage of the prison inmate
22 population are there based on arrests that occurred in the
23 course of these saturation patrols.

24 Q. BY MR. BODNEY: That is a significant part of
25 the prison population, is it not?

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1 MR. CASEY: No. Wait a second.

2 MR. BODNEY: I was just asking the witness a
3 question.

4 MR. CASEY: No, but I have asked you to explain
5 for me because I am having trouble understanding -- I am
6 going to allow you latitude. I am just having an honest
7 difficulty understanding how it is relevant to your case.

8 Go ahead and I will shut up, but at some point
9 if it continues, I am going to stop it.

10 MR. BODNEY: Sure. One element is the purpose,
11 having a discriminatory purpose in the -- the policies
12 that are at issue in this lawsuit. And --

13 MR. CASEY: But all your --

14 I interrupted you. I apologize.

15 MR. BODNEY: So if there is discriminatory
16 purpose, if there is a reason or history, if we can show
17 circumstantially that there have been these incidents that
18 reflect the demeaning treatment of Hispanic inmates, many
19 of whom have been arrested in the course of these
20 saturation patrols or sweeps, I think we are entitled to
21 discover that.

22 MR. CASEY: I agree with you if it is relating
23 to a saturation patrol or a sweep because that is what you
24 are doing. I am going to let you ask the questions. At
25 some point I am going to exercise what I hope is good,
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1 fair judgment. I still don't see it, in all honesty,
2 about how he handles inmate segregation or desegregation
3 has any relevancy in discovery context for the purpose of
4 this litigation.

5 I made my record.

6 Q. BY MR. BODNEY: Well, you were contacted by the
7 Mexican consulate, were you not, about that incident, the
8 forced march of the illegal immigrants from one location
9 to a separate facility in Tent City?

10 A. No. We had breakfast.

11 Q. Didn't he register a complaint about the
12 inhumane and barbaric treatment of those Mexican
13 nationals?

14 A. Well, he has a right to voice his opinion.

15 Q. And he expressed that opinion to you, did he
16 not, that your treatment of these illegal immigrants --

17 A. No. Actually -- actually we had coffee and
18 donuts, which he paid for, and we are good friends and
19 never talked about it until I read it in the paper.

20 Q. Did you ever receive a letter from him?

21 A. Not --

22 Q. Any written communication?

23 A. Not -- not until after the situation occurred,
24 but he has his opinion, being the Mexican consulate.

25 Q. You would agree that some of these inmates who
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1 are illegal immigrants were arrested in the course of
 2 traffic stops, right?
 3 A. They were arrested for criminal violations.
 4 Q. Some during the course of traffic stops?
 5 A. That happened to be illegals.
 6 Q. Happened to be illegals?
 7 A. Happened to be illegals.
 8 Q. That's right.
 9 A. Yes.
 10 Q. And whose idea was it to conduct this forced
 11 march of those illegals from one location to a segregated
 12 facility in Tent City?
 13 A. Well, that was -- that was my head of the jail
 14 system. We do this quite often.
 15 Q. Is that Jerry Sheridan?
 16 A. Yes. We do this quite often. We may transfer
 17 2,000 inmates from one jail to another. This occasion was
 18 right, I believe, on property, county property. It wasn't
 19 down the streets of Phoenix that all my enemies say. And
 20 the reason they were transferred -- and they were all
 21 convicted, as I mentioned a few minutes ago -- to put them
 22 in one area so when the time comes -- and they are with
 23 other inmates too. They are not all Hispanics.
 24 Q. But predominantly Hispanics, correct?
 25 A. Yes. Yes.

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1 Q. Okay.
 2 A. And when the time comes, it is easy for the
 3 Mexican consulate to come in and visit without having to
 4 figure out where they are at, seven different jails. So
 5 it was a convenience to the consulate and it is also a
 6 convenience when they are released from jail and picked up
 7 by ICE. It is good management and easy for them to be
 8 deported.
 9 Q. Now, is that the official reason in the hopes of
 10 winning this lawsuit or is there a personal reason that
 11 may be different?
 12 MR. CASEY: I am going to object and instruct
 13 the witness not to answer. You are argumentative -- you
 14 are being argumentative with the witness, David.
 15 MR. BODNEY: No, I am not.
 16 MR. CASEY: Yeah, sure you are.
 17 MR. BODNEY: I'm asking whether or not --
 18 MR. CASEY: You have asked him whether he is
 19 lying to you. You are arguing with him.
 20 MR. BODNEY: No.
 21 Q. BY MR. BODNEY: I am asking whether this is
 22 analogous to the statements you made about the pink
 23 underwear, that there is an official reason you gave or
 24 give in court so you can win a lawsuit, and then there's
 25 your reason which is the prisoners hate pink.

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1 Is it your view that these illegal immigrants
 2 hate being forcibly marched in front of cameras shackled
 3 to a segregated facility?
 4 MR. CASEY: You can answer.
 5 THE WITNESS: Well, first of all, this wasn't a
 6 speech like in Houston. There is a big difference doing
 7 things officially than giving a speech and joking before a
 8 group of people that have no bearing on the criminal
 9 justice system. So the answer is, no, I did not do this
 10 as a joke.
 11 Q. BY MR. BODNEY: Not as a joke --
 12 A. Well, I think that is what you are inferring to.
 13 Q. No, no. I don't mean it as a joke, but knowing
 14 that just like the pink underwear this was an experience
 15 that this segment of your prison population, predominantly
 16 Hispanic, illegal immigrants, some of whom arrested in
 17 connection with these sweeps would abhor?
 18 A. Well, first of all, I don't know if any of those
 19 were connected with the crime suppression.
 20 Number two, we do this quite often. I mentioned
 21 2,000 we may move one area from the other. The problem is
 22 no matter what we do, someone calls the news media and
 23 they show up. No matter what we do, for some reason the
 24 news media receives the information. So it is not unusual
 25 for the news media to film our transfer of prisoners. We

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1 have done this many times before. This is just one other
 2 transfer we made from one jail in a few hundred yards to a
 3 Tent City.
 4 Q. And didn't you issue a news release in
 5 connection with this transfer?
 6 A. I am not sure we did that. If we did, it is
 7 only because we are being proactive because the minute we
 8 just move one person or talked about it, it would be all
 9 over the news anyway.
 10 Q. Do you think those illegal immigrants liked
 11 their treatment?
 12 A. I don't know. I don't know if anyone in our
 13 jails, no matter who they are, like the jail environment.
 14 Q. And from your perspective, if those illegal
 15 immigrants did not like the treatment, that might serve as
 16 a deterrent -- serve as a deterrent and be a good thing to
 17 your mind?
 18 A. If they did not like the treatment?
 19 Q. Right. If they didn't like it, as far as you
 20 are concerned, so much the better?
 21 A. You mean moving -- moving or --
 22 Q. Moving them --
 23 A. -- just living in the jail?
 24 Q. -- shackled, force marched to a segregated
 25 facility in Tent City where the illegals live.

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1 A. Well, I don't know about your forced march. The
2 -- I am sure that whatever they do, they have to follow
3 our policies in the jail, whether you call it a force or
4 not force, but this is a -- a good management decision
5 that my head of the jail system made.

6 And, as I mentioned before, it is not only them
7 that are in this area of the Tent City. We have U.S.
8 citizens, Caucasians, all those people that are together.
9 They have to go somewhere else when they are released from
10 jail and will not be back on the street.

11 Q. Do you believe that these immigration
12 enforcement operations could have had a profoundly
13 counterproductive effect on your chief responsibility
14 under Arizona law?

15 A. Could you repeat that question?

16 Q. Sure.

17 Do you believe that these immigration
18 enforcement operations could have had a profoundly
19 counterproductive effect on your chief responsibility
20 under Arizona law?

21 A. No, I do not.

22 Q. Do you know what the very first responsibility
23 appears in the Arizona statutes for the sheriffs in
24 Arizona?

25 A. I think I mentioned that earlier: enforce the
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1 Q. But you can't name another law enforcement
2 officer in this country who has taken on illegal
3 immigration with the same gusto as yourself?

4 A. I don't know. As I said several --

5 Q. Could --

6 A. As I said several hours ago, I don't get
7 involved in what other sheriffs do or what other chiefs of
8 police do in other areas of our country. I am the sheriff
9 for Maricopa County and do serve the people and enforce
10 all the laws.

11 MR. CASEY: What time are we at, Madam
12 Videographer?

13 VIDEO TECHNICIAN: Six hours and 54 minutes.

14 MR. CASEY: Okay. Thank you.

15 MR. BODNEY: Let's mark as an exhibit,
16 Exhibit 20, the disk that contains the exhibits that we
17 have discussed at the deposition today, and then --

18 (Deposition Exhibit Nos. 20 and 21 were marked
19 for identification by the reporter.)

20 Q. BY MR. BODNEY: Last exhibit. And let me hand
21 you Exhibit 21, a two-page document that bears the
22 production numbers ORT 000117 -- just bears 000117, but it
23 is a two-page document, and it is a news release from MCSO
24 dated February 3, 2009. And the headline on your news
25 release reads, quote, Arpaio Orders Move of Hundreds of
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1 laws, run the jails, search and rescue. I could go to
2 take care of the courts. I can --

3 Q. But before all of those, Sheriff, the first one
4 is to preserve the peace --

5 A. Yes.

6 Q. -- right?

7 In Arizona --

8 A. That's one of them, yes.

9 Q. -- the first one listed is to preserve the
10 peace?

11 A. Yes.

12 Q. Do you think that these saturation patrols might
13 have had the counterproductive effect of disturbing the
14 peace and well-being of our Hispanic community?

15 A. No, I don't know. All we are doing -- as you
16 say, preserving peace, we are enforcing all the laws
17 regardless of the ethnic background, where they came from.
18 So that is what my mission is, to enforce all the laws,
19 and that is what we are doing.

20 Q. Irrespective of the demonstrations, the United
21 for Sovereign America, the extremist elements on both
22 sides of this issue that have come out as a consequence of
23 these operations?

24 A. Unfortunately, it is a serious problem across
25 our nation. It is not just here in Arizona.

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1 Illegal Aliens to Their Own Tent City, close quote.

2 Do you see that?

3 A. Yes.

4 Q. And is this the news release that your office
5 issued the day before you ordered approximately, quote,
6 200 illegal aliens to be chained and marched into a
7 separate area of Tent City, their new place of
8 incarceration, until their sentences are served and the
9 illegal aliens are deported to their home countries, close
10 quote?

11 A. Yes.

12 Q. So you invited the media attention to this the
13 following day through this news release, did you not?

14 A. Yeah. As I mentioned previously, this is
15 something I do, not just for this, but whenever we
16 transport prisoners from one jail to the other, we do know
17 that someone is going to call the media and they will
18 flood the area, so I do let them know we are doing this.

19 Q. Okay. And you point out in this news release
20 that these illegal immigrants will be in a new address at
21 Tent City, and it will be surrounded by an electric fence,
22 correct?

23 A. Yes.

24 Q. Do you have an electric fence in Tent City for
25 all inmates?

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1 A. Yes.
 2 Q. So everyone is -- everyone is included within
 3 the electric fence?
 4 A. Yes.
 5 Q. Not just the illegal immigrants?
 6 A. That is correct.
 7 Q. Okay. But then your press release attributes
 8 this statement to you, Sheriff. It says, quote, this is a
 9 population of criminals more adept perhaps at escape,
 10 close quote, the sheriff says, quote, but this is a fence
 11 they won't want to scale because they risk receiving quite
 12 a shock - literally, close quote. Are those your words?
 13 A. I say that constantly when I talk about the
 14 electric fence.
 15 Q. Okay. So when you are referring to the
 16 population of criminals more adept perhaps at escape, are
 17 you referring to the illegal immigrants?
 18 A. Well, that is one problem we are concerned with
 19 because most of them know they will be deported instead of
 20 being back on the street and sometimes they may be prone
 21 to hop over the fence before they are deported. That was
 22 one of the problems that my head of the jail system had.
 23 Q. Do you have any idea what you base that
 24 statement on, that illegal immigrants in your jails are
 25 more adept at escape than others?
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1 A. I didn't say "adept," that they can hop the
 2 fence better than someone else. I was referring to the
 3 fact that this is a -- minimum security tents, even with
 4 the electric fence that I put up, and we are just
 5 concerned about escapes that may occur. And when you --
 6 when you are here illegally in this country and you do
 7 know once you finish your sentence, there is a good chance
 8 you are going to be deported, so we were just concerned --
 9 as I say, my head of the jail system, was concerned that
 10 they may try to hop the fence and get out of jail.
 11 Q. Well, the quotation attributed to you said that
 12 this is a population of criminals more adept perhaps at
 13 escape. What is that based on?
 14 A. Well, when I -- "adept." I said more prone to
 15 probably. Once again, it is semantics.
 16 Q. Maybe you should have said prone or -- is that
 17 what you meant?
 18 A. I am not going to get into every word I say in
 19 press releases.
 20 Q. But these go out to all the media in Arizona,
 21 correct, these news releases?
 22 A. Unfortunately, nobody prints it, but, yes, they
 23 do go out. And they're on our web, too.
 24 Q. And they are on your web --
 25 A. Yes.
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1 Q. -- the worldwide web. So when you make a
 2 statement like that that these illegal immigrants, the
 3 vast majority of whom who are Hispanics, are more adept at
 4 escape, one wonders what the sheriff based that statement
 5 on, what facts.
 6 A. I just gave you my rationale that my head of the
 7 jail system had, which -- that many of them do not want to
 8 be deported and we are taking every precaution to make
 9 sure they do not hop the fence.
 10 Q. So it was based on what Mr. Sheridan told you?
 11 A. Well, I am not sure about the wording but the
 12 reason we did that --
 13 Q. Right, the concern.
 14 A. -- is that Mr. Sheridan had a concern about
 15 those that are here illegally knowing they will be
 16 deported, knowing once they finish their sentence -- they
 17 are all convicted in these tents -- that they may want to
 18 hop the fence so they don't go get deported.
 19 Q. So was that speculation by Mr. Sheridan?
 20 A. I don't know.
 21 Q. Have you seen any studies to suggest that
 22 illegal immigrant inmates are more adept at escape than,
 23 in this instance, the non-Hispanic population?
 24 A. You know, sometimes we don't do things by
 25 history. We are very proactive to prevent things from
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1 happening before they do happen. So I don't go by
 2 history. We look at what could happen and take actions in
 3 case it does happen.
 4 Q. And that is what this move of the 200 illegal
 5 aliens being chained and marched into a separate area of
 6 Tent City represents, a preventive measure?
 7 A. No. I said why they were together with U.S.
 8 citizens, with other convicted people, because they are
 9 going to be removed from that jail and they have to go
 10 somewhere else, not on the streets of Phoenix, to stand
 11 trial in other areas, other jurisdictions, or that the
 12 illegal immigrants have to be deported once they are
 13 released from their sentence.
 14 Q. Well, you would agree that your statement here,
 15 Sheriff, refers to the illegal immigration population?
 16 When you say, "This is a population of criminals more
 17 adept perhaps at escape," you are referring now to the
 18 people who are the subject of this press release, the
 19 illegal aliens being moved to their own Tent City?
 20 A. Yes, yes.
 21 Q. And the second sentence says, "But this is a
 22 fence they won't want to scale because they risk receiving
 23 quite a shock - literally."
 24 A. Yes.
 25 Q. And the "they" again are these illegal
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1 immigrants, right?

2 A. Well, I am talking about this new program we had

3 to place them all in one place.

4 Q. Right.

5 A. Everybody in that Tent City, I presume,

6 understands you will be shocked and some have been trying

7 to escape.

8 Q. Are you worried that the words that have been

9 used by your public relations office pander to a kind of

10 extremist element, an anti-Hispanic element?

11 MR. CASEY: Objection to form.

12 Q. BY MR. BODNEY: Does that concern you at all?

13 MR. CASEY: Same objection.

14 Q. BY MR. BODNEY: When you say, "This is a

15 population of criminals more adept perhaps at escape," and

16 "this is a fence they won't want to scale because they

17 risk receiving quite a shock - literally," that it might

18 make all those who think, you know, a pox on those illegal

19 immigrants, feel good about what Sheriff Joe is doing?

20 A. No, I --

21 MR. CASEY: Same objection to form.

22 Q. BY MR. BODNEY: You don't worry about that?

23 MR. CASEY: Hold on. Every time he does that, I

24 have got to make a formal objection.

25 Form.

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1 Q. BY MR. BODNEY: Do you worry about that?

2 MR. CASEY: Form.

3 Q. BY MR. BODNEY: No?

4 MR. CASEY: Form. I'm sorry --

5 MR. BODNEY: What is the basis of the form

6 objection to the last question?

7 MR. CASEY: The whole predicate to your

8 question, the entire predicate.

9 MR. BODNEY: And what do you mean by that?

10 MR. CASEY: Your entire question is

11 argumentative. It is also misleading. You don't waive

12 objections as to relevance, but none of this has anything

13 to do with your lawsuit. None of it.

14 MR. BODNEY: All right.

15 MR. CASEY: And I think you are badgering the

16 witness.

17 MR. BODNEY: Pandering to those who --

18 MR. CASEY: Yes, I agree -- I think --

19 MR. BODNEY: -- who want to see Mexicans locked

20 up?

21 MR. CASEY: I think this has absolutely nothing

22 to do with your lawsuit.

23 MR. BODNEY: Pandering to those who want to see

24 Hispanics locked up?

25 MR. CASEY: I think it has nothing to do with

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1 your lawsuit.

2 MR. BODNEY: Well, we will save it -- we will

3 save it for another day.

4 MR. CASEY: Yeah.

5 MR. BODNEY: That's fine.

6 MR. CASEY: We just have a disagreement.

7 MR. BODNEY: That's fine. Okay. I'm -- I think

8 I have asked all my questions today. Thank you.

9 THE WITNESS: Just -- the attorney will probably

10 say for me to shut up --

11 MR. BODNEY: Sure. Sure.

12 MR. CASEY: Shut up.

13 THE WITNESS: Okay. All right. I am done.

14 MR. BODNEY: No. Go ahead.

15 THE WITNESS: No. I --

16 MR. BODNEY: We are all ears, Sheriff.

17 THE WITNESS: Nope.

18 MR. BODNEY: All right.

19

20 EXAMINATION

21 BY MR. CASEY:

22 Q. Sheriff, my understanding from your testimony is

23 that you have been duly elected as the Maricopa County

24 sheriff and have served in that capacity for the past

25 17 years?

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1 A. Yes.

2 Q. In those 17 years, have you routinely engaged in

3 traffic -- making traffic stops personally?

4 A. No. No.

5 Q. Have you at all in 17 years made a traffic stop?

6 A. No.

7 Q. In the past 17 years, have you routinely made

8 arrests of people out in the field?

9 A. No.

10 Q. Have you -- in 17 years in your capacity as

11 sheriff, have you actually made an arrest?

12 A. I believe one time.

13 Q. During the course and scope of your duties as

14 sheriff over the last 17 years, have you questioned

15 suspects out in the field?

16 A. No.

17 Q. During the course and scope of your employment

18 in the last 17 years, have you made or done any bookings

19 of people arrested for crimes into your jail system?

20 A. No.

21 Q. Earlier in the -- let me back up.

22 Are you 287(g)-certified?

23 A. No.

24 Q. Have you undergone the training provided by ICE

25 regarding indicators that allows the exercise of 287(g)

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1 authority?

2 A. No.

3 Q. You were asked a series of questions about
4 whether you agreed or disagreed with certain factors or
5 indicators. Do you remember those series of questions?

6 A. Yes.

7 Q. The people that you employ as deputies that are
8 out in the field, are those the people that are better
9 qualified to answer how they respond or indicate -- strike
10 that.

11 Are the people that are out in the field
12 performing saturation patrols, are they the ones that are
13 better suited, in your opinion, to answer questions about
14 how they identify indicators of unlawful status?

15 MR. BODNEY: Objection to form.

16 THE WITNESS: Yes.

17 Q. BY MR. CASEY: Saturation patrols conducted by
18 the MCSO are conducted pursuant to Arizona state law, are
19 they not?

20 A. Yes.

21 Q. And 287(g) authority in the field before it was
22 canceled in mid-October of 2009 was exercised only
23 incidental to the operations of the MCSO pursuant to state
24 law?

25 MR. BODNEY: Objection. Form.
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1 A. Participated?

2 Q. Well, what is the one arrest that you have in
3 mind that you made?

4 A. I hate to say this, but it was a beautician that
5 whacked me in the head.

6 Q. When was that?

7 A. It was several years ago in -- of course, that
8 was a worldwide story, too.

9 Q. Did you participate in an arrest as recently as
10 last week?

11 A. I was at a scene of a crime.

12 Q. And did you participate?

13 A. No, I did not participate. I was an observer.
14 I think the question was how many times have I arrested
15 people.

16 Q. And I am just asking about the distinction
17 between arresting people and participating in the arrest.

18 A. Once again, semantics. I have not arrested
19 anyone except for the guy that punched me out.

20 Q. And that's because you --

21 A. I had to arrest him or I would be dead.

22 Q. And that's because you have deputies who are
23 with you and who can make those arrests for you, don't
24 you?

25 A. That is before I had the deputies.
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1 THE WITNESS: Yes.

2 Q. BY MR. CASEY: At any time did any ICE official
3 ever tell you that there was any concern, problem or
4 heartache, if you will, that the federal officials had in
5 the MCSO using traffic stops during saturation patrols?

6 A. No.

7 Q. At any time did any federal official indicate to
8 you at any time that they had concern that 287(g)
9 authority was being used subsequent to a lawful traffic
10 stop supported by probable cause?

11 A. No.

12 Q. At any time, sir, did you ever have anyone that
13 reported to you share with you concerns that had been
14 provided to them about ICE and use of traffic stops by
15 your office?

16 A. No.

17 MR. CASEY: Those are all the questions I have
18 for you. Thank you for your time and your patience.

19
20 EXAMINATION

21 BY MR. BODNEY:

22 Q. One very quick follow-up.

23 You mentioned participating in one -- or making
24 one arrest in the last 17 years. Have you participated in
25 more than one arrest over the last 17 years?

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1 Q. Well, for example, if you participated or
2 observed an arrest just last week, I assume it is true
3 that you had at least one deputy to make the arrest
4 itself?

5 A. No. I -- I was not with any deputy that made
6 the arrest.

7 MR. BODNEY: Okay. I have no further questions.

8 MR. CASEY: All right. He will read and sign.

9 VIDEO TECHNICIAN: This concludes the videotaped
10 deposition of Sheriff Joseph M. Arpaio. Today's date is
11 December 16, 2009. The time is 6:22 p.m.

12
13 (Proceedings adjourned at 6:23 p.m.)
14
15
16

17 JOSEPH M. ARPAIO
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CERTIFICATE

I HEREBY CERTIFY that the foregoing deposition was taken by me pursuant to notice; that I was then and there a Certified Court Reporter for the State of Arizona, and by virtue thereof authorized to administer an oath; that the witness before testifying was duly sworn by me to testify to the whole truth and nothing but the truth; pursuant to request, notification was provided that the deposition is available for review and signature; that the questions propounded by counsel and the answers of the witness thereto were taken down by me in shorthand and thereafter transcribed through computer-aided transcription under my direction, and that the foregoing type-written pages contain a full, true, and accurate transcript of all proceedings had upon the taking of said deposition, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to nor employed by any of the parties hereto, nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 21st day of December, 2009.

CARRIE A. SMALANSKAS
Registered Professional Reporter
Certified Realtime Reporter
Certified LiveNote Reporter
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