

1 A. No, sir.

2 Q. Did anyone in your agency do that?

3 A. No, sir.

4 Q. And this payment of the financial expense money for her,
5 was that approved -- I think use the term RAC, the agents --
6 what is it?

7 A. Resident Agent in Charge, yes.

8 Q. So that's Mike Stanfill?

9 A. Yes, sir.

10 Q. All right. And you have to do that, do you not, in
11 order to make the compensation payment?

12 A. Yes.

13 MR. DALY: That would be all the direct
14 examination, Your Honor.

15 THE COURT: Okay, folks. Let's take our morning
16 break and call it 15-minute break. We'll be in recess for
17 15 minutes. Same admonishments I gave you yesterday about
18 not talking about the case.

19 **(Break)**

20 * * * *

21 **(Jury enters the courtroom)**

22 CROSS-EXAMINATION

23 QUESTIONS BY MR. STOBBS:

24 Q. Good morning, Agent Scott.

25 A. Good morning.

1 Q. Some of the questions I have might be repetitive. I
2 apologize for that in advance. Okay?

3 A. Okay.

4 Q. First of all, if you could go in a little bit more depth
5 about the training you've had as a DEA officer.

6 A. I went to the basic four-month in-resident school, and
7 then after you graduate from the four-month school, you're
8 placed in a field agent training status for another 16
9 weeks, and then after that you just work side-by-side with
10 your partners.

11 Q. Were you in law enforcement before DEA?

12 A. Yes. I was a Probation Officer in the State of Florida.

13 Q. Okay. So you were Probation Officer, then you wanted to
14 become a DEA agent?

15 A. Yes.

16 Q. Were there any specifications or requirements that you
17 had to have prior to being a DEA agent?

18 A. The requirements are a Bachelor's degree in some
19 instances. I mean they like you to have a background in law
20 enforcement, but it's not necessary. You can get hired
21 without a background.

22 Q. Okay. And you obviously had those requirements or you
23 wouldn't be here today?

24 A. Yes, that's correct.

25 Q. And how long had you been Probation Officer prior to

1 being a DEA -- prior to entering the DEA -- is it called the
2 DEA academy?

3 A. Yes.

4 Q. -- prior to entering the DEA academy?

5 A. I was a Probation Officer for two-and-a-half years.

6 Q. And -- I'm sorry.

7 A. From that, I joined DEA.

8 Q. What year did you join DEA?

9 A. June of '97.

10 Q. So that's about eight years?

11 A. Correct.

12 Q. Okay. And if you could tell the ladies and gentlemen of
13 the jury a little bit about what your role is as I guess an
14 agent. What exactly do you do as an agent?

15 A. We develop cases on cocaine distributors, marijuana
16 distributors, any individuals who violate the federal
17 narcotics laws.

18 Q. And that could be -- and DEA focuses specifically on
19 drugs, the Drug Enforcement Agency, right?

20 A. Yes, sir, that's correct.

21 Q. When you say that you develop cases, that means that you
22 investigate?

23 A. Yes, sir, that's correct.

24 Q. And investigation includes signing someone up as a
25 confidential informant?

1 A. That's a part of an investigation, yes.

2 Q. So that I don't I guess use the wrong phraseology, what
3 would you prefer that I call someone like Ms. Whittenburg?
4 A snitch, a confidential informant, a confidential source?
5 What would you prefer that I use?

6 A. Whatever you're comfortable with. Cooperating
7 individual, cooperating source. Whatever you're comfortable
8 with.

9 Q. How about CI?

10 A. CI is perfect.

11 Q. So I'm going to call -- so you sign up CI's, right?

12 A. That's correct.

13 Q. And you also you work with local law enforcement?

14 A. That's correct.

15 Q. You work with U.S. Attorney's Office?

16 A. That's correct.

17 Q. Part of the investigation would be if someone tells you
18 something, you track it down?

19 A. Yes, that's correct. We corroborate information that's
20 passed on to us.

21 Q. And you use wire taps?

22 A. Yes, we do.

23 Q. Something like that, you'd have to go to someone like
24 Judge Herndon to get permission for that?

25 A. That's correct.

1 Q. And there's two kind of CI's: One is someone who has
2 not been charged federally, right?

3 A. Correct.

4 Q. And there's one like Ms. Whittenburg, who's been
5 actually -- she was charged by the state with an amount that
6 could be charged federally, right?

7 A. That's correct.

8 Q. Okay. And if someone is charged federally -- and I just
9 want you -- you've had people that have become CI's and who
10 have been charged federally, right?

11 A. Yes, I have.

12 Q. And you've signed contracts with them after they've
13 been -- after they have been charged federally?

14 A. Mostly no, sir.

15 Q. Part of that is because of the difficulty that you would
16 have -- there's -- lack of better way to say it, there's
17 more hurdles you have to go through?

18 A. That's correct. I'm not saying it can't be done,
19 because it has been done, but a normal procedure is, if you
20 can, if they're going to cooperate --

21 Q. Because you don't have to cross the T's or dot the I's,
22 it's less work?

23 A. No, sir. You still have to cross the T's and dot the
24 I's.

25 Q. But you don't have to go through as many hurdles?

1 A. I don't necessarily know if "hurdles" is the correct
2 word. The only -- I mean I can tell you what the additional
3 hurdle is, if that's what you're asking.

4 Q. I'm sorry?

5 A. I can tell you what the additional hurdle is, if that's
6 what you're asking.

7 Q. I wasn't asking about that. And I wasn't trying to trip
8 you up. It's just the thing is that someone like
9 Ms. Whittenburg in her position is kind of -- is something
10 that you would prefer as opposed to having someone who's
11 been charged federally?

12 A. I don't know as if I prefer it one way or the other. It
13 depends on the information that an individual can provide to
14 you, and that's really your determining factor in whether
15 you're going to utilize somebody as a cooperator or not.

16 Q. And when you do these investigations, your job -- you're
17 the person who gets the information before the
18 U.S. Attorney's office, is that correct?

19 A. That's correct, yes, sir.

20 Q. And what you do is you'll -- the information that you
21 get, you prepare a report, is that right?

22 A. Yes.

23 Q. And there's different things that we'll talk about, but
24 you eventually take what's called discovery?

25 A. Yes.

1 Q. Part of what you do is gather discovery?

2 A. Yes.

3 Q. You discover evidence?

4 A. Yes.

5 Q. And then you give all that evidence to the prosecutor,
6 right?

7 A. Correct.

8 Q. Now, the caveat would be though a CI, if I'm right?

9 A. Correct.

10 Q. Okay. Now, is part of your training at -- do you have,
11 I guess for lack after better word, like updates where you
12 go back and get training?

13 A. Yes, we do.

14 Q. How often do you do that?

15 A. Every five years.

16 Q. So you've done it once?

17 A. Correct.

18 Q. Okay. And while you're at the DEA academy, or as part
19 of your job, you're issued a DEA manual, is that correct, an
20 agent's manual?

21 A. Correct.

22 Q. And you depend on that, right?

23 A. Correct.

24 Q. And you refer to it?

25 A. Correct.

1 Q. And it has different rules and regulations to handle
2 various aspects of the case, right?

3 A. Correct.

4 Q. And it tells you how to proceed in a case, tells you how
5 to start a case?

6 A. I never read it to -- for it to teach me how to start a
7 case, no, sir.

8 Q. Is there mention in the -- if you know, in the DEA agent
9 manual, what reports need to be prepared to start a case?

10 A. Yes.

11 Q. And it indicates the different sections that are in the
12 reports, right?

13 A. Correct.

14 Q. And it talks about the timeliness of reports, right?

15 A. Correct.

16 Q. Now, Mr. Daly, when he was talking to you, you talked
17 about that you have, I guess an ongoing investigation in the
18 Alton area, is that right?

19 A. That's correct.

20 Q. That's a much bigger case than just what we're here for
21 today?

22 A. That's correct.

23 Q. And that's actually what's called a conspiracy, right?

24 A. That's correct.

25 Q. And in that case, you use CI's like Ms. Whittenburg?

1 A. Yes.

2 Q. And I didn't ask you -- and I apologize, I should have
3 asked you when I was asking earlier, but another
4 investigative means that you have, tool I guess, is what's
5 called a buy bust, is that right?

6 A. That's correct.

7 Q. And that's what happened with Chris on September 10th of
8 2003, right?

9 A. No, sir.

10 Q. I'm sorry. But a buy bust would be where you buy it
11 from them and then you arrest them?

12 A. That's correct.

13 Q. And in this case, regarding Mr. Taylor, the target was
14 Duane Bradford, right?

15 A. There were --

16 MR. DALY: Your Honor, I'm going to object to any
17 other references to other investigations as that's not
18 germane unless there's an offer of proof.

19 MR. STOBBS: Judge, could we approach?

20 THE COURT: Sure.

21 * * * *

22 **(Discussion held at sidebar:)**

23 MR. STOBBS: What's germane, Judge, and the reason
24 that I want to get into this is because what they want to do
25 is Mr. Taylor as a snitch against Duane Bradford. That was

1 the reason that -- one of the reasons that they want May
2 11, 2004, on all the reports -- the file title is
3 Duane Bradford, and I think I have an absolute right to
4 question her about the reports that she prepared and why the
5 file title is as it is.

6 MR. DALY: Your Honor, I would object to any
7 references to individuals, and I think this is part of -- he
8 goes by the name Boxhead.

9 MR. STOBBS: Yes.

10 MR. DALY: So that we're clear, to go into another
11 case is improper. I think that it can be accomplished
12 without naming names, but that there were other people, if
13 that's what he wants to do, but to put something out that's
14 an ongoing investigation compromises that investigation and
15 is not necessary in my analysis of where you want to go with
16 your case, Mr. Stobbs. I think it can be accomplished
17 without naming individuals, and I have an obligation to try
18 to protect ongoing investigations.

19 MR. STOBBS: Judge, Tina Whittenburg -- this goes
20 to the credibility of Tina Whittenburg too.
21 Tina Whittenburg has told the Alton police something in
22 January of 2003; she's now telling Ms. Scott something
23 different in August of 2004. She named names. That was
24 part of the discovery. I think I'm entitled to talk about
25 the credibility of Tina Whittenburg as to whether or not it

1 was true. The statement that was contained in the report,
2 the final tie-up of all these cases regarding Mr. Taylor is
3 Duane Bradford, and I think -- it might be an ongoing
4 investigation, but Mr. Taylor's the one here on trial and I
5 think that I have an absolute right to talk about who
6 Ms. Whittenburg bought from and what they wanted Mr. Taylor
7 to do.

8 MR. DALY: Well, it's common practice, from what
9 I've seen, Your Honor -- and you can develop this with the
10 witness -- that they may title a particular DEA 6 with one
11 defendant's name and then they may have six, seven, eight,
12 nine, ten people, as you talked about, a conspiracy.

13 MR. STOBBS: Judge, I'm going to get into what the
14 DEA manual says that the file title is the person that is
15 the target of the investigation, the big guy in the
16 investigation. On these DEA-6's all involves how big the
17 target is; in this case, Duane Bradford. Ms. Whittenburg
18 was paid. Part of why she's paid is depending on the G-dep
19 number. The higher the number, the more she gets paid. I
20 think I'm absolutely entitled to ask all of those questions,
21 and the fact that Duane Bradford's name is going to be
22 mentioned -- well, Mr. Taylor's the one here on trial, and I
23 think that that's -- given this discovery, I have a right to
24 question her as to why these things are in the discovery.

25 MR. DALY: The question, Your Honor, is the

1 relevancy of this. And also, I make note that I think
2 there's a gentleman that's been in this courtroom -- he's
3 had a notebook -- I think is a reporter. Now, we're going
4 to have potentially -- and I don't know what paper he's
5 with, but in a paper have that name then put in the paper.
6 I'm objecting to that. If we need to get a recess, I've got
7 Mike Stanfill, who's the RAC officer for DEA, out here right
8 now to testify with respect to usage amount.

9 MR. STOBBS: We're here --

10 MR. DALY: I would also ask John if what your
11 intention is -- I heard in your request to go forward with
12 this that you're going to be naming other people too?

13 MR. STOBBS: I can get that -- I can say that she
14 named these people and that's something that I can work
15 around that, but -- by the way, all those people have been
16 charged, and I think that this goes to the credibility of
17 Tina Whittenburg. That's part of it, but also the fact that
18 I think I have an absolute right to question her about her
19 report.

20 MR. DALY: I don't know all the in's and out's,
21 Your Honor, but I can tell you on good faith that there is
22 also pending another rather large investigation in the very
23 near future probably will be involving arrests.

24 THE COURT: Well, this is just -- your objection is
25 only that he's -- only to the fact that he's using the name

1 or to the fact that the whole inquiry is irrelevant? What's
2 the nature of your objection?

3 MR. DALY: Well, actually I don't think that he
4 should use the name of Duane Bradford or anyone else. I
5 think that he can say that there are individuals being
6 investigated. I think that that could be a remedy. I also
7 think that if he's going to then try to name anyone else --
8 obviously, from what I have knowledge of, there are ongoing
9 investigations. There has been a rather large indictment
10 returned with individuals being charged in this district
11 within the last four or five months.

12 MR. STOBBS: My secretary ran on the docket sheet
13 the people that -- Anthony Womack. I think most of those
14 people have been charged. I mean --

15 MR. DALY: That's what I am talking about is
16 relevancy. This is irrelevant to this case, unless there's
17 some -- you have some tie-in to how this is relevant to your
18 client's defense. I fail to see that. And then to -- I
19 don't know where you're going exactly, but I have the
20 impression from your opening statement that you want to try
21 to discredit this witness, so if that's your relevancy, want
22 to make an offer of proof, fine, but otherwise, Judge, I
23 feel that we are compromising other investigations, and that
24 is not necessary.

25 THE COURT: Well, that's part of the problem I've

1 got is, what is the relevance of the issue, of the fact
2 that -- of this theory that they sent a CI in after he
3 failed to become a snitch? I mean what's -- that's not a
4 defense. Why is that relevant? Why is that a defense?

5 MR. STOBBS: I don't understand your question.

6 THE COURT: Is entrapment your defense?

7 MR. STOBBS: No. I'm not trying to make you mad.
8 I apologize if I am. What my defense is is that the
9 investigation of the case on September 10th, that they
10 didn't follow proper police procedures. And I haven't
11 gotten into that yet, and I think you're going to see they
12 didn't follow proper police procedures, and I think that
13 part of it is when the proper police procedures were not
14 followed, that relates to the May 11 incident because they
15 didn't follow proper police procedures then. I think my
16 theory -- my defense is that it's a negligent investigation
17 or made in bad faith, and I think -- I'm going to try to
18 prove through the evidence.

19 THE COURT: You're theory is they sent in a CI so
20 they can get a legitimate case against them to cover up for
21 their prior failures or something?

22 MR. STOBBS: No. The CI case took place before all
23 this. What I think happened, Judge, is that in August of
24 2003, Ms. Scott sits down with Tina Whittenburg. They had a
25 case on Boxhead. Beforehand Boxhead's name came up on the

1 mat I say -- if I'm wrong, I apologize. I think his name
2 came up then they talked to Chris Taylor -- or I'm sorry,
3 they -- when Ms. Scott -- when Tina Whittenburg mentions
4 Chris Taylor's name, his name doesn't come up in the NADDIS,
5 but the file title is Boxhead, Duane Bradford. That was the
6 discovery provided to me, and I think I should be able to
7 question her about the report that she's prepared, first of
8 all.

9 Second of all, I think I'm entitled -- that talks
10 about the credibility of Tina Whittenburg. How a NADDIS
11 number works, Judge, if someone's name is mentioned in the
12 investigation by -- if Chris's name had been mentioned in
13 January of 2003 -- okay. If there's an investigation, his
14 name's mentioned, he gets a NADDIS number right then.
15 January 2003, he gets a NADDIS number. If his name's not
16 mentioned until August 22nd, then he would have a NADDIS
17 number. If it was mentioned in January and in August, he
18 would have a NADDIS number. She testified that Whittenburg
19 talked about Chris Taylor I think in spring. Well, spring
20 for me is before August. He would have a NADDIS number. He
21 doesn't. That goes to the credibility of Tina Whittenburg.

22 MR. DALY: But that doesn't require mentioning
23 other defendants that are potential -- investigation or
24 investigations that are potentially to be resulting in other
25 defendants. That, I can't see. And if you want to say that

1 she didn't put -- without mentioning names, with respect to
2 your client, I don't have an objection to that, and inquire
3 of her of that, if she didn't follow some procedure, but
4 Judge, I fail to see how then we can delve into areas of
5 other -- I don't know where you're going exactly with your
6 position, but let's say hypothetically you're going to say
7 she didn't do something with correct procedure wise within
8 the manual with respect to Duane Bradford. What relevance
9 does that have to this case? I don't know whether you're
10 going there or not, but I -- and I don't have any knowledge
11 of that, but I'm just saying, hypothetically, but to then
12 start throwing out other names in the courtroom, I have to
13 object to that, Your Honor. I don't see the relevance of
14 that.

15 MR. STOBBS: The only --

16 MR. DALY: I'm sorry. Unless you have direct
17 tie-in information that relates to this case, and I don't --
18 I'm not trying to preclude that if you do, but I --

19 THE COURT: Why don't you get right to the point
20 with this, with whether or not he had a NADDIS number
21 earlier than August of '03. I mean that's what you're
22 trying to get at.

23 MR. STOBBS: Yeah, I am, but the thing is, what I
24 don't want to do is I don't want to put everyone in the
25 precarious position by trying to go back to this point. And

1 for me, Judge, I'm going to do whatever I'm told to do. And
2 you've let me make a record as to why I think it's important
3 to be able to mention Duane Bradford. What I don't want to
4 do is to come back up here and basically -- you're right,
5 that's what I'm going to do, and I'm trying to lay the
6 ground work.

7 THE COURT: I'll sustain the objection as to the
8 names of other investigations or other persons under
9 investigation, and I'm going to give you some latitude on
10 trying to suggest that Tina Whittenburg didn't mention him
11 before, but you know, I think there's some problems with the
12 relevancy of the defense you're suggesting, and you know, I
13 think it's going to create other problems as far as
14 admissible evidence that you're talking about, but we'll
15 cross that bridge when we come to it.

16 MR. STOBBS: I don't know if it's proper to do
17 this, but I've been given a report, and the report -- if you
18 see these DEA-6's, they have file number, file title and all
19 that stuff, and the file title says Duane Bradford. Okay.
20 And I don't want -- I'm not trying to be difficult but I
21 want to make sure because I made the record as to why I
22 think I should be able to say his name. If I'm clear, you
23 you're saying not to do it?

24 THE COURT: Yeah.

25 MR. STOBBS: Okay.

1 THE COURT: If you show it on the document camera,
2 make sure it's blocked out or above the -- where the
3 document camera --

4 MR. STOBBS: Again, the NADDIS number is something
5 that I can -- you know, that comes up. Okay. Thanks.

6 *(End of discussion at sidebar)*

7 * * * *

8 Q. (BY MR. STOBBS) Now, the reports when you interviewed
9 individuals, those are put into what's called DEA-6, is that
10 right?

11 A. That's correct.

12 Q. And there's what's called a report of an interview?

13 A. You could title it that, yes.

14 Q. And it's broken down into various sections, right?

15 A. Yeah, yeah.

16 MR. STOBBS: Judge, is there a way to make it so
17 the monitors are only seen by -- I guess the big one is off?
18 Is that possible, or no?

19 THE COURT: The big one's off but have the jury
20 see?

21 MR. STOBBS: Yes.

22 THE COURT: No. The big one is connected to the
23 jury as well, so we would only --

24 MR. STOBBS: I'll do it this way.

25 THE COURT: The jury's is off right now.

1 MR. STOBBS: I know that, Judge.

2 Q. (BY MR. STOBBS) I'm going to hand you what's been marked
3 as Defendant's Exhibit 8, okay? I'm going to ask you if you
4 can identify that, please.

5 A. It's a DEA-6 written by me, report, reference initial
6 debriefing of CS-03-113308, on August 22nd, 2003.

7 (Exhibit No. Deft. 8 was identified)

8 Q. (BY MR. STOBBS) And there's a caption, is that right?
9 And I call it caption, where it has -- if you could follow with
10 me, okay? It says, "Report of Investigation", is that right?

11 A. That's correct.

12 Q. Okay. Then there's like a -- lack of a better way to
13 say it, there's like a box?

14 A. Yes, the header. Call that the header section.

15 Q. Header, okay. What I want to do is I want to ask you,
16 there's number -- the header is broken down by numbers one
17 to ten, right?

18 A. Correct.

19 Q. Okay. And --

20 MR. STOBBS: Judge, I am now ready where I can show
21 it to the jury.

22 THE COURT: Okay. Have to admit it or get
23 permission from Mr. Daly.

24 MR. STOBBS: If I could move to admit No. 8,
25 Exhibit 8.

1 MR. DALY: May I have just a moment, Your Honor?

2 MR. STOBBS: Judge, pursuant to what we had spoken
3 about at the sidebar, I think I've been able to remedy that
4 situation.

5 THE COURT: Okay.

6 MR. STOBBS: It's the August 22nd, 2003.

7 MR. DALY: May I see it?

8 MR. STOBBS: Yeah, absolutely.

9 MR. DALY: Your Honor, I would not object to the
10 admission of the exhibit as long as there are redactions as
11 discussed at the sidebar of any other unrelated matters.

12 THE COURT: Okay. Is it redacted form now so we
13 can show it to the jury?

14 MR. DALY: What I just examined, it is not at the
15 moment, but I think Mr. Stobbs has assured me he can proceed
16 without that being done, and it will be done subsequent.

17 MR. STOBBS: Judge, if there's a record I could
18 make before the lunch break, I'd appreciate that.

19 THE COURT: Sure.

20 Q. (BY MR. STOBBS) Now, one of the things that it has is the
21 file number, is that right?

22 A. That's correct.

23 Q. And the IZ, that's for your Fairview Heights office?

24 A. Yes, that's correct.

25 THE COURT: This Exhibit 8 we're looking at now?

1 MR. STOBBS: Yes, sir.

2 MR. DALY: Your Honor, I'm sorry.

3 THE COURT: Are we going to be able to cure the
4 problem we talked about before? The jury's monitors aren't
5 on yet, so --

6 MR. DALY: All right. You can proceed then, but
7 the same issue is there.

8 MR. STOBBS: There's no names.

9 MR. DALY: Behind the header there that you have
10 there are names.

11 MR. STOBBS: Let me just do it this way. If you
12 could turn my thing off.

13 Q. (BY MR. STOBBS) Let me do it this way. The file number
14 is in No. 3, is that right?

15 A. Yes, that's correct.

16 Q. Okay. And IZ, that stands for the Fairview Heights
17 office?

18 A. Yes.

19 Q. '03, that's the year of the investigation?

20 A. Yes, that's correct.

21 Q. And then 61, that's the number I guess of the case that
22 started in the Southern District of Illinois, right?

23 A. Correct.

24 Q. I'm sorry?

25 A. It would be the 61st case that for that year.

1 Q. Okay. And you have -- in the fourth part, that's --
2 they have a G-DEP identifier, is that right?

3 A. That's correct.

4 Q. And G-DEP, that stands for GO Drug Enforcement Program?

5 A. Yes.

6 Q. That's a code that you -- I guess that's something that
7 you apply for?

8 A. No, sir.

9 Q. How does a case get a G-DEP number?

10 A. Based on the type of investigation. There's different
11 codes that could be for the first character, the second
12 character, the third, fourth, and fifth, and you just pick
13 those depending on what kind of case you expect your case to
14 be.

15 Q. And that's a way that you would seek reimbursement for
16 costs or something like that, based on the G-DEP number?

17 A. No, sir.

18 Q. And you have the file title, is that right?

19 A. That's correct.

20 Q. Now, in this case the file title is not Chris Taylor?

21 A. That's correct.

22 Q. And the file title is the name of the foremost
23 individual known at the time of the file opening, right?

24 A. It's one of the individuals that -- it's just one of the
25 individuals.

1 Q. And it's upon whom the G-DEP classification is initially
2 based, right?

3 A. No. Most of the G-DEP is going to be for the whole
4 case. You're either going to investigate all cocaine people
5 or marijuana organization or cocaine, so the G-DEP fits not
6 just one person.

7 Q. But you can get a G-DEP for a different file title,
8 right?

9 A. Every file title has a G-DEP associated with it.

10 Q. The higher the G-DEP, that's relative to how much the
11 confidential informant gets paid?

12 A. No, sir.

13 Q. Does the G-DEP have anything to do with how much the
14 confidential informant is paid?

15 A. No, sir.

16 Q. And the date prepared, that's in No. 8, is that right?

17 A. Yes.

18 Q. And the DEA manual indicates that the DEA-6's should be
19 prepared five days from the date of the interview, right, or
20 from the date of the investigation, right?

21 A. From five days from the date of particular occurrence,
22 yes.

23 Q. And for example, Exhibit 8, that investigation took
24 place on August 22nd, 2001, right -- or 2003? I'm sorry.

25 A. That's the date that I determined to sign

1 Tina Whittenburg as a confidential informant. Based on the
2 information that I had gathered from her, this is when we
3 sat down and went over everything finally and I determined
4 to utilize her as a confidential source, and that's the date
5 of the report.

6 Q. My question though is, that's the date -- that was the
7 date of the investigation, right, August 22nd, 2003?

8 A. It was the date that I determined to sign her up.

9 Q. Okay. Which was August 22nd, 2003?

10 A. Correct.

11 Q. And you actually prepared the report the same day?

12 A. Correct.

13 Q. And on Exhibit 8 in the "Report Re", that's what the
14 report involves, right?

15 A. That's correct.

16 Q. And it says the initial debriefing of Tina Wittenberg's
17 number on August 22nd, 2003?

18 A. That's correct.

19 Q. And when you get to the "Drug Related Information", that
20 talks about what took place, right?

21 A. What do you mean, what took place?

22 Q. You talk about the drug related information. That's
23 information she's giving you?

24 A. That's correct.

25 Q. What does the first paragraph say?

1 A. On August 22, 2003, myself and Sergeant Mark Dorsey,
2 Alton Police Department, re-interviewed CS-03-113308, CS, at
3 the Alton Police Department.

4 Q. So that was not the initial debriefing?

5 A. No, sir. That was the initial debriefing. The term
6 "re-interviewed" -- if you remember from my previous
7 testimony, I talked with her in April. At the time she
8 wasn't a confidential source, but I re-interviewed her.

9 Q. Let's talk about that time you talked to her in April.
10 You said in April you went to the Madison County jail to
11 talk to her?

12 A. I believe it was in April. I'm not -- yes.

13 Q. Well, take notes, right?

14 A. On that date, no, I did not.

15 Q. Do you generally take notes when you go to meet with
16 someone?

17 A. On a first interview, not knowing what they're going to
18 provide, no, I don't. No, we don't always take notes.

19 Q. Do you have any travel documents or any other records to
20 indicate exactly when you would have spoken to
21 Ms. Whittenburg the first time?

22 A. No, sir.

23 Q. And did you prepare any sort of a report for this when
24 you talked to her in April?

25 A. No, sir, I did not.

1 Q. Did you get any information from her in April?

2 A. I had Sergeant Mark Dorsey's report from the statement
3 that she provided to him. She basically reiterated the same
4 information, so I did not write a report.

5 Q. All right. So you're saying that Mark Dorsey wrote a
6 report?

7 A. He took a statement from her on the day of her -- on the
8 day of her arrest.

9 Q. Which is in January, I think the last date of January
10 2003?

11 A. Correct.

12 Q. And at that time she told you that the statement that
13 she made in January of 2003 was true and correct?

14 A. That's correct.

15 Q. And she didn't have any other names to add, did she?

16 A. I don't remember.

17 Q. If you had notes, you could remember, right?

18 A. That's correct.

19 Q. If you had a report, you could remember, right?

20 A. Possibly, yes.

21 Q. Now, you prepare a case initiation report, right?

22 A. Yes.

23 Q. And is that something you would have done in this case?

24 A. Yes.

25 Q. I want to show you Defendant's Exhibit 51. I'm going to

1 ask if you can take a look at it.

2 MR. DALY: Your Honor, may I ask if Defendant's
3 Exhibit 51 is just one page or two pages? I know the
4 witness has just been handed two pages.

5 THE COURT: Mr. Stobbs?

6 Q. (BY MR. STOBBS) How many pages is that?

7 A. I have two.

8 Q. Okay.

9 MR. DALY: Witness has been handed two pages. I
10 may have misspoke.

11 (Exhibit No. Deft. 51 was identified)

12 Q. (BY MR. STOBBS) You've been handed two pages, right?

13 A. That's correct.

14 Q. That's all the report is, right?

15 A. Yes.

16 Q. Okay. And on number ten it says that the case
17 initiation, right?

18 A. Right.

19 Q. And then it goes down, says that during August 2003 you
20 and Mr. Dorsey interviewed Tina Whittenburg, right?

21 A. Yes.

22 Q. What date was that prepared?

23 A. September 5th.

24 Q. So it would have to have been done a few days -- within
25 a few days of August to make the five-day reporting

1 requirement, right?

2 A. That's correct.

3 Q. So is this prepared after Exhibit 8?

4 A. Yes.

5 Q. How is it that a case initiation is prepared after the
6 debriefing?

7 A. Because when you do the debriefing, you actually grab a
8 case file from a book that's located in our office. It's
9 not automated; it's an actual book. You write the case
10 number down in the book and you do the debriefing. So I
11 knew that I had a case number already. I just -- I
12 overlooked the actual case initiation report, and that's the
13 date that's on it.

14 Q. Where would we be able to see that in the case
15 initiation which is Exhibit 51?

16 A. Where would you be able to see what?

17 Q. What you just testified to.

18 A. I don't follow. There's -- we have a log book in our
19 office. That's where the case numbers come from.

20 Q. Case initiation is when something starts, right?

21 A. I guess that's a good definition, yes.

22 Q. And logically something would start before someone is
23 re-interviewed, right?

24 A. No.

25 Q. Okay. And when -- this is something that you would turn

1 over to the prosecuting attorney, right?

2 A. That's correct.

3 Q. Do you know when you turned that over to Mr. Daly?

4 A. No, I don't.

5 Q. If I told you within -- in August of 2005, would that be
6 correct?

7 A. It could be.

8 Q. Is it?

9 A. I don't remember when I turned over the reports to him.

10 Q. Would it have been the initial batch of discovery that
11 you turned over to Mr. Daly?

12 A. It might not have.

13 Q. Well, actually wasn't, was it?

14 A. I don't remember.

15 Q. Now, in Exhibit 51, Tina Whittenburg mentions -- in
16 Exhibit 51 she mentions multi-ounce dealers of crack cocaine
17 in the Alton area, right?

18 A. Correct.

19 Q. And she says she's purchased half -- from half-ounce
20 quantities to ounce quantities from Chris, right?

21 A. That's correct.

22 Q. And at the end of the reports there's what's called a
23 NADDIS number, right?

24 A. That's correct.

25 Q. And that's Narcotics And Dangerous Drug Information

1 System?

2 A. Yes, sir.

3 Q. Now, that is reported in the indexing section of a
4 DEA-6, right?

5 A. Yes.

6 Q. And you're trained that if a NADDIS number is negative,
7 you include all the identifying information about the
8 individual, right?

9 A. That's correct.

10 Q. And if -- and these NADDIS numbers, they can go all
11 across the United States, right?

12 A. It's a DEA specific number.

13 Q. You have a computer, right?

14 A. Yes.

15 Q. So you can -- if someone mentions a name -- God forbid,
16 John Stobbs -- is involved in some illegal narcotic
17 activity, I would get a NADDIS number, right?

18 A. If somebody took the initiative and put the appropriate
19 documentation in to get you a number.

20 Q. Well, I mean if you know someone's dealing multi-ounce
21 quantities of crack cocaine in your district, you're going
22 to put that guy's name in there, right?

23 A. No, it doesn't -- no, it's not like that.

24 Q. So it's like whenever the agent decides to run a -- to
25 enter a NADDIS number for someone, they do it?

1 A. I don't understand.

2 Q. What you're saying is that if the agent doesn't take, I
3 think you used the word "initiative" to create a NADDIS
4 number, it's not going to be created?

5 A. That's correct.

6 Q. So you could have someone like some big drug dealer,
7 that if the case agent never takes the initiative, he's not
8 going to get a NADDIS number?

9 A. If you do a report and index somebody and put their
10 identifiers in the report and do another piece of paper,
11 then they will get a NADDIS number.

12 Q. Sure. And the information that Ms. Scott gave you on
13 those six individuals in Alton, they all had NADDIS numbers,
14 right?

15 A. They were already in the system, yes, sir.

16 Q. They were -- had NADDIS numbers?

17 A. Yes.

18 Q. When she talks to you all in August of 2003, all of
19 those people had NADDIS numbers except for Chris Taylor,
20 right?

21 A. Yes.

22 Q. You said, when we were talking earlier, that -- let me
23 ask you this. We can go to another topic: If
24 Ms. Whittenburg talked to you in April, as you say she did,
25 and you had taken the initiative to prepare a report and

1 taken the initiative to put the identifiers about Chris in
2 there, in August he would have had a NADDIS number, right?

3 A. No.

4 Q. So when she mentioned his name the second time in August
5 and it had been a report, he wouldn't have a NADDIS number?

6 A. No.

7 Q. So even if you put the identifiers in there when you
8 first met with her, he would not have a NADDIS number when
9 you spoke to her again in August and prepared your report?

10 A. There's a good possibility no. Sometimes it takes six
11 months from the time of the date of a report. Sometimes it
12 takes nine months. A NADDIS number is -- it just means
13 they've been mentioned.

14 Q. Well, the September report that you prepared about the
15 drug buy, you remember that?

16 A. Yes.

17 Q. Now, that was September 10th, 2003, that the transaction
18 took place?

19 A. Yes.

20 Q. You took the initiative to put Chris's identifying
21 information on August 22nd?

22 A. I don't understand your question.

23 Q. If you look at the indexing section for the August 23rd,
24 2003 report that you prepared, you put in there identifying
25 information regarding Chris Taylor?

1 A. That's correct.

2 Q. And you put in there where he lived?

3 A. Yes.

4 Q. You put in there phone numbers he used?

5 A. Yes.

6 Q. And then in September of 2003, you prepared a report of
7 the drug buy that took -- the drug transaction that
8 supposedly took place, right?

9 A. Right.

10 Q. And he had a NADDIS number on September -- when you
11 prepared the September 10th report?

12 A. If there was a NADDIS number, then yes, he had it. This
13 is the date -- on August 22nd, it's negative. All the
14 identifiers are put in. I am not the one personally
15 responsible for getting a NADDIS number. It comes from our
16 DEA headquarters in Washington. Sometimes it's three
17 months, sometimes it's six months. It could be --

18 Q. Three weeks?

19 A. Yeah.

20 Q. Lickety-split?

21 A. I don't have the answer for that.

22 Q. And what does it mean, "NADDIS Pending"?

23 A. On September 5th, because his information was already
24 previously entered on August 22nd, it's pending, it's
25 waiting for -- to get entered into the system.

1 Q. Is that something that some agent out in like say
2 Boston, that if he entered the name Christopher Taylor he
3 would be able to show in the indexing system "NADDIS
4 Pending"?

5 A. No, sir. He would have no idea that the number was
6 pending because it's not in NADDIS. He can only look in
7 NADDIS.

8 Q. As you sit here today, do you know how long it took for
9 Chris Taylor to get a NADDIS number?

10 A. No, I do not.

11 Q. If the NADDIS number was pending, that would mean that
12 the identifying information had been entered, right?

13 A. It had been submitted.

14 Q. It had been submitted by you?

15 A. Correct, from this report.

16 Q. Now, you indicated that you were aware that
17 Tina Whittenburg had talked to Mark Dorsey in January of
18 2003, when she was arrested?

19 A. She provided him with a statement, yes.

20 Q. And sometimes we'll call that -- that would be called a
21 confession, right?

22 A. Yes.

23 Q. She confessed to her criminal activities?

24 A. Correct.

25 Q. She told Detective Dorsey -- is it Detective, right?

1 A. Yes.

2 Q. She told Detective Dorsey where she got her crack from?

3 A. Correct.

4 Q. She told Detective Dorsey who she sold it to?

5 A. I don't know that for sure.

6 Q. Would she have told him -- let me ask you this: When
7 you're interviewing people, you're interested to know who
8 they're getting it from, right?

9 A. Yes.

10 Q. And who they're distributing it to?

11 A. Yes.

12 Q. Because some of the smaller people -- you were talking
13 to the prosecutor earlier -- that's kind of a way to move up
14 the ladder, right?

15 A. Yes.

16 Q. Having trouble with your earlier ruling. Let me ask it
17 this way, and if I confuse you, please tell me because I'm
18 doing the best I can.

19 A. Okay.

20 Q. Do you have knowledge of the report, the statement she
21 made in January?

22 A. Do I have knowledge of it?

23 Q. Do you remember, as you sit here today? Did you review
24 it before you came in here today?

25 A. No, I did not. No.

1 Q. As you sit here, can you recollect if some of the people
2 that are mentioned in the January 2003 statement would have
3 been some of the people that were in the August 2003
4 statement?

5 A. Yes. I mean I would -- I mean I don't know for sure.

6 Q. Wouldn't surprise you?

7 A. It wouldn't surprise me.

8 Q. And she talks about -- with Detective Dorsey she talks
9 about some pretty big drug dealers in Alton, right?

10 A. Correct.

11 Q. And those are people we've talked about who have NADDIS
12 numbers, right?

13 A. Correct.

14 Q. Some of them?

15 A. Some of them, yes, uh-huh.

16 Q. And when you talked to her in April, did she mention
17 those same people?

18 A. Yes.

19 Q. She didn't have -- let me ask you this. Let's go here.
20 She didn't have a deal with you, she hadn't signed up with
21 you in April, right?

22 A. No, sir.

23 Q. And she didn't have any sort of agreement with the Alton
24 Police Department?

25 A. I can't answer that. I don't know.

1 Q. If she were dealing drugs between the time she was
2 arrested in say January of 2003, the time that you talked to
3 her in August of 2003, wasn't with your permission, was it?

4 A. That's correct.

5 Q. As far as you know, it wasn't with the City of Alton's
6 permission?

7 A. Again, I can't answer. I don't have direct knowledge of
8 that.

9 Q. I'm sorry. She could have been freelancing, right?

10 A. That's possible.

11 Q. And that happens from time to time, doesn't it?

12 A. Sure.

13 Q. And that's something you wouldn't approve of?

14 A. That's correct.

15 Q. And when she talked to you in August of 2003, who was
16 present with you?

17 A. Sergeant Dorsey.

18 Q. How many times -- it says during August. How many times
19 did you talk to her in August, do you remember?

20 A. No. Some of the times would have been by telephone.

21 Q. When you talk to someone, do you have any sort of rules,
22 regulations, or procedures to make notes of what you talked
23 about?

24 A. No.

25 Q. To prepare memorandum?

1 A. No.

2 Q. To do like a report of interview?

3 A. If I'm going to interview her, then yes, you do a
4 report.

5 Q. Suppose you meet with her at a Hardee's, right?

6 A. Yes.

7 Q. Suppose you met with her at Hardee's and you're talking
8 about people that you want to set up in Alton, okay? Would
9 you do a report of that?

10 A. It depends on the information. I try to independently
11 corroborate the information before I actually put it on
12 paper, so I --

13 Q. In the DEA manual is there any mention that agents
14 should save notes?

15 A. Yes, there is.

16 Q. And do you save your notes?

17 A. Yes, I do.

18 Q. Do you have notes from this case involving
19 Tina Whittenburg from January 2003 to August of 2003?

20 A. I'm sure I do.

21 Q. Well, where would you look for them?

22 A. In my top desk drawer. I have about six or seven
23 notebooks that have just little scribble notes from various
24 phone conversations with people.

25 Q. I'm sorry. You rely on those notes to help you prepare

1 a report?

2 A. If -- yes.

3 Q. I mean you're not going to just do it from your memory?

4 A. I'm going to take -- I do a lot from my memory. The
5 notes are a guide.

6 Q. And on August 22nd, you talk about how you had
7 interviewed her during August. Remember that?

8 A. Yes.

9 Q. Now, you would have taken notes during August, right?

10 A. I would have taken notes when I interviewed her, yes.

11 Q. And when you prepared this report, you would have relied
12 on those notes, correct?

13 A. Correct.

14 Q. And those notes are still in existence so far as you
15 know?

16 A. So far as -- they're in my note pad, yes.

17 Q. But you told us in the DEA manual you're not supposed to
18 throw them away, so you would have them, right?

19 A. No, because I do -- no. Some scratch notes I do throw
20 away.

21 Q. Is there a distinction in your mind between say a
22 scratch note and an actual like when you're sitting down
23 talking to someone?

24 A. Yes. There's a big difference, yes.

25 Q. Okay. In your experience as a DEA agent, you've worked

1 with probably hundreds of confidential informants, right?

2 A. A good number, yes.

3 Q. That's part of your business?

4 A. Yes.

5 Q. And you know that some confidential informants are
6 inherrently unreliable, right?

7 A. Yes.

8 Q. You might get someone that you sign a contract with and
9 it says the exact thing that they're supposed to do and they
10 break that contract, right?

11 A. Yes.

12 Q. They lie to you?

13 A. Yes.

14 Q. They're independent contractors so-to-speak. They keep
15 dealing on their own, right?

16 A. I can't -- I mean not all of them. I mean you're making
17 a generalization.

18 Q. Some of them do. I apologize. You're right. Some of
19 them do, right?

20 A. It's occurred, yes.

21 Q. Some confidential informants, they actually use that to
22 better their lives, right?

23 A. I can't answer that. I can't speak for them.

24 Q. You've had people that have been confidential informants
25 who have no criminal history, right?

1 A. Yes.

2 Q. And those are people that you catch them before they're
3 charged federally, right?

4 A. Yes.

5 Q. And for lack of a better way to say it, they've learned
6 the mistake of their ways and they don't break the law
7 again, right?

8 A. Right.

9 Q. And that's a benefit of being a confidential informant
10 is that they get, I guess a bite of the apple and they're
11 able to go on with their lives, right?

12 A. Yes.

13 Q. And then on the opposite spectrum is someone who you
14 sign up, you sign up as a confidential informant, right?

15 A. Yes.

16 Q. And they keep breaking the law, right?

17 A. There are some occasions, yes.

18 Q. They haven't learned the error of their ways, have they?

19 A. No.

20 Q. Now, part of the DEA manual indicates that there are
21 requirements to become a confidential informant, right?

22 A. Yes.

23 Q. You can't just sign up some really bad, really bad
24 person, right?

25 A. Correct.

1 Q. And one of the requirements is that they have to be able
2 to help you guys, right?

3 A. Yes.

4 Q. In other words, you don't want someone signed up that's
5 just some low ball addict that's not going to be able to go
6 up the ladder, right? You would prefer to have someone that
7 can be proactive?

8 A. Yes, I would prefer that.

9 Q. And you want to make sure that they're trustworthy in so
10 far as they're not going off running their mouth, hey, I'm
11 working for the DEA, right?

12 A. Right.

13 Q. You want to make sure they're not someone that's going,
14 hey, you know, the DEA's paying me money to help out, right?

15 A. Right.

16 Q. And you want to make sure they're someone that when you
17 say, hey, listen, be here at a certain time, they're there,
18 right?

19 A. Yes. I would love to have someone like that.

20 Q. A lot of them aren't like that, I understand that, but
21 your preference is that you're able to rely on them, right?

22 A. Yes.

23 Q. And also part of it is that they're able to accept
24 direction, right?

25 A. Yes.

1 Q. Now, direction could be as simple as, hey, buy dope from
2 him, right, buy dope from someone?

3 A. That's a direction, yes.

4 Q. Direction could be, hey, stop breaking the law, right?

5 A. Yes.

6 Q. Direction could be, hey, you've signed a contract with
7 us, stop dealing dope on your own, right?

8 A. Right.

9 Q. And some people just can't take direction, right?

10 A. Yes.

11 Q. You don't want those -- you don't want to work with
12 those people, do you?

13 A. I don't prefer not to. I mean that's a -- it's a
14 general question.

15 Q. Make it more specific. If you have someone that keeps
16 dealing crack while they're a confidential informant, do you
17 work with them still?

18 A. If -- I can't answer that. You're asking a question
19 that there's not an answer to that. If they don't get
20 caught and prosecuted, then I don't know that they're still
21 dealing in -- I don't know that they're still dealing.

22 Q. You're right. That's a -- that was a bad question. If
23 you know -- suppose you have a confidential informant one
24 and confidential informant two, okay?

25 A. Uh-huh.

1 Q. Now, you don't want confidential informant one to know
2 that confidential informant two is a confidential informant,
3 right?

4 A. Correct.

5 Q. You don't want them to know each other?

6 A. Right.

7 Q. Let's suppose that confidential informant one signs a
8 contract with you, okay?

9 A. Okay.

10 Q. Confidential source two signs a contract with you, okay?

11 A. Okay.

12 Q. Now, let's suppose confidential source one sells to
13 confidential source two and you know about it. You know
14 that one has sold to two. Okay?

15 A. Uh-huh.

16 Q. You're not going to work with one any more, are you?
17 Then you know they've broken the law.

18 A. I can't answer your question. It's too open-ended.

19 Q. If you have information from one confidential informant
20 about another confidential informant dealing drugs with them
21 and you're able to corroborate that, will you work with the
22 one that's dealing drugs to the confidential informant, yes
23 or no?

24 MR. DALY: Your Honor, I think the witness has
25 addressed that. The question could go in all kinds of

1 different --

2 MR. STOBBS: Judge, I'll withdraw the question.

3 THE COURT: Okay.

4 Q. (BY MR. STOBBS) You determined that Tina Whittenburg met
5 the criteria to become a confidential informant, right?

6 A. Yes, sir.

7 Q. And did you prepare an informant establishment report
8 pursuant to DEA 202?

9 A. That's the initial debriefing report.

10 Q. Okay. That's the one that we talked about in August of
11 2003?

12 A. Yes, sir.

13 Q. And could you tell the jury what goes into an informant
14 establishment report?

15 A. There's drug-related information, financial information,
16 and generally non-drug-related criminal activities, and it
17 changes on a --

18 Q. Now, you have the terrorist and stuff in there, but
19 generally it's broken down into specific sections, right?

20 A. Right.

21 Q. You were telling us a little bit that when you -- I
22 don't know if I can ask this question if I -- but when did
23 you start your investigation of the big drug conspiracy in
24 Alton?

25 MR. DALY: Your Honor, I'm going to object.

1 That's -- I fail to see the relevancy of that and just
2 relevancy.

3 MR. STOBBS: Let me ask -- I'll withdraw the
4 question.

5 THE COURT: Sustained.

6 Q. (BY MR. STOBBS) Let me ask you this: When you talked to
7 Tina Whittenburg in April, had you already commenced the big
8 drug investigation in Alton?

9 A. I don't believe so, no.

10 Q. Okay. And you said that you talked to her at the
11 Madison County jail?

12 A. Yes.

13 Q. And you went there with Larry Fox?

14 A. Yes.

15 Q. He's kind of a famous agent around here, is that right?

16 MR. DALY: Your Honor, I'm going to object to the
17 relevance of that.

18 MR. STOBBS: I'll withdraw.

19 Q. (BY MR. STOBBS) He was with the task force for a long
20 time, is that correct?

21 A. That's correct.

22 Q. Were you his partner for awhile?

23 A. Yes.

24 Q. At that time were you his partner?

25 A. Yes, I was.

1 Q. You say you received a call from Mark Dorsey?

2 A. Yes.

3 Q. Do you remember what Mark Dorsey said?

4 A. He said they did a search warrant on an individual. I
5 think they got 5 grams of crack or cocaine. I mean I don't
6 remember specifically but he mentioned some names, that Tina
7 said she was the individual that they did the arrest on, and
8 said they had an individual who wanted to cooperate
9 basically.

10 Q. I'm sorry. Did you finish?

11 A. Yes.

12 Q. Mark Dorsey would have called you because you worked
13 with him before, right?

14 A. No. I just met -- I just met him. I might have been
15 the one that picked up the phone. I don't know the
16 specifics of that.

17 Q. Was this the first case you worked with him?

18 A. Yes, it is.

19 Q. Okay. And you said that she was facing charges in
20 Madison County?

21 A. I don't know. I know she was arrested by Alton Police
22 Department. That's all I know.

23 Q. You knew she was in jail?

24 A. Correct.

25 Q. And would it be fair to say if someone's in jail after

1 having been arrested that they might be charged in Madison
2 County?

3 A. It's fair to say that, yes.

4 Q. You actually interviewed her at the Madison County jail,
5 right?

6 A. Yes.

7 Q. Have you ever interviewed defendants in the Madison
8 County jail beforehand?

9 A. Yes.

10 Q. Before this?

11 A. Yes.

12 Q. Okay. And you didn't actually go into the jail area,
13 did you?

14 A. No.

15 Q. They have like a detectives room before you get back
16 there, right?

17 A. Yes, sir.

18 Q. So she was brought out?

19 A. Yes.

20 Q. Was she -- and she was cooperative?

21 A. Yes.

22 Q. Did you give her your card?

23 A. I don't remember.

24 Q. Do you know -- do you remember if Agent Fox would have
25 given her his card?

1 A. I don't remember.

2 Q. Regardless -- do you remember if Mark Dorsey said that
3 she had been caught with 6.4 grams?

4 A. I don't remember the specific amount.

5 Q. Do you remember if he told you that her sister had
6 flushed 6.4 grams down the toilet?

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

8 Q. Do you remember what time of day Mark Dorsey called you?

9 A. No.

10 Q. Did he leave a message?

11 A. I don't remember.

12 Q. Well, what I'm trying to get at is, I want to try to
13 narrow this date down as to when you spoke to Mark Dorsey.
14 If he would have called and left a message, there would be a
15 record of that, right?

16 A. No.

17 Q. Okay. And if when he -- do you remember if you went to
18 talk to her the same day that she called Mark Dorsey or
19 Mark Dorsey indicated she wanted to cooperate?

20 A. No, I don't believe that it was the same day. I think
21 we had a couple of phone contacts.

22 Q. And again, if the DEA, you have -- I'm speaking
23 specifically about Miss Whittenburg. When you were talking
24 to the prosecutor, one of the things that you do --
25 Mark Dorsey said, we have someone who might want to become a

1 confidential informant, right?

2 A. Correct.

3 Q. She's mentioned some big names in Alton, right?

4 A. Correct.

5 Q. And that obviously perked your interest?

6 A. Correct.

7 Q. That's what you do?

8 A. Yes.

9 Q. And that was a way to either start an investigation,
10 right?

11 A. Yes.

12 Q. Or continue an investigation?

13 A. Yes.

14 Q. And you could use what she told you to corroborate what
15 other people had told you, right?

16 A. Yes.

17 Q. And that's another investigative tool that I failed to
18 mention earlier, right?

19 A. That's correct.

20 Q. You're not going to take the word of one person and put
21 20 people in jail?

22 A. Right.

23 Q. And in this case you said that one of the things you did
24 is you heard the name Tina Whittenburg. You never heard
25 that name before, right?

1 A. No, sir.

2 Q. And you wanted to make sure that her criminal history
3 was such that you might be able to use her, right?

4 A. Correct.

5 Q. Now, did you know that in -- let me ask you this: When
6 you talk about someone's criminal history -- like
7 Ms. Whittenburg, when you were looking at her criminal
8 history, were you more interested in what she had been
9 convicted of or what she had been charged with?

10 A. Really just the convictions.

11 Q. Okay. Because sometimes people in the state system --
12 were you a state Probation Officer?

13 A. Yes. Not in this state though.

14 Q. Sometimes in the state system people are charged with
15 something and plead to something different, right?

16 A. Yes.

17 Q. So in Tina's case, you weren't really interested in what
18 she was charged with originally, right?

19 A. Correct.

20 Q. You were interested in what the end result was?

21 A. Yes.

22 Q. And here did you know that she had been convicted in
23 1993 of a felony?

24 A. Did I know back then or do I know right now?

25 Q. And that's a fair question. I'm asking when you ran the

1 background check on her, that would have been in April of
2 2003, right?

3 A. Yes.

4 Q. And -- well, first of all, did you ask Mark Dorsey, hey,
5 you know, what dealings has she had with the City of Alton?

6 A. Yes, I did.

7 Q. And what did he say?

8 A. I don't remember specifically. I mean he told me she'd
9 been arrested a few times.

10 Q. And of interest again, because we're getting to the part
11 about someone who can take direction and someone you can
12 count on and stuff like that. Did he tell you that she had
13 been picked up on a number of warrant violations?

14 A. I don't remember.

15 Q. Okay. Did he tell you or did you know -- and this is in
16 April -- that she had been convicted of a felony in 1993?

17 A. I would have known that when I ran her criminal history.
18 Whatever it said on the criminal history. I don't remember
19 what it actually said on that particular day.

20 Q. When you run a criminal history like on Ms. Whittenburg,
21 you type in the name and the birthdate and the criminal
22 history pops up?

23 A. Yes.

24 Q. And do you print that out, put that with the file?

25 A. Yes.

1 Q. Did you do that in this case?

2 A. In August I did.

3 Q. Okay. But you didn't do that in April?

4 A. No, sir.

5 Q. And so you would have known that she was convicted in
6 2000 as well, correct?

7 A. Yes.

8 Q. Of another felony?

9 A. Yes. If it was on the criminal history report, then
10 yes, I would have known about it.

11 Q. What of importance, if any, is it that someone is either
12 sent to jail or receives probation for felony convictions?
13 Any at all?

14 A. No.

15 Q. To sign them up as a confidential informant, that
16 doesn't matter?

17 A. No.

18 Q. So you have people that have been away to jail for 20
19 years and become a confidential informant?

20 A. Yes.

21 Q. And people that receive probation for felonies and
22 become confidential informants?

23 A. Yes.

24 Q. What kind of difference does it make to you when you
25 sign someone up as a confidential informant whether or not

1 they have a criminal history?

2 MR. DALY: Your Honor, I think we've covered this
3 in earlier cross. It's repetitive. Asked and answered.

4 THE COURT: Overruled.

5 A. Can you ask me the question again, please? I'm sorry.

6 Q. (BY MR. STOBBS) I'll ask it another way. Does it have
7 any importance at all if someone has a prior criminal record,
8 signing them up as a confidential informant?

9 A. To me, no, makes no difference.

10 Q. And does it matter what they have been convicted of?

11 A. To me, no.

12 Q. When's the last time you saw Ms. Whittenburg?

13 A. Last week.

14 Q. Was that in preparation for trial today?

15 A. Yes, it was.

16 Q. Did you ask her if there's anything that -- anything out
17 there that we needed to know?

18 A. I didn't ask her any questions; I observed.

19 Q. Okay. Then I'll move on. Were you aware -- are you
20 aware that Ms. Whittenburg signed a contract with the City
21 of Alton to be a confidential informant?

22 A. Am I aware that she did that?

23 Q. Yes.

24 MR. DALY: That's assuming there are contracts,
25 Your Honor, so I'm going to object. That's not a proper

1 foundation. If he wants to ask her if she knows, fine.

2 Q. (BY MR. STOBBS) Do you know --

3 THE COURT: Sustained.

4 Q. (BY MR. STOBBS) Do you know whether or not she signed a
5 contract with the City of Alton to be a confidential informant?

6 A. I don't.

7 Q. Now, if she had signed a contract in May of 2004 to be a
8 confidential informant, would that have any impact on the
9 June 2004 confidential informant agreement you had with her?

10 A. No.

11 Q. Okay. If someone -- let me ask you this: Is it normal
12 for someone to have a confidential informant agreement with
13 a local municipality, like in this case just say Alton, as
14 well as with the DEA?

15 A. I can't speak for the locals. I can only speak for our
16 policy. DEA requires that we have our own confidential
17 source number and not utilize another local department's
18 confidential source number.

19 Q. I understand that. But I mean like if someone has
20 signed, I'm just going to say confidential source agreement,
21 which is a contract with a local municipality, and they have
22 their own files and that, I understand that, but is it
23 normal for there to be a contract with a local municipality
24 as a confidential informant and the DEA?

25 A. Is it normal?

1 Q. Uh-huh.

2 A. I don't know.

3 Q. Okay. Are you aware -- and her confidential agreement
4 with you was cut off, was stopped December 17th of 2004?

5 A. Correct.

6 Q. Is she working for you as an undercover confidential
7 source at all any more?

8 A. No.

9 Q. And are you aware that as recently as March of this year
10 she was busted for dealing dope again, crack again?

11 A. I was made aware of that yesterday.

12 Q. Okay. I'm asking -- what I'm asking is your own
13 personal knowledge as the drug activity in the City of
14 Alton, okay? Were you aware of that?

15 A. You're confusing me. I'm sorry.

16 Q. I'm confusing myself. In March of 2005, as you sit
17 here -- Friday, before the trial started, were you aware
18 that she had been arrested for dealing crack in Alton?

19 A. No, sir, I was not.

20 Q. Okay. That was a lot easier, wasn't it?

21 A. That was.

22 Q. Have you ever had a confidential informant that
23 continued to break the law where you knew they were breaking
24 the law?

25 A. I don't follow. I mean other -- I might suspect it, I

1 might hear things from other people, but I don't have any
2 proof of that.

3 Q. These couple hundred or however many confidential
4 informants that you've had, have you ever caught one
5 breaking the law?

6 A. No.

7 Q. If you did catch one of them breaking the law, as a law
8 enforcement officer, you're supposed to have them
9 prosecuted, right, or at least turn the information over to
10 a prosecuting attorney?

11 A. You would have the discussion with the attorney and
12 determine what steps would be taken next, yes.

13 Q. But you would at least tell the prosecuting attorney?

14 A. Yes.

15 Q. You wouldn't sit on it?

16 A. No.

17 Q. Because that's not proper, right?

18 A. Yes.

19 Q. Are you aware that Ms. Whittenburg told Mark Dorsey
20 in -- I think he made the statement to Rory Rathgeb as
21 well -- in January of 2003 that she began dealing crack once
22 her public aid stopped?

23 A. No, I'm not.

24 Q. As you sit here today, you don't remember that?

25 A. No, I don't.

1 Q. Did you make any determination as to how Ms. Whittenburg
2 made ends meet?

3 A. No, I did not. She told me she was a drug dealer.

4 Q. She told you she was a drug dealer?

5 A. When I interviewed her, yes. Yes.

6 Q. Did you say, hey, stop being a drug dealer, you're a
7 confidential informant now?

8 A. In the interview. Prior to the interview, in
9 interviewing her, in the background information that she
10 provided, that's how she told me she made money.

11 Q. Yeah. But my question is: Did you say, hey, you can't
12 be a drug dealer?

13 A. Yes. At the time that I signed her up, I said, yes, you
14 can't do that any more.

15 Q. How often did you check whether or not she had a
16 legitimate job?

17 A. How often did I check?

18 Q. Uh-huh. Yes.

19 A. I never checked.

20 Q. And so you never knew whether or not she went out to a
21 job and filled out an application?

22 A. She told me on several occasions that she was going to
23 apply for a job, but I never -- I never checked. I had
24 conversations with her.

25 Q. And would you have taken notes as Tina Whittenburg

1 getting job?

2 A. No.

3 Q. That would have been one of those mental notes?

4 A. Right.

5 Q. And did you have any information as to whether or not
6 Tina went to a job and like punched in a timecard or
7 anything?

8 A. No.

9 Q. Did you have any information as to whether or not Tina
10 had an automobile at that time?

11 A. What do you mean? Did she own an automobile? Did I
12 check to see -- because no, I didn't do that.

13 Q. See, the thing is you're giving her money for gas,
14 right?

15 A. We paid her in total, as I testified earlier, \$250, \$50.

16 Q. I only have the mention of \$150. That's for the cell
17 phone, right?

18 A. It's for reimbursement of expenses is what it's -- the
19 actual phrase.

20 Q. When you were talking to the prosecutor, you said cell
21 phone and gas, right?

22 A. Correct.

23 Q. Now, gas assumes that someone has a car, right?

24 A. Yes.

25 Q. You can't just put gas on the street, right?

1 A. Correct.

2 Q. You got to put it in a car?

3 A. Correct.

4 Q. Do you know whether or not she had a valid driver's
5 license in 2003?

6 A. No, she did not.

7 Q. So you can't be giving gas money to someone to drive a
8 car if they don't have a license, right?

9 MR. DALY: Your Honor, I'm going to object unless
10 he wants to lay a foundation. Gas money can be spent with
11 someone else driving and providing the gas money. This line
12 of questioning is not relevant unless he's -- he's making
13 speeches here also, and I object on that basis also, Your
14 Honor.

15 THE COURT: Well, overruled except as to the speech
16 making.

17 MR. STOBBS: I'm sorry, Judge.

18 Q. (BY MR. STOBBS) Could you answer the question?

19 A. Yes. We gave her money, and as he stated, she gave if
20 people drove her. It's reimbursement of expenses.

21 Q. But you listed what the expenses were when you were
22 talking to the prosecutor, didn't you?

23 A. Yes. I said cell phone and gas, yes.

24 Q. And on the reports that you file, you have to say what
25 the expense is for, right?

1 A. We put reimbursement of expenses.

2 Q. But you have to -- do you put in the reports cell phone
3 expenses?

4 A. No, sir.

5 Q. And here who drove her?

6 A. Who drove her?

7 MR. DALY: Be more specific as to time and date,
8 Your Honor.

9 Q. (BY MR. STOBBS) In August of 2003, when did she -- who
10 drove her?

11 A. A taxicab.

12 Q. So she paid for taxicab companies to drive her to drug
13 deals?

14 A. No, no. Can you ask the -- ask me the question again.

15 Q. In August of 2003, whatever -- and I'm not trying to be
16 difficult. I apologize if I am. But if -- she didn't have
17 a valid driver's license, right?

18 A. I don't believe so.

19 Q. Okay. And what you're saying is that this reimbursement
20 for -- it would not have been for gas expense; it would have
21 been for taxicabs?

22 A. It was just for reimbursement of expenses, just as
23 simple as that.

24 Q. I'm going to move on then. You talked to Tina,
25 Ms. Whittenburg, about -- in August of 2003 you talked to

1 her about how -- I guess the enormity of her drug dealing or
2 the drug dealing that she had, right?

3 A. Correct.

4 Q. Okay. And at that time you said, you got to be honest
5 with us, right?

6 A. Right.

7 Q. And at that time you signed the confidential informant
8 agreement with her, right?

9 A. Yes.

10 Q. And you talked about, you and Tina -- were you with just
11 you and Mark Dorsey on August 20 -- the August dealings?

12 A. I believe so.

13 Q. Okay. And you asked her about names of individuals that
14 you were interested in in Alton, correct?

15 A. There's -- I wouldn't phrase it quite like that.

16 Q. Okay. You asked her to tell you the whole truth about
17 her drug --

18 A. Her knowledge, yes, just her knowledge.

19 Q. Did you at any time mention any names?

20 A. I don't remember.

21 Q. Okay. That's something that's possible, right?

22 A. It's possible.

23 Q. Because once you meet with Ms. Whittenburg, you kind of
24 get an idea of what circles she runs in?

25 A. Correct.

1 Q. The kind of crowd she runs with, right?

2 A. Yes.

3 Q. You know that like in this crowd there might be some guy
4 that you got a little bit of information on, right?

5 A. Yes.

6 Q. Might want her to corroborate that?

7 A. Yes.

8 Q. But it's got to be truthful?

9 A. Right.

10 Q. And she told you about these individuals that we were
11 talking about before that had NADDIS numbers. You remember
12 we were talking about that earlier?

13 A. Yes.

14 Q. And I'm not going to mention their names. It's kind of
15 difficult for me. There was one primary source that she got
16 her crack from, is that right?

17 A. Yes.

18 Q. And there were other individuals she got her crack from
19 as well, right?

20 A. Yes.

21 Q. All told, do you know -- and you knew that she made
22 profits off the drug dealing, right?

23 A. I mean I would expect that she would. I would just
24 expect that.

25 Q. And she -- it's not something you put in your report as

1 to how much she made?

2 A. Right.

3 Q. That's really no interest to you?

4 A. Right.

5 Q. And your interest is mainly in the quantity that she's
6 dealing?

7 A. Yes.

8 Q. And who she's dealing it from?

9 A. Yes.

10 Q. Or getting it from and who she's dealing it to, right?

11 A. Yes.

12 Q. And it's not something that you would say, you have to
13 pay taxes on that. You don't say that, do you?

14 A. No.

15 Q. And you don't get the IRS involved to make her pay taxes
16 on the proceeds that she makes?

17 A. No.

18 Q. And some people who deal drugs over a period of time are
19 able to make quite a profit, right?

20 A. Yes.

21 Q. And I assume you've been involved in some pretty big
22 cases in the Southern District of Illinois; that's the case,
23 right?

24 A. Yes, that's correct.

25 MR. STOBBS: Judge, could we break for lunch?

1 THE COURT: Talking about all that money made you
2 hungry?

3 MR. STOBBS: Yeah.

4 THE COURT: Okay, folks. Let's go ahead and break.
5 We'll be in recess 'til 1:15. Same admonishments as before.

6 *(Jury leaves the courtroom)*

7 THE COURT: Okay. The jury's not in the room any
8 longer. Mr. Stobbs?

9 MR. STOBBS: Judge, if I could -- and I don't know
10 if this is a solution. As I was talking, I was thinking
11 too. Is it -- would it be possible to --

12 THE COURT: You say that like that's a task.

13 MR. STOBBS: Sometimes it is. I don't know if this
14 is okay with Mr. Daly and the prosecution. If I could, like
15 some of these people, just say their initials because I'm
16 having a real hard time.

17 THE COURT: You know, like, for example, when you
18 were conducting that examination with Ms. Scott just then,
19 if you had a report with those names you could approach her
20 and just point to the name or something.

21 MR. STOBBS: I just --

22 THE COURT: Put it on the document camera and point
23 to it so she can see it. Nobody else in here can see it.
24 We could turn off the monitor.

25 MR. STOBBS: Could we have some way to identify

1 these people so I could say like number one, number two, or
2 TW for the one guy, DB for another guy? I mean --

3 THE COURT: Why don't you make a list with numbers
4 one through whatever. You could have a list, she could have
5 a list, Mr. Daly could have a list. How about that?

6 MR. DALY: I don't have any objection as long as we
7 don't create an avenue whereby the identity of these people
8 is going to be disclosed.

9 THE COURT: Do it that way with the names you want.
10 Give them numbers one through whatever. Give her a list and
11 you keep a list and just number them one through whatever
12 the number is.

13 MR. STOBBS: Okay. Is that okay with you?

14 THE COURT: Then you'll be on the same page.

15 MR. STOBBS: Thanks, Judge.

16 **(Lunch recess)**

17 * * * *

18 **(Jury out)**

19 MR. STOBBS: The solution that we worked out
20 resolves any questioning complaint or concern that I would
21 have regarding my ability to cross-examine Agent Scott as
22 well as Tina Whittenburg or anyone else, so I -- any
23 objection that I have or anything, I'm comfortable with.

24 What I did is -- if I could give to the Court I
25 guess kind of a little cheat sheet. And what Mr. Daly and I

1 have agreed to is, instead of saying the person listed as
2 number one, I'll simply say, Agent Scott, number one, number
3 two, number three, whatsoever. And if we could maybe
4 tomorrow morning have that typed up and file that under seal
5 so like if in the event that there's an appeal, that the
6 appellate court can see, can match the names with the
7 numbers. That's something that both Mr. Daly and I agree
8 should be filed under seal, but I want to be very clear that
9 any objection or concern that I had regarding my ability to
10 present the theory of my defense or cross-examine
11 Agent Scott, or anyone else for that matter, has been
12 resolved, and from here on these are about the only people
13 that I think are mentioned, so these six people, I'll say
14 number one, number two, and I assume Mr. Daly will do the
15 same. So we're set.

16 THE COURT: Okay.

17 MR. STOBBS: Thank you.

18 THE COURT: Anything else before we bring the jury
19 in?

20 MR. DALY: No, Your Honor.

21 THE COURT: Okay. Glen, let's have the jury.

22 **(Jury in)**

23 THE COURT: Mr. Stobbs, your continued cross.

24 MR. STOBBS: Thank you, Judge.

25 **CONTINUED CROSS-EXAMINATION**

QUESTIONS BY MR. STOBBS:

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Q. Agent Scott, what I'd like to do is -- the DEA-6's that you prepare, you put individuals names on there, right?

A. Correct.

Q. And there's a valid concern about mentioning their names here in court?

A. Yes, there is.

Q. What I'd like to do then is, I've given to you a sheet that has numbers one, number two, number three, number four, number five, and number six, then it has a corresponding name with that. Okay?

A. Yes.

Q. And what I'll ask is, I'll say number one, and that means the person that's on the paper, okay?

A. Yes.

Q. And I'm going to try to -- if you have any confusion whatsoever, stop me and I'll try to go as slow as I can. Okay?

A. Yes.

Q. Before we went to lunch we were talking about profits that people who deal drugs make. Do you remember that?

A. Yes.

Q. Okay. Now, in this case Ms. Whittenburg talked to you in August of 2003 about the different people she dealt with, right?

1 A. Correct.

2 Q. And the file title of this case became number one,
3 right?

4 A. That's correct.

5 Q. And she had dealt with number one for sometime, is that
6 right?

7 A. That's correct.

8 Q. Okay. And what I'd like to do is, instead of -- what
9 I'd like to do is go through each of these people and tell
10 the jury how much crack she dealt with each of them. Okay?

11 A. Okay.

12 Q. Let's start with number one. And do you have Exhibit 8
13 in front of you?

14 A. Yes, I do.

15 Q. What I'd like to do, if it's okay with the government,
16 is just refer to you paragraph 2 of Exhibit 8. And she told
17 you that she had dealt with number one over the last two
18 years, right?

19 A. That's correct.

20 Q. And she told you that she initially purchased half --
21 between half an ounce and an ounce per week during the first
22 year from number one, is that correct?

23 A. Yes.

24 Q. And then from February of 2002 until February of 2003,
25 she purchased ounce quantities a week from number one, is

1 that correct?

2 A. Yes, sir.

3 Q. So in the year -- so from February of 2002 until
4 February of 2003, that would be approximately 50 grams of
5 crack -- 50 ounces of crack? I'm sorry.

6 A. Yeah. Yes.

7 Q. And then from I guess February of 2001 until February of
8 2002, that would be between half an ounce and an ounce a
9 week, is that right?

10 A. Yes.

11 Q. Do you remember if she told you it was -- what the
12 average would have been?

13 A. The average what?

14 Q. I mean did she tell you the total that she would have
15 purchased between February of 2001 and February of 2002 from
16 number one?

17 A. No. Just what it says here, a half-ounce to an ounce a
18 week.

19 Q. So on the low end, it would be about 26 ounces?

20 A. Correct.

21 Q. On the high end, it would be another 50 ounces, right?
22 Is that fair to say?

23 A. Yes.

24 Q. So with number one, Ms. Whittenburg would have dealt
25 between 76 and 100 ounces -- would have purchased from him

1 between 76 and 100 ounces of crack, is that fair to say?

2 A. Yes.

3 Q. Okay. I'd like to now talk -- and she indicated that
4 number one -- she told you where he lived and the kind of
5 vehicle he drove, right?

6 A. Correct.

7 Q. Is that something that you had that you corroborated
8 with other information that you had or is that something
9 that you'd already known? If you remember.

10 A. I don't remember specifically.

11 Q. Okay. And she indicated that as recently as -- I'm on
12 paragraph 4 now, okay?

13 A. Okay.

14 Q. That recently she discussed purchasing another ounce
15 from number one, is that correct?

16 A. It doesn't say an ounce.

17 Q. Do you know how much -- do you recall how much she would
18 have talked about purchasing from number one?

19 A. Probably a half-ounce.

20 Q. Okay. Now, I'd like to talk about paragraph 5 now,
21 okay?

22 A. Okay.

23 Q. Now, that's number two. That refers to the individual
24 number two, is that right?

25 A. That's correct.

1 Q. Now, you knew that in January of 2003, with
2 Detective Dorsey she had talked about number one, correct?

3 A. Correct.

4 Q. And she had talked about number two?

5 A. Correct.

6 Q. And she didn't know the first name of number two, is
7 that correct?

8 A. That's correct.

9 Q. And you guys knew it because of the investigation that
10 law enforcement had done, is that right?

11 A. That's correct.

12 Q. Okay. And I'm on the second page now. And she told
13 you -- I apologize. On number five she told you that she
14 had bought an ounce of crack cocaine from number two in
15 October of 2002, is that right?

16 A. That's correct.

17 Q. And she didn't make any other mention of any other
18 narcotics activity with number two, is that correct?

19 A. That's correct.

20 Q. Okay. And now she told you that she believed that
21 numbers one and two -- I'm on paragraph 6 now.

22 A. Okay.

23 Q. She told you that numbers one and two were getting their
24 crack from number three, is that correct?

25 A. That's correct.

1 Q. So number three would be an individual that you'd have a
2 great deal of interest in?

3 A. That's correct.

4 Q. Because we're talking at least 76 ounces up to 100
5 ounces, if not more?

6 A. Correct.

7 Q. And paragraph 7 she talks about number four, is that
8 correct?

9 A. Yes.

10 Q. And number four, what quantities was she purchasing from
11 him?

12 A. Quarter ounce, quarter ounces.

13 Q. Now, did she tell you how often she purchased from him
14 and what -- what she purchased from him and how often?

15 A. No. I believe it was just sporadic, whenever she
16 couldn't get anything else.

17 Q. That's something that's normal, is that right?

18 A. That's correct.

19 Q. They have I guess the main source and then some
20 satellite sources, is that right?

21 A. That's correct, yes, sir.

22 Q. Now, on number eight, she mentions -- paragraph 8 she
23 mentions Chris Taylor, right?

24 A. Yes.

25 Q. Okay. And she tells you also that she thought that

1 Mr. Taylor was getting his crack from number five, is that
2 right?

3 A. That's correct, yes, sir.

4 Q. And what quantities was she getting from Mr. Taylor?

5 A. Quarter ounce quantities.

6 Q. And she said that she paid \$250 a quarter ounce, is that
7 right?

8 A. That's correct.

9 Q. And how much a quarter ounce is 6.4 grams?

10 A. I mean approximately it's 7 grams.

11 Q. But it's -- there's some wiggle room on there, is that
12 right?

13 A. Yes, there is, yes.

14 Q. People don't go to drug deals with scales?

15 A. Some do.

16 Q. Some do but some don't?

17 A. Right.

18 Q. You don't know if Ms. Whittenburg did?

19 A. No, I don't.

20 Q. And there's also another individual in there, number
21 six, but he was probably her last source for crack cocaine;
22 would that be fair to say?

23 A. Yes.

24 Q. And she said she was talking and she was getting -- have
25 you heard the term eight-ball?

1 A. Yes.

2 Q. What is an eight-ball?

3 A. An eighth of an ounce. It's -- we don't purchase
4 eight-balls.

5 Q. Okay. Do you know how many grams that would be? I had
6 enough trouble with these numbers, so now it's on you.

7 A. Hold on. I'm figuring. Three or four.

8 Q. Okay. And eight-balls would be personal use, right,
9 generally, generally speaking?

10 A. I mean you could still break it down and sell it in
11 smaller rocks.

12 Q. But it's something that -- if you have something that
13 has 50 grams of crack cocaine, that's more distribution,
14 right?

15 A. That's correct.

16 Q. The smaller you go, the more likely it is that it's
17 personal use?

18 A. To a certain extent, yes.

19 Q. And we talked a little bit about when you decided that
20 you wanted -- that you thought that Ms. Whittenburg would be
21 a candidate to become a confidential informant. Do you
22 remember we talked about those various requirements and
23 whatnot?

24 A. Yes, sir.

25 Q. And you decided that she met the criteria?

1 A. Yes, sir.

2 Q. And so you decided to allow her to sign a contract with
3 the DEA, right?

4 A. Yes.

5 Q. Okay. And I'm going to hand you what's been marked as
6 Defendant's Exhibit 12 and 13, so I can move it along a
7 little bit faster, okay?

8 A. Okay.

9 Q. I'm going to ask you if you can identify Exhibits 12 and
10 13, please.

11 A. Yes, I can. They're our DEA Form 473, Confidential
12 Source Agreement.

13 *(Exhibit Nos. Deft. 12 & 13 were identified)*

14 Q. (BY MR. STOBBS) Okay. And Exhibit 12, I think I got it
15 right, that was the one that was entered on August 22nd, 2003,
16 is that correct?

17 A. Yes, that's correct.

18 Q. And then Exhibit 13 would be the one that was entered --
19 -- when was that entered?

20 A. June 3rd of '04.

21 Q. Okay. And those are the actual contracts that were
22 entered into, is that right?

23 A. Yes.

24 Q. That's your signature?

25 A. Yes.

1 MR. STOBBS: Okay. Judge, we would offer in
2 admission Exhibits 12 and 13.

3 MR. DALY: No objection, Your Honor.

4 THE COURT: They'll be admitted.

5 **(Exhibit Nos. Deft. 12 & 13 admitted)**

6 Q. (BY MR. STOBBS) Now, I'm going to hand you what I've
7 marked as Defendant's Exhibit 15 and 16. I'm going to ask if
8 you could tell the jury what those are?

9 A. Fifteen is a deactivation of the CS, and 16 is another
10 deactivation of the CS.

11 **(Exhibit Nos. Deft. 15 & 16 were identified)**

12 Q. (BY MR. STOBBS) Okay. And 15 relates -- if I did the
13 numbering correct, 15 relates back to Exhibit 12, is that
14 correct?

15 A. Yes.

16 Q. Okay. And Exhibit 16 would relate back to Exhibit 13?

17 A. Yes.

18 Q. And are those copies of those actual copies of what
19 was -- you prepared?

20 A. Yes.

21 MR. STOBBS: And I would offer them into admission
22 at this time, Judge, with the proviso that we redact the
23 file title before that goes to the jury, those two exhibits.

24 MR. DALY: If I may see the exhibits, Your Honor.

25 MR. STOBBS: I'm sorry.

1 MR. DALY: No objection, Your Honor.

2 THE COURT: Be admitted with redacting. I don't
3 see the name up there, but CS number, does that need to be
4 redacted?

5 (Exhibit Nos. Deft. 15 & 16 admitted)

6 MR. STOBBS: I thought there was the title, file
7 title on it.

8 Q. (BY MR. STOBBS) Now, Exhibits 12, 13, 15, and 16, those
9 all deal with Tina Whittenburg being signed up and deactivated
10 by the DEA, is that right?

11 A. That's correct.

12 Q. Are there any other documents regarding her activation
13 or deactivation?

14 A. No, sir.

15 Q. And the DEA contract is something that the DEA prefers
16 not to disclose, is that correct?

17 A. That's correct.

18 Q. And your preference is to simply turn over a copy of
19 contract that's unsigned, is that right?

20 MR. DALY: Object to the relevance of this.

21 THE COURT: Sustained.

22 Q. (BY MR. STOBBS) Now, you knew that Ms. Whittenburg had
23 been -- in 15 and 16 you mention that there's an update on her
24 status, is that right?

25 A. What do you mean?

1 Q. Well, if you look in the first paragraph it says that
2 this is -- you're mentioning about an update of the status
3 of Ms. Whittenburg?

4 MR. DALY: Ask what document?

5 MR. STOBBS: Fifteen.

6 MR. DALY: Thirteen?

7 MR. STOBBS: Fifteen.

8 Q. (BY MR. STOBBS) You say since the last reporting date, is
9 that right?

10 A. Correct.

11 Q. So that means that there was a reporting date before
12 that?

13 A. It would have just been one of the debriefings.

14 Q. And those debriefings are something that you relied on
15 to decide whether or not to deactivate Ms. Whittenburg, is
16 that right?

17 A. The debriefings and any associated reports if they did
18 anything proactive.

19 Q. And those, you still -- pursuant to your policy, you
20 still have those debriefings, right?

21 A. Yes. They're in the case file, yes, sir.

22 Q. And those form a basis -- I think I've already asked
23 that, but it's something that you -- those are used to
24 assist you in preparing some of these reports, is that
25 right?

1 A. No. I don't understand your question.

2 Q. Well, when you update the status of Ms. Whittenburg,
3 that's where you have these debriefings with her, right,
4 where you talk to her, you talk to her on the phone or
5 whatnot?

6 A. Right. You keep reports of those.

7 Q. Or notes?

8 A. No. As I stated earlier, if I talk to her on the
9 phone -- I don't write a report every time I talk to a CI.

10 Q. Are there any documents, written documents in existence
11 which we would be allowed to have under the Jencks Act which
12 would --

13 MR. DALY: Your Honor, once again I'm going to
14 object.

15 MR. STOBBS: Could we approach, Judge?

16 * * * *

17 *(Discussion held at sidebar:)*

18 MR. STOBBS: Judge, under the Jencks Act I think
19 that anything that she relies on to prepare these reports,
20 we're entitled to have. She indicated she takes these notes,
21 has these debriefings, and any of those notes that are in
22 existence I think we're entitled to have under the Jencks
23 Act.

24 MR. DALY: To start asking this in front of the
25 jury is improper, Your Honor. If he's got a problem, if he

1 wants to try to arrange that this evening, fine. I don't
2 know whether it's Jencks material or not, but the point is
3 to start addressing legal terminology in front of this jury,
4 what they have gotten and what they haven't gotten, creates
5 an impression that they haven't received discovery from the
6 government. The government has maintained an open file
7 policy. Mr. Stobbs and Mr. Threlkeld came to my office and
8 were given everything that I have. The issue of notes and
9 phone calls, if they feel they need that, I don't know that
10 that's frankly discoverable, but if there's something that
11 is Jencks material and they feel they need to look at it, we
12 can recess the trial or whatever. But for you to start
13 talking about in front of the jury Jencks material is
14 improper, and I object to that, Your Honor.

15 *THE COURT:* We're not going to talk about failure
16 to provide discovery in front of the jury, but do you think
17 that she's -- are you contending she's got something she's
18 not provided?

19 *MR. STOBBS:* If it's something that -- no. And
20 this kind of surprised me because I didn't think there was
21 going to be anything in existence, but if it's something
22 that -- she's going to be here the whole trial, so if it's
23 something that -- and for the record, if Mr. Daly looks at
24 it and thinks it's discoverable, then I'll rest on that. If
25 he doesn't think it's discoverable, I'm fine.

1 MR. DALY: You can look at it. I told you it's
2 been an open file policy, John.

3 MR. STOBBS: I know, Tom, and it's something that I
4 don't want to recess the trial. I think it's probably --
5 frankly, I'm surprised that this testimony came out, but if
6 there's something there, then I can always recall her in our
7 case and we can move along.

8 THE COURT: Obviously if she's sitting on the stand
9 she can't look at any notes that are at her desk, so don't
10 create some inference in front of the jury that she's done
11 something improper.

12 MR. STOBBS: I didn't mean to do that.

13 THE COURT: Objection's sustained.

14 *(End of discussion at sidebar)*

15 * * * *

16 Q. (BY MR. STOBBS) Why exactly was Ms. Whittenburg
17 deactivated the first time?

18 A. I was no longer utilizing her.

19 Q. Had she worked for you pretty regularly during that
20 time? How often did she work for you I guess is a better
21 way to ask it?

22 A. On a couple of occasions. I don't remember the specific
23 dates for the other things.

24 Q. Was one of the occasions --

25 A. One of the occasions was, yes, the incident in

1 September, yes.

2 Q. Okay. And also Ms. Whittenburg, at that time did she
3 continue to give you information in terms of her -- the
4 knowledge that she had of drug activities in the Alton,
5 Illinois area?

6 A. Yes, she did.

7 Q. Okay. And at that time she was living at the Lewis &
8 Clark motel, is that correct?

9 A. That's correct. In September, yes.

10 Q. Was she living there alone or with her children?

11 A. I believe she was living there alone.

12 Q. Do you know how much she was paying each night?

13 A. No, I don't.

14 Q. At that time -- is that one of those times she was
15 filling out applications for employment, do you know?

16 A. I don't know.

17 Q. Was she working at a regular job, do you know?

18 A. I don't know.

19 Q. During the first period of this contract, the first
20 contract we're talking about?

21 A. I don't believe she was working regularly, no.

22 Q. And did you inquire whether or not she was -- the source
23 of her income was dealing drugs?

24 A. No.

25 Q. On the second contract, how much of a period of time was

1 there between when the first contract ended and the second
2 contract started?

3 A. Three months. Three months, March to June.

4 Q. And she had -- do you know if at that time, during --
5 before the second contract was entered, whether or not she
6 had what I would call stable employment?

7 A. No, I do not know.

8 Q. Do you know whether or not she continued to deal drugs?

9 A. No, I do not.

10 Q. Is that something that would have interested you?

11 A. Are you asking for my -- my opinion if that would -- she
12 was no longer a CI.

13 Q. But she was in June. I mean she came back to being a CI
14 in June. Is it something you took into consideration when
15 you allowed her to resign up if between March and June she
16 was dealing drugs?

17 A. I'm still -- I still don't follow.

18 Q. If she's dealing drugs between March and June, is that
19 something that would have interested you in whether or not
20 deciding to sign her up again in June?

21 A. No. My only interest was if she's -- if she could
22 provide information to other -- on other individuals.

23 Q. Okay. And Miss Whittenburg, did you debrief her in June
24 for anything, any activity she knew about between March and
25 June?

1 A. I don't recall. I did our paperwork to reactivate her.

2 Q. Okay. And that paperwork is the same as when you
3 activated her originally?

4 A. That's correct.

5 Q. Okay. Now, did there come a point where you felt that
6 she was any less trustworthy than she had been previously?

7 A. No.

8 Q. Did there come a time where you felt she wasn't as
9 reliable as she was before?

10 A. No.

11 Q. Now let's move to May 11th, okay, of 2004?

12 A. Okay.

13 Q. So we're all done talking about Tina Whittenburg, and
14 we're moving to May 11th of 2004, okay? What I'd like to
15 do, Agent Scott -- you're familiar with the Alton area, is
16 that right?

17 A. Yes.

18 Q. Because of this case, right?

19 A. Right.

20 Q. What I'd like to do is I'd like to show you some of
21 these exhibits, and if you have knowledge of the areas, I'd
22 like to talk about them; if not, then we'll move on, okay?
23 What I'm really interested in is on May 11th. I want to
24 show you what's been marked as Defendant's Exhibit 41, and
25 I'm going to ask you -- are you sure you can see this?

1 MR. DALY: Your Honor, may I move up?

2 THE COURT: Sure.

3 Q. (BY MR. STOBBS) Now, is this an accurate depiction of the
4 West Ninth and Coppinger Street on May 11th of 2004?

5 A. From the -- I never looked at it from the air.

6 Q. Now, where I'm pointing my finger, which is at Coppinger
7 and West Ninth, that's where Mr. Taylor's house is, is that
8 correct?

9 A. Yes, I believe so.

10 (Exhibit No. Deft. 41 was identified)

11 MR. STOBBS: I move for the admission of
12 Defendant's Exhibit 41, Judge.

13 THE COURT: Any objection?

14 MR. DALY: Your Honor, there has been -- defense
15 has shown the government these photos before, but I would
16 ask that you provide more information as to the source than
17 the date, if it's on the document fine, where you got it.

18 MR. STOBBS: Judge, I got this from the Madison
19 County maps and plats, which is located at 157 North Main
20 Street. The date of the man on the photo is April 10th,
21 2005. The date of the photo is March of 2003, which is --

22 MR. DALY: I have no objection.

23 THE COURT: Admitted.

24 (Exhibit No. Deft. 41 admitted)

25 Q. (BY MR. STOBBS) Now what I'd like is a further blown-up

1 picture, which is Defendant's Exhibit 46, which is basically
2 the same information as to where I got it from. And this
3 date -- the map was updated January 26 of 2005. And if you can
4 tell the jury, if you know, State Street cuts off at -- State
5 Street and West Ninth, they meet in a Y, is that right?

6 A. Yes.

7 *(Exhibit No. Deft. 46 was identified)*

8 Q. (BY MR. STOBBS) Then the Ninth Street hill, that's what
9 goes down to Belle Street?

10 A. Correct.

11 Q. Mr. Taylor's house is at Coppinger and West Ninth, is
12 that right?

13 A. That's correct.

14 Q. Does Defendant's Exhibit 46 accurately depict I guess
15 the West 9th Street hill?

16 MR. DALY: When and at what time, Your Honor?

17 MR. STOBBS: On May 11, 2004.

18 A. Again, I mean I've never looked at it from the air.
19 From the best that I could tell, the roads --

20 Q. (BY MR. STOBBS) September 10th of 2003 I guess is the
21 same question?

22 A. From as best I can tell.

23 MR. STOBBS: Now I'd move for the admission of
24 Defendant's Exhibit 46, Judge.

25 MR. DALY: With the proviso with the witness's

1 testimony, as best she can tell, Your Honor, and the
2 document itself would show what existed -- on September
3 what?

4 MR. STOBBS: September 10th of 2003.

5 MR. DALY: I have no objection. The document
6 speaks for itself as to the date of the photographs.

7 THE COURT: Admitted.

8 **(Exhibit No. Deft. 46 admitted)**

9 Q. (BY MR. STOBBS) Now I want to direct your attention to
10 Defendant's Exhibit 45, which is a digital photography dated
11 March 26 of 2003, which is -- and I got it from the same place.
12 What I'd like to know -- and if you can look at this, this
13 is -- where I'm pointing to, is that the West 9th Street hill
14 as best as you can tell?

15 A. If you're telling me that's what it is, yes, I mean as
16 best as I can tell.

17 Q. And this is Belle Street?

18 A. Yes.

19 Q. And Hamilton Street is a street that cuts off West Ninth
20 and goes into Belle Street, is that right?

21 A. That's correct, yes.

22 Q. And the CTW bar, that's where Hamilton and Belle Street
23 intersect, is that right?

24 A. Yes.

25 **(Exhibit No. Deft. 45 was identified)**

1 Q. (BY MR. STOBBS) And Ms. Whittenburg was dropped off at
2 the post office, is that right?

3 A. That's correct.

4 Q. The post office is basically at the 9th -- where the
5 Ninth Street hill breaks off and Belle Street, is that
6 right?

7 MR. DALY: Your Honor, that's not correct.

8 A. From here --

9 MR. DALY: It's not shown in that photograph. I
10 would object.

11 A. If I'm looking at the map correctly --

12 Q. (BY MR. STOBBS) Let me show you Defendant's Exhibit 44.
13 Now, you see where the post office is?

14 A. Yes.

15 (Exhibit No. Deft. 44 was identified)

16 Q. (BY MR. STOBBS) The building is maybe a block from Ninth
17 Street and Belle Street, right?

18 A. Yes, that's correct.

19 Q. But the parking lot takes up the rest of the space from
20 Belle Street down to Ninth Street, is that right? No, that
21 actually isn't right. There's a car repair place?

22 A. Right, yes.

23 Q. And this exhibit -- let's go back and look at Exhibit
24 45. Could you get out and could you point to here where CTW
25 would be on this map?

1 A. In this vicinity somewhere.

2 MR. STOBBS: Okay. Judge, I'd move for the
3 admission of Exhibit 45 as well.

4 THE COURT: Forty-five?

5 MR. STOBBS: Defendant's Exhibit 45.

6 MR. DALY: What's the date of that, please?

7 MR. STOBBS: March 26, 2003.

8 MR. DALY: No objection, but it expresses what
9 would appear on that date, Your Honor.

10 THE COURT: Admitted.

11 **(Exhibit No. Deft. 45 admitted)**

12 Q. (BY MR. STOBBS) Now, the reason I wanted to show those to
13 you is --

14 MR. DALY: Your Honor, I'm going to object to the
15 phraseology of the question, his reasoning.

16 MR. STOBBS: I'll withdraw the question.

17 Q. (BY MR. STOBBS) Those maps, when you come down -- you've
18 driven up and down Ninth Street hill, is that right?

19 A. Yes, I have.

20 Q. You get down to the bottom and that's Belle Street,
21 right?

22 A. Yes.

23 Q. Now, if you keep going on Ninth Street, you come to --
24 you go through a stop sign, is that right?

25 A. Yes.

1 Q. Then you get to a stoplight?

2 A. Yes.

3 Q. That's Martin Luther King Boulevard, which takes you by
4 the casino?

5 A. That's correct, yes.

6 Q. At the corner there, is that where you had parked when
7 you're talking about on September 10th of 2003?

8 A. Yes.

9 Q. I'm sorry?

10 A. I said that's correct.

11 Q. And there's a restaurant in that area, in that little
12 plaza?

13 A. Yes.

14 Q. Okay. You told Mr. Daly that on May 11th you knew that
15 Mr. Taylor had been arrested by David Hayes on January 22nd,
16 is that right?

17 A. That's correct.

18 Q. And you obviously were involved in what had happened
19 couple months before January, in September, correct?

20 A. That's correct.

21 Q. And you ultimately learned that he had in fact been
22 charged with possession in Madison County, right,
23 Mr. Taylor?

24 A. I ultimately did, yes.

25 Q. Okay. Now, who had you spoken to regarding the January

1 22nd incident prior to May 11th of 2004?

2 A. I believe --

3 MR. DALY: What time, Your Honor? The question's
4 fairly broad. I'd ask it be narrowed.

5 THE COURT: Sustained.

6 Q. (BY MR. STOBBS) Who did you talk to in April of 2004
7 regarding the January 22nd incident?

8 A. Sergeant Dorsey.

9 Q. Did you talk to anyone in February of 2004 regarding the
10 January 22nd incident?

11 A. It's possible. I don't remember.

12 Q. Did you talk to anyone in January regarding the
13 January 22nd incident?

14 A. I don't remember.

15 Q. You did learn though that the drugs came back, that they
16 were initially tested for cocaine, right?

17 A. Yes.

18 Q. As opposed to crack cocaine?

19 A. That's correct.

20 Q. What did you do when you learned this?

21 A. I told Sergeant Dorsey that he should have them tested
22 for crack cocaine.

23 Q. Now, you ultimately decided to speak to Mr. Taylor,
24 correct?

25 A. Myself and my partners, yes.

1 Q. Okay. Did you have some sort of a meeting regarding
2 this?

3 A. You could -- yes, you could call it a meeting. Yes.

4 Q. Was your intention simply to talk to Mr. Taylor or other
5 individuals as well on May 11th?

6 A. Mr. Taylor.

7 Q. Okay. And whose decision was it to involve ATF
8 Agent Matthews?

9 A. At that time he was -- we were -- we had become involved
10 in the same investigation.

11 Q. Okay. And Agent Matthews, basically what you wanted to
12 do was to go to Mr. Taylor's house on May 11th and, for lack
13 of a better word, roll him, is that correct, as a
14 confidential informant?

15 A. Correct.

16 Q. And what did you ask Agent Matthews to do?

17 A. Nothing. Just to go with us.

18 Q. Okay. And did you meet in Fairview Heights?

19 A. No. We met in Alton.

20 Q. Okay. And did you meet at the police station in Alton?

21 A. Yes, we did.

22 Q. That's a modern facility?

23 A. Yes.

24 Q. Okay. And we've talked a little bit about it, but if
25 you were going to go talk to Mr. Taylor to become a

1 confidential informant, it's preferable that other people
2 not know that you're approaching him to be a confidential
3 informant, right?

4 A. It's preferable, yes.

5 Q. And did you have Mr. Taylor's home telephone number?

6 A. No, sir.

7 Q. Could you have obtained his home telephone number, do
8 you know? Let me withdraw that.

9 Could you have called him up and said, hey, we'd like
10 for you to be a confidential informant, come on in?

11 A. No.

12 Q. Did you ever talk to David Hayes about Mr. Taylor?

13 A. No, sir.

14 Q. Did you know that -- strike that.

15 Did you tell Mr. Taylor that if he didn't cooperate or
16 become a confidential informant that he could be charged
17 federally?

18 A. No, sir, I did not.

19 Q. Did you tell him that you had information regarding him
20 dealing drugs in Alton?

21 A. Not quite like that as you're phrasing it.

22 Q. Okay. I'm sorry. How did you -- how was it --

23 A. I told him that I had information to believe that he was
24 involved in the distribution of cocaine.

25 Q. And did you tell him that he could be charged for those

1 offenses?

2 A. Yes.

3 Q. And he -- you identified yourself as a federal agent?

4 A. Yes. I even -- I believe I even showed him my
5 credentials.

6 Q. And that includes a badge, right?

7 A. Yes. I probably didn't show him my badge; it was on my
8 waist. I showed him my credentials.

9 Q. At this time when you spoke to Mr. Taylor in May,
10 Ms. Whittenburg had been deactivated, right?

11 A. Correct.

12 Q. And the target -- a target that you had that you wanted
13 Mr. Taylor to cooperate with was Mr. -- number one, right?

14 A. Ask me that again, please. I'm sorry.

15 Q. One of the individuals that you wanted Mr. Taylor to
16 cooperate with and assist you with was number one?

17 A. Yes.

18 Q. Okay. And three weeks later you decided to reactivate
19 Ms. Whittenburg, correct?

20 A. Correct.

21 Q. And before you went to speak to Mr. Taylor, you wanted
22 to insure that the quantity of drugs that were -- that he
23 was found with on January 22nd was crack cocaine, right?

24 A. No.

25 Q. Well, do you remember sending a fax to Mr. Daly on

1 May 11th?

2 A. Yes.

3 Q. I'm going to hand you what's been marked as Defendant's
4 Exhibit 33. It's a three-page fax from you, is that
5 correct?

6 A. Yes.

7 **(Exhibit No. Deft. 33 was identified)**

8 Q. (BY MR. STOBBS) And is that something that you recall
9 sending to Mr. Daly?

10 A. Yes.

11 Q. And you wanted to be sure that the threshold amount had
12 been met, is that correct?

13 A. No.

14 Q. Why did you send that fax?

15 A. I sent the fax so he could have knowledge of it. That's
16 it.

17 Q. That Mr. Daly could have knowledge of?

18 A. Of the amount of crack cocaine.

19 Q. And at that time when you sent that, you did not know
20 that Mr. Taylor had been charged in the state, is that
21 correct?

22 A. That is correct.

23 MR. STOBBS: Judge, we move for the admission of
24 Exhibit 33.

25 THE COURT: Any objection?

1 MR. DALY: As long as there's nothing to be
2 redacted, Your Honor. I don't think that I see anything,
3 but with that proviso, no objection.

4 THE COURT: Admitted.

5 **(Exhibit No. Deft. 33 admitted)**

6 Q. (BY MR. STOBBS) Now let's move on to September 10th. And
7 I'm almost finished. So the last thing I'd like to talk about
8 is September 10th, okay? Now, the DEA manual indicates that
9 whenever practical or possible -- I forgot the word they use,
10 but that you want to have two agents with a confidential
11 informant, right?

12 A. That's always, yes.

13 Q. It's always preferable?

14 A. Yes.

15 Q. I mean if you have something going on, you can't have
16 two, you can't have two, but it's always preferable?

17 A. No, sir. There's always two agents or two law
18 enforcement personnel. They don't have to be an agent.

19 Q. Okay. Now, in this instance was Ms. Whittenburg always
20 with two agents?

21 A. Yes.

22 Q. When she drove with Mr. Williams, with Agent Williams,
23 who else was in the car with Agent Williams and
24 Ms. Whittenburg?

25 A. We were following her. Under those circumstances, you

1 wouldn't have two people drive her and drop her off. Not
2 under those circumstances.

3 Q. And when -- do you have two people drive her from where
4 she left at the post office where you went back to
5 East Alton? Were there two agents in the car with her then?

6 A. No, sir. Agent Williams picked her up and we followed,
7 as I testified earlier.

8 Q. Okay. And what I wanted to get -- what I want to ask
9 you is: When you met at the Eastgate Plaza -- you remember
10 talking about that with Mr. Daly?

11 A. Yes.

12 Q. Okay. Now, you talked about a lot of different agents
13 that assisted you in this. Do you remember?

14 A. Yes, I do.

15 Q. What I'd like to know is when you're just at the
16 Eastgate Plaza but before you went to CTW, how many agents
17 were there with you?

18 A. Myself and three others.

19 Q. Okay. Do you recall what time you met with
20 Ms. Whittenburg at the Eastgate Plaza?

21 A. I don't know exactly. I mean without reviewing the
22 report.

23 Q. Let me give you the -- I'm not going to admit this into
24 evidence but I want to refresh your recollection. Is that
25 what you read before?

1 A. Yes.

2 Q. It indicates that you and who else met with
3 Ms. Whittenburg?

4 A. Sergeant Dorsey.

5 Q. So when you met at the Eastgate Plaza, there's you and
6 Sergeant -- Detective Dorsey and Ms. Whittenburg, is that
7 correct?

8 A. No, sir. Agent Williams was there and Task Force
9 Officer Mike Hubbard were there. Sergeant Dorsey and I were
10 in charge of handling the CI. That's why only him and I are
11 listed there. We were the ones coordinating the operation.

12 Q. But it's not reflected in your report all the people
13 that met at Eastgate, is it?

14 A. No, sir.

15 Q. Okay. And similarly, it's not mentioned in the report
16 that Ms. Whittenburg was searched, right, was patted down?

17 A. It's not in here, but she was searched.

18 Q. And in the DEA manual it says -- you're told that the
19 confidential informant is going to be thoroughly searched
20 both before and after the undercover encounter, right?

21 A. That's correct.

22 Q. Doesn't it say that that should be included in the DEA-6
23 mentioning that?

24 A. Yes.

25 Q. And you didn't mention that in the DEA-6, did you?

1 A. No, sir. It was a human error.

2 Q. And I'd like to show you exhibit Defendant's Exhibit 49.

3 I'm going to ask you if you recognize that?

4 A. Yes, I do.

5 Q. What is Exhibit 49?

6 A. This is a statement of Tina Whittenburg.

7 **(Exhibit No. Deft. 49 was identified)**

8 Q. (BY MR. STOBBS) And that was prepared on September 10th
9 of 2003, right?

10 A. Correct.

11 Q. And I'm going to ask you, does your signature appear on
12 that document?

13 A. Yes, it does.

14 Q. Does that appear to be a true and accurate copy of the
15 document?

16 A. Yes.

17 MR. STOBBS: We move for the admission of Exhibit
18 49, Judge.

19 THE COURT: Any objection?

20 MR. DALY: Redacted at the bottom, Your Honor. No,
21 no objection.

22 THE COURT: Admitted.

23 **(Exhibit No. Deft. 49 admitted)**

24 MR. STOBBS: I'm sorry. I didn't hear you, Judge.

25 THE COURT: Admitted.

1 Q. (BY MR. STOBBS) Okay. On Exhibit 49 there's no
2 indication made by Ms. Whittenburg that she had been searched,
3 right, or patted down?

4 A. No, sir.

5 Q. She also says -- she indicates on here that Mr. Taylor
6 gave her half an ounce of crack cocaine, right?

7 A. Yes.

8 Q. And that wasn't true, was it?

9 A. In total, yes.

10 Q. Well, again, I'd like to you look at Exhibit -- this was
11 prepared at 5:55 p.m., right?

12 A. Yes. That's what it says.

13 Q. And you have no reason to doubt that?

14 A. No.

15 Q. And Mr. Taylor, when he came back to McDonald's, that
16 was after 5:55, wasn't it?

17 A. Yes, it was.

18 Q. So at 5:55 she could not have had half an ounce of
19 crack?

20 A. No, she could not.

21 Q. So that would be wrong?

22 A. That's correct.

23 Q. Finally, I'd like to talk a little bit about the
24 apparatus that you had in terms of the overhears. When I
25 say "overhears", you understand that I mean what you put on

1 her body, okay?

2 A. Yes.

3 Q. Now, what is that called? Is there an acronym for that?

4 A. There's different acronyms. At that time we had what we
5 call an Eagle and then a Kell pager.

6 Q. And that's something that -- had Ms. Whittenburg worn a
7 wire prior to this time?

8 A. I don't believe so.

9 Q. Okay. And you had that -- you say that was placed under
10 her bra?

11 A. I believe so, yes.

12 Q. Did you place it on her?

13 A. Yes.

14 Q. Okay. And there was also -- and I apologize. I didn't
15 understand. There was something else that you had in your
16 car that you could hear?

17 A. Just our radios, the radios that are in our cars.

18 Q. That's something like if she's talking, you can hear
19 that on your radios?

20 A. Yes.

21 Q. And that's something -- is that where the recording is
22 made from?

23 A. No.

24 Q. That's what I'm asking.

25 A. That the the Kell pager.

1 Q. Could you explain to us how that works and what it is,
2 please?

3 A. It's strictly a transmitter. It just transmits over a
4 frequency that we all have programmed that our car radios
5 come programmed with so to allow us to listen to that over
6 our radio, and the Eagle is strictly a recording device.
7 All it does is record. It doesn't transmit any signal.

8 Q. Where's that located at?

9 A. That was the one that I --

10 Q. Okay. But the microphone is in the same position,
11 correct? I mean there's only one microphone?

12 A. On the Eagle?

13 Q. Yes, ma'am.

14 A. Yes.

15 Q. Okay. And did the any of the agents that showed up on
16 September 10th, did any of those officers or agents have
17 binoculars?

18 A. I can't speak for the other officers. I don't know.

19 Q. Do you know if any of them had cameras?

20 A. I can't speak for the other officers. I don't know.

21 Q. You were in charge of this operation though basically,
22 right?

23 A. Correct.

24 Q. Did you direct any of the people under you to take
25 binoculars with them?

1 A. No, sir. That's not something that we -- that I would
2 direct.

3 Q. Okay. How about cameras?

4 A. No, sir.

5 Q. How about video cameras?

6 A. No, sir. We don't have any video cameras.

7 MR. STOBBS: Judge, if I could have a second with
8 my client.

9 THE COURT: Sure.

10 Q. (BY MR. STOBBS) One other question I neglected to ask.
11 When you went back to McDonald's, did all of the agents go back
12 to McDonald's with you?

13 A. No, sir.

14 Q. Who was at McDonald's with you?

15 A. Myself, Sergeant Dorsey, Agent Williams, Task Force
16 Officer Hubbard, and Detective Rathgeb.

17 MR. STOBBS: Okay. I don't have any other
18 questions, Judge. Thank you.

19 THE COURT: Redirect, Mr. Daly?

20 MR. DALY: Briefly, Your Honor.

21 REDIRECT EXAMINATION

22 QUESTIONS BY MR. DALY:

23 Q. Agent Scott, you were asked about the statement made by
24 Tina Whittenburg, and this would have been on September 10th
25 wherein she -- and I don't have the defendant's exhibit on