

Exhibit #8 (transcript)

1 **Transcript – CBP Supervisory Agent Brandon & Defendant**

2 **Incident Date:** 29 March 13

3 **Case #:** TR-13-050961

4 **Location:** SR-86, Milepost 146.6, Southern, AZ (CBP Roadblock)

5 **B** = Agent Brandon

6 **D** = Defendant

7 After deputy Audetat first approaches Defendant but but before deputy Vatterrodt asks for Defendant's
8 license and before deputy Audetat issues Defendant a citation, Agent Brandon comes over to Defendant
9 alone to tell him the Border Patrol's inspection is complete. Brando approaches at approximately 1601:

10 **B:** *“Hello sir. Ah, the Border Patrol is done with their inspection. Right now you're being held for Pima
11 County and they may cite you for impeding traffic”*

12 Brandon then walks back to the the other agents and deputies.

13 After talking with Agent Grayson, Defendant asks to speak to his supervisor, Agent Brandon. A lengthy
14 discussion ensues with excerpts from that discussion appearing below.

15 **B:** *“You wanted to see me?”*

16 **D:** *“Yes I did but first could I get the name of your supervisor”*

17 **B:** *“My supervisor?”*

18 **D:** *“Yes”*

19 **B:** *“Watch Commander Spencer”*

20 **D:** *“Spencer, OK and you were here throughout...I believe you were here throughout the entire
21 encounter. Is that correct?”*

22 **B:** *“Except for the first 30 seconds to a minute”*

23 **D:** *“OK, Were you inside the building or were you just not....”*

24 **B:** *“I was sitting over there by the canopy”*

25 **D:** *“So you...”*

26 **B:** *“So I saw you come up and I waved at you because most of us recognize you.”*

27 **D:** *“So you recognized me as I came up?”*

28 **B:** *“Correct”*

29 **D:** *“OK and it sounds like the agent at primary also recognized me in fact he told me that he
30 recognized me as I came up”*

31 **B:** *“Correct”*

32 **D:** *“Ah, could you tell me what the scope of this checkpoint operation is?”*

33 **B:** *“Immigration”*

34 **D:** *“Yeah, immigration, so...the dog that you have out there today...”*

35 A discussion on CBP drug dog ensues....

36

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1 Discussion picks up again at approximately 1629:

2 **D:** *"Getting back to my particular stop here as you know you recognized me as I came up here, I came*
3 *to a stop before the stop sign, I stopped as the stop sign directed. Neither agent in my recollection,*
4 *there were two agents I believe the second agent was McKnight, the first agent was Grayson. Neither*
5 *one of them said anything to me when I came to a stop. Is that standard procedure for agents at*
6 *primary to not to verbally interact with people that stop at primary?"*

7 **B:** *"We don't have a standard set of questioning..."*

8 **D:** *"But normally they say something."*

9 **B:** *"Normally yeah..."*

10 **D:** *"Right, do they ever or is it in their training to just stand there and stare at individuals stopped at*
11 *primary?"*

12 **B:** *"I've not been a part of that training"*

13 **D:** *"OK, so you're unaware of any particular training..."*

14 **B:** *"But at the same time, agents officers are always looking for anything suspicious. Now we do know*
15 *your immigration status but as law enforcement officers, we're still going to be looking around for any*
16 *other criminal activity in that brief amount of time that you are detained"*

17 **D:** *"So even though you and the agent at primary knew who I was at the time, knew my immigration*
18 *status and knew that I wasn't subject to the...immigration...being, not being unlawfully in the*
19 *country...but you were still holding me there to look for other types of violations, other possible*
20 *violations?"*

21 **B:** *"Any further detention after we already know your status, the agent would have to explain...I don't*
22 *know what he was looking for. Like I said, I was sitting over at the awning, saw you come up, waved,*
23 *went back to doing what I was doing and that's when I heard the agents yelling for you to stop."*

24 **D:** *"So I fully understand that you don't know exactly what..."*

25 **B:** *"Right, I don't know exactly what they were looking for..."*

26 **D:** *"But I'm looking for more policy statements at...from you now. So basically what you're saying is*
27 *that even though um..you consider it all right for Mr. Grayson to keep me there even though he already*
28 *knew my immigration status and hadn't...didn't say a word to me at all, just pulled out his camera..."*

29 **B:** *"I didn't necessarily say that. After the course of your brief detention at primary while we're*
30 *establishing your immigration status, if the primary officer sees something, hears something, smells*
31 *something that warrants further investigation then once we've concluded who you are, which you were*
32 *concluded pretty much when you came up, but if they've already seen something then they are allowed*
33 *to continue to briefly investigate."*

34 **D:** *"OK, so what was it that Mr....can you find out from Mr. Grayson what it was that elevated his*
35 *suspicion to hold me there?"*

36 **B:** *"Do you want me to ask him now?"*

37 **D:** *"Sure"*

38 **B:** *"Standby"*

39 Agent Brandon walks over to Agent Grayson to ask him at approximately 1631.

40 Agent Brandon returns after talking with Agent Grayson at approximately 16:34

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- 1 **B:** *"This is what I surmise from Agent Grayson. He's waved you through on several occasions. He's*
2 *familiar with your vehicle and you. More or less this time he was basically trying to get a better look at*
3 *you. He says the window sort of obscures that. I think that he was more or less trying to initiate a*
4 *conversation."*
- 5 **D:** *"If he was, he didn't indicate for me to roll down the window, he didn't try to say a word to me just*
6 *stared at me and pulled out his camera with the other agent..."*
- 7 **B:** *"Yeah he mentioned that they both had cameras um..."*
- 8 **D:** *"I mean this is all on video here (garbled)"*
- 9 **B:** *"And I'm not sure the mentality behind filming you. I don't know operationally why we would need*
10 *to do that..."*
- 11 **D:** *"Is that...so that's not part of official policy?"*
- 12 **B:** *"No, there's no official policy that we're going to film people although some checkpoints do have*
13 *cameras"*
- 14 **D:** *"Oh sure, right, right but obviously this is...I don't know if...is it an issued...is it an agency issued*
15 *camera?"*
- 16 **B:** *"I think it's just their own cell phones"*
- 17 **D:** *"So it's their own cell phones. OK, so there's no particular policy that says agents operating*
18 *primary stop location of an immigration checkpoint will stop vehicles, will not engage the vehicle*
19 *occupants and will take out their personal videotaping equipment and videotape the occupants"*
- 20 **B:** *"No policy like that"*
- 21 **D:** *"Is there a formal written policy that governs this checkpoint?"*

22 At approximately 1635, a discussion on CBP checkpoint policies, both national and local, ensues.

23 At approximately 1646, the discussion picks up with Agent Brandon's intentions:

- 24 **D:** *"Do you intend on taking any corrective action with regards to how the agent handled himself at*
25 *primary?"*
- 26 **B:** *"Yes. Like I said the phone. I just don't see an operational need for that. I haven't asked him...did*
27 *both agents do it?"*
- 28 **D:** *"Yes, they both had some recording device in their hand. I don't know if they were active or what..."*
- 29 **B:** *"So I'm not sure the rationale behind that. I'll get that clarified to them if there's not a justifiable*
30 *reason or if I see that it continues to interfere with operations. We'll have to address that and stop it*
31 *completely or..."*

32 Discussion continues regarding CBP policy on filming, posting, etc.