

1 L A R R Y E. W A C K, called as a witness  
 2 by the government, being first duly sworn,  
 3 testified as follows:

4 THE CLERK: State and spell your full name,  
 5 please.

843-

6 THE WITNESS: Larry E. Wack, W-a-c-k.

7 THE COURT: You may inquire, Mr. Tabak.

8 MR. TABAK: Thank you, your Honor.

9 DIRECT EXAMINATION

10 BY MR. TABAK:

11 Q Agent Wack, what is your occupation?

12 A I am currently a Special Agent with the FBI's  
 13 Terrorist Task Force in New York.

14 Q How long have you been an FBI agent?

15 A Approximately ten years.

16 Q Is there a particular case that you have been  
 17 spending most of your time on?

18 A Yes, the Omega 7 investigation.

19 Q How long have you been working on the Omega 7  
 20 investigation?

21 A Since approximately late 1975.

22 Q Agent Wack, I direct your attention to Sunday,  
 23 September 13, 1981. What did you do that day?

24 A On that day, I was present at the National Car  
 25 Rental agency in Newark Airport on a surveillance.

1 Q Directing your attention to about 4:18 that  
2 afternoon, what, if anything, did you see?

3 A I observed the defendant, Mr. Arocena,  
4 enter the car rental office and return a vehicle and  
5 subsequently leave.

6 Q Where were you at the time?

7 A I was in a back room of the rental office  
8 with an observation point of the door.

9 Q Why were you in the back room?

10 A I didn't want to be out front. My face is  
11 too well known in the community from being involved with  
12 this organization over the years.

13 Q Had you ever seen Mr. Arocena before  
14 September 13, 1981 in person?

15 A Not in person, no.

16 Q How were you familiar with what he was -- what  
17 he looked like?

18 A From a driver's license photograph that we  
19 had obtained.

20 Q Did you ever see the defendant, Eduardo Arocena,  
21 again, after September 13, 1981?

22 A Yes, on September 2nd of 1982 here in the grand  
23 jury.

24 Q What building was the grand jury meeting in?

25 A This building.

1 Q What did you see?

2 A That morning I observed Mr. Arocena in the  
3 company of Mr. Ernesto Rodriguez from Florida outside the  
4 grand jury room.

5 Q Did you see anything else out there?

6 A The other defendants who were present.

7 Q They were not defendants at the time, were they?

8 A I am sorry, the other individuals called to the  
9 grand jury.

10 Q Do you recall who any of those people were?

11 A Yes, I recall seeing Mr. Pedro Remon, Ramon Sanchez,  
12 Andres Garcia. I believe that was it at that time.

13 Q Did you notice anything about who was talking to  
14 whom?

15 A We noticed that Mr. --

16 THE COURT: No, not "we," you, what did you  
17 notice?

18 A I noticed that Mr. Arocena and Mr. Rodriguez  
19 appeared to be by themselves, while Mr. Remon, Mr. Sanchez  
20 and Mr. Garcia appeared to be at an opposite end of the  
21 hall, obviously with no contact between them.

22 Q What did you do that morning thereafter?

23 A I escorted Mr. Remon and the others across the  
24 street for taking of fingerprints and voice exemplars.

25 Q What kind of exemplars?

1 A Voice exemplars.

2 Q Who were voice exemplars taken of?

3 A Mr. Pedro Remon.

4 Q Were voice exemplars taken of anybody else that  
5 morning?

6 A No.

7 Q I am going to show you Government's Exhibits 26-A,  
8 -B and -C, which are already in evidence. Can you tell us  
9 what those exhibits show?

10 A Yes.

11 Exhibit 26-A is an eight-by-ten photograph  
12 depicting individuals I escorted across the street.

13 Q How about Exhibits 26-B and 26-C?

14 A 26-B appears to be a photograph depicting the  
15 same individuals and myself.

16 And 26-C depicts the same individuals.

17 Q Do you know when these photographs were taken?

18 A The morning of September 2, 1982.

19 Q Starting with Exhibit 26-B, would you tell us  
20 who is shown in that photograph?

21 THE COURT: Counsel, I don't want to cut your  
22 examination short, but Detective Brandt testified to this,  
23 and my recollection is there was no inquiry on cross-  
24 examination to indicate to the jury that his identification  
25 of the various individuals was incorrect.

1 In my judgment, Rule 403 has to be applied at  
2 times to avoid cumulative proof. Certainly when something  
3 has been testified to by a witness and has been subject  
4 to question on cross-examination there, in my judgment,  
5 is perfect reason to make inquiry.

6 I say this because I think some of Agent Wack's  
7 testimony will, in essence, parallel the testimony of  
8 Detective Brandt.

9 Where aspects of that prior testimony were  
10 subject to cross-examination on an attempt to impeach,  
11 you have a perfect right to inquire.

12 But let me inquire of defense counsel, I  
13 don't recall that there was any cross-examination or  
14 question with regard to the taking of the photographs, which  
15 was done, as I recall, by Detective Brandt, and who was  
16 in the photographs.

17 MR. FERNANDEZ: No, there was not.

18 MR. TABAK: Your Honor, I appreciate what the  
19 Court is saying. There is one thing that after  
20 Detective Brandt finished that I realized I had neglected  
21 to do.

22 THE COURT: Then I permit you to go ahead. You  
23 have a perfect right to go into a new area and I don't want  
24 to make a production out of this, but it is guidance that  
25 I would give you at the outset which should be carried out

1 through the inquiry that you are going to be making of  
2 Agent Wack.

3 MR. TABAK: Yes, indeed, that is why I jumped  
4 from 1975 to 1982, your Honor. Let me just apprise --

5 THE COURT: Back to the photographs. Now you  
6 have been asked to look at the -B photograph.

7 THE WITNESS: Yes, sir.

8 THE COURT: You may inquire.

9 MR. TABAK: What I intend to do, your Honor, is  
10 ask --

11 MR. FERNANDEZ: Your Honor, we don't need a  
12 running commentary of what Mr. Tabak intends to do.

13 THE COURT: That's correct. My colloquy may  
14 have prompted it, but ask your question in regard to  
15 Exhibit 26-B in evidence.

16 MR. TABAK: What I am going to do is give  
17 Agent Wack --

18 MR. FERNANDEZ: Your Honor --

19 THE COURT: He is going to give him a pen and  
20 ask him to make some marks, he is not making a speech.

21

2B

22

(Continued on next page)

23

24

25

1 Q I hereby give hopefully a working red pen and ask  
2 you to write the names of each person in the photograph.

3 THE COURT: I wondered why that wasn't done  
4 earlier, frankly. But you go right ahead.

5 All right, you have written the name of  
6 Pedro Remon. Is that over the tall individual who has a  
7 mustache and a necktie in the middle of the photograph?

8 THE WITNESS: Yes, sir, it is.

9 THE COURT: All right, go ahead.

10 (Pause)

11 Q Agent Wack, perhaps you could just state what  
12 name you're writing and where you're writing it on the  
13 photograph for the record.

14 A The name I'm writing right now is "Eduardo  
15 Losada-Fernandez," who I'm identifying as the actual  
16 fifth individual from the left-hand side of the photograph.

17 THE COURT: Someone has put some numbers up at  
18 the top. Under what number is Mr. Losada-Fernandez  
19 standing?

20 THE WITNESS: He is under No. 1.

21 THE COURT: And he is the individual that appears  
22 to be smoking?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right.

25 A Under No. 2, below, I am writing the name





msjah 3           Wack-direct

1       and I will display these photographs as having been marked  
2       by Agent Wack to the jury.

3               THE COURT: I don't think the jury is going to be  
4       able to see them on display. I guess you're going to have  
5       to pass them among the jurors.

6               MR. TABAK: Very well, your Honor.

7               THE COURT: The black and white did not make a  
8       very perceptible contrast.

9               Can you pass them?

10              MR. TABAK: I will pass 26-A, -B and -C to the  
11       jury.

12              (Government's Exhibits 26-A through 26-C  
13       were passed among the jurors.)

14              Q     Agent Wack, on that same day, September 2,  
15       1982, did you come to see Mr. Arocena again?

16              A     Yes, I did.

17              Q     What were the circumstances?

18              A     We were returning from lunch, as I recall, and  
19       I saw him outside the building with Mr. Ernesto Rodriguez  
20       and Mr. Ricardo Pastrana, coming back into the building  
21       after apparently a lunch break, I guess it was.

22              Q     Which building did you see them outside of?

23              A     This building.

24              Q     Which building is that?

25              Q     The courthouse building.

1 Q And when you say "We were returning from lunch,"  
2 who is "we"?

3 A Myself, Detective Brandt and I came back and  
4 observed these individuals.

5 Q Then what happened?

6 A He, Mr. Arocena and the other two individuals,  
7 came into the courthouse. I came back in. And although we  
8 didn't get on the same elevator, I subsequently observed  
9 Mr. Arocena back in front of the grand jury room that  
10 afternoon.

11 Q And did you see Mr. Arocena again after that?

12 A Yes.

13 Q What happened?

14 A He was ordered by the grand jury to give  
15 handwriting exemplars. And myself and Detective Brandt  
16 escorted him back across the street to the FBI office  
17 to the 28th floor and performed or obtained the  
18 handwriting exemplars from him there.

19 Q Before he gave handwriting exemplars, did  
20 anything else happen at the FBI?

21 A Yes, he was ordered to give major case fingerprints  
22 which were taken.

23 THE COURT: Are those the prints taken by  
24 John Haughie?

25 THE WITNESS: Yes, John Haughie.

msjah 5                   Wack-direct

1           Q     Now, who participated, if you know, in taking the  
2 handwriting exemplars from Mr. Arocena that day?

3           A     Myself, and Detective Bob Brandt.

4           Q     I'm going to show you what has been marked  
5 Government's Exhibits 150-A through 150-VV for  
6 identification, and ask you to look at them (handing).

xxxxx 7                   (Government's Exhibits 150-A through 150-VV  
8 were marked for identification.)

9           Q     Do you recognize them?

10          A     Yes, I do.

11          Q     How do you recognize them?

12          A     Through my initials and the date taken. These  
13 are the exemplars that we took from Mr. Arocena.

14          Q     And when did you write your initials and the  
15 date on those?

16          A     On September 2nd of 1982.

17                   MR. TABAK: The government offers Exhibits 150-A  
18 through 150-VV in evidence.

19                   MR. FERNANDEZ: No objection, your Honor.

20                   THE COURT: Received.

xxxxx 21                   (Government's Exhibits 150-A through 150-VV  
22 were received in evidence.)

23                   THE COURT: We will consider them as one composite  
24 exhibit with subparts, A through VV. All received.

25                   There are forty-eight separate documents contained

1 within Government's Exhibits 150-A through -VV, assuming  
2 that you used the lettering consecutively.

3 MR. TABAK: That was the intention.

4 THE COURT: Very well. They will be available.

5 Q Now, Agent Wack, after Mr. Arocena wrote out those  
6 handwriting samples at the FBI office on September 2, 1982,  
7 what, if anything, happened?

8 A Myself and Detective Brandt spoke to  
9 Mr. Arocena. Subject went to the taking of the exemplars.  
10 I told Mr. Arocena that we had been working on this  
11 investigation a long time, that, in fact, at that time the  
12 investigation was centering and focusing on him,  
13 Mr. Remon and the others.

14 I told him that the government was going to  
15 prosecute, if possible, individuals responsible for the  
16 various acts over the years, and that we were getting  
17 close.

18 I told him to think about possibly cooperating  
19 with us and left it at that.

20 Q Did you say what, if anything, you might do if he  
21 decided to cooperate?

22 A We are not in a position to make any promises,  
23 the only thing I did mention to him was that if he did  
24 agree to cooperate, we would make known his information and  
25 cooperation to the U. S. Attorney's office for consideration.

msjah 7           Wack-direct

1           Q     Now, what language did you speak to Mr. Arocena in?

2           A     We spoke in English, since neither I nor  
3     Detective Brandt speak Spanish.

4           Q     And what, if anything, did Mr. Arocena say after  
5     you told him these things?

6           A     He made no commitment, other than he would return  
7     to Miami and speak to an attorney about the situation.  
8     We gave him our business cards, as I recall, and the  
9     conversation was ended at that point. He left.

10          Q     Now, I direct your attention to Friday,  
11     September 17th, 1982, about two weeks later. Did  
12     September 17th have any particular significance to you  
13     personally?

14          A     Yes, sir, my birthday.

15          Q     And were you working that day?

16          A     Yes.

17          Q     What hours?

18          A     I was on a nine-to-five shift.

19          Q     Were you still in the office at 5:30 that  
20     afternoon?

21          A     No, I left to celebrate my birthday.

22          Q     Now, when was the next time you were in the  
23     FBI office?

24          A     The morning of Monday, September 20th, 1982.

25          Q     And what happened when you got to the office that

1 morning, Monday, September 20, 1982?

2 A I walked in, walked over to my desk and observed  
3 a note on my desk from Agent Ghimenti, which stated that  
4 Eddie Arocena had called at 5:30 the previous Friday on the  
5 17th, and that he had left a telephone number and had  
6 asked that I call him back.

7 Q And what, if anything, did you do after you saw  
8 the note?

9 A I asked Mr. Ghimenti if this was in fact his  
10 note, and he said yes, and I made a telephone call to  
11 Mr. Arocena at the phone number left.

12 Q And what happened during that phone call?

13 A During the phone call, my initial contact with  
14 him, he said that somebody was in the office with him  
15 and that he wasn't in a position to speak at that time,  
16 could he call me back at the office. I said yes. And  
17 I believe it was about ten minutes later, Mr. Arocena  
18 called me back again at the office and stated that he  
19 desired to speak with me. And I agreed. I asked, "Do you  
20 want me to go to Florida or do you want to come here?" It  
21 was left open. And he said that he would be back in touch  
22 with me. And I didn't push it any further.

23 Q Now, did you, in fact, hear again from Mr. Arocena  
24 after September 20, 1982?

25 A Yes. Approximately four days later, in fact it was

1 September 24 of 1982, about eleven o'clock in the  
2 morning -- I'm sorry. Approximately nine o'clock,  
3 nine-thirty in the morning, Mr. Arocena called me at the  
4 office again and stated that he was at the Holiday  
5 Jetport Inn in New Jersey near the airport and could I go  
6 to the airport to speak to him.

7 Q And what did you do then?

8 A Bob Brandt was standing there, and I told Bob  
9 that Mr. Arocena was in a hotel in Newark near the  
10 airport. He wanted us to go talk to him.

11 We got our stuff together and left.

12 Q Now, what did you then do when you left?

13 A We drove to Newark Airport -- I'm sorry. To the  
14 Holiday Inn near the airport. We went in a government  
15 vehicle obviously, and we parked in the parking lot.  
16 And before we went in to see Mr. Arocena, we scoped the  
17 area as best we could, parking lot and the lobby, not  
18 really knowing what was coming.

19 We subsequently contacted Mr. Arocena in the  
20 hotel and went to his room.

21 Q What happend when you got to his room?

22 A Mr. Arocena was -- greeted us at the door. We  
23 went inside. We exchanged greetings and basically talked  
24 about what both sides were interested in.

25 Q All right, would you tell the jury, as best you

1 remember it, what words were spoken and who said them during  
2 this discussion?

3 A I recall Mr. Arocena stating words to the effect  
4 that he represented Omar, who was the individual we had  
5 noticed appearing on communiques for Omega 7, and that  
6 Omar and Omega 7 was interested in building a bridge with  
7 the government, the FBI.

8 I told Mr. Arocena at that time with Bob Brandt  
9 there that the government was pursuing the prosecution of  
10 Omar and Omega 7. And I proceeded to tell Mr. Arocena  
11 that, "You just can't forget about eight years of  
12 incidents such as bombings and murders and innocent people  
13 being injured in these things over the years."

14 I reiterated more to Mr. Arocena at that time  
15 as to where we stood in the investigation than we did  
16 back after the exemplars were taken. I recall I told  
17 Mr. Arocena that as a result of a border crossing in  
18 Canada in December of 1980, we had learned some very  
19 valuable information and basically that that was a bombing  
20 had occurred in Canada. Ramon Sanchez --

21 MR. FERNANDEZ: Your Honor, that's hearsy.

22 THE COURT: No, if he is testifying as to what  
23 he said to Mr. Arocena, the jury is to consider this.  
24 The fact that these words were spoken when they come from  
25 Mr. Wack, if he learned them from others, it's not to be



1 considered for the truth of the matter asserted. But  
2 when we get to Mr. Arocena, everything he said may be  
3 considered for all purposes.

4 But here, you have, ladies and gentlemen,  
5 Agent Wack testifying with respect to a conversation  
6 he had with Mr. Arocena. As far as what others told  
7 Agent Wack that he then reported to Mr. Arocena, that is  
8 as counsel indicated, hearsay. Therefore, Agent Wack's  
9 words are to be considered for the fact that these words  
10 were purportedly spoken by him. When you get to hear  
11 what came out of Mr. Arocena's mouth, those words may be  
12 considered by you for all purposes.

13 Any comment which either side wishes to make?

14 MR. FERNANDEZ: No. Thank you, your Honor.

15 MR. TABAK: No, your Honor.

16  
17  
18  
19 (Continued on next page)

3A

1           Q       Agent Wack, would you continue with what you  
2 were telling Mr. Arocena about the Canadian border  
3 incident?

4           A       Yes.

5                   I told Mr. Arocena again the investigation  
6 obviously had been a long one, that there had been this  
7 incident at the border in 1980 which caused us to focus  
8 on Pedro Remon, Mr. Sanchez and, more particularly,  
9 Mr. Arocena.

10                   I told him that a bombing had occurred in  
11 Canada in December of 1980, that Pedro Remon and Ramon  
12 Sanchez had, from our investigation, run the border up  
13 there and had been stopped.     Sanchez, we certainly learned  
14 of this border stopping up there.     We were notified, and  
15 I told Mr. Arocena that we were both very aware as to who  
16 Sanchez was, but that we had never come across Pedro Remon  
17 before in the investigation; that we were beginning an  
18 investigation with Mr. Remon, and we find out that he had  
19 made a telephone call to his job the day of the Garcia  
20 murder.     That telephone call came from a phone booth one  
21 block from the Cuban Embassy or Mission building here in  
22 New York.

23                   In our investigation of Mr. Arocena, the rest,  
24 I told Mr. Arocena we had also recovered two rental agree-  
25 ments, one of which showed that he, Mr. Arocena, had

1 returned a rental car to Newark Airport on the day of  
2 Garcia's murder one hour after the murder occurred,  
3 complaining about bad brakes, and that a second car had  
4 been taken.

5 I reminded Mr. Arocena, as I recall, that very  
6 recently, Mr. Losada-Fernandez, we had found out, returned  
7 his New Jersey license tags to the Motor Vehicle Department  
8 within a week after the murder, and that, in essence, I  
9 had observed Mr. Arocena at the airport back in September  
10 of 1981 leaving New York after a bombing of the Mexican  
11 Consulate here in the city.

12 Mr. Arocena reiterated that -- he made no  
13 commitment at that time. He reiterated that he was a  
14 representative of this Omar we had been seeking, that  
15 Omega 7 was interested in building a truce, you might say,  
16 with the Government, that other things were going on now,  
17 in the Cuban exile community, that things were being  
18 shifted to the Island of Cuba, that there was more concern  
19 about things in Latin America.

20 And the discussion between the three of us,  
21 myself, Mr. Arocena and Bob Brandt, we had -- or I had gone  
22 back and forth with Mr. Arocena on the politics of basic-  
23 ally terrorism. And I recall telling Mr. Arocena that  
24 after the bombs are put down by the bomber and he leaves  
25 the scene, myself and other law enforcement officers go to

3mss

Wack - direct

1 these scenes and spend a considerable amount of time  
2 talking to the neighborhood, and we find out that men and  
3 women and children have been found -- men, women and  
4 children who were nearly killed or maimed in these bombings,  
5 that there is no place for these bombings and for the  
6 terrorism in New York City, let alone this country, in  
7 general, and that the American public will not tolerate it  
8 and neither will law enforcement.

9 Q What, if anything, did Mr. Arocena say in  
10 response to that?

11 A He didn't give any commitment. He mentioned  
12 that the Cuban exile cause had been a long, frustrating  
13 cause, basically.

14 We reverted back, as I recall, to the frustra-  
15 tions with the Bay of Pigs invasion with the Cuban exiles  
16 and how Mr. Arocena indicated how the Government had  
17 failed to back them at that time, how things were happening  
18 in South America, communism was dominating this country  
19 and whatnot.

20 Q Now, how did this meeting conclude with  
21 Mr. Arocena?

22 A Obviously, it was an interesting meeting with  
23 Mr. Arocena. We weren't really sure what we had accom-  
24 plished in two hours.

25 Q Agent Wack, I'm just going to ask you to tell

1 what happened at the end of the meeting.

2 A Okay. We agreed to meet with Arocena the  
3 next morning at the hotel.

4 Q All right. And what did you do when you  
5 left the meeting with Mr. Arocena?

6 A We returned to the office.

7 Q All right. Now, did you, in fact, meet with  
8 Arocena the next day, Saturday, September 25, 1982?

9 A Yes.

10 Q And when did you meet him?

11 A We drove back to the hotel the next morning  
12 approximately nine o'clock, I believe. We met him at the  
13 hotel and went to breakfast.

14 Q When you met him, was he in the same room as  
15 the night before?

16 A No. He had changed rooms and had mentioned  
17 that a water pipe, I believe, had broken in the room that  
18 he was in previously. We met him in a different room, as  
19 I recall, which I recall possibly being either next door  
20 to the other room or just down the hall.

21 Q And then, after you met him, what did you do?

22 A We decided to go have some breakfast. And we  
23 drove to the Queen Elizabeth Diner, which was maybe a  
24 quarter of a mile away.

25 We had breakfast at the diner. I vividly,

1 very much remember Mr. Arocena having cheeseburger that  
2 morning while we had bacon and eggs.

3 Q Now, after breakfast, what did you do, if  
4 anything?

5 A We drove back to the hotel. I remember  
6 en route back to the hotel, Mr. Arocena stated that he  
7 knew this particular diner we were in to be the diner  
8 where a lot of the New Jersey FBI agents ate at.

9 Now, we drove back to the hotel, and I brought  
10 a tape recorder back with us that day and took it out of  
11 the trunk. And it was brought upstairs, I believe, by  
12 Detective Brandt. And we told Mr. Arocena that we were  
13 going to play some tapes, if he was agreeable.

14 Q And then what happened?

15 A We subsequently got up to the room. We put  
16 the tape recorder down, or Bob put the tape recorder on  
17 the table, and Mr. Arocena indicated at that time that --  
18 actually, Bob Brandt, after a very brief discussion, Bob  
19 Brandt, we got into how Mr. Arocena was a representative  
20 of Omar again, and Bob Brandt said words to the effect of,  
21 "Are you Omar?"

22 And Mr. Arocena said, "Yes, I am, I am Omar,"  
23 that he was not a representative.

24 We were going to, obviously, at that time --  
25 and it looked like we could do it -- ask Mr. Arocena about

1 incidents which have occurred in the United States.  
2 We told him that we wanted to know everything from  
3 Day 1 from 1975 to the present and who did what in the  
4 organization, who was responsible for the murders, who  
5 was responsible for the bombings and so on.

6 Mr. Arocena stated at that time that he would  
7 be willing to tell us about the involvement of himself and  
8 the Pedro Remon action in the New York-New Jersey area.  
9 However, he did not want to discuss his representatives  
10 in Florida, and he did not want to discuss people in  
11 countries overseas that he might have a connection with.

12 We agreed at that time that we would make  
13 that limitation, and the interview started.

14 Mr. Arocena said at that time that the story  
15 of Omega 7 actually goes back to September 11 of 1974,  
16 when he formed the organization on that particular date.  
17 He said that in 1974, at around that time, that he was  
18 attending rallies and demonstrations and whatnot, and that  
19 basically, the Cuban exiles were doing a lot of talking,  
20 but nobody was really doing anything about it. He decided  
21 to do something about it. And he formed the Omega 7  
22 group on September 11 of '74.

23 He stated that the name Omega came from the  
24 last letter of the Greek alphabet which means the end or  
25 that this is the end, the final means, the only way to rid

1 Fidel Castro through violence. 7, the number 7, I  
2 specifically asked him at that time if that meant -- had  
3 anything to do with the amount of people in the organiza-  
4 tion. And he said no, that it was a symbol surrounding  
5 the Cuban flag, as I recollect, and the provinces in Cuba  
6 at the time.

7 He said that over the years, many organizations  
8 had claimed that they were Omega 7, that neither he nor  
9 the others who he mentioned, as Pedro Remon, Andres  
10 Garcia, Eduardo Losada-Fernandez, as original members,  
11 were ever affiliated with any particular organization.  
12 He stated that the organization known as the Cuban  
13 Nationalist movement, which was another Cuban exile group,  
14 was allowed to imply over the years to the media and to  
15 the community and whatnot that they, in fact, were  
16 Omega 7. However, that this was purposely done by  
17 Mr. Arocena on agreement with Guillermo Novo, the leader  
18 of the group, that this would act as a smokescreen and  
19 deter law enforcement away from the real men and keep us  
20 after the Cuban Nationalist movement people.

21 Mr. Arocena said at that time that while we  
22 were discussing the smokescreen situation with the other  
23 organization that, in fact, in 1979, after the second  
24 trial of Le Tellier murder in Florida, where Novo was a  
25 defendant, that finally in about 1979, Mr. Arocena told



1 Mr. Novo that he should at that time go back to his people  
2 in his organization and tell them that they were never a  
3 part of the real Omega 7 group.

4 I asked him what Omega 7's actual relationship  
5 was with the Cuban Nationalist movement, other than a  
6 smokescreen. And he said that Virgilio Paz, who is  
7 currently a fugitive, and Mr. Arocena put the bomb together  
8 that was subsequently attached to a Russian ship, the  
9 Ivan Shepetkov, over in New Jersey in 1976. And Arocena  
10 stated that he had previous experience as a diver, and  
11 that he had swam out and placed the bomb on the ship,  
12 himself.

13 He remembered having trouble with the magnets  
14 in the water, and he also remembered an employee, an  
15 individual, assigned to the ship being up on the ship  
16 in the dark looking down on him, and he was concerned  
17 that this individual had seen him swim out to the ship  
18 and place this mine against the side of it.

19 He said that that was really the only thing  
20 that the Cuban Nationalist movement, of which Paz was a  
21 member, and the real Omega 7 people did together.

22  
23 (Continued on the next page.)  
24  
25

1 Q Agent Wack, did there come any point in the  
2 meeting where Arocena had discussion with you about ground  
3 rules for the meeting?

4 A Yes. When he mentioned that he would not talk  
5 about the Florida aspect or the foreign aspect of the  
6 upcoming interview, he said at that time that there would be  
7 no tape recording of his -- of the interview, and that he  
8 would not sign any type of a statement, and he didn't  
9 want us taking notes.

10 After the interview started, and the information  
11 was coming from Mr. Arocena, I started taking notes,  
12 which he, as I recall, objected to, and I told him that  
13 there was too much to remember and I was going to take  
14 notes.

15 Q Is there anything else you did after he said  
16 what his ground rules were?

17 A I did not do it. I remember Bob taking the  
18 batteries out of the tape recorder that we had and placing  
19 them off to the side to show Mr. Arocena we weren't going  
20 to try to tape record him.

21 Q Agent Wack, I now show you Government's  
22 Exhibits 2 and 3 in evidence, and ask if you can recognize  
23 these.

24 A Yes.

25 Q What are those?

1           A     These are, Government's Exhibit 2 is a  
2 interrogation ~~and~~ advice of rights form dated September 25,  
3 1982, signed by Mr. Arocena and myself and witnessed --

4           Q     What language is that form in?

5           A     This is in English.

6           Q     What is Exhibit 3?

7           A     Exhibit 3 is an interrogation advice of rights  
8 form also dated September 25, 1982, in Spanish, signed  
9 by myself and a witness and Mr. Arocena.

10          Q     What were the circumstances on which these  
11 got signed by each of you?

12          A     Yes. Prior to the actual interview starting,  
13 after Bob had asked Mr. Arocena, "Are you Omar," and  
14 Mr. Arocena admitted, "Yes, I am Omar," It was very  
15 apparent to me at that time that we were entering a critical  
16 field in possibly an upcoming interview with Arocena where  
17 a lot of admissions were going to be made.

18                     I decided shortly after he admitted being Omar  
19 that we had better give Mr. Arocena his Miranda warnings,  
20 although by law we were not required to do it, he was not  
21 in custody, he was not under arrest, I decided that we had  
22 better do it anyhow just to make sure that Mr. Arocena  
23 was fully aware that he had the right to not say anything,  
24 and more importantly, the right to an attorney present if he  
25 wanted one.

1                    Q        How did you go over these rights with Mr. Arocena?

2                    A        The English form I read to Mr. Arocena, which is  
3 standard, and I recall doing it that morning.

4                    I explained the waiver of rights that is on  
5 the bottom of this form to him at the time.

6                    And I told him at the time, asked him to sign it  
7 and told him that at the time, "If you do sign it, all  
8 you are acknowledging or admitting at this time is that  
9 you do in fact understand the rights that I have read you  
10 above, including your right to have counsel present."

11                    He subsequently signed the form, I signed it,  
12 Detective Brandt signed it.

13                    I placed it down and took the Spanish form,  
14 which I do not speak Spanish, and I wanted to make absolutely  
15 sure, although he said he understood these rights and what  
16 he was doing there, I wanted to be positive, probably  
17 overly cautious and laid the Spanish form down next to the  
18 English form and asked him to read the Spanish form, which  
19 is also an advice of rights form, make sure to himself that  
20 it says essentially what the English form does, and if he  
21 would be agreeable to sign it.

22                    He signed it, I signed it, Detective Brandt  
23 signed it, and it was dated.

24                    Q        After these forms were signed, what was the first  
25 area you discussed with Mr. Arocena?

rbjah 4           Wack-direct

1           A     The first area I recall discussing with Arocena  
2 was, we had a big question about how the group was formed,  
3 which I had mentioned.

4           Q     After you discussed that, what did you discuss?

5           A     The second area we discussed was the Garcia murder,  
6 which happened on September 11 of 1980 in Queens.

7                     I asked Mr. Arocena if there was a motor vehicle  
8 involved in that murder, and he told me no.

9                     He stated that he had ordered the murder of  
10 Garcia and had participated in that murder of Garcia with  
11 Pedro Remon, Eduardo Losada-Fernandez and Andres Garcia.

12                    Their original intent that day was to assassinate  
13 four Cubans at the embassy building here in New York, the  
14 Cuban Mission; that they had surveilled these individuals  
15 for an extensive length of time, and on September 11  
16 of 1980, they had lost these four individuals in a  
17 surveillance, they had gone back to the Cuban Mission,  
18 observed Felix Garcia leaving, and figured, and knew  
19 that he was the chauffeur, so maybe he would lead the group  
20 to somebody big.

21                    Mr. Arocena stated that he was in a rental car  
22 which he had rented several days prior, and that on that  
23 day of the murder, Pedro Remon, Andres Garcia and  
24 Losada-Fernandez were in a stolen vehicle.

25                    Pedro Remon was in possession of a Mack 10

rbjah 5            Wack-direct

1        machinegun with a silencer which had previously been given  
2        to him by Mr. Arocena, according to Mr. Arocena.

3                The two groups, Mr. Arocena was alone by himself  
4        in one car, the rental car, the other three individual  
5        were in the stolen car, followed Felix Garcia out to Queens,  
6        and in coming back in from the airport, Mr. Arocena on  
7        the surveillance had decided that he wanted to cancel the  
8        operation, that he didn't want one individual killed, that  
9        their, again, original intent that day was to assassinate  
10       four Cubans and that obviously Felix Garcia was not leading  
11       them to anybody that day.

12                At an intersection situation, he apparently,  
13        according to him, pulled up behind Pedro Remon's vehicle,  
14        he remembered Remon being in the back seat of that car,  
15        and with his car, Mr. Arocena's rental, he tapped the  
16        Remon car on the back bumper, and when Remon turned around,  
17        Mr. Arocena tried to wave off the operation, at which  
18        time apparently Mr. Remon looked back and gave some sort  
19        of a hand signal that they were going to go through with  
20        it anyway.

21                The surveillance apparently took, according  
22        to Arocena, Mr. Garcia to a carwash off of Roosevelt  
23        Avenue in Queens.

24                Somehow, Mr. Arocena, according to himself, lost  
25        Felix Garcia after that carwash situation, where Garcia

1 exited the carwash. As a result, he was not at the immediate  
2 scene and had gotten lost just around that time.

3 As a result of him getting lost in the surveillance,  
4 he could not catch up with his surveillance, And he even  
5 recalled one incident right around that particular time  
6 where they had all stopped at a stoplight, apparently  
7 Felix Garcia had made the light, it turned red and it kept  
8 Remon, and Garcia and Fernandez backed up and Arocena  
9 backed up in his own car, and Arocena remebered Remon  
10 and the others ran that light to catch up to Felix Garcia,  
11 and that Arocena remembered seeing, apparently, a blue  
12 and white, as described as blue and white meaning a  
13 squad car, a police car, sitting waiting to come through the  
14 intersection.

15 Arocena stated he was concerned at that minute  
16 that that squad car was going to stop them and obviously  
17 find out that they were in a stolen car and they had a  
18 machinegun with them.

19 The surveillance was subsequently lost as a  
20 result of the carwash situation. Mr. Arocena decided to  
21 return his car to Newark Airport. He did. And as a  
22 result, he was not at the scene when the trigger was  
23 pulled.

24 He stated that he took his first car back to the  
25 airport, re-rented a second car and early that evening went

1        to the fruit market, which is operated by Mr. Losada-  
2        Fernandez in Newark, and he went there and met Pedro Remon,  
3        Garcia and Losada in the parking lot of the fruit market  
4        wherein Remon told him that he had in fact shot Felix  
5        Garcia at an intersection, and that they had gotten away.

6                      The Remon group, according to Arocena, told him  
7        that they dropped the stolen car fifteen blocks to a  
8        mile from the scene and was not clear as to how they  
9        actually got back to Newark, although Mr. Arocena did not  
10       drive them back there.

11                     After the discussion of the -- if I could just  
12       back up one second.

13                     In the second car that Arocena rented, after we  
14       recovered the rental agreement, we noticed that there  
15       was, as I recall, approximately fifteen hundred miles  
16       driven on this second car that was rented an hour after  
17       the murder at this point.

18                     I remember asking Mr. Arocena, "Where did you go  
19       for fifteen hundred miles or seven-fifty, there and  
20       back, after the murder," and he told me at that time that  
21       that was apparently a typographical or an error made by the  
22       girl at the rental agency and really meant nothing as far as  
23       the rental was concerned, because he didn't go seven-fifty  
24       miles one way or back to any place, that he had this meeting  
25       at the parking lot.

4A



1           Q       Agent Wack, did Mr. Arocena during this same  
2 meeting tell you of any other murder attempts he was  
3 involved in with Remon shortly after the Garcia murder?

4           A       Yes, 13 days after Garcia's murder, we discussed  
5 the arrest of Pedro Remon and Losada-Fernandez. 13 days  
6 after the Garcia murder at Belleville, New Jersey.

7                   I had told Mr. Arocena that we were well aware  
8 that this was Mr. Remon and Mr. Fernandez' first arrest,  
9 that they had a clean record prior to that and what was  
10 that situation.

11                   He told me that in fact what that was, that he  
12 had driven Pedro Remon and Losada-Fernandez to that area  
13 in Belleville, New Jersey, and that they were going to steal  
14 a vehicle in that area to be utilized in a bombing assassina-  
15 tion attempt against the Cuban Ambassador, Parodi Sanchez  
16 in Washington, D.C., which the plot was being put together  
17 by Arocena and the others.

18                   Arocena stated that, however, when he drove  
19 Remon and Fernandez into the Belleville area to steal the  
20 car, there were two things that bothered him the most.

21                   Number one, that Remon and Fernandez had  
22 apparently been drinking prior to the actual attempt to  
23 steal the car, that Arocena did not think it was a good idea  
24 to try it.

25                   However, the most important thing to Arocena

1 was, is that he remembered in driving into the area seeing  
2 a woman in a window nearby who he was afraid was going to  
3 see them try to steal this actual particular car.

4 Remon and Fernandez apparently were in dis-  
5 agreement with Arocena. He dropped them off, he left the  
6 immediate area to make a phone call, he came back, and when  
7 he came back he observed Mr. Remon and Fernandez in custody  
8 of the local police who obviously had been called regarding  
9 an ongoing break-in situation.

10 Q What if anything --

11 A As a result of that -- excuse me. As a result  
12 of that, the arrest, the attempt against Sanchez Parodi  
13 in Washington was aborted.

14 Q What did Mr. Arocena tell you that he did when  
15 he saw the other two people in custody?

16 A He stated that basically there wasn't much he  
17 could do at that particular situation. There apparently  
18 were a couple of officers with Remon, and Mr. Arocena left  
19 the area.

20 MR. TABAK: Your Honor, I would suggest that  
21 we take the mid-morning break at this point, if that is  
22 agreeable.

23 THE COURT: Since it is a few minutes before  
24 twelve, I suggest the name mid-morning break is somewhat  
25 of a misnomer. But the jurors have been most patient

1 and I think it would be appropriate to take a noon break.

2 Ladies and gentlemen, we will take a break at  
3 this time and resume and then proceed to the luncheon  
4 recess.

5 Please do not discuss the case among yourselves,  
6 keep an open mind.

7 (Recess.)

8 (In open court, jury present.)

9 THE COURT: You may proceed, Counsel.

10 MR. TABAK: Thank you, your Honor.

11 BY MR. TABAK:

12 Q Agent Wack, resuming with your conversation  
13 with Mr. Arocena and Detective Brandt on September 25,  
14 1982 at the Jetport Holiday Inn, did you discuss any other  
15 murders with Mr. Arocena?

16 A Yes, we discussed the attempted murder of Raul  
17 Roa, who was the then, in 1980, anyhow, the Cuban Mission  
18 Ambassador to the United Nations here in New York.

19 Mr. Arocena had previously told us that he  
20 built all the explosive devices utilized by Omega 7 with  
21 the exception of remote control bombs, which he was  
22 assisted in building by Ramon Sanchez.

23 The particular plot to kill Raul Roa, according  
24 to Mr. Arocena, was a six-month, an approximate six-month  
25 surveillance situation by Mr. Arocena and other members of

1 Omega 7 involved which included Pedro Remon, Losada-Fernandez,  
2 Andres Garcia, Jose Gracia and Alberto Perez.

3 The remote control bomb that was put on Roa's  
4 car was actually put on the vehicle while they had Roa  
5 under surveillance at, in front of the Cuban Mission to  
6 the United Nations right here in New York City. The bomb  
7 was attached to Roa's vehicle with a magnet, and Mr.  
8 Arocena had complete control of the transmitter which  
9 would detonate the bomb.

10 The plan, the surveillance of Roa was accom-  
11 panied by notes and photographs which Mr. Arocena told us  
12 were destroyed, and the Roa device itself was to be  
13 detonated by Arocena, and they had decided they were going  
14 to detonate the bomb underneath the car on the FDR Drive  
15 in New York City.

16 The Ambassador's car drove up the vicinity of  
17 81st Street and Madison that day, March 25 of '80, and  
18 Mr. Arocena and Mr. Remon were observing the vehicle from  
19 the area, and all of a sudden they noticed the vehicle  
20 back into a car, and it was obvious to them right after  
21 that that the bomb had fallen off the car and something  
22 had happened.

23 According to Arocena, he and Remon saw Roa  
24 and another individual come out of Roa's residence and over  
25 to the vicinity of the car and the bomb which apparently

1 at that time was on the street.

2 Mr. Arocena told me, and Mr. Brandt who was  
3 there, that Remon wanted Arocena to detonate the bomb at  
4 that point because they probably could get Roa in the  
5 proximity where he was with the bomb.

6 Mr. Arocena said that he told Remon he was not  
7 going to detonate the bomb at that particular position  
8 because there were too many children in the vicinity.

9 There is a school up on the corner in the  
10 immediate approximately maybe 40 to 50 yards from where  
11 the bomb fell off the car, and it was approximately 9:30  
12 in the morning, according to Mr. Arocena.

13 Remon was insistent that he blow the bomb,  
14 Mr. Arocena said he wouldn't because of the kids.

15 As a result, the plan was aborted, and Mr.  
16 Arocena stated that he even, after the police cars had  
17 shown up on the scene, that he was still in the area and  
18 had walked over and inquired of somebody as to what had  
19 happened.

20 The Roa device itself, according to Mr. Arocena,  
21 that same day, was actually made by him and Remon Sanchez,  
22 who compiled the electrical aspect of it, for a murder  
23 that they were going to do in October of 1979 against  
24 Fidel Castro when he was here in New York.

25 Mr. Arocena stated that he knew Castro was

1 going to have to go to a particular restaurant in the  
2 city here, he refused to tell us what restaurant he knew  
3 Castro was going to be going to because if Castro ever  
4 came back again he would no doubt go to that same restaurant  
5 and maybe they could try it again.

6 Mr. Arocena stated that they had staked out  
7 this restaurant, the bomb, the remote control bomb had in  
8 fact already been placed in the restaurant, that Mr.  
9 Arocena waited approximately two days with the transmitter  
10 for Fidel Castro to go to this restaurant so he could  
11 kill him.

12 I remember telling Mr. Arocena at that point,  
13 when he mentioned this, that was he cognizant that in  
14 fact Fidel Castro, being a head of a state, is obviously  
15 surrounded all the time while he was here by Secret Service  
16 agents and State Department agents and possibly FBI agents  
17 and New York City police officers for security reasons.

18 I told Mr. Arocena that had he detonated any  
19 type of a bomb inside a restaurant where Fidel Castro was  
20 sitting, that obviously a lot of law enforcement agents  
21 were going to be taken out by the device also.

22  
23 (Continued on the next page.)  
24  
25

ET4B

1 Q And what, if anything, did Mr. Arocena say to you  
2 after you said that?

3 A I specifically recall Mr. Arocena stating that  
4 that was all part of the war.

5 Q Now, what did Mr. Arocena tell you happened  
6 with the transmitter that he had that day?

7 A The transmitter utilized for the Roa bomb,  
8 Mr. Arocena stated, that he currently still had that  
9 transmitter. Of course the bomb we recovered. The  
10 transmitter was in Florida, and he would be amiable to  
11 giving us that transmitter in the near future.

12 Q Now, did you discuss any other murders that  
13 in fact occurred with Mr. Arocena?

14 A Yes, we did. We discussed the murder of  
15 Jose Negrin. Mr. Arocena stated that he had, in fact,  
16 ordered, as being the commander of Omega 7, and Omar, the  
17 murder of Negrin, that the murder was actually carried out  
18 by Pedro Remon who was the triggerman, as he was the  
19 trigger man in the Garcia murder with Andres Garcia  
20 driving the car.

21 Arocena stated that he was not present at the  
22 immediate scene when Negrin was murdered, that he was home  
23 in bed, as I recall, and that Remon and Garcia had reported  
24 to him afterwards that they had accomplished the task.

25 I remember Mr. Arocena saying that Remon had told

1 him that they shot Negrin in front of his son and to avoid  
2 hitting the son, they used an angle shot.

3 Q Was that a term that you were familiar with?

4 A It's not a term that I'm familiar with other than  
5 what it means when it's faced, some kind of shot from an  
6 angle.

7 Q Did Mr. Arocena tell you anything about the  
8 weapon that was used in the Negrin murder?

9 A Yes, the weapon that was used in the Negrin  
10 murder, according to Arocena, was a Mack 10 machinegun with a  
11 silencer that he had, in fact, given to Remon, previously.  
12 He used that Mack 10 machinegun in the murder of Negrin  
13 and subsequently used the same gun in the murder of  
14 Felix Garcia, one year later.

15 Q Did you have any discussion with Mr. Arocena  
16 about where that murder weapon is or was?

17 A Yes, that was a primary topic as to where the  
18 gun was. And on the 25th of September, at that time,  
19 Mr. Arocena stated that after the subpoenas were issued  
20 to himself and Remon and Ramon Sanchez in Florida, that  
21 he had asked him where the Mack 10 machinegun used in the  
22 murders were, and they told him it had been destroyed  
23 forever.

24 Q Well --

25 A Arocena --



1 Q Finish your answer.

2 A Mr. Arocena noted that during the murder committed  
3 wherein Remon was the actual trigger man, that he wore  
4 a mask.

5 Q Any particular kind of mask Mr. Arocena mention?

6 A No. He said a mask of non-specific -- he was  
7 having trouble identifying -- or detailing what it looked  
8 like.

9 Q Now, after discussing these various murders  
10 and murder plots, were there any other types of matters  
11 that you discussed with Mr. Arocena on September 25, 1982?

12 A Yes. We were obviously interested in everything  
13 else that had occurred over the years. We asked Mr. Arocena  
14 about the bombing of the Soviet Mission to the United  
15 Nations, which happened in December of '79, right here  
16 in New York City.

17 Mr. Arocena stated that he had again built  
18 that device, that he, Remon, Losada-Fernandez and Garcia  
19 were involved, and in fact, Losada and Andres Garcia were  
20 the back-up, that Mr. Arocena and Mr. Remon had approached  
21 the garageway of the Mission, they had lit the fuse.  
22 The bomb was in a briefcase, that they had rolled or  
23 slid the bomb down the driveway to the door. When they  
24 turned around and started walking back towards Lexington  
25 Avenue, they heard a police officer behind them in front of

1 the Mission yell to them. And it was words to the effect  
2 of "Stop," or "Hey you."

3 Arocena stated that he remembered at that  
4 particular moment, he was anticipating being detained  
5 or stopped by the policeman. He did say, however, that he  
6 turned around. The policeman was approaching him, and  
7 Mr. Arocena was waving for the policeman to go back, since  
8 the device had just been planted, it was on a fuse, it was  
9 obviously going to go any minute. The policeman kept going  
10 and the bomb blew. Mr. Arocena and Mr. Remon were not  
11 detained and then had left the area.

12 Q Did Mr. Arocena tell you anything about any  
13 type of way he would appear or was dressed?

14 A Yes. He stated that he recalled that night of the  
15 Soviet Mission bombing, that both he and Remon was dressed  
16 in raincoats, light-colored raincoats; he believes they  
17 may have had tophats on and he believes that they were  
18 wearing a fictitious mustache.

19 Q Now, did you discuss any other bombings  
20 with Mr. Arocena?

21 A Yes. We discussed the bombings of Trans World  
22 Airlines baggage car at Kennedy Airport. We discussed some  
23 others, which I'll get into.

24 Q What did he tell you about the TWA bombing?

25 A Relative to the TWA bombing, Mr. Arocena stated

1 that he had again built that device. That he and Pedro<sup>868</sup>  
2 Remon were at the airport, and that Pedro Remon had gone in  
3 and bought a ticket to Los Angeles on that flight in order  
4 to get the bag into luggage.

5 Mr. Arocena stated that the bomb was not  
6 to go off the way that they had intended -- I'm sorry. He  
7 stated that the bomb was not intended to go off, that  
8 Pedro Remon had made several telephone calls to the police  
9 and TWA, telling them that there was, in fact, a bomb headed  
10 for this airplane.

11 Did he say why he built the bomb if he didn't  
12 intend for it to go off?

13 A "A scare tactic," I recall him stating. Hopefully  
14 that it would be found intact without going off, and that  
15 the scare factor would be there, for TWA, who was  
16 flying excursion trips to Cuba, as I recall, that there  
17 it is in black and white, there was a bomb headed for the  
18 plane and they would have the scare factor.

19 Q Now, did you discuss any other bombings with  
20 Mr. Arocena?

21 A We discussed the bombing of the Mexican Consulate  
22 on the night of September 11, 1981, which involves the  
23 surveillance I mentioned, at National Car Rental.

24 He stated that he had placed that device with  
25 other confederates who he would not mention, and that he

1 .recalled that night that he had to wait in the vicinity of  
2 the Mexican Consulate a considerable amount of time, because  
3 there was a man and a woman out front of the consulate who  
4 were apparently jumping their cars or they had car problems,  
5 and the cars were face to face. They were trying to  
6 repair their cars, they were there for an extensive amount  
7 of time almost in front of the doorway, and Mr. Arocena,  
8 as a result, was delayed in getting the bomb in the doorway  
9 because of this situation.

10 He stated that he did, in fact, leave New York  
11 the next two days later under the Medina name, going back  
12 to Florida, and that he had, in fact, rented the cars  
13 that we observed him already in.

14 Q Did he tell you what, if anything, happened --  
15 did he tell you whether the two cars ever left in front  
16 of the Mission?

17 A Yes, they -- apparently they had resolved  
18 the problem, dead battery or whatnot, and had left, and  
19 then the mission was accomplished.

20 Q What did he tell you he did, if anything, after  
21 the two cars drove away?

22 A As I recall, he stated that he had gone up  
23 and placed the device.

24 Q Now --

25 A Again with other confederates, but he would not

1 mention them at this time, or at that time.

2 Q During this same meeting with Mr. Arocena on  
3 September 25, 1982, was there any discussion of the Aeroflot  
4 bombing?

5 A Yes. The bombing at the Aeroflot Soviet Airlines  
6 was also discussed. Mr. Arocena stated that he had built  
7 that bomb, but he was not at the scene, and that, in  
8 fact, that situation or that bombing was carried out by  
9 Pedro Remon and Andres Garcia. And he stated that Pedro  
10 Remon had subsequently returned after the bombing, and told  
11 Mr. Arocena that it was necessary for him to shoot at a  
12 police officer, of which Arocena reprimanded Remon for  
13 even taking a gun to the area.

14 Q Did he tell you why he didn't want Remon to  
15 take a gun?

16 A He didn't want Remon to take a gun, because he  
17 didn't want Remon being caught with the gun, as I recall,  
18 shooting anyone. Excuse me. But this reverts back  
19 to the Belleville incident also, because while he was  
20 discussing the Belleville incident and the arrest there,  
21 Remon was arrested with a .45-caliber weapon, which Arocena  
22 again reprimanded him, according to Arocena, for carrying  
23 the gun.

24 MR. FERNANDEZ: Most respectfully, could you  
25 instruct the witness to answer the question and not give

1 opinions.

2 THE COURT: Yes, I think the response to the last  
3 question was not responsive.

4 MR. FERNANDEZ: I move to strike it.

5 THE COURT: I'm going to strike that answer and  
6 ask the question to be read back and then have the witness  
7 respond to it, to the extent that the inquiry seeks  
8 particular information.

9 Ladies and gentlemen, you'll disregard the last  
10 response of the witness. The question will be re-read, and  
11 the witness may then respond.

12 (Question read)

13 A Yes. He didn't want Remon, if he was caught  
14 at the scene, to have a gun and he didn't want Remon taking  
15 shots at anyone.

16 Q Now, Agent Wack, I'm going to show you Government's  
17 Exhibit 35 in evidence (handing).

18 Do you know what that is?

19 A Yes, Exhibit 35 is a recording of an Omega 7  
20 communique retrieved back in April 8 of 1980, in Newark,  
21 New Jersey from a phone booth.

22 Q And did you do anything with this particular  
23 recording on September 25, 1982?

24 A Yes. Bob Brandt, while I was in the room, played  
25 this to Mr. Arocena, the contents of this tape, and we were

1 interested to know whose voice it was and he identified  
2 the voice of Eduardo Losada-Fernandez as the individual  
3 making this.

4 Q Now, how did the discussion with Mr. Arocena end  
5 on September 25, 1982?

6 A It ended on the note that we would like to talk  
7 to Mr. Arocena again the following day about the  
8 investigation, itself, and who was responsible for various  
9 crimes and other details that we wanted to obtain that  
10 we didn't get that day.

11 Q Agent Wack, do you see Mr. Arocena in the courtroom  
12 today?

13 A Yes.

14 Q And would you point him out, please?

15 MR. FERNANDEZ: Your Honor, he's already been  
16 identified. We stipulate to his identity.

17 THE COURT: Very well. It is agreed that if  
18 pressed, Agent Wack could identify Mr. Arocena.

19 Q Now, Agent Wack, did you, in fact, meet with  
20 Arocena the next day, Sunday, September 26, 1982?

21 A Yes, we did. We drove back to the airport  
22 inn again.

23 Q Who is "we"?

24 A Bob Brandt.

25 Q Bob Brandt and you drove to the airport?

1           A     Right. We met Mr. Arocena that morning. We  
2 were going to debrief him some more.

3           Q     All right, Agent Wack, where had you been the night  
4 before?

5           A     The 25th?

6           Q     Right, where did you stay that evening? Did  
7 you stay at the Holiday Inn?

8           A     Oh, no, we left and I went home and Bob went  
9 home.

10          Q     To your knowledge, did any government agent,  
11 FBI or anybody else, perform any surveillance or stay with  
12 Mr. Arocena that night?

13          A     No, absolutely not. We had no surveillance  
14 on Mr. Arocena.

15          Q     All right. Now, on Sunday, the 26th, when  
16 you arrived, what time of day was that?

17          A     Maybe eleven o'clock in the morning.

18          Q     I'm now going to show you Government's  
19 Exhibit 36, which is in evidence (handing), and ask you  
20 if you recognize that.

21          A     Yes. This is a composite tape of telephone calls  
22 to the news media claiming responsibility for Omega 7  
23 incidents.

24          Q     And what, if anything, did you do with that tape  
25 which has been admitted as Government's Exhibit 36, on



1 September 26, 1982?

2 A We played this tape that morning, first thing,  
3 to Mr. Arocena, to see if he would identify the caller  
4 in each instance, which he did, and identified the person  
5 as Pedro Remon as the caller to the media.

6 Q Now, did you have any other discussion with  
7 Mr. Arocena on the morning of September 26th, that Sunday?

8 A We had a short discussion with Mr. Arocena about  
9 us continually seeing him at the hotel there. We had --  
10 Bob and I are known in the community. We were somewhat  
11 concerned about security. We asked Mr. Arocena what  
12 he thought. He did indicate at that time that Pedro Remon  
13 and Ramon Sanchez were definitely out to get him, and that  
14 he was not so concerned with Pedro Remon as he was with  
15 Ramon Sanchez, because of his knowledge of electronics  
16 and the fact that he can build these remote-control  
17 bombs.

18 Q Agent Wack, do you happen to know what  
19 Mr. Sanchez' occupation was at the time?

20 A As I recall, he was a burglar alarm installer in  
21 Maimi, Florida.

22 Q Now, what, if anything, did you do after  
23 Mr. Arocena said he was concerned about Remon and Sanchez  
24 going after him?

25 A We obviously got a little concerned at that

1 .point and we decided that we were going to move  
2 Mr. Arocena, and we asked him if he would be willing to change  
3 locations and go to a New York City hotel and register  
4 there, where we could continue our discussions, and leave  
5 that particular hotel, which he agreed to do.

6            Q     Now, did anything unusual happen as you were  
7 leaving Mr. Arocena's hotel room?

8            A     We went down into the lobby, and Mr. Arocena  
9 stated that he had to make a telephone call to some people  
10 in the immediate area, to tell them that everything was  
11 okay. I saw him go to a telephone booth, put money in,  
12 and speak in the phone.

13           Q     You didn't hear what he said, did you?

14           A     No.

15           Q     All right. Now, as he was leaving the room  
16 with you, did you notice anything?

17           A     Yes. On the way out the door, after we had  
18 gotten everything together, Bob went out first, I went  
19 out second, Mr. Arocena on the inside of the door took his  
20 suit coat and wiped the doorknob clean.

21

22                            (Continued on next page)

23

24

25

5A

1 Q Now, you're demonstrating. Would you put  
2 into words what you're demonstrating, how he did it?

3 A On the way out the door, on the inside door-  
4 knob to the room, he wiped, wiped it off with the inside  
5 of his suit coat.

6 Q Where was his hand in relation to his coat?

7 A He had, as I recall, grasped the outside of his  
8 coat, utilizing the inside portion of the coat to wipe the  
9 doorknob.

10 Q Did you have any discussion with him when you  
11 saw him doing this?

12 A I said, "What are you doing?"

13 He said, "I'm wiping fingerprints off."

14 And it was very common for the organization to wear gloves  
15 during anything and not leaving fingerprints.

16 Q Now, when you left the Jetport Holiday Inn,  
17 then what happened?

18 A We went down in the lobby, as I mentioned.  
19 Mr. Arocena made a phone call. We, myself, Bob Brandt,  
20 Mr. Arocena, walked out to Mr. Arocena's vehicle. Mr.  
21 Arocena -- which was rented, a rental vehicle. We  
22 were going to return that. He got to the driver's side.  
23 Bob got to the passenger side. I was a few feet back.  
24 And I heard Mr. Arocena, all of a sudden say, "Let me start  
25 the car," to Bobby, "Let me start the car, don't get in yet."

1           Arocena got in the car, started the car, and  
2 he made a comment that, "There is no sense in both of us,"  
3 meaning him and Bob, "getting killed."

4           The car started, Bob entered the car, and I  
5 got in my own vehicle.     And I had agreed with Bob and  
6 Mr. Arocena that we would drive to the airport, take his  
7 car rental back, and I would attempt to surveill them to  
8 see if there was any type of countersurveillance on us.

9           There appeared to be none.     We returned  
10 Mr. Arocena's rental to National, as I recall, and the  
11 three of us drove to New York.

12           Q     And where did you go in New York?

13           A     We came into the city, and we stopped and had  
14 something to eat at a restaurant on Sixth Avenue, which  
15 name escapes me at this time.

16           Q     Then where did you go?

17           A     Then we subsequently went to the office.

18           Q     Which office is that?

19           A     To the FBI office at 26 Federal Plaza, across  
20 the street here.

21           Q     Was there any meeting at the office which  
22 involved Mr. Arocena that afternoon, that Sunday, September  
23 26th?

24           A     Yes.    I arranged for the supervisor of the  
25 squad, Barry Mawn, and the lieutenant of the Task Force,

1 Kevin Hallinan, and Sergeant Lanahan, to meet Bob and I  
2 and Mr. Arocena in the office.

3 Q What happened in that meeting?

4 A At that particular meeting, Bob and I debriefed  
5 our superiors on the situation and told them that we were  
6 concerned about security, and that it was our decision  
7 to move Mr. Arocena, with his agreement, of course, to the  
8 Westbury Hotel in midtown, Manhattan.

9 Q Now, on the 25th, the day before, had you had  
10 any discussion with Mr. Arocena about where any explosives  
11 were located?

12 A Yes. On the ongoing interviews, Mr. Arocena  
13 had told us that there was still at that time somewhere  
14 between six and eight hundred pounds of explosives that  
15 belong to the Remon cell, sitting in Florida, and that  
16 three hundred pounds of this had, in fact, been moved north  
17 to the New Jersey area, and we didn't know where it was.

18 Q And did he say anything in regard to that?

19 A Well, yes. He said he could assist us in  
20 retrieving it or pinpointing these explosives, and getting  
21 them off the street, which, obviously, we were very  
22 concerned to do at the time.

23 Q Did he say how he could do that if there had  
24 been a falling out between him and Remon?

25 A Yes. He had mentioned that he would have to

1 return to Florida and do this by himself in his own way,  
2 to move about the community to get access or information  
3 as to where these items were, and that there could not  
4 be any obvious FBI or any police surveillance on Mr.  
5 Arocena while he was attempting to find these items, since  
6 it would compromise him.

7 Q Now, on the 26th, would you tell the Court  
8 what happened in the meeting with Supervisor Barry Mawn  
9 and yourself and Arocena and Brandt and so forth?

10 A Supervisor -- Mr. Arocena had told him that  
11 he had access to these items, particularly the explosives,  
12 could attempt to find them, and that he had access to  
13 the transmitter utilized in the attempted murder of  
14 Raul Roa, which he would give us.

15 Barry Mawn had told Mr. Arocena that we wanted  
16 him to testify against Remon and the rest of the group  
17 regarding the crimes committed, and that we -- meaning the  
18 FBI -- would discuss Mr. Arocena's situation with the  
19 U. S. Attorney's office as to what would happen with him.

20 Q What did Mr. Arocena say in response to the  
21 request that he testify?

22 A Mr. Arocena stated that he would not testify  
23 against any of these individuals.

24 Q Did he say why?

25 A He just, as I recall, stated that he wouldn't

1 get on the stand and point the finger.

2 Q And was there any further discussion about  
3 anything else he could help by doing?

4 A He stated that he may be able to provide some  
5 additional information and details that would help us  
6 corroborate his story and probably make a separate case  
7 against Remon and the others, but he, himself, would not  
8 testify.

9 Q Was there any discussion in this meeting  
10 about Mr. Arocena's suggestion of going to Florida after  
11 retrieving those items that he had mentioned?

12 A Barry Mawn told him, as I recall, that he  
13 would have to take this up with some superiors, but that  
14 if Mr. Arocena was going to Florida to attempt to obtain  
15 these items and information, that there was no way  
16 Mr. Arocena was going to go alone, and that was Barry's  
17 opinion that Bob Brandt and I would follow him down there  
18 and stay or be with him down there all the time, not in  
19 a surveillance situation, but to be available in Miami,  
20 Florida, for Mr. Arocena to be in constant contact with  
21 us, rather than in New York.

22 Q Was there any discussion about what, if any-  
23 thing, would happen after he, after Mr. Arocena, attempted  
24 to find the explosives and the transmitter?

25 A Barry had told Mr. Arocena that he would, he,

1 Mr. Arocena, would be coming back to New York with Bob  
2 and I within, I believe, four or five days was possibly  
3 mentioned as a time frame for him to obtain the stuff or  
4 find it, and that Mr. Arocena would be brought back to  
5 New York or come back to New York with Mr. Brandt and I.  
6 When he got back here again, we would bring him across the  
7 street to the U. S. Attorney's office and sit down with  
8 the representatives there to determine Mr. Arocena's  
9 situation.

10 Q Did Mr. Arocena make any comment to you  
11 about coming back with you?

12 A He made a comment to us, Bob Brandt and I,  
13 that when he came back, we would have to bring him back  
14 in handcuffs to make it look good.

15 Q Now, Agent Wack, after you finished at the  
16 FBI office, what did you do?

17 A We drove -- let's see. 26th. We drove  
18 Mr. Arocena to the Hertz Rental office in midtown,  
19 Manhattan. He had indicated he wanted to rent a car  
20 and to go over to New Jersey to see his mother that night,  
21 which I didn't have any problem with. We drove him  
22 there. I, myself, went in and rented the automobile  
23 under my name, brought it out, turned it over to Mr.  
24 Arocena.

25 Q Then where did you go?



1           A       We drove in two separate cars with Mr.  
2           Arocena up to the Westbury Hotel at 69th and Madison  
3           Avenue and checked in there.

4           Q       Is there any particular reason why you picked  
5           that hotel?

6           A       I picked that hotel, which I told Mr. Arocena  
7           at the time, because I lived literally right down the  
8           street, approximately three blocks.     If he needed to  
9           get ahold of me for any reason, I could be there with no  
10          problem.

11          Q       Did you tell him how he would be able to  
12          reach you?

13          A       Yes.     I gave him my telephone number, told  
14          him that in the event we needed it, the 19th Precinct was  
15          four or five blocks away, and that Bob Brandt lived right  
16          across the 59th Street Bridge, so we all had immediate  
17          access to him if he needed some help of any type.

18          Q       Now, when you went to the hotel, did you  
19          have any discussion with Mr. Arocena about what name to  
20          register under?

21          A       When we were walking in the front door of the  
22          hotel, I suggested to Mr. Arocena that he should not  
23          register under his true name, for security reasons.  
24          He laughingly said, "Medina."     And I did not object or  
25          discuss that, and he subsequently registered in the name

1 of A. Medina.

2 Q Did you see that when he did it?

3 A Yes.

4 Q And did you obtain a second room there?

5 A Yes, I obtained, under a fictitious name, a  
6 room next to Mr. Arocena's. It had, as I recall, an  
7 adjoining door. We were going to stay in one room and  
8 Mr. Arocena was left by himself in his own room.

9 Q Were you personally going to stay in that  
10 second room overnight?

11 A No. Bob Brandt and I had decided that  
12 Agent Jim Lyons and Tom Menapace were interested in talking  
13 to Mr. Arocena that evening.

14 Jim Lyons is a bomb technician. He wanted to  
15 obtain some particulars from Mr. Arocena on the devices  
16 themselves.

17 Agent Menapace, from New Jersey, was inter-  
18 ested in more of the New Jersey crimes.

19 I told Mr. Arocena that afternoon that we  
20 were going to introduce him to Lyons and Menapace that  
21 evening, that Bob Brandt and I were going to leave, and  
22 that I would see him the following morning.

23 Q Now, what room did you rent -- what name did  
24 you rent the second room under?

25 A I rented our room under the name of Bob Martin.

1 Q Agent Wack ---

2 A I didn't pick that name for any reason, off  
3 the top of my head.

4 Q I'm going to show you Government's Exhibits  
5 35-A, B and C, for identification (handing).

6 (Government's Exhibits 35-A, B and C were  
7 marked for identification.)

xx 8 Q Will you first tell us whether you recognize  
9 these?

10 A Yes, I do.

11 Q And what is Exhibit 35-A?

12 A 35-A is a registration card number 44169 of  
13 the Westbury Hotel, which was filled out by Mr. Arocena.

14 Q And where were you when he filled it out?

15 A I was standing right there.

16 Q All right. Without further reading or  
17 describing the exhibit, I would like you now to look at  
18 Exhibit 35-B for identification. And can you tell us  
19 what that is?

20 A 35-B is the actual bill for the room at the  
21 Westbury.

22 Q And were you there when Mr. Arocena paid that  
23 bill or when the bill was paid?

24 A Yes.

25 Q And I would now like you to look at Exhibit

1 35-C for identification, and tell us what that is.

2 A This is the -- 35-C is the Westbury registra-  
3 card filled out by myself under the name Bob Martin.

4 MR. TABAK: Governmentoffers Exhibits 35-A, B  
5 and C in evidence.

6 MR. FERNANDEZ: No objection, your Honor.

7 THE COURT: Received.

8 (Government's Exhibit 35-A, B and C were  
9 received into evidence.)

xx 10 MR. TABAK: Now, with ihe Court's permission,  
11 I would like to pass these to the jury.

12 THE COURT: Very well.

13 (Government's Exhibit 35-A, B and C were  
ET5B 14 passed among the jurors.)

15  
16 (Continued on the next page.)  
17  
18  
19  
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24  
25

1 Q Agent Wack, can you explain to the jury why there  
2 is a yellow card in each one dated December 19, '83?

3 THE COURT: Indicating Government's Exhibits 35-A,  
4 -B and -C.

5 MR. TABAK: Thank you, your Honor.

6 A These cards are what we normally do when we  
7 acquire a piece of document evidence, you initial a card  
8 and date it and put it in the envelope with the document.

9 This particular card reveals my initials and  
10 Bob Brandt, who was with me when we retrieved these  
11 from the hotel.

12 Q Thank you.

13 What happened after you got the rooms in the  
14 hotel?

15 THE COURT: Go ahead, sir.

16 A Mr. Arocena had a rental car already, said that  
17 he desired to go to New Jersey and see his mother, who we  
18 knew to live in New Jersey.

19 We decided that there was no problem with that,  
20 and he left and I presume went to see his mother.

21 Q Was there any arrangement about what time he was  
22 to return?

23 A Yes. I had told him that, as I recall,  
24 approximately, try to be back by eleven o'clock, as I  
25 recall, because Agent Lyons and Agent Menaface wanted to

1 have a few words with him real quick, that we were not  
2 going to go into the morning hours, and that additionally,  
3 they would be staying at the hotel in the room next door,  
4 and Bob and I would be leaving for the night.

5 Q Before eleven o'clock did you hear from  
6 Mr. Arocena?

7 A Yes. He called. I took the call, and he  
8 indicated that he would be a few minutes late, that he  
9 was over in Jersey, and he did in fact arrive about twenty  
10 minutes, as I recall, later.

11 Q To your knowledge, was any government agent  
12 surveilling or accompanying Mr. Arocena at that time?

13 A Absolutely not. No one was following him or  
14 with him.

15 Q Did you see Mr. Arocena again that evening?

16 A When he came back, I introduced him to  
17 Agent Lyons and Agent Menapace, and I told Lyons and  
18 Menapace prior to him getting there that there would be  
19 no tape recording of the interviews, to insure that they,  
20 prior to interviewing Mr. Arocena, gave him his Miranda  
21 warnings because that's what we were going to do, and that  
22 he would not sign anything, any kind of a statement,  
23 and that that was basically the ground rules, and he would  
24 not talk about Florida participants. When --

25 Q What -- I am sorry.

1           A     When Arocena arrived, I introduced him to Lyons  
2 and Menapace and Brandt, and I left.

3           Q     Where did you go that night?

4           A     I went home.

5           MR. TABAK: Your Honor, I think this might be  
6 an appropriate time to take the luncheon break.

7           THE COURT: Ladies and gentlemen, we will take  
8 our luncheon recess at this time. Could we make it an  
9 hour? Does anybody have a problem with that? Raise your  
10 hand if you do.

11           Le's try for an hour. We will try to resume  
12 at 2:00 p.m.

13           Please do not discuss the case among yourselves or  
14 with anyone else.

15           Several of you have said you have memorized  
16 my instructions. I would say, recall from your memory what  
17 I have said previously and apply it now. Keep an open  
18 mind.

19           (Luncheon recess)

20

21

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24

25

6A cont.

1

## AFTERNOON SESSION

2

2:05 p.m.

3

4

(In open court; jury present)

5

L A R R Y E. W A C K, resumed.

6

THE COURT: Good afternoon, everyone.

7

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11

I must comment with respect to the promptness of everyone. When you have to assemble a total of about thirty people, and that is what I calculate we have here, to start as promptly as we have on almost all occasions is much appreciated.

12

You may resume, Mr. Tabak.

13

MR. TABAK: Thank you, your Honor.

14

DIRECT EXAMINATION CONTINUED

15

BY MR. TABAK:

16

17

18

Q Agent Wack, on the morning of September 27, 1982, Monday, September 27th, did you have any contact with Mr. Arocena?

19

20

21

22

23

A Yes. We left -- I went back to the Westbury Hotel from home, and met Mr. Arocena with Agent Lyons and Menapace. We left the hotel and proceeded down to Hertz Rent-a-Car to return the rented car from the day before.

24

Q Then where did you go?

25

A After returning the rental car, the four of us



rbjah 5 Wack-direct

1 proceeded down to the FBI office at 26 Federal Plaza  
2 in two separate cars. And I was in the same car with  
3 Mr. Arocena.

4 Q I now show you Government's Exhibit 5 for  
5 identification and ask if you recognize this. If you'd  
6 just answer yes or not whether you recognize that.

7 A Yes.

8 Q What is that?

9 A This is another interrogation advice of rights  
10 form given to Mr. Arocena on September 27, 1982.

11 Q Was this form signed by anybody?

12 A Yes, it was signed by myself, Mr. Arocena and  
13 Agent Dan Craft, Daniel Craft, C-r-a-f-t.

14 Q What is Mr. Craft an agent of, what organization?

15 A A Special Agent with the FBI in New York at the  
16 time.

17 Q Did Mr. Arocena sign this in your presence?

18 A Yes, he did.

19 MR. TABAK: The government offers Exhibit 5.

20 MR. FERNANDEZ: No objection.

21 THE COURT: Received.

22 (Government's Exhibit 5 for identification  
23 was received in evidence.)

24 BY MR. TABAK:

25 Q I direct your attention to several hours later on

1 Monday, September 27, 1982.

2 Was there a meeting that you participated in  
3 which involved Mr. Arocena?

4 A Yes. Our deputy assistant director at the time,  
5 Ken WALton, was briefed about the situation and wanted  
6 to meet Mr. Arocena himself.

7 We, I, Barry Mawn, Lt. Hallinan, as I recall,  
8 and Sgt. Linehan and Bob Brandt, took Mr. Arocena over to  
9 introduce him to the deputy assistant director in the  
10 deputy's office at 26 Federal Plaza.

11 Q Can you explain in English what "deputy  
12 assistant director" means in terms of the hierarchy --

13 A His position is --

14 MR. AGUILAR: I am going to object to this  
15 particular line of questioning. I think there is no need  
16 for it.

17 THE COURT: I think just to follow it, I would  
18 suggest one question would be appropriate.

19 MR. Mawn has testified and indicated that he was  
20 the supervisor of the Joint Task Force. Did he in turn  
21 report to someone higher than himself?

22 THE WITNESS: Yes, sir, he did.

23 THE COURT: To whom?

24 THE WITNESS: To the deputy assistant director,  
25 Ken WALton.

1                    THE COURT:    Very well.

2                    BY MR. TABAK:

3                    Q            Was there any discussion involving Mr. Arocena,  
4                    Mr. Walton and the otherpeople including yourself that  
5                    you have mentioned?

6                    A            Yes.    We told Mr. Walton, I told Mr. Walton  
7                    at the time, in the presence of everyone, that we wanted  
8                    to go to Florida to attempt to retrieve these explosives  
9                    andobtain the transmitter that Mr. Arocena stated he had  
10                    in his possession.

11                    Mr. Walton said that he was in agreement at  
12                    the time, we would have to take it up with some other  
13                    people at the Department of Justice, and during that meeting,  
14                    asked, he, Mr. Walton, asked Mr. Arocena --

15                    MR. FERNANDEZ:    I am going to object, your Honor,  
16                    as to what Mr. WALton said.

17                    THE COURT:    There is a ground for it.    But --

18                    MR. FERNANDEZ:    Judge, I have additional ground,  
19                    we have already been over this testimony yesterday.    I  
20                    believe this is the third time.

21                    THE COURT:    I am looking just to see if the  
22                    cross-examination of Agent Mawn brought any of this  
23                    particdular aspect of Agent Mawn's testimony into issue.

24                    I must say, as I scan quickly, of course, the  
25                    question could have been answered by now, I suppose, but I am

1 trying to send a signal that was not apparently received  
2 before by counsel.

3 I have quickly perused the transcript from  
4 page 688 to 714, which is the cross-examination of  
5 Mr. Mawn, and frankly, I do not see that this particular  
6 exchange between the agents and Mr. Walton was even brought  
7 up.

8 Mr. Aguilar, Mr. Fernandez, do you agree with  
9 that?

10 MR. FERNANDEZ: Yes, sir.

11 THE COURT: I will hear you if there is anything  
12 you want to say, Mr. Tabak.

13 MR. TABAK: Your Honor, I think there is  
14 something very much in controversy which --

15 THE COURT: Not what words were spoken. If you  
16 want to cover something else, that is fine.

17 MR. TABAK: I don't recall if a certain exchange  
18 between Mr. Walton and Mr. Arocena came in, I believe it  
19 did not.

20 THE COURT: I am going to let you go ahead on your  
21 representation that you are going to give us something new.

22 MR. TABAK: I believe it is something new and will  
23 restrict it to about two or three sentences, your Honor.

24 THE COURT: You may.

25 Q Agent Wack, do you recall any additional greeting

rbjah 9           Wack-direct

1           or exchange between Mr. Walton of the FBI and Mr. Arocena?

2           A       Yes, I do.

3           Q       What was that?

4           A       Mr. WALton, as I recall, asked or stated, "So  
5           I understand you are Omar" --

6           THE COURT:   And according to your recollection,  
7           what did Mr. Arocena say?

8           THE WITNESS:   "Yes, I am."

9           THE COURT:   Let's take a moment, counsel.  I've  
10          got those very words in my notes.

11          MR. TABAK:   Your Honor, I did not get the  
12          transcript until this morning and --

13          THE COURT:   I take notes, and I am trying to  
14          listen, and I would like to move the case along.

15          We will just take a moment together and look at  
16          your direct examination which was not controverted on  
17          cross.

18          MR. TABAK:   As I recall, it was controverted in  
19          the opening very strongly, your Honor.

20          THE COURT:   Peraps in the opening, but would you  
21          please step up here and look at page 687?  If I can't  
22          teach you one way, I am going to teach you another.

23          (Pause)

24          THE COURT:   What do you see?

25          MR. TABAK:   I see that I forgot that that question

1 was asked yesterday.

2 THE COURT: And answered.

3 MR. TABAK: Yes, your Honor.

4 THE COURT: In the same words.

5 MR. TABAK: I apologize for going over an area  
6 which I thought was in controversy which --

7 THE COURT: Did the jurors all hear it when it  
8 was originally testified to? Do you remember it now?

9 LET us move forward.

10 BY MR. TABAK:

11 Q After this meeting with Mr. Walton, what, if  
12 anything, happened the rest of the day?

13 A We made arrangements to travel to Florida.

14 Q Did anybody go to Florida that day, to your  
15 knowledge?

16 A Yes, Mr. Arocena went to Florida and  
17 Detective Brandt and I went to Florida on a separate airplane  
18 at a separate time.

19 Q To your knowledge, did anybody from the FBI  
20 either accompany or surveil Mr. Arocena on his flight to  
21 Florida?

22 A On the flight to Florida, no one surveilled him  
23 or accompanied him.

24 Q About what time did you and Detective Brandt  
25 arrive in Florida?

1 A Approximately one forty-five the following  
2 morning.

3 Q What, if anything, did you do when you arrived?

4 A I arrived, we checked in at the hotel, and I  
5 called Mr. Arocena at his residence in Miami and told him  
6 we had arrived and we would talk the following day.

7 Q On that following day, Tuesday, September 28,  
8 1982, did you in fact meet with Mr. Arocena?

9 A Yes.

10 Q Where was that?

11 A At the Ramada Inn at Miami Airport.

12 Q About what time did you meet him?

13 A Approximately four o'clock, I believe.

14 Q Who else was present, if anybody?

15 A The Miami agents were there, and myself.

16 Q Do you recall who any of the Miami agents were  
17 that were present?

18 A Yes, I believe it was, in fact it was  
19 Agent George Kiszynski, George Cannon and Agent Tom Walzer.

20 Q Why were those agents there?

21 A They were interested in talking to Mr. Arocena  
22 about Miami related crimes.

23 Q Did those agents in fact meet with Mr. Arocena?

24 A Yes, they did.

25 Q What did you do while they were meeting with him?

1 A I left the room, I believe I went to eat.

2 Q Later that day, did you have occasion to meet  
3 with Mr. Arocena again?

4 A Yes, I came back, the Miami agents finished  
5 speaking with Mr. Arocena, and myself and Bob Brandt talked  
6 to him again.

7 Q Can you tell the jury what Mr. Arocena said to you  
8 during this meeting?

9 A During the meeting, we discussed the Belleville  
10 incident again.

11 Mr. Arocena had added that after that incident,  
12 he had attempted to make arrangements to get Ramon Sanchez,  
13 Pedro Remon and Losada-Fernandez out of the United States  
14 through a contact in Guatemala who he would not identify.  
15 The individual in Guatemala spoke to Remon about arranging  
16 fictitious papers.

17 There was, according to Mr. Arocena, a political  
18 fight between Mr. Remon and this individual from  
19 Guatemala on South American politics, an argument ensued  
20 and the individual from Guatemala told Mr. Remon and  
21 Mr. Arocena that he wanted nothing to do with Mr. Remon  
22 and the rest of them, and in fact if they did arrive in  
23 Guatemala, he would arrange to have them killed.

24 Q Was there additional discussion during this  
25 meeting, without going into it, if you just could answer yes



1 or no?

2 A Yes.

3 Q Avoiding going over matters that had been gone  
4 into previously, what happened at the end of this  
5 meeting?

6 A We asked Mr. Arocena to meet us again at the  
7 hotel, Bob Brandt and I, the following day.

8 Q Did you ask him to do anything when he got home  
9 that evening?

10 A I asked him to call me at the hotel that we were  
11 staying in at approximately ten o'clock and leave a message  
12 just saying that "Bob called," and that would be an  
13 indication to me that he was okay physically and nothing  
14 had happened to him.

15 Q Did you in fact receive such a message?

16 A Yes, from the desk.

17 Q I am going to show you Government's Exhibit 149  
18 for identification, and ask you to look at it.

19 Agent Wack, do you recognize that?

20 A Yes, I do.

21 Q What is that?

22 A This is the note that I picked up from the desk.

23 Q I notice on the note it says "September 29th."  
24 Do you recall to the best of your memory when you picked  
25 up the note?

1 A The evening of the 28th.

2 MR. TABAK: The government offers Exhibit 149  
3 in evidence.

4 MR. FERNANDEZ: No objections, your Honor.

5 THE COURT: Received.

6 (Government's Exhibit 149 for identification  
7 was received in evidence.)

8 BY MR. TABAK:

9 Q On the evening of the 28th, that Monday evening,  
10 where did you stay?

11 A At the Airport Inn in Miami.

12 Q Do you know where Mr. Arocena stayed?

13 A No, he left.

14 Q Was anybody surveilling him or accompanying him?

15 A Absolutely nobody.

16 Q Did you see Mr. Arocena again the following day,  
17 Wednesday, September 29th?

18 A Yes, I did.

19 Q About when was that, if you recall?

20 A I believe it was approximately two o'clock in the  
21 afternoon.

22 Q Was anybody else present?

23 A Yes, agents from Miami office George Cannon,  
24 George Kiszynski again and Tom Walzer.

25 Q Was there a meeting involving Mr. Arocena, yourself

xxxxxx

1 and the Florida agent?

2 A Yes.

3 Q What was the primary focus of that meeting?

4 A The primary focus was individuals and crimes  
5 that occurred in Miami, Florida and by Omega 7.

6 Q During the course of that meeting, was there any  
7 discussion by Mr. Arocena of Ramon Sanchez?

8 A Yes.

9 Q Would you tell the jury what Mr. Arocena said  
10 about Ramon Sanchez?

11 A Arocena mentioned that Sanchez arranged --  
12 I am sorry, Mr. Arocena had contacted Sanchez in 1979  
13 and asked him to arrange for the bombing of the Padron  
14 Cigar Company in Florida since there were going to be other  
15 efforts in the Northeast United States bombing-wise.

16 Q And what happened, according to Mr. Arocena?

17 A He had, Sanchez -- Sanchez had agreed to do  
18 this and there was, the bomb apparently did not go off and  
19 according to Mr. Arocena, Sanchez had complained to  
20 Mr. Arocena that the batteries were a problem, as I recall.

21 Q Was there any discussion during this meeting about  
22 Eduardo Ochoa?

23 A Yes.

24

25

(Continued on next page)

1 Q What did Mr. Arocena tell you about Ochoa?

2 A Mr. Arocena told us that Ochoa was a member  
3 of Omega 7 also and that Ochoa, with Mr. Arocena,  
4 participated in the bombing of Gerry Cosby stores in  
5 New York, that Mr. Arocena had planted the bomb, that  
6 Mr. Ochoa drove the car, however, that Mr. Ochoa nearly  
7 ran down Mr. Arocena when they were leaving the scene,  
8 and according to Mr. Arocena, Mr. Ochoa, in Arocena's  
9 words, "pissed in his pants."

10 Q Did he tell you anything further about  
11 Mr. Ochoa?

12 A Yes. The other incident, Mr. Ochoa came  
13 to Mr. Arocena and stated that he wanted to participate  
14 in an incident wherein Arocena and him drove to Madison  
15 Square Garden.

16 Q Where did they go?

17 A I am sorry, Lincoln Center.

18 Mr. Ochoa was going to place the device that  
19 Mr. Arocena had built, and he chickened out at the last  
20 minutes, in Mr. Arocena's words, and the plot was aborted  
21 for that night.

22 Arocena returned the next night and did it  
23 by himself with others.

24 Q Did Mr. Arocena tell you anything about  
25 explosives stored in a church?

1           A       Yes.     He sent Eduardo Ochoa to Florida to  
2 see Ramon Sanchez to retrieve some explosives from  
3 Sanchez which consisted of det cord, fuses, blasting caps  
4 and gelatine explosives.

5                    He said that Mr. Ochoa saw Sanchez in Florida,  
6 retrieved those explosives and brought them back to New  
7 Jersey on a commercial airliner.     He met Ochoa and  
8 arranged to have them stored in a church in New Jersey  
9 where Mario Fernandez was associated with, the basement  
10 of the church there.

11           Q       Do you know what relationship Mario Fernandez  
12 had with that church at that time?

13           A       At that time he was the sexton at the church.

14           Q       After the meeting with the Florida agents  
15 that you sat in on, was there any additional conversation  
16 without the Florida agents between you and Detective  
17 Brandt and Mr. Arocena?

18           A       The 29th, we went over the Ochoa story again.  
19 as I recall, with the church.

20           Q       Was there any discussion of Mr. Suarez or  
21 Mr. Paz?

22           A       Yes.     Mr. Arocena stated that he believed  
23 Virgilio Paz, who was then and still is a fugitive, may be  
24 interested in surrendering to the Government.

25                    And he mentioned that he and Dionisio Suarez

1 who was a fugitive and still is, was seen in Costa Rica  
2 and associates of Arocena had also seen him in Cuba.

3 Q After your meetings with Mr. Arocena on  
4 Wednesday, September 29th, where did you stay that night?

5 A At the same airport inn.

6 Q Do you know where Mr. Arocena went?

7 A No, I don't.

8 Q Was he surveilled or accompanied by any  
9 Government agent or employee?

10 A None.

11 Q What happened the next day, Thursday, September  
12 30th?

13 A Mr. Arocena called Bob Brandt at the room  
14 at approximately three p.m. and we had arranged that he  
15 asked him to come by the hotel at approximately six, as I  
16 recall.

17 Q Did Mr. Arocena show up?

18 A He did not show up.

19 Q The following day, Friday, October 1, 1982, what  
20 if anything happened with regard to Mr. Arocena?

21 A At approximately eleven o'clock in the morning  
22 Mr. Arocena called me at the airport inn and said that he had  
23 to run, that Mr. Remon and Sanchez had an individual who was  
24 going to kill him, and he was not coming in.

25 Q Did he provide any additional information for you

1 at that time?

2 A Yes, he did. He said the Mack 10 machine-  
3 gun used in the two murders of Negrin and Garcia that we  
4 had talked about was test fired in the upstairs of Losada's  
5 fruit market, if you check there you might find shells  
6 possibly.

7 Q To your knowledge had any Government agent  
8 ever checked that fruit meat king before that?

9 A No.

10 Q Did you have any further contact with Mr. Arocena  
11 on October 1, 1982?

12 A No.

13 Q Were you concerned about Mr. Arocena's safety  
14 when he said that Remon and Sanchez had someone going after  
15 him?

16 A Absolutely.

17 Q Was anything done with regard to Remon and some  
18 of Remon's associates whom Arocena had told you about on  
19 October 1, 1982 after you spoke with Mr. Arocena?

20 A In New York, we, the FBI, obtained an authorized  
21 complaint charging them with various crimes.

22 Q What if anything was done with regard to them?

23 A Their arrest was effected on the morning of the  
24 2nd, as I recall --

25 Q What was --

1 THE COURT: Of October?

2 THE WITNESS: Of October, yes.

3 Q What was the basis given in the complaint for  
4 the information?

5 A The basis for the information in the complaint  
6 was information that had been provided to us by Arocena  
7 himself.

8 Q Was he identified as the source of the informa-  
9 tion in the complaint?

10 A No. To protect him we identified him as a  
11 confidential informant.

12 Q Did his name show up anywhere else in the  
13 complaint?

14 A Yes, he was also charged in the complaint to  
15 help cover his particular situation as the provider of  
16 information.

17 Q To your knowledge was an arrest warrant issued  
18 for him as a defendant at that time based on that complaint?

19 A Yes, it was.

20 Q Also on October 1, 1982 did you do anything  
21 with regard to Mr. Arocena's wife?

22 A Yes. Based on his call to me and the fact that  
23 he said someone was after him from the other group, I  
24 telephoned his wife to see if she was okay.

25 Q On the following day, October 2, 1982, did you



1 have any contact with Mr. Arocena?

2 A On the 2nd he called me at the hotel and, as  
3 I recall, expressed -- thanked me for contacting the  
4 family.

5 Q Did you know where he was at the time?

6 A No.

7 Q To your knowledge was the Government able to  
8 proceed with the prosecutions of Remon and the other people  
9 who had been arrested?

10 A No, we were not.

11 Q Do you know why not?

12 MR. AGUILAR: I am going to object to that  
13 question. It seeks a conclusion from this witness that he  
14 cannot possibly give.

15 THE COURT: If you know you may tell us.  
16 Go ahead.

17 A Can I have the question again?

18 Q The question is, do you know why the Government  
19 was not able to proceed with the prosecutions of Remon and  
20 the other people who had been arrested.

21 A Yes, because Mr. Arocena ran and would not  
22 assist any more.

23 Q Did the Government then take any steps to try  
24 to get anybody to testify against these people?

25 MR. AGUILAR: Your Honor, I am going to object

1 to the question. Te Government of the United States  
2 is so huge, what --

3 THE COURT: All right, no speeches.

4 Sustained.

5 Q Did the United States Attorney's office for the  
6 Southern District of New York and the United States  
7 District Court for the Southern District of New York take  
8 any steps to try to get anybody to testify?

9 MR. AGUILAR: Your Honor, I am going to object  
10 to that question also.

11 THE COURT: I am prepared to indicate that  
12 persons such as Pedro Remon are unavailable witnesses.  
13 No one is going to charge you with the failure to bring  
14 them in.

15 Is that right, Counsel?

16 MR. AGUILAR: That is right, your Honor.

17 MR. TABAK: That is not the purpose of my  
18 question, your Honor, and I believe the defense counsel  
19 opened the door to this both in the opening and in prior  
20 examination.

21 I believe that the purpose will become clear  
22 as we hear some additional evidence this afternoon.

23 THE COURT: If we are going to hear it, don't  
24 you think it could wait until we hear it?

25 MR. TABAK: It can wait. I think it will help

1 explain something the jury is likely to hear this  
2 afternoon.

3 THE COURT: All right, I will take it subject  
4 to connection.

5 MR. TABAK: Thank you, your Honor.

6 BY MR. TABAK:

7 Q Agent Wack, what if anything did the U. S.  
8 Attorney's office and the U. S. District Court do to try  
9 to get some people to testify?

10 A We brought under subpoena Remon and the others  
11 into the grand jury.

12 Q And what if anything was done to try to get  
13 them to testify?

14 A They were offered at the time use immunity to  
15 testify in the grand jury.

16 Q And did they testify?

17 A No.

18

19 (Continued on the next page.)

20

21

22

23

24

25

ET6B

1 Q Now, what happened to the original charges that  
2 had been brought against him?

3 A They were dismissed.

4 Q And what happened to Mr. Remon and these other  
5 individuals?

6 A They were jailed for civil contempt.

7 Q How long did you remain in Florida in October,  
8 1982?

9 A Two additional days.

10 Q And where did you go after you left Florida?

11 A I came back to New York.

12 Q Now, Agent Wack, where were you on the evening  
13 of Monday, October 18, 1982?

14 A I was at my residence in New York City.

15 Q And did anything happen with regard to Mr. Arocena  
16 that evening?

17 A Yes. I received a telephone call from  
18 Mr. Arocena at my residence.

19 Q Now, had you made any preparations in case  
20 he were to call?

21 A Yes. Prior to that night, I had taken a tape  
22 recorder and tapes and induction coil home with me.

23 Q And what was the purpose for that?

24 A To tape record any conversations that I might  
25 have with Mr. Arocena, in the event he ever called.

1                    Q     Now, did you, in fact, receive a series of phone  
2 calls from Mr. Arocena thereafter?

3                    A     Yes, I did.

4                    Q     And what, if anything, did you do with regard  
5 to those calls?

6                    A     I tape recorded every one I could.

7                    Q     Are you a recording engineer or technician?

8                    A     No.

9                    Q     Did you have any problems with regard to any of  
10 those tapes?

11                   A     Yes.

12                   Q     Such as what?

13                   A     One tape the machine kept shutting on and off.  
14 I had a malfunction on the recorder, of which was the  
15 19th of December, the afternoon, I got no recording of that  
16 call.

17                   Q     And how was the sound quality on the tapes?

18                   A     Some are poor. Some are good.

19                   Q     I didn't hear the end.

20                   A     I'm sorry. Some are poor and some are good.

21                   Q     Have you listened to all the tapes that you made  
22 of these calls?

23                   A     Yes.

24                   Q     And have you done anything with regard to those  
25 tapes?

msjah 3                    Wack-direct

1            A     Yes. I have prepared transcripts of the  
2            conversations to the best I could.

3            THE COURT: That is after listening to the tapes,  
4            you then put down to the best of your ability what was said,  
5            during the course of the conversation by each of the  
6            speakers.

7            THE WITNESS: Yes, sir.

8            Q     All right, I'm going to show you what has been  
9            marked Government's Exhibit 200, for identification  
10           (handing).

xxxxxx

11                    (Government's Exhibit 200 was marked for  
12                    identification.)

13            Q     I ask if you recognize this.

14            A     Yes, I do.

15            Q     What is that?

16            A     This is the original tape of the conversation  
17            between myself and Mr. Arocena on October 18 of '82.

18            MR. TABAK: The government offers Exhibit 200  
19            in evidence.

20            MR. AGUILAR: I have no objection, your Honor.

21            THE COURT: Received.

xxxxxx

22                    (Government's Exhibit 200 was received  
23                    in evidence.)

24            Q     Agent Wack, I'm now going to show you  
25            Government's Exhibit 200-T for identification, and ask you if

1 you recognize that.

2 A Yes, I do.

xxxxxx

3 (Government's Exhibit 200-T was marked  
4 for identification.)

5 Q What is that? '

6 A It's the transcript prepared by myself of the  
7 conversation on October 18, 1982.

8 MR. TABAK: The government offers Exhibit 200-T  
9 in evidence.

10 MR. AGUILAR: Your Honor, we would not object  
11 to the introduction with the same provision that we  
12 made this morning.

13 THE COURT: I will explain it to the jury.

14 MR. AGUILAR: Thank you, your Honor.

15 THE COURT: All right, 200-T is received.

xxxxxx

16 (Government's Exhibit 200-T was received  
17 in evidence.)

18 THE COURT: Ladies and gentlemen, you will shortly  
19 be hearing a number of tape recordings. As you have  
20 already heard, the quality of the tapes is not always of the  
21 best.

22 Agent Wack has prepared these transcripts based  
23 on his listening to the tapes. And the transcripts are being  
24 received in evidence. You will have them in front of you  
25 as you listen to the various tapes.

1 I instruct you at this time that the  
2 primary evidence is what you hear. The transcripts are  
3 to assist you. If you hear something different than what  
4 you see, the evidence that you should consider is what you  
5 hear.

6 Do you understand?

7 Is that satisfactory, gentlemen?

8 MR. AGUILAR: Yes, your Honor.

9 MR. TABAK: Yes, it is, your Honor.

10 THE COURT: As I said, 200 and 200-T are  
11 both received.

12 MR. TABAK: With the Court's permission, I would  
13 like to distribute copies of Exhibit 200-T to the jury.

14 THE COURT: You may.

15 (Pause)

16 MR. TABAK: I would also ask pursuant to the  
17 discussion this morning, if we might distribute copies  
18 to concerned members in the audience.

19 MR. AGUILAR: Your Honor, it should be to everybody  
20 in the audience.

21 THE COURT: Everybody who has already made a  
22 request.

23 All right, since there may not be  
24 enough to go around to others who have not expressed an  
25 interest.



1 Do you have copies, counsel?

2 MR. FERNANDEZ: Yes.

3 MR. AGUILAR: Yes, we do, your Honor.

4 THE COURT: Very well.

5 (Pause)

6 THE COURT: Are you going to listen through the  
7 headsets or by the speakers?

8 MR. TABAK: I think we can try the speakers.

9 THE COURT: I think that's more comfortable.

10 THE COURT: You may proceed.

11 Ladies and gentlemen, we are going to try using  
12 the speakers, as we did earlier in the trial, rather than the  
13 headsets. So you just listen to the speakers and place  
14 the transcripts in front of you and follow along. And as  
15 I say, the evidence is what you are hearing. That's  
16 primary.

17 MR. TABAK: Thank you, your Honor, I will just  
18 play Exhibit 200 in evidence.

19 THE COURT: Yes.

20 (Tape played.)

21 MR. TABAK: With the Court's permission, we would  
22 now collect the jury's copies.

23 THE COURT: Why don't you just pass them down,  
24 ladies and gentlemen. I think it will go quicker that way.

25 (Pause)

msjah 7                   Wack-direct

1           Q     Now, AGent Wack, did Mr. Arocena, in fact, call  
2 you the following day?

3           A     No.

4           Q     I now direct your attention to Saturday,  
5 October 23rd, 1982. Did anything with regard to  
6 Mr. Arocena happen at a quarter to nine that evening?

7           A     He called me at my residence in New York City.

8           Q     I'm now going to show you Exhibit 200 for  
9 identification, and ask you if you recognize this.

10           THE COURT: Now, you had 200 before.

11           MR. TABAK: Sorry, Judge, 201 for identification.

12           THE COURT: 201, all right.

( .xxxx

13                   (Government's Exhibit 201 was marked  
14 for identification.)

15           A     Yes, I do.

16           Q     And what is that?

17           A     It's the original tpe from the conversation of  
18 October 23 of 1982.

19           Q     I will also show you Government's Exhibit 201-T,  
20 for identification (handing), and ask you if you recognize  
21 that.

xxxxx

22                   (Government's Exhibit 201-T was marked  
23 for identification.)

24           A     Yes, I do. This is the transcript I prepared  
25 of that telephone --

msjah 8 Wack-direct

1 MR. TABAK: The government offers Exhibits 201  
2 and 201-T in evidence.

3 MR. FERNANDEZ: No objection, with the same  
4 understanding, your Honor.

5 THE COURT: Received with the same understanding,  
6 in other words, you remember what you hear is evidence,  
7 and the transcript is to assist you.

8 MR. TABAK: And with the Court's permission,  
9 I would give copies of Exhibit 201-T to the jury.

10 THE COURT: You may.

11 (Pause)

12 MR. TABAK: With the Court's permission, I will now  
13 play Exhibit 201 in evidence.

14 THE COURT: Very well.

15 (Tape played)

16 Q Agent Wack, do you recall how you were able to  
17 put the preamble on that tape indicating you were expecting  
18 a call from Mr. Arocena?

19 A I believe, as a result of the call on the 18th,  
20 I had set this one up. And as I recall, I was changing the  
21 date each day on the tape.

22 Q In case he called.

23 A In case he called.

24 Q Now, to your knowledge, did the transfer of your  
25 supervisor, Barry Mawn, have anything to do with Mr. Arocena

msjah 9            Wack-direct

1            running away?

2            A        No, did not.

3            Q        Did you make any attempt to determine where  
4            Mr. Arocena was calling from?

5            A        Yes, I did.

6            Q        And what did you do?

7            A        I had my -- at that time, my wife go to a  
8            neighbor, call the office, our office at 26 Federal Plaza,  
9            and have them call the Miami FBI office and ask them to  
10            notify the phone company that I had Mr. Arocena on  
11            the line and attempt to have the phone company determine where  
12            he was calling from.

13            Q        Did the phone company, to your knowledge,  
14            eventually determine where the call came from?

15            A        Eventually, yes.

16            Q        And where did they determine it had come from?

17            A        A pay phone in Little Havana, a section of Miami.

18            Q        Now, Agent Wack, when each of the other phone  
19            calls came in, did you use a similar procedure?

20            A        Yes.

21            Q        And is there any reason why the phone company  
22            wasn't able to trace the phone call while Mr. Arocena was  
23            on the line?

24            MR. FERNANDEZ: Objection, your Honor.

25            THE COURT: If you know. Is it a matter of

1            technology?

2                            THE WITNESS:    No.

3                            THE COURT:    Very well.

4                            A            The phone company's policy is that in a fugitive  
5 matter, unless it is a life-and-death situation, they  
6 will not do it.

7                            Q            That's in their judgment.

8                            A            Yes.

9                            Q            Now, did Mr. Arocena, in fact, call you the  
10 following day?

11                            A            No, he did not.

12                            Q            Now, I direct your attention to Sunday,  
13 December 19th, 1982.

14                            A            Yes.

15                            Q            Did you receive phone calls that day from  
16 Mr. Arocena?

17                            A            Yes, I received two phone calls that day.

18                            Q            And what happened with regard to the first one?

19                            A            The first call, the recorder malfunctioned, and  
20 I got no recording.

21                            Q            Do you recall basically what Mr. Arocena said  
22 during that call?

23                            A            Yes. It lasted approximately five to seven  
24 minutes, as I recall. He was saying that people were after  
25 him and he did not expect to live for some reason at that

1 time past January 3rd or 4th.

2 Q And did he say anything about calling you back  
3 later the same day?

4 A I believe he did. He had to run -- leave the  
5 phone that he was calling.

6 Q And did he in fact call you back the same day?

7 A Yes, he called that evening again.

8 Q And did the tape recorder work this time?

9 A Yes, it did.

10 Q I'm now going to show you Government's  
11 Exhibit 202, for identification.

xxxxxx

12 (Government's Exhibit 202 was marked  
13 for identification.)

14 Q And I'm also going to show you 202-T, for  
15 identification.

xxxxxx

16 (Government's Exhibit 202-T was marked  
17 for identification.)

18 Q And Government's Exhibit 202-B, for identification.

xxxxxx

19 (Government's Exhibit 202-B was marked  
20 for identification.)

21 Q Could you start with Exhibit 202 (handing), for  
22 identification, and tell us if you recognize what that is.

23 A Yes. This is the original tape of the telephone  
24 call on December 19 of '82.

25 Q And what is Government's Exhibit 202-T, for

1 identification?

2 A That is the transcript which I prepared of that  
3 conversation.

4 Q What is Government's Exhibit 202-B, for  
5 identification?

6 A That is my original telephone bill from  
7 December of 1982, depicting a collect call from Miami and the  
8 phone number on December 19th of '82.

9 Q And was that this call which is referred to  
10 on there?

11 A Yes.

12 Q I omitted to show you, and I will show you  
13 Government's Exhibit 202-C, for identification.

xxxxxx

14 (Government's Exhibit 202-C was marked  
15 for identification.)

16 Q I ask whether you can identify that (handing).

17 A Yes. This is the third side of the tape recorded  
18 phone call of the 19th.

19 THE COURT: In other words, it was longer than  
20 the first cassette would hold?

21 THE WITNESS: Yes, sir.

22 THE COURT: Very well.

23 MR. TABAK: The government offers Government's  
24 Exhibits 202, 202-B, 202-C and 202-T, into evidence.

25 MR. AGUILAR: No objection, with the same

1 understanding.

2 THE COURT: Received.

3 The jury will be listening to what apprently  
4 is a long tape. The same admonition will apply. That  
5 is, you'll have the transcripts in front of you, but it's  
6 what you hear that will constitute the primary evidence in  
7 the case.

8 MR. TABAK: With the Court's permission,  
9 we'll again distribute copies to the members of the jury.

10 THE COURT: Very well.

11 THE COURT: Before we start, how long is this  
12 one? It might be appropriate to take the afternoon  
13 break.

14 MR. TABAK: We could, your Honor. This is a  
15 lengthy conversation.

16 THE COURT: Yes, I see you have a lot of paper  
17 there.

18 THE COURT: Ladies and gentlemen, we'll take our  
19 afternoon break at this time. Please remember the  
20 admonition.

21 The jury is excused.

22 (The jury left the courtroom).

23 THE COURT: Off the record.

24 (Discussion off the record)

25 (Recess)

7A



1 (In open court; jury present)

2 THE COURT: Ladies and gentlemen, just before  
3 the recess, Government's Exhibits 202, 202-T, 202-B  
4 and 202-C, all those exhibits were received in evidence.

5 Mr. Tabak has placed upon your seats the  
6 exhibit which is 202-T. He is now going to play, as I  
7 understand it, Exhibit 202 and 202-C in evidence.

8 MR. TABAK: Yes, your Honor.

9 THE COURT: The same instructions should be  
10 applied here. It is what you hear that is the  
11 evidence.

12 The transcripts are to aid you, but what you hear  
13 is the evidence in the case.

14 Mr. Tabak.

15 MR. TABAK: Thank you, your Honor. I would also  
16 ask that the record reflect in each case after we have  
17 played a tape we are collecting from the jury the copies of  
18 the transcript.

19 THE COURT: Yes, that is correct.

20 MR. TABAK: I will now play Exhibit 202 in  
21 evidence, and when that is completed, I will play 202-C  
22 in evidence.

23 THE COURT: Very well.

24 (Government's Exhibit 202 in evidence  
25 was played.)

1 THE COURT: This is the final side, is that right?

2 MR. TABAK: That is right.

3 THE COURT: Very well.

4 (Tape played)

5 THE COURT: Ladies and gentlemen, if you would hand  
6 in your transcripts, we would appreciate that.

7 (Pause)

8 THE COURT: Two things: Number one, before you  
9 leave, please see Mr. Guranich. He has something for each  
10 of you. I appreciate his efforts. He had worked on this  
11 for a couple of days, and you will receive your checks  
12 for the first two weeks of your service.

13 At this time, we are going to recess until Monday  
14 morning. You will return Monday at 10:00 a.m.

15 Please don't discuss the case among yourselves  
16 or with anyone else. As I have said so many times, and  
17 I'll say it again, should you learn anything about the  
18 case from any source outside the courtroom, you are  
19 directed to report the matter to Mr. Guranich on your  
20 return.

21 Finally, please continue to keep an open mind  
22 on all aspects of the case, until you've heard all of the  
23 evidence, the closing arguments of counsel, and my charge  
24 with respect to the law.

25 Is there anything that counsel wish to take up

1 L A R R Y E. W A C K, resumed.

2 THE COURT: Agent Wack, you will be resuming your  
3 testimony under the oath which was first administered when you  
4 took the stand first.

5 Do you understand?

6 THE WITNESS: Yes, sir.

7 THE COURT: You may proceed, counsel.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. TABAK:

10 Q Agent Wack, in Government's Exhibits 202 and 202-C,  
11 which were the tapes of the December 19, 1982 conversation,  
12 there was some mention of an individual named Manny Fernandez.  
13 Before that conversation, which is reproduced on  
14 Exhibits 202 and 202-C in evidence, had you ever heard of  
15 Manny Fernandez having anything to do with Omega 7?

16 A No, I haven't.

17 Q And before that conversation, had you ever  
18 heard of Manny Fernandez before?

19 A No.

20 Q Following the conversation with Mr. Arocena  
21 on December 19, 1982, did you attempt to locate  
22 Mr. Fernandez?

23 A Yes.

24 Q Did you succeed right away?

25 A Not immediately, no.

1 Q Also in that conversation, Mr. Arocena said --  
2 MR. AGUILAR: Your Honor, I am going to object  
3 to every question starting the same way, going over testimony  
4 already presented to the jury.

5 He doesn't need to say every time, the  
6 conversation with Mr. Arocena and all the testimony.

7 THE COURT: The objection is to form. I would  
8 suggest that counsel be mindful of the form of his  
9 questions.

10 Q Agent Wack, in Exhibits 202 and 202-C, there is  
11 some discussion about a transmitter being sent to you.  
12 Did you ever receive such a transmitter in the mail?

13 A No, I did not.

14 Q After this December 19, 1982 conversation, did  
15 you receive any additional calls from Mr. Arocena?

16 A Yes.

17 Q On any of the later calls, is any other voice  
18 heard at any point in the tapes?

19 A Yes.

20 Q Whose voice is that?

21 A My then fiancée, Maryann Zucic, and my current wife  
22 now.

23 Q Could you spell Zucic?

24 A Z-u-c-i-c.

25 Q On some of the later tapes, is there also some

1 other high-pitched sound that is heard?

2 A Yes.

3 Q What is that?

4 A My cockateel in the background.

5 Q What is that?

6 A A small bird, whistles a lot.

7 Q I direct your attention to December 30th of  
8 1982 at about 9:30 that evening. Did anything happen at that  
9 time?

10 A Yes, I received a telephone call from Mr. Arocena.

11 Q I show you Government's Exhibits 203 and 203-C  
12 for identification. I will also show you Government's  
13 Exhibit 203-T for identification. Do you recognize those?

14 A Yes, I do.

15 Q What are Government's Exhibits 203 and 203-C?

16 A They are the original tapes made during that  
17 conversation.

18 Q What is Government's Exhibit 203-T?

19 A 203-T is a transcript which I prepared of that  
20 conversation.

21 Q How many calls did you have with Mr. Arocena  
22 .. that night?

23 A Two.

24 Q Would you explain what happened?

25 A The first call was terminated, and Mr. Arocena

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re-called back collect.

MR. TABAK: The government offers Exhibits 203, 203-C and 203-T in evidence.

MR. AGUILAR: Your Honor, we would have no objection except as to the same provision made last Thursday as to the transcripts.

THE COURT: Yes, ladies and gentlemen, with regard to the tapes and transcripts, you will be listening to the tapes, you will have the transcripts in front of you while you are listening.

The primary evidence is what you hear. The transcripts are primarily, or are there, I should say, to assist you.

203, 203-C, 203-T received.

(Government's Exhibits 203, 203-C and 203-T for identification were received in evidence.)

THE COURT: Agent Wack, just so we will be clear, do the tapes and does the transcript contain both of the conversations that, that is, the conversation where Mr. Arocena called in to you and then the conversation when he called back collect?

THE WITNESS: Yes, they do.

THE COURT: Very well.

MR. TABAK: Thank you, your Honor.

With the Court's permission, the government would

xxxxxx

1        like to play Exhibits 203 and 203-C and to distribute  
2        to the members of the jury copies of the transcript,  
3        subject, of course, to the instruction that your Honor has  
4        given.

5                              THE COURT:    You may.

6                              (A tape was played.)

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(Continued on next page)

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1 THE COURT: No approaching the bench. Turn  
2 that off for a moment.

3 Mr. Wack, I may not have heard correctly, but  
4 I thought I heard your voice set the date as September 30th.  
5 Was that correct?

6 THE WITNESS: Well, I said it, your Honor,  
7 but it was December.

8 THE COURT: In other words, the call was on  
9 December 30, not September 30; is that correct?

10 THE WITNESS: That's correct.

11 THE COURT: Very well.

12 MR. TABAK: May we resume playing the tape?

13 THE COURT: Yes. I was not sure I heard that,  
14 but as soon as Mr. Aguilar stood up, I knew he heard the  
15 same thing I had.

16 MR. AGUILAR: I sure had, your Honor.

17 THE COURT: I think the matter has been  
18 referred to by the Court to the witness, and the witness  
19 has corrected the error.

20 You may proceed, Counsel.

21 MR. TABAK: Thank you, your Honor.

22 (Playing of the tape was resumed.)

23 THE COURT: We'll take a very brief recess.  
24 I understand at least one of the jurors would like to be  
25 excused for a moment. If there are more than one, I will



1 take a full break.

2 Juror No. 6, you're excused.

3 JUROR NO. 6: Okay.

4 THE COURT: Anyone else?

5 All right, why don't we make this our break,  
6 then, for the convenience of everyone.

7 Ladies and gentlemen, we'll take a brief  
8 recess.

9 Please do not discuss the case among your-  
10 selves.

11 (The jurors left the courtroom.)

12 (Recess.)

13 (The jurors entered the courtroom.)

14 THE COURT: Please be seated.

15 Everybody comfortable?

16 We will resume at the point we took the recess,  
17 and we will proceed listening to this and perhaps some  
18 additional materials. That should take us through our  
19 luncheon recess.

20 Mr. Tabak.

21 MR. TABAK: Thank you, your Honor.

22 We'll resume playing Government's Exhibit 203  
23 where we left off, which was on Page 22 of the transcript,  
24 which is Exhibit 203-T.

25 THE COURT: Ladies and gentlemen, if you would

1 resume at that point. Everybody has their transcripts.

2 I think everyone is ready.

3 You may proceed, Counsel.

4 MR. TABAK: Thank you, your Honor.

5 (Playing of the tape was resumed.)

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7 (Continued on the next page.)

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1 THE COURT: Mr. Tabak.

2 BY MR. TABAK:

3 Q Agent Wack, during the preceding conversation  
4 there was some discussion about a device that had been put  
5 inside Remon's car.

6 Can you tell the jury what that was about?

7 A Yes, that was a bugging device, you might  
8 call it, that we had placed in Pedro Remon's automobile  
9 through an appropriate court order in Florida.

10 Q What, if anything, happened to that device?

11 A Well, Ramon Sanchez has it right now and that  
12 was the last I heard of it.

13 Q Do you know about how long after the FBI put  
14 the device in the car it remained in the car?

15 A I'm not positive. Several weeks, as I recall,  
16 but not much longer.

17 Q Also during this conversation, it was stated  
18 that if Omega 7 were ever going to set off another bomb  
19 in the United States, that you would get a call that  
20 the honeymoon was over. Did you ever get such a call?

21 A Yes.

22 Q What did that relate to, if you recall?

23 A It was on the evening of January 12, 1983,  
24 as I recall, I got another telephone call from Mr. Arocena,  
25 shortly after several bombs went off in Florida.

1 Q I am now going to show you Government's  
2 Exhibit 204 for identification and 204-T for identification.

3 Do you recognize those?

4 A Yes, I do.

5 Q What are each of those?

6 A 204 is the original tape I made of the  
7 conversation, and 204-T is a transcript which I prepared.

8 MR. TABAK: The government offers Exhibits 204  
9 and 204-T in evidence.

10 MR. FERNANDEZ: No objection, subject to the same  
11 instruction, your Honor.

12 THE COURT: Yes, ladies and gentlemen. First,  
13 204 and 204-T are received.

14 Second, you will be hearing the tape that would  
15 be the primary evidence. The transcript is there to  
16 assist you.

xxxxx 17 (Government's Exhibits 204 and 204-T for  
18 identification were received in evidence.)

19 Q Before I play these, I am going to show you  
20 Government's Exhibit 203-B for identification. Do you  
21 recognize that?

22 A Yes, I do.

23 Q What is that?

24 A This is my original telephone bill from December  
25 of 1982.

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MR. TABAK: The government offers Exhibit 203-B in evidence.

MR. FERNANDEZ: No objection.

THE COURT: Received.

(Government's Exhibit 203-B for identification was received in evidence.)

MR. TABAK: With the Court's permission, I would now like to distribute copies to the jury of Transcript 204-T in evidence, and then play Government's Exhibit 204, subject to the same instruction.

THE COURT: You may. I received the exhibits subject to that instruction, and will now permit you to play the tape subject to the same instruction.

MR. TABAK: Thank you, your Honor.

THE COURT: All right, does everyone now have a copy of the most recent transcript, 204-T? They do. You may proceed, counsel.

MR. TABAK: Thank you, your Honor.

I will now play Exhibig 204.

(A tape was played)

THE COURT: You may proceed, Mr. Tabak.

MR. TABAK: Thank you, your Honor.

BY MR. TABAK:

Q Agent Wack, I now direct your attention to February 22, 1983 at approximately 8:00 p.m. Did anything

1 occur at that time that you can recall?

2 A Yes, I received another telephone call from  
3 Mr. Arocena at my residence.

4 Q I am going to show you Government's Exhibits 205  
5 and 205-T for identification.

6 Do you recognize those?

7 A Yes, I do.

8 Q What is each of them, please?

9 A 205 is the original tape I made of the  
10 conversation, and 205-T is the transcript which I  
11 prepared.

12 MR. TABAK: The government offers Exhibits 205-  
13 and 205--T in evidence.

14 MR. FERNANDEZ: Your Honor, no objection, same  
15 instruction, and a suggestion that perhaps this may be  
16 the time to break since it's about a 25-page tape.

17 THE COURT No, I thought we would break after  
18 this.

19 MR. FERNANDEZ: All right.

20 THE COURT: Received.

21 Ladies and gentlemen, this is the last tape that  
22 we will listen to before the lunch break.

23 I do want to caution you once again, the primary  
24 evidence is what you hear. The transcript is there to assist  
25 you.

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(Government's Exhibits 205 and 205-T for  
identification were received in evidence.)

BY MR. TABAK:

Q Agent Wack, was the entire conversation recorded?

A No.

Q What was not recorded?

A I missed the beginning of the conversation on  
tape.

MR. TABAK: With the Court's permission, I will  
now distribute copies of the transcript, 205-T, to the  
jury.

THE COURT: You may.

MR. TABAK: Thank you, your Honor.

(Pause)

MR. TABAK: I will now play Government's  
Exhibit 205, the tape.

THE COURT: You may proceed.

MR. TABAK: Thank you.

(A tape was played.)

THE COURT: Ladies and gentlemen, we will take  
our luncheon recess at this time. If you would leave the  
transcripts at your seats, we will see that they are picked  
up during the recess.

If you have already started to pass them, whoever  
has a few, just put them on his seat.

1                   Please do not discuss the case among yourselves,  
2 or with anyone else. If you learn anything about the case  
3 from any source outside of the courtroom, you are to  
4 report the matter to Mr. Guranich when you return.

5                   Finally, please continue to keep an open mind  
6 on all aspects of the case until the case has been  
7 completed.

8                   The jurors are excused for lunch and directed  
9 to return in one hour. That would make it 2:10 p.m.

10                  Enjoy your lunch.

11                  (The jury left the courtroom)

12                  (Luncheon recess)

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## AFTERNOON SESSION

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L A R R Y                      W A C K,                      resumed.

THE COURT: Good afternoon, ladies and gentlemen.

THE JURORS: Good afternoon, your Honor.

THE COURT: Mr. Tabak.

DIRECT EXAMINATION CONTINUED

BY MR. TABAK:

Q Agent Wack, I direct your attention to May 8, 1983, at approximately 10:22 p.m. Did anything happen at that time, if you recall?

A Yes. I received another call at my residence from Mr. Arocena.

Q I'm showing you Government's Exhibit 206, for identification and 206-T, for identification (handing).

(Government's Exhibits 206 and 206-T were marked for identification.)

Q Do you recognize those?

A Yes.

Q What are they?

A 206 is the original tape I made that night. And 206-T is a transcript which I prepared.

MR. TABAK: Government's Exhibits 206 and 206-T were received in evidence.)

1 MR. FERNANDEZ: No objection, your Honor,  
2 subject to the same instruction, your Honor.

3 THE COURT: Ladies and gentlemen, I am going  
4 to receive 206, the tape, and it will be played to you.  
5 And I am going to receive 206-T, the transcript, and  
6 you will have that in front of you. The same admonition  
7 will apply as it will with respect to all of the  
8 remaining conversations you'll be hearing this afternoon.  
9 That is, that the tape which you will be hearing is the  
10 primary evidence. The transcript is primarily an  
11 aid to assist you in following what you hear. But it's  
12 what you hear which is the evidence.

13 (Pause)

14 THE COURT: You may proceed, Mr. Tabak, If you  
15 wish to hand out copies of the transcript, you may do so.

16 (Pause)

17 MR. TABAK: I will now play Exhibit 206.

18 THE COURT: You may proceed.

19 (Tape played)

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THE COURT: Mr. Tabak.

MR. TABAK: Yes, your Honor.

BY MR. TABAK:

Q Agent Wack, do you recall whether you did in fact receive a call the following evening?

A Yes, I did.

Q I am going to show you Exhibits 207 for identification and 207-T for identification. Do you recognize those?

A Yes.

Q What are they?

A 207 is the original tape of the conversation, 207-T is a transcript which I prepared.

Q Do you recall there being any particular problem at the beginning of the conversation?

A Yes, I had a problem in recording the initial beginning of the conversation.

Q Do you recall what the beginning of the conversation related to?

A Mr. Arocena had mentioned that Justo Rodriguez had received an apparent threat of some type from a Milton Badia, and that we should go talk to Justo Rodriguez about this threat.

Q Have you listened to the tape which is Exhibit 207 for identification?

1 A Yes.

2 Q Did you notice anything about the relative loudness  
3 between the two people on the tape?

4 A Yes, in this particular tape, my voice came out  
5 extremely loud, and Mr. Arocena's was very low.

6 Q Now, I am going to show you Government's  
7 Exhibit 207-E for identification. Do you recognize  
8 Exhibit 207-E?

9 A Yes.

10 Q What is that?

11 A This is an exact copy of 207, the difference  
12 being I had this enhanced to balance my voice with  
13 Arocena's.

14 Q And have you listened to 207-E for identification?

15 A Yes.

16 Q Are the words on there exactly the same except  
17 for the difference in volume on 207 for identification?

18 A Yes.

19 MR. TABAK: The government offers Exhibits 207,  
20 207-T and 207-E in evidence.

21 MR. FERNANDEZ: Your Honor, we have no objections  
22 but we do want an instruction, the conversation is already  
23 in progress, and the same instruction that the Court has  
24 given other times.

25 THE COURT: Yes, I believe the first part of what

1 you have asked for has already been testified to by  
2 Agent Wack and I will repeat it.

3 It is my understanding that the conversation  
4 had already commenced once you started taping.

5 THE WITNESS: That's correct.

6 THE COURT: Very well.

7 At this point, Government's Exhibits 207, 207-T  
8 and 207-E are received, and the jury is instructed once  
9 again, you will be listening to 207-E, the so-called  
10 enhanced tape, which according to the agent, balanced his  
11 voice and that of Mr. Arocena.

12 It is that tape, that is, the words that you hear,  
13 that constitutes the primary evidence here.

14 The transcript, again, is there to assist you  
15 in understanding the tape.

16 MR. FERNANDEZ: Thank you, your Honor.

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17 (Government's Exhibits 207, 207-E and 207-T  
18 for identification were received in evidence.)

19 MR. TABAK: With the Court's permission, I will  
20 now distribute copies of Government's Exhibit 207-T, the  
21 transcript.

22 THE COURT: You may.

23 (Pause)

24 MR. TABAK: I will now play, with the Court's  
25 permission, Government's Exhibit 207-E in evidence.

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THE COURT: You may proceed.

(A tape was played.)

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(Continued on next page)

1 THE COURT: Ladies and gentlemen, I think this would  
2 be an appropriate time to take a brief recess.

3 Please don't discuss the case among yourselves.  
4 Continue to keep an open mind.

5 We'll take a brief recess.

6 (The jury left the courtroom.)

7 THE COURT: Counsel are excused for a brief  
8 recess.

9 (Recess)

10 THE COURT: Off the record.

11 (Discussion off the record)

12 (The jury entered the courtroom)

13 THE COURT: Mr. Tabak.

14 MR. TABAK: Thank you, your Honor.

15 BY MR. TABAK:

16 Q Agent Wack, I direct your attention to June 13th,  
17 1983, at approximately 11:40 p.m. Do you recall anything  
18 that happened at that time?

19 A Yes. I received another call at my residence  
20 from Mr. Arocena.

21 Q Did anything additional happen at about midnight  
22 that same evening, that is to say, the evening of June 13th  
23 to June 14th, 1983?

24 A Yes. The first call was terminated, and a second  
25 call was made by Mr. Arocena at approximately midnight.

1 Q Now, I also direct your attention to approximately  
2 eleven o'clock in the evening on July 21, 1983. Did  
3 anything happen at that time that you recall?

4 A Yes. Another telephone call to my residence from  
5 Mr. Arocena.

6 Q I'm now going to show you Exhibit 208, for  
7 identification, Government's Exhibit 209, for identification  
8 and Government's Exhibits 210, for identification, 210-C,  
9 for identification and 210-E, for identification, and  
10 also Government's Exhibits 208-T, for identification,  
11 209-T, for identification and 210-T, for identification.

xxxxx 12 (Government's Exhibits 208, 208-T, 209, 209-T,  
13 210, 210-C, 210-E and 210-T were marked  
14 for identification.)

15 Q Do you recognize each of those?

16 A Yes, I do.

17 Q And would you please state -- and indicate which  
18 one you're referring to in each case -- what each of those  
19 items is.

20 A Yes, Exhibit 208 is the original tape of the  
21 June 13, 1983, phone call, beginning at approximately  
22 11:40 p.m.

23 Exhibit No. 209 is the original tape of the second  
24 telephone call, beginning approximately midnight into  
25 June 14, from Mr. Arocena.



1 Exhibit No. 210 is the original tape of the  
2 July 21, 1983, telephone call.

3 210-C is the continuation of that call.

4 And Exhibit No. 210-E, is an enhancement that I  
5 had done on that particular call of July 21, to again try  
6 to balance the voices.

7 Q And have you, yourself, listened to Exhibit 210-E,  
8 for identification, and compared it with the originals  
9 which are 210, for identification, and 210-C, for  
10 identification?

11 A Yes.

12 Q And is it the same conversation, except that the  
13 levels have been changed?

14 A Yes, it is.

15 Q And would you also identify, if you can,  
16 Exhibits 208-T, for identification, 209-T, for  
17 identification, and 210-T, for identification.

18 A Yes.

19 Exhibit 208-T is the transcript I prepared of  
20 the June 13, 1983 phone call.

21 Exhibit No. 209-T is the transcript of the  
22 midnight call of June 13 into June 14 of '83.

23 And Exhibit No. 210-T is the transcript I prepared  
24 of the July 21, '83, phone call.

25 MR. TABAK: Government offers Exhibits 208, 208-T,

1 209, 209-T, 210, 210-C, 210-E, and 210-T, in evidence.

2 MR. FERNANDEZ: No objection, your Honor. The jury  
3 is aware that we have a standing advice.

4 THE COURT: All right, the following exhibits  
5 are received, and then the Court will issue an instruction  
6 to the jury. 208, 208-T, 209, 209-T, 210, 210-C, 210-E  
7 and 210-T.

xxxxxx 8 (Government's Exhibits 208, 208-T, 209, 209-T,  
9 210, 210-C, 210-E and 210-T were received in  
10 evidence.)

11 THE COURT: Ladies and gentlemen, it is my  
12 understanding that you will be hearing Exhibits 208,  
13 209 and 210-E, which are tapes of conversations which took  
14 place on June 13th and 14th, and July 21st, 1983,  
15 respectively.

16 I would instruct you once again that it is what  
17 you hear which is the primary evidence. You will be  
18 given three transcripts, 208-T, 209-T and 210-T. Those  
19 are intended to assist you in listening to and understanding  
20 the three tapes.

21 As I have indicated, the primary evidence is  
22 contained on the tapes.

23 MR. TABAK: Your Honor, I would note for the record  
24 that at the conclusion of 209, there is some additional  
25 conversation of Agent Wack with some other people. I have

1 discussed this with defense counsel. They indicated  
2 that instead of cutting off the conversation there,  
3 they would just as soon that it be played, as I understand  
4 their position.

5 THE COURT: Very well.

6 MR. FERNANDEZ: Yes, your Honor.

7 THE COURT: All right.

8 Q Agent Wack, before we play any of these, were  
9 there any other calls that you got after these calls from  
10 Mr. Arocena?

11 A No.

12 MR. TABAK: The government then offers these  
13 exhibits.

14 THE COURT: As I have indicated, they are  
15 received.

16 And as I understand it, these constitute the  
17 last three telephone calls between Mr. Arocena and the  
18 witness, which took place, as I've indicated, on June 13th,  
19 1983, June 14th, 1983, and July 21st, 1983.

20 MR. TABAK: Thank you, your Honor.

21 THE COURT: I suggest that, to keep the matters  
22 separate, you proceed to play 208, which I understand is  
23 a relatively short tape, and to distribute transcripts,  
24 and then break and do the same with 209, and finally  
25 break and do the same with 210.

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Would that be satisfactory, counsel?

MR. FERNANDEZ: Yes.

MR. AGUILAR: Yes, your Honor.

MR. TABAK: And we'll collect the copies from the jury of each as we do them.

THE COURT: Very well.

(Pause)

THE COURT: You may proceed, Mr. Tabak.

MR. TABAK: Thank you, your Honor.

I will now play Government's Exhibit 208, in evidence.

(Tape played)

THE COURT: Ladies and gentlemen, you've now completed listening to Government's Exhibit 208.

The government is now in the process of distributing Exhibit 209-T. And as soon as you have it, Mr. Tabak will begin playing 209.

(Pause)

THE COURT: You may proceed, Mr. Tabak.

MR. TABAK: Thank you, your Honor.

Q Agent Wack, was there a problem at the beginning of what is Government's Exhibit 209?

A Yes. I missed the beginning of the conversation in changing the tape.

Q Do you recall what, if anything, was discussed?

msjah 7           Wack-direct

1           A     No, I don't.

2           THE COURT:   You may proceed, Mr. Tabak.

3           MR. TABAK:   Thank you.

4           I will now play Government's Exhibit 209 in  
5 evidence.

6           (Tape played)

7           THE COURT:   Ladies and gentlemen, I appreciate  
8 your patience. We are going to conclude at this time and  
9 resume tomorrow morning at 10:00 a.m.

10           Please leave the transcripts on the seats.  
11 They will be picked up after you have gone.

12           First, don't discuss the case among yourselves  
13 or with anyone else. If you learn anything about the  
14 case from any source outside the courtroom, you have standing  
15 instructions on what to do.

16           And finally, although we are moving along,  
17 please keep an open mind on all aspects of the case until the  
18 case has been concluded and given to you following my charge.

19           I would indicate that we have one more tape which  
20 is relatively short. We will begin that tomorrow. I  
21 would anticipate that very shortly thereafter, Agent Wack  
22 will conclude his direct examination.

23           The jury is excused until 10:00 a.m. tomorrow  
24 morning. Get home safely.

25           (The jury left the courtroom)

1 THE COURT: The witness may step down.

2 THE WITNESS: Yes, sir.

3 THE COURT: Mr. Tabak.

4 MR. TABAK: I only have one very short matter,  
5 your Honor.

6 Mr. Fernandez mentioned to me that certain people  
7 not connected with the defense wanted to know whether the  
8 3500 material that has been provided to the defense  
9 could be available to them. And I just wanted to state  
10 for the record that it is the government's position  
11 that the 3500 material goes only to the defense team.

12 THE COURT: Yes. It's the custom, in this  
13 court at least, that 3500 material goes to the defense,  
14 may be utilized by the defense throughout the trial and  
15 any appellate review, and then should be returned to the  
16 government.

17 MR. TABAK: Thank you, your Honor.

18 THE COURT: Is there anything further?

19 MR. TABAK: No, your Honor.

20 THE COURT: Thank you.

21 Off the record.

22 (Discussion off the record.)

23 THE COURT: We have recess until ten o'clock  
24 tomorrow morning.

25 (An adjournment was taken to August 28, 1983  
at 10:00 a.m.)