

COPY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

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UNITED STATES OF AMERICA :

VS. : Criminal No.

VICTOR MANUEL GERENA, ET AL, : H-85-50 TEC

Defendants :

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Federal Building  
450 Main Street  
Hartford, Connecticut

October 13, 1988

T R I A L

Held Before:

The Hon. T. EMMET CLARIE  
Senior U. S. D. J.  
And a Jury of Twelve

**Cunningham Reporting Associates**  
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1 AFTERNOON SESSION

2 2:00 O'CLOCK P.M.

3  
4 K E N N E T H C O X ,

5 resumed the witness stand and testified  
6 further on his oath as follows:

7 THE COURT: Any other questions of  
8 this witness?

9 MR. WEINGLASS: Just a few. I don't  
10 think it will take but five minutes.

11 MR. DABROWSKI: Your Honor, I have  
12 provided Mr. Weinglass and other counsel with  
13 copies of the polygraph charts that he requested.  
14 I've actually given him four separate sets. I'll  
15 have a fifth set down shortly and I want the  
16 record to reflect that.

17 THE COURT: What areas are you going  
18 into, counselor?

19 MR. WEINGLASS: The book of  
20 photographs which is marked 54 he's identified two  
21 photographs marked 4 which are the photographs of  
22 my client, Juan Segarra-Palmer. I want to ask him  
23 if he identified any others. I think that will be  
24 a very brief --

25 THE COURT: Any other photographs of

1 your client?

2 (Government's Exhibit 54: Marked  
3 for identification.)

4 MR. WEINGLASS: Other persons, but  
5 they're germane.

6 THE COURT: Before the jury is  
7 called, Mr. Weinglass has a few questions.

8 MR. WEINGLASS: Mr. Cox, there's a  
9 photograph in the front of the red book?

10 THE WITNESS: Yes.

11 MR. WEINGLASS: You identified two  
12 photographs number 4 which are of my client, Juan  
13 Segarra-Palmer?

14 THE WITNESS: Yes.

15 MR. WEINGLASS: Can you identify any  
16 of the other photographs in that book?

17 THE WITNESS: Yes, I can, but that  
18 fellow is not in the courtroom.

19 MR. WEINGLASS: Could you just give  
20 us the number of the photograph that you can  
21 identify?

22 THE WITNESS: Number 11.

23 MR. WEINGLASS: You're going to have  
24 to speak up so the Court Reporter can hear you.

25 THE WITNESS: Number 11.

1 THE COURT: May I see that?

2 (Pause.)

3 MR. WEINGLASS: Could the  
4 Government represent on the record who that  
5 individual is?

6 MR. DABROWSKI: Before I do that I  
7 want to ask the witness. I don't want to be  
8 accused -- do you know who that is, Mr. Cox?

9 THE WITNESS: I've seen him before.

10 MR. DABROWSKI: Do you know him by  
11 name?

12 THE WITNESS: Yes.

13 MR. DABROWSKI: What is the name?

14 THE WITNESS: I just know him as  
15 Charlie Crafts.

16 THE COURT: Charlie what?

17 THE WITNESS: Crafts.

18 MR. DABROWSKI: C-r-a-f-t-s, your  
19 Honor.

20 THE COURT: Charles Craft. All  
21 right.

22 THE WITNESS: Yes.

23 MR. DABROWSKI: Does Mr. Crafts have  
24 any connection to this case that you're aware of?

25 THE WITNESS: No, sir.

1 MR. DABROWSKI: Do you know where he  
2 lives?

3 THE WITNESS: No.

4 MR. WEINGLASS: Do you recognize  
5 anyone else at the Defense table?

6 THE WITNESS: Which is the Defense  
7 table? The L-shaped one right there?

8 MR. WEINGLASS: Right. The L-shaped  
9 one.

10 THE WITNESS: No, I don't.

11 MR. WEINGLASS: Have you taken any  
12 medications or any drugs or medicines or anything  
13 other than food today?

14 THE WITNESS: No, I haven't.

15 MR. WEINGLASS: No further questions.

16 MR. BERGENN: I would suggest when  
17 the jury does come out, we don't have to interrupt  
18 the Government's direct with a number of  
19 objections. I've already expressed to the Court  
20 the concerns that I have.

21 Your Honor, you know now the rules  
22 of law applicable, but I don't want to feel -- I  
23 don't want to interrupt the Government in the  
24 middle of their direct --

25 MR. DABROWSKI: If I ask an

1 objectionable question, he should object. I'm not  
2 sure what questions I'm going to ask.

3 THE COURT: If you have any  
4 objection, object and the Court will rule on them  
5 as we proceed. I don't know what he's going to  
6 testify to. Until I hear, I can't rule on them.

7 MR. BERGENN: Your Honor understands  
8 the prejudicial effect, my having to argue. You  
9 know precisely what my claims are. The Government  
10 knows precisely what my claims are. This should  
11 not be a charade. This should not be some kind of  
12 a game.

13 My claim is that any questions that  
14 go as to facts after September 12, 1983 cannot be  
15 elicited from any questions of the Government  
16 unless the Court instructs the jury that those are  
17 not relevant against Carlos Ayes-Suarez and the  
18 other Defendants save Mr. Segarra on the Hobbs.

19 THE COURT: I'm sure the jury will  
20 know what Hobbs is.

21 MR. BERGENN: Your Honor, I was  
22 going to count on the Court to instruct them that  
23 is not relevant to the charge of 1951, Hobbs, the  
24 robbery, count 14 robbery, the conspiracy to  
25 commit that robbery and the aiding and abetting to



1 commit that robbery.

2 I think they understand robbery,  
3 your Honor. If you will, I would gratefully  
4 accept that.

5 We are not being accused, Carlos  
6 Ayes-Suarez --

7 THE COURT: Let's ask the prosecutor.  
8 Are you going to be offering this witness'  
9 testimony against Mr. Bergenn's client in regard  
10 to the robbery? I don't know.

11 MR. DABROWSKI: I have to apologize  
12 to the Court, because when you say in regard to  
13 the robbery. Yes, with regard to the conspiracy  
14 insofar as the witness' testimony involves  
15 statements made by co-conspirators during the  
16 course of the robbery and in furtherance of it.

17 THE COURT: In regard to count 15, I  
18 think he's addressing it to. He admits that it's  
19 admissible in count 16, but not on count 15.

20 MR. DABROWSKI: Some of the acts and  
21 statements will come out through this witness are  
22 admissible against Carlos Ayes-Suarez and some are  
23 not.

24 With regard to admissions by Juan  
25 Segarra-Palmer that were not made either during

1 the course of conspiracy or in furtherance of it  
2 or are related exclusively to Mr. Juan  
3 Segarra-Palmer. The Court should instruct the  
4 jury those should not be considered against the  
5 other Defendants.

6 That instruction relates solely to  
7 any testimony that comes out in the form of an  
8 admission.

9 THE COURT: There will come a time  
10 when the Court will ask you, Mr. Prosecutor, is  
11 this evidence being offered against Juan Segarra  
12 only or against Antonio Camacho-Negron, Mr.  
13 Maldonado, Mr. Ramirez-Talavera and Carlos  
14 Ayes-Suarez and you will be asked to comment it's  
15 being offered against one or against the others;  
16 is that clear?

17 MR. DABROWSKI: Yes, your Honor.

18 MR. BERGENN: Thank you, your Honor.  
19 There are two areas --

20 THE COURT: The real crux will come  
21 really at the end. For this reason, these people  
22 don't know what the law is. They don't know what  
23 the Hobbs Act is. They don't know whether one  
24 conspiracy terminates at one time or terminates at  
25 another; but when the evidence is in and even if

1 the Court were to explain it to them now they  
2 wouldn't know any more than when I got through  
3 than when they started.

4 When the evidence is in, the time  
5 comes to go into it count by count and explain it  
6 to them, it will be the duty of the Court then to  
7 make it so clear and so plain, that they will  
8 understand.

9 MR. BERGENN: You're right. Your  
10 Honor, it is going to be very important at the end,  
11 but on the other hand because it's so complicated  
12 and because this trial is so long, the Court  
13 cannot, no matter what the Court does, hope to go  
14 through all of the evidence in four months and  
15 hope they're going to be able to sort it out.

16 MR. BERGENN: As the evidence is  
17 going in is the clearest way to begin that process,  
18 that orientation process, so they know what this  
19 case is about. Otherwise, I'm being deprived of a  
20 fundamental right --

21 THE COURT: We'll do it to the  
22 extent that's possible.

23 MR. BERGENN: The Government's  
24 suggestion is a good one and it goes part of the  
25 way, but that's in terms of the admissions of

1 alleged co-conspirators.

2 The problem is that there has been  
3 no evidence whatever against Carlos Ayes-Suarez in  
4 this case to suggest that he is part of either  
5 conspiracy.

6 THE COURT: The evidence hasn't come  
7 in yet. We're going to find out.

8 MR. BERGENN: I understand your  
9 Honor. I'm sorry to belabor this, but the Supreme  
10 Court case I cited to your Honor says you must be  
11 satisfied that there is evidence that Carlos  
12 Ayes-Suarez is part of the conspiracy as to which  
13 the evidence of a co-conspirator relates.

14 THE COURT: The alternative of that  
15 in the Second Circuit said the Judge should turn  
16 to the prosecutor and say, "Will you represent to  
17 the Court that you will demonstrate and show  
18 evidence of a conspiracy on the part of XYZ?" If  
19 the prosecutor says, "Yes, I so represent," the  
20 Court may then let the evidence in and then if at  
21 the end of the case the Government has failed, the  
22 Court shall then strike the evidence as to those  
23 particular individuals. That's the Second Circuit.

24 The Fifth Circuit doesn't do it that  
25 way. They say you have to show the conspiracy

1 first and then let the evidence in. That's not  
2 the Second Circuit. I'm following the Second  
3 Circuit. That's where we live.

4 MR. BERGENN: The second aspect  
5 besides the co-conspirator's statements, and  
6 that's the timing. The Government hasn't  
7 addressed that. Anything the Government would ask  
8 that would elicit testimony concerning something  
9 post-September 12, 1983 I think they should  
10 respond in the same fashion that this does to  
11 relate to Carlos Ayes-Suarez and the other  
12 Defendants, save Mr. Segarra.

13 THE COURT: We'll see what develops.  
14 Call the jury.

15 MR. WEINGLASS: I would ask Agent  
16 Cronin be sequestered; under the sequestration  
17 order, be sequestered.

18 THE COURT: Well, as to this witness,  
19 the Court will allow it, to sequester.

20 MR. WEINGLASS: Mr. Dabrowski made  
21 an allusion, it's not contained in the Grand Jury  
22 or any papers turned over to me last night or this  
23 morning, that he is going to attempt to elicit  
24 from this witness testimony about alleged other  
25 robberies. I object to that. It's irrelevant.

1 THE COURT: How about under the  
2 Hobbs Act? You have to show a scheme of two or  
3 more, haven't you? What's the answer to that?

4 MR. WEINGLASS: But not going into  
5 other robberies which allegedly predate this  
6 robbery.

7 THE COURT: It could be a scheme.  
8 It could be before and after.

9 MR. WEINGLASS: There is no  
10 representation of scheme, your Honor.

11 THE COURT: I don't know until it  
12 comes out.

13 MR. WEINGLASS: Your Honor, I think  
14 there has to be a representation in front of this  
15 jury. If we get into other alleged robberies,  
16 that's highly prejudicial. We're going to have  
17 long arguments on that and I don't want to delay  
18 the proceeding or the jury.

19 I just don't think we should get  
20 into it until the Court has heard, at length,  
21 about what the prosecution intends to show.

22 THE COURT: Has the prosecution  
23 given you a list of the alleged bad acts that they  
24 propose to offer in this case?

25 MR. WEINGLASS: None through this

1 witness.

2 THE COURT: Through some other  
3 witness?

4 MR. WEINGLASS: Your Honor, I'm  
5 operating on the assumption that they're not going  
6 to offer that. The first I heard of it was this  
7 morning about an hour and a half ago.

8 It's not in any of the materials.  
9 It's not in any of the 302's.

10 THE COURT: Did they give you a list  
11 of the bad acts that the Government proposed to  
12 prove? You can answer that yes or no.

13 MR. WEINGLASS: We were told, your  
14 Honor, that that was for impeachment rebuttal. We  
15 were told that the Court will not allow the  
16 Government to go into any one of a number of  
17 alleged other prior bad acts, but if the Defense  
18 opens it in their case, the Government can come  
19 back on rebuttal. That was my understanding of  
20 the game rule. I'm willing to abide by that.

21 Up until about 11:30 this morning  
22 when the Government says they're going to put in  
23 two other robberies, unconnected to this case --

24 THE COURT: Well, I don't know what  
25 they're going to do until we hear.

1 MR. WEINGLASS: That's what they  
2 said unless my ears picked it up wrong. I think  
3 that's a serious matter; that the Court ought to  
4 get it clear from the prosecution right now before  
5 we begin with what they're going to do.

6 THE COURT: Does the prosecutor care  
7 to make any representation?

8 MR. DABROWSKI: No, your Honor.

9 MR. BERGENN: Your Honor, you did  
10 misstate that the Government is going to put on  
11 proof of a scheme of more than one robbery.

12 THE COURT: The Court used the word,  
13 "scheme."

14 MR. BERGENN: That wasn't ever  
15 alleged by the Government in the three plus years  
16 in this case. That's the first time I heard  
17 anything about a scheme of more than one robbery.

18 THE COURT: What does the Hobbs Act  
19 require?

20 MR. BERGENN: A robbery to effect  
21 commerce.

22 THE COURT: Only one?

23 MR. BERGENN: You may be thinking of  
24 RICO, but that's not been charged with.

25 MR. ACEVEDO: If I may be heard,



1 your Honor, it's in count 14 of the indictment and  
2 15 which is the Hobbs conspiracy. The indictment  
3 is very precise. The only substantive offense  
4 alleged is Wells Fargo robbery on September 12th.  
5 That's it.

6 Your Honor issued an order in this  
7 case almost two years, year and a half as to the  
8 other crimes in which we requested information on  
9 any other crimes that the Government might want to  
10 use and your Honor issued an order and I can find  
11 it for tomorrow morning --

12 THE COURT: Did they give it to you?

13 MR. ACEVEDO: They gave us a list  
14 and the order was very specific from the Court  
15 that the Government could not use it in the case  
16 in chief unless something developed in trial,  
17 specifically if the Defense opens the door; but  
18 that was the order that the Court issued.

19 We have the list of other alleged  
20 crimes because we had a right to that under Rule  
21 16 discovery, so we would prepare for the case and  
22 we could fashion our defense.

23 The ruling was very specific and we  
24 have always proceeded on that clear understanding  
25 that the Court would not allow prejudicial other

1 crimes evidence unless the Government lays  
2 specific foundation for the need.

3 THE COURT: All right. Counsel for  
4 the Government care to make any representation as  
5 to what its offer of proof will be?

6 MR. DABROWSKI: I will if the Court --

7 THE COURT: You might be well to so  
8 there won't be a misunderstanding.

9 MR. DABROWSKI: With regard to the  
10 question of the existence -- your Honor, I have no  
11 objection to the witness remaining, but I know I'm  
12 going to say something and be accused of leading  
13 the witness.

14 MR. WEINGLASS: I think it's a good  
15 suggestion.

16 THE COURT: Why don't we ask the  
17 marshal to have the witness step out for a moment  
18 so he won't hear what the representation of proof  
19 is going to be.

20 (Witness excused.)

21 MR. DABROWSKI: With regard to the  
22 question of the existence of an organization known  
23 as the Macheteros, Mr. Segarra's membership in it,  
24 what the organization is and more precisely on  
25 this issue how it funds itself, I intend to ask

1 this witness if, in fact, he is aware of how this  
2 organization known as the Macheteros funds itself,  
3 funds its operations.

4 I believe his answer will be that it  
5 funds its operations through robberies. He knows  
6 this because --

7 THE COURT: I think that's in the  
8 indictment.

9 MR. DABROWSKI: Yes, your Honor.  
10 It's alleged in two counts in the indictment, both  
11 the conspiracy counts, Hobbs Act conspiracy and  
12 the 371 conspiracy.

13 On that issue the witness is aware  
14 of it for two reasons, I believe. Number one, in  
15 connection with his participation in the events of  
16 and surrounding August 29, 1983 when he came down  
17 here to Connecticut expecting to participate in a  
18 robbery whose purpose was to provide funds to this  
19 organization and, two, Mr. Segarra-Palmer informed  
20 him of one specific robbery and the general fact  
21 that this organization funds its activities  
22 through robberies.

23 THE COURT: All right. We'll  
24 proceed on that basis. Call the witness back.  
25 Then we'll call the jury.

1                   MR. WEINGLASS: Your Honor, is the  
2 Court now making a ruling that you're going to  
3 allow this witness to lay before this jury  
4 allegations of other robberies on the basis of  
5 this representation?

6                   THE COURT: In the indictment it  
7 says, I'll have to find it and read it to you,  
8 counselor. It makes specific reference -- in fact,  
9 Ms. Backiel had it in her questions to the jurors  
10 that they were asked.

11                   It specifically mentioned that their  
12 method of operation was to fund their activities  
13 out of robberies. She used two words quoting from  
14 the indictment. If counsel could help me find out,  
15 I'd be glad to tell you what page it's on.

16                   MR. WEINGLASS: Your Honor, it's in  
17 the general language in count 16, but that doesn't  
18 make it evidential before this jury.

19                   THE COURT: It makes it a necessary  
20 part of the allegations which are subject to proof.

21                   MR. WEINGLASS: Your Honor, I don't  
22 believe that the Government can put a prejudicial  
23 allegation in an indictment and bootstrap that  
24 into evidence.

25                   THE COURT: Here it is, page 51.

1 "Between March 19, 1983 and August 30, '85 the  
2 Defendants listed and named in paragraph 1 of this  
3 count except for Paul S. Weinberg also known as  
4 Josh, were members of a group which called itself  
5 the Macheteros, which funded its operations and  
6 activities in part through economic expropriations,  
7 including robbery."

8 MR. WEINGLASS: Robbery.

9 THE COURT: R-o-b-b-e-r-y.

10 MR. WEINGLASS: Singular? Your  
11 Honor, I think it's an elemental rule of evidence  
12 that the Government cannot use allegations for  
13 proofs of prior bad acts to show conduct that's in  
14 conformity with that. That's what they're  
15 attempting to do here.

16 THE COURT: They can offer evidence  
17 to prove anything that's in the indictment, that  
18 it's a part of the material allegations. That's  
19 the ruling of the Court.

20 MR. ACEVEDO: If I may be heard,  
21 your Honor? I respectfully, but strenuously,  
22 disagree. That paragraph, it's nothing else but  
23 surplus. This is not an indicted offense.

24 They're indicted for the alleged  
25 commission of the Wells Fargo robbery on September

1 12, 1983. They're using -- they're on the surplus  
2 in the indictment and through the back door  
3 bringing evidence of other crimes and that's  
4 highly prejudicial, especially when there hasn't  
5 been one single instance here of evidence as to  
6 any conspiracy here.

7 I think this will be highly  
8 prejudicial to my client and highly prejudicial to  
9 all the other clients because they do not need  
10 that witness to testify as to that. That's  
11 basically surplus. He has nothing to do with the  
12 offenses charged in the indictment.

13 I am not prepared to defend Norman  
14 Ramirez-Talavera of allegations about other  
15 robberies and other crimes that he's never even  
16 been accused of. Not even in the list that was  
17 given to us was he named as a participant in any  
18 other crimes.

19 I think it's highly prejudicial to  
20 permit that testimony to come in, which is totally  
21 irrelevant.

22 It's not necessary for the  
23 Government to prove their own surplus in the  
24 indictment. I ask the Court to read that  
25 indictment very carefully. It's only basically

1 surplus. It has nothing to do with the offenses  
2 indicted here.

3 MR. WEINGLASS: Your Honor made a  
4 specific order after receiving this indictment  
5 that the Government set forth all of its prior bad  
6 acts that it intends to prove in this case and in  
7 response to your Honor's specific order which we  
8 have relied upon, the Government said we will  
9 offer no prior bad acts in our case in chief.  
10 However, we reserve the right to offer prior bad  
11 acts in rebuttal.

12 That was the game rule, that was the  
13 rule of this case. We relied on it until two  
14 hours ago. Now, we're being told because of  
15 surplusage in language in an indictment, which Mr.  
16 Acevedo points out has no relevance to the charge  
17 in the indictment, the Government is going to be  
18 given the leeway which it didn't claim for itself  
19 when it responded to your Honor's direct order to  
20 set forth all the prior bad acts.

21 I strenuously object to this. Your  
22 Honor, if there was a scheme here, as you  
23 suggest --

24 THE COURT: I didn't suggest  
25 anything. I used the terminology.

1                   MR. WEINGLASS: I accept that  
2 terminology because I think that's what the rule  
3 is. If there was a method of operation here  
4 similar to a prior operation, namely, let's say,  
5 an insider doing an inside robbery with the aid of  
6 other people allegedly in the Macheteros, that  
7 might be acceptable; but we would have had that  
8 pretrial and would have prepared ourselves and  
9 argued it out.

10                   There's no allegation here. Mr.  
11 Dabrowski I'm sure could tell this Court that  
12 these other alleged robberies do not have anything  
13 in similarity in terms of the method in which they  
14 were done with the present case. They're entirely,  
15 totally, different. There is no inside operation  
16 in any of the other alleged acts of robbery.  
17 They're all outsiders who commit robberies against  
18 institutions.

19                   THE COURT: Let me ask you and bring  
20 it to a head. Mr. Dabrowski, if you're just going  
21 to ask about how they finance their operations and  
22 his testimony is going to be by committing  
23 expropriations including robberies, that's one  
24 thing.

25                   Or are you going to have him testify



1 as to specific acts of specific robberies at  
2 specific locations?

3 MR. DABROWSKI: The general answer,  
4 Your Honor.

5 THE COURT: Not the specific?

6 MR. DABROWSKI: Well, with one  
7 exception --

8 THE COURT: As long as you don't get  
9 into specific robberies.

10 MR. DABROWSKI: With one exception.  
11 He participated in a specific robbery; this one.

12 MR. ACEVEDO: That's irrelevant.  
13 Even that question is totally irrelevant and  
14 prejudicial.

15 THE COURT: The Court's ruling, it's  
16 admissible. We're not going to waste any more  
17 time arguing about it.

18 MR. ACEVEDO: Your Honor, with all  
19 respect, I don't think I'm wasting time. I'm  
20 representing my client.

21 THE COURT: You state it for the  
22 record. I'll listen. It's in the record. We  
23 don't have to have it three times.

24 MR. ACEVEDO: May I make one last  
25 point? I think it's very important. Let's

1     imagine, for the sake of argument, just for the  
2     sake of argument, that an organization, call it  
3     the Macheteros, committed the Wells Fargo robbery  
4     on September 12th. Let's imagine that they were  
5     organized a week before. This is the first  
6     robbery.

7                     The Government, if they have the  
8     evidence, they can come in, prove that and get a  
9     conviction. There is no necessity, it's  
10    absolutely irrelevant what the Macheteros or  
11    anybody else had done before in order to prove the  
12    allegations in this indictment.

13                    It's not necessary. It's just  
14    prejudicial matters to inflame the jury.

15                    THE COURT: The prosecutor said he  
16    isn't going to go into the area of specific  
17    robberies. He's going to, apparently, go into the  
18    general allegations and he's going to, according  
19    to what he says, show and demonstrate that this  
20    particular man came down here to make a dry run,  
21    so to speak, with Segarra-Palmer a week before.  
22    Whether he can prove it or not, I don't know.  
23    He's entitled to offer it.

24                    MR. ACEVEDO: Fine, fine, but he's  
25    not entitled, I think under the rules of evidence,

1 to give a statement as a witness that the  
2 Macheteros fund their activities through robbery.

3 THE COURT: If he knows.

4 MR. ACEVEDO: Even if he knows and  
5 even if it was true, it's irrelevant and  
6 prejudicial. It has no part in this case.

7 THE COURT: The Court notes your  
8 objection and the objection is overruled.

9 MS. BACKIEL: On behalf of Antonio  
10 Camacho-Negron, I object to any such testimony  
11 because as to him the opinion by this witness that  
12 Los Macheteros funds its operations through  
13 robberies is hearsay, not made in the course of  
14 any conspiracy involving that witness and Antonio  
15 Camacho-Negron.

16 It must be stricken and it cannot be  
17 considered by the jury. It is totally irrelevant  
18 to any evidence and any case that's pending  
19 against Antonio Camacho-Negron. It is pure  
20 hearsay and it is made by a person who is not  
21 involved in a conspiracy with Antonio  
22 Camacho-Negron.

23 It is inadmissible for that reason.  
24 It is also inadmissible because to permit him to  
25 express the opinion that Los Macheteros funded its

1 operations through robberies, generally without --

2 THE COURT: Suppose Segarra-Palmer  
3 told him that? I don't know.

4 MS. BACKIEL: That may be admissible  
5 against Segarra-Palmer. It's not admissible as  
6 against Antonio Camacho-Negron.

7 It is also a conclusionary statement.  
8 Mr. Dabrowski's generous offer to have the witness  
9 testify only about robberies generally and not a  
10 specific robbery, then deprives Mr. Segarra and  
11 anyone else as against whom this evidence is  
12 offered of the opportunity to confront the witness  
13 without involving more prejudicial information.

14 To permit him to testify to the  
15 conclusion, which he has no personal experience,  
16 to base his conclusion, the conclusion that Los  
17 Macheteros funded its operations through robberies,  
18 that is a pure conclusion.

19 It's based on hearsay. It's based  
20 on opinion and it is no help to us. He is not  
21 going to describe a specific robbery about which  
22 he knows nothing, but rather is going to testify  
23 about the conclusion.

24 He can come in here and testify  
25 about what he did, what he was asked to do, what

1 he did as a result of that.

2 He cannot testify about how Los  
3 Macheteros funded its operations. He is not an  
4 expert witness. He is not qualified.

5 THE COURT: He can testify about  
6 what Mr. Segarra-Palmer told him.

7 MS. BACKIEL: Only if it was in the  
8 course of a conspiracy involving him and Mr.  
9 Segarra-Palmer and only if that evidence is  
10 admissible against Mr. Segarra-Palmer and I will  
11 leave it to Mr. Segarra-Palmer's attorney to argue  
12 the confrontation issue you get when you have  
13 testifying to the conclusion that Los Macheteros  
14 funded its operation through robberies.

15 THE COURT: We'll see how it comes  
16 in and then we'll rule on it at the time.

17 MS. BACKIEL: Your Honor is on  
18 notice that as to Mr. Camacho-Negron and as to all  
19 the other four it is inadmissible; it's not part  
20 of any conspiracy in which they were alleged to  
21 participate with this witness.

22 THE COURT: We spent enough time on  
23 this. We're not going to spend the whole  
24 afternoon arguing on this issue.

25 MR. BERGENN: I understand. I want

1 to call your attention over the last three years  
2 you have time and again said, this is the case  
3 about the Wells Fargo robbery, period. Singular.

4 THE COURT: That's right.

5 MR. BERGENN: When you just turned  
6 to page 51 of the indictment it says, "including  
7 robbery." Singular, period.

8 What you just proposed to the  
9 prosecutor was that he be permitted to ask a  
10 general question about robberies, plural, period.

11 That is at variance with every  
12 ruling of this Court orally and in writing from  
13 the day one of this case and I have a duty not  
14 only to protect my client, but as an officer of  
15 this court, to keep in compliance with the  
16 previous rulings of this Court.

17 Specifically, April 9, 1986 on page  
18 3 you specifically held that the Government is  
19 strictly limited to proving what is set forth in  
20 the bill of particulars.

21 The bill of particulars does not  
22 change --

23 THE COURT: Won't make a real  
24 difference whether he asked him how did they  
25 finance their methods and he says, "By robbery."

1 Whether he says, "robbery" or "robberies" won't  
2 make much difference to the jury.

3 MR. BERGENN: It makes a huge  
4 difference to Carlos Ayes-Suarez when the entire  
5 line of questioning is irrelevant.

6 I would move again for a severance  
7 at this time because what the Court has just  
8 expressed, that the Government is not even going  
9 to preview the questions here, when I know and I  
10 believe the Government knows that the answers to  
11 all of these questions are not going to relate to  
12 Carlos Ayes-Suarez' implication in the Wells Fargo  
13 robbery itself and then to open the door to other  
14 economic expropriations, and the Government knows  
15 there's no evidence to suggest that Carlos  
16 Ayes-Suarez joined in a conspiracy to rob other  
17 banks, let alone the Wells Fargo robbery, and now  
18 I have to live with the jury hearing this evidence  
19 for four months and hope for a limiting  
20 instruction at the end.

21 THE COURT: Depending how the  
22 evidence comes in, the Court may grant a ruling to  
23 you coterminous with the admission of the evidence  
24 and explain to the jury that it's offered against  
25 Segarra-Palmer and not against your client. I

1 don't know until I hear.

2 MR. BERGENN: I want a ruling on my  
3 motion for severance.

4 THE COURT: Motion denied.

5 MR. BERGENN: On the basis of the  
6 Court's ruling, I anticipate there will be a  
7 number of these motions for severance because when  
8 the Court initially recalled on the severance, I  
9 was operating under the assumption that all the  
10 Court's previous rulings were going to be binding.  
11 If those rules are going to change in the middle  
12 of the game, we have a different case.

13 THE COURT: The rules haven't  
14 changed yet. They may.

15 MR. ACEVEDO: Your Honor, just so  
16 the record is clear, I join in the motion for  
17 severance.

18 THE COURT: Motion denied.

19 MS. BACKIEL: On behalf of Mr.  
20 Camacho-Negron, same motion.

21 THE COURT: Same motion denied.

22 MR. WEINGLASS: The case is about a  
23 bank robbery and what the Court is allowing in  
24 under the guise of prior acts or under the  
25 indictment is testimony about other bank robberies.



1 The prior bad act is an identical act to what is  
2 alleged in this case.

3 For that reason the prejudice is  
4 enormously high. That's pretty obvious.

5 For that reason and its probative  
6 value, your Honor, in terms of surplusage in one  
7 count of the indictment dealing with conspiracy,  
8 the probative value on that is so negligible and  
9 so small that I would ask the Court to exercise  
10 it's discretion under 403 and not permit that in.

11 It only goes to show robbery in this  
12 case by virtue of an alleged prior bad act not  
13 even by my client necessarily, but allegedly by an  
14 organization, from the mouth of a witness who the  
15 Court now knows there might be some reason to  
16 question. Number one, by his testimony he's an  
17 accomplice. Under our rules, his word has to be  
18 received with caution.

19 Receiving with caution the word of a  
20 man who claims, without knowing himself, that my  
21 client and he's being paid for this information,  
22 allegedly told him, an outsider, that the  
23 organization funds itself through robbery, I think  
24 your Honor, you really must exercise your  
25 discretion and exclude that kind of testimony

1 under 403.

2 If the Court has a case in this  
3 instance against my client for robbery and they  
4 can prove it with evidence, so be it, but this is  
5 not the way to proceed, particularly with this  
6 kind of a witness.

7 An accomplice, an addict, a man with  
8 a criminal record who's being paid for his  
9 testimony and kept out of prison for his testimony.  
10 Certainly, your Honor, if the Government's case is  
11 that weak, I don't think you ought to lend  
12 judicial condonation to their proceeding in this  
13 matter.

14 THE COURT: Objection is noted and  
15 the objection is overruled. Bring the witness in  
16 and bring the jury in.

17 (Whereupon, the jury entered the  
18 courtroom.)

19  
20  
21  
22  
23  
24  
25

1 K E N N E T H C O X ,

2 resumed the witness stand and testified  
3 further on his oath as follows:

4 THE COURT: All right, counsel, you  
5 may proceed. Thank you.

6 MR. DABROWSKI: For the record, the  
7 Government has called Kenneth Cox and the witness  
8 has been sworn.

9 THE COURT: The witness was sworn  
10 outside the presence of the jury and his testimony  
11 is now under oath.

12

13 DIRECT EXAMINATION

14 BY MR. DABROWSKI:

15 Q. You are Kenneth Cox, is that right?

16 A. Yes.

17 THE COURT: Speak into this  
18 microphone so everybody can hear you, please.  
19 Thank you.

20 BY MR. DABROWSKI:

21 Q. Mr. Cox, could you tell us how far  
22 through school you've been?

23 A. I dropped out at the eighth grade.

24 Q. Where did you go to school?

25 A. In the Jamaica Plain section of Boston in

1 Westborough, Mass.

2 Q. You dropped out in the eighth grade?

3 A. Yes.

4 Q. After dropping out of the school did you  
5 receive any additional education, special training?

6 A. No.

7 Q. Were you ever a member of the Armed  
8 Forces?

9 A. No.

10 Q. What is your general means of employment?

11 A. I'm an independent florist.

12 Q. You sell flowers?

13 A. Yes.

14 Q. Now, directing your attention to 1985,  
15 did you begin cooperating with the Federal Bureau  
16 of Investigation in that year?

17 A. Yes, I did.

18 Q. In fact, does your cooperation include  
19 providing information to the FBI in connection  
20 with the case that you're here about?

21 MR. WEINGLASS: Objection, leading.

22 MR. DABROWSKI: I'll withdraw the  
23 question.

24 THE COURT: I make a suggestion with  
25 this witness. I would suggest counsel speak a

1 little bit more slowly and deliberately so he can  
2 be sure to hear every question as we proceed.

3 You speak so rapidly that it may be  
4 difficult for the jury and the witness to follow  
5 you. I always encourage lawyers to speak slowly  
6 and distinctly so the jurors can hear everything  
7 that has been said. Proceed.

8 MR. DABROWSKI: It's advice well  
9 given your Honor. I often have to be slowed down  
10 and will try to do so.

11 BY MR. DABROWSKI:

12 Q. Did your cooperation -- which commenced  
13 in 1985; is that correct?

14 A. Yes.

15 Q. Did that include providing information  
16 about this case?

17 A. Yes.

18 Q. Now, what is it, could you explain in  
19 your own words, that caused you to begin  
20 cooperating with the FBI?

21 A. There was a reward on this case and my  
22 anti-Communist views.

23 Q. By reward --

24 MR. WEINGLASS: Objection, your  
25 Honor. I'll ask that be stricken.

1 MR. DABROWSKI: My question or the  
2 answer?

3 MR. WEINGLASS: The answer.

4 THE COURT: The last question and  
5 answer may stand. He said he cooperated because  
6 there was a reward in this case. If that's his  
7 motive, then the jury is entitled to know his  
8 motive.

9 MR. WEINGLASS: That part of the  
10 motive, yes. I think the witness is adding some  
11 things here also which I object to.

12 MR. DABROWSKI: He said  
13 anti-Communism.

14 THE COURT: Well, that's his motive;  
15 good, bad or indifferent.

16 BY MR. DABROWSKI:

17 Q. By reward, by use of the term, "reward,"  
18 do you mean money?

19 A. Yes.

20 Q. How do you expect to obtain money as a  
21 result of your cooperation?

22 A. Wells Fargo offered a reward.

23 Q. Have you applied for that reward as of  
24 yet?

25 A. No.

1 Q. Do you intend to?

2 A. Yes.

3 Q. Do you hope to get all or part of it?

4 A. All.

5 Q. Has anyone made any promises to you with  
6 regard to whether you'll obtain that reward or not?

7 A. No.

8 Q. As of today, does Wells Fargo know -- as  
9 of yesterday does Wells Fargo know that you were  
10 going to be applying for the reward?

11 A. No, they didn't until yesterday.

12 Q. Now, are you a convicted felon?

13 A. Yes, I am.

14 Q. Could you tell us, as best you can, the  
15 offenses for which you've been convicted?

16 A. I was convicted once for grand larceny  
17 considered a felony because of the dollar value  
18 and other numerous misdemeanors, petit larcenies.  
19 One felony because of the dollar value.

20 Q. Have you served time in prison?

21 A. Yes, I have.

22 Q. How much time have you served in prison?

23 A. I served juvenile time from nine years  
24 old in and out of reform schools until -- is this  
25 on -- until 16. At the age of 17, I did six

1 months in the House of Corrections. At the age of  
2 18 I did another six months in the House of  
3 Corrections. At the age of 21 I did seven months.  
4 Then at the age of 23 I was sentenced to four and  
5 a half to five years, which I did 18 months on.

6 Q. When was the last time you were in prison?

7 A. In April of 19 -- it wasn't prison. It  
8 was county jail. April of '88.

9 Q. How long did you remain in jail?

10 A. Four months.

11 Q. Were you released in August of 1988?

12 A. Yes.

13 Q. Showing you Government's Exhibit 55,  
14 marked for identification, do you recognize that?

15 A. Yes.

16 Q. Is that, in effect, your FBI rap sheet?

17 A. Yes, it is.

18 Q. Using that rap sheet, could you start  
19 with the first time you were arrested and take us  
20 through your criminal history?

21 A. The first time isn't on here. The first  
22 time was as a juvenile, as an adolescent at nine  
23 years old.

24 Q. You were arrested when you were nine  
25 years old?



1 A. Yes.

2 Q. What happened?

3 A. I went to boarding school they called it  
4 for eight months.

5 Q. What were you arrested for?

6 A. Tardiness in school, absenteeism.

7 Q. What's the the next thing that you were  
8 arrested for?

9 A. It's on here; 1961.

10 Q. What was that for?

11 A. Getting in a fight, a street fight.

12 Q. Was the arrest for assault and battery?

13 A. Yes.

14 Q. With a dangerous weapon?

15 A. Yes.

16 Q. What was the dangerous weapon?

17 A. A car antenna.

18 THE COURT: A what?

19 THE WITNESS: An automobile antenna.

20 BY MR. DABROWSKI:

21 Q. What happened then?

22 A. I was returned to the custody of the  
23 youth services.

24 Q. How old were you then?

25 A. Fifteen.

- 1 Q. What did you do with the car antenna?
- 2 A. I used it as a weapon in a fight.
- 3 Q. You were in a fight and took a car
- 4 antenna?
- 5 A. Yes.
- 6 Q. When was the next time you were arrested?
- 7 A. In 1963.
- 8 Q. What was that arrest for and what
- 9 happened?
- 10 A. Stole a car. I did six months in the
- 11 House of Corrections.
- 12 Q. Next time?
- 13 A. In 1964, shoplifting, six months in the
- 14 House of Corrections.
- 15 Q. When was the next time you were arrested?
- 16 A. In 1965.
- 17 Q. What was that for and what was the
- 18 disposition?
- 19 A. That was for larceny over a hundred
- 20 dollars. Disposition was one year in the House of
- 21 Correction.
- 22 Q. House of Corrections is a prison or jail?
- 23 A. County jail.
- 24 Q. When was the next time you were arrested?
- 25 A. In '65.

1 Q. What happened in '65 and what was the  
2 disposition?

3 A. The charge was larceny from persons unknown.  
4 The disposition was two years suspended sentence  
5 and three months suspended -- two years' probation  
6 and three months suspended.

7 Q. By suspended sentence, that means you did  
8 not go to jail?

9 A. No.

10 Q. No, you didn't go to jail?

11 A. No, I didn't.

12 Q. When was the next time you were arrested?

13 A. In 1966 in New York City.

14 Q. What was that charge and what was the  
15 disposition?

16 A. That charge was procuring. That was  
17 dismissed.

18 Q. What is procuring?

19 A. Asking a guy does he want to buy a girl.

20 Q. That charge was dismissed?

21 A. Yes.

22 Q. When was the next time you were arrested?

23 A. In 1967 in Northhampton, Mass.

24 Q. What happened there?

25 A. Eventually from that arrest that was in

1 '67. We got it postponed for a couple of years  
2 and eventually I got four and a half to five years.

3 Q. Was that in 1969?

4 A. Yes.

5 Q. Were a number of charges consolidated  
6 into a disposition that caused you to do four and  
7 a half to five years?

8 A. Yes.

9 Q. Could you tell us what those charges were?

10 A. Petit shoplifting.

11 Q. Did you serve that four and a half to  
12 five years?

13 A. Yes, I did, 18 months and got paroled.

14 Q. When is the next time you were arrested?

15 A. In 1968.

16 Q. What happened?

17 A. That was dismissed.

18 Q. After that?

19 THE COURT: What was the charge?

20 THE WITNESS: The charge was larceny  
21 from a building.

22 BY MR. DABROWSKI:

23 Q. When was the next time?

24 A. The next time was in '85.

25 Q. What was that arrest for?

1           A.    Shoplifting.  The disposition --

2                           THE COURT:  What was the date on  
3 that last one?

4                           THE WITNESS:  1-7-85.

5 BY MR. DABROWSKI:

6           Q.    Larceny over \$100?

7           A.    Yes.

8           Q.    Were you convicted for that offense?

9           A.    Yes, I pleaded guilty and I was fined.

10          Q.    How much were you fined?

11          A.    I think it was a hundred dollars and some  
12 court costs.

13          Q.    Were there further occasions on which you  
14 were arrested?

15          A.    In 1985, 5-23-85, in Watertown.

16          Q.    Watertown, Massachusetts?

17          A.    Yes, shoplifting and fined.

18          Q.    Do you recall what the fine was?

19          A.    No, I don't.

20          Q.    Any other occasions in which you were  
21 arrested?

22          A.    I was arrested in 1986, but released  
23 because the Class A substance was just some  
24 crushed up aspirins when it came back from the lab.

25                           MR. ACEVEDO:  I did not hear that

1 last answer.

2 THE COURT: Do you want to read that  
3 back?

4 THE WITNESS: The one for possession  
5 of a Class A substance was dismissed because it  
6 was not a substance. It was just aspirins.

7 THE COURT: So I'll know and the  
8 jury will know, maybe they do, what is crack?

9 MR. DABROWSKI: He said Class A  
10 substance, your Honor.

11 THE COURT: I thought you said crack.  
12 All right. Class A substance. What's the Class A  
13 substance, do you know?

14 THE WITNESS: That's heroin. This  
15 wasn't heroin. It was aspirins crushed up.

16 THE COURT: That's clear now.

17 BY MR. DABROWSKI:

18 Q. Any arrests after that? You were not  
19 convicted of that?

20 A. No.

21 Q. The charges were dropped?

22 A. Yes.

23 Q. Because the substance turned out to be  
24 aspirin. When was the next time you were  
25 convicted -- excuse me, arrested?

1           A.    5-26-86 and that was dismissed.

2           Q.    That was for what?

3                    THE COURT:   What was that charge?

4                    THE WITNESS:  I was with someone and  
5 they had some baseball gloves and they dismissed  
6 the charge on me.

7                    THE COURT:  It was the charge of  
8 stolen baseball gloves?  Was that the arrest?  I  
9 don't know.

10                   THE WITNESS:  Theft valued at \$50,  
11 \$100, dismissed.

12           BY MR. DABROWSKI:

13           Q.    Why was the charge dismissed?

14           A.    Because I didn't do anything.

15           Q.    You were with another person who was  
16 arrested?

17           A.    Yes.

18           Q.    He had stolen some baseball gloves from a  
19 store?

20           A.    Attempted to.

21           Q.    Was caught while trying to steal baseball  
22 gloves from a store?

23           A.    Yes.

24           Q.    You were both arrested?

25           A.    Yes.

1 Q. Charges against you were dropped?

2 A. Yes.

3 Q. Were you also arrested recently for the  
4 larceny in connection with a computer?

5 A. Yes, I was.

6 Q. When and where did that occur?

7 A. That occurred in 1986 in Beaufort County,  
8 South Carolina.

9 Q. Did you plead guilty to that offense?

10 A. Yes, I did.

11 THE COURT: What was that offense?

12 THE WITNESS: Receiving stolen goods.

13 BY MR. DABROWSKI:

14 Q. Were you arrested and convicted again?

15 A. At Parris Island, Port Royal, South  
16 Carolina.

17 Q. Was that the offense at which you spent  
18 April and August of this year in jail?

19 A. Yes.

20 Q. What was the general nature of that  
21 charge?

22 A. Shoplifting.

23 Q. Any other arrests that you recall at this  
24 time?

25 A. No.



1 Q. Do you know the Defendant in this case,  
2 Juan Segarra-Palmer?

3 A. I don't know who Palmer is. I know Juan  
4 Segarra.

5 Q. Is that the name that you know him by?

6 A. Yes.

7 Q. Is there any other name that you know him  
8 by?

9 A. Nicknamed Papo.

10 Q. Papo?

11 A. Yes.

12 Q. P-a-p-o?

13 A. Yes.

14 Q. Is Papo or Juan Segarra as you know him  
15 present in this courtroom at this time?

16 A. Yes, he is.

17 Q. Could you point him out to the ladies and  
18 gentlemen of the jury, please?

19 A. He's the fellow sitting at the Defense  
20 table with the glasses on, tan coat, blue shirt  
21 with white collar and brown hair sitting next to  
22 the fellow with the gray suit on in between the  
23 lady to his left.

24 MR. DABROWSKI: Will the record  
25 reflect he's identify the Defendant, Juan

1 Segarra-Palmer?

2 THE COURT: It may.

3 BY MR. DABROWSKI:

4 Q. How long have you known Mr. Segarra?

5 A. I met Mr. Segarra in 1971 in Harvard.

6 Q. Would you just briefly describe the  
7 circumstances under which you met him?

8 A. I went by to see a lady friend and she  
9 was out and Mr. Segarra happened to be staying  
10 there overnight, being in town overnight, and  
11 spending the night there and I came by to visit  
12 her and he happened to be there.

13 Q. Now, did you then form a relationship and  
14 continue a relationship with Mr. Segarra?

15 A. Yes, I did.

16 Q. What was he doing in Cambridge,  
17 Massachusetts during those years?

18 A. Mainly going to school.

19 Q. Where was he going to school?

20 A. Harvard University.

21 Q. Did you become a friend of his?

22 A. Yes, I did.

23 Q. Did you have occasion to visit him?

24 A. Yes, I did.

25 Q. In various places?

1 A. Yes, I did.

2 Q. Did that include Puerto Rico?

3 A. Yes, it did.

4 Q. On how many occasions did you go down to  
5 Puerto Rico to visit him?

6 A. Two.

7 Q. Do you recall when they were?

8 A. The fall of '71 going into the winter of  
9 '72 and 1981 again.

10 Q. Now, directing your attention to the trip  
11 that you made in 1981, do you recall how long you  
12 were there?

13 A. Three and a half weeks to a month.

14 Q. Where did you stay?

15 A. 172 Taft Street on the third floor.

16 Q. What was 172 Taft Street on the third  
17 floor?

18 A. Mr. Segarra's residence.

19 Q. He lived there?

20 A. Yes, he did.

21 Q. Who else -- and you stayed there for  
22 approximately three and a half weeks to four weeks?

23 A. Yes, I did.

24 Q. Do you recall was that during a  
25 particular period of time in 1981, if you recall?

1           A.    The winter, the Christmas season, New  
2 Year's season.

3           Q.    Of the Christmas season of 1980 to '81 or  
4 1981 to '82; if you can recall?

5           A.    Nineteen eighty-one to '82.

6           Q.    Now, who else at that time was living  
7 there, if anyone, at 172 Taft Street?

8           A.    Two children and a lady.

9           Q.    Did you meet them?

10          A.    Yes, I did.

11          Q.    Who were they?

12          A.    Her name was Lucy. The children's name  
13 was Luriza and Macho.

14          Q.    Now, was Lucy related to Mr. Segarra?

15          A.    I assumed that she was his common law  
16 wife.

17          Q.    She, the two children and Mr. Segarra  
18 lived there at 172 Taft Street?

19          A.    While I was there they did.

20          Q.    You lived there for that period of time  
21 as well, three and a half weeks to approximately  
22 four weeks?

23          A.    Yes.

24          Q.    Do you recognize the name of an  
25 organization known as Macheteros?

1 A. Yes, I do.

2 Q. Do you know if Mr. Segarra was a member  
3 of that organization?

4 A. He told me he was.

5 Q. What is the literal translation? What  
6 does Macheteros mean?

7 A. Machetes.

8 Q. How do you know that?

9 A. Because he told me that.

10 Q. Now, do you know how the organization  
11 known as Macheteros funds its activities?

12 MS. BACKIEL: Objection.

13 THE COURT: Objection is noted and  
14 the objection is overruled at this point.

15 MS. BACKIEL: Calls for hearsay.

16 THE COURT: Can't hear you.

17 MS. BACKIEL: It calls for hearsay.

18 THE COURT: Objection is noted and  
19 the objection is overruled. In other words, does  
20 he know. I don't know how he knows yet. Maybe  
21 he's a member. I don't know. Nobody has asked  
22 him that.

23 BY MR. DABROWSKI:

24 Q. Do you know how the organization known as  
25 the Macheteros funds its activities?

1           A.    I knew from the Wells Fargo robbery,  
2 through a robbery.

3           Q.    How do you know from the Wells Fargo  
4 robbery?

5           A.    Because Mr. Segarra --

6                   MR. WEINGLASS:  Objection, your  
7 Honor.  The witness is offering opinions without  
8 any back-up and I object to him saying anything of  
9 that nature.  It's all hearsay.

10                   THE COURT:  You'll have the right to  
11 cross-examine him in due course.

12                   MR. WEINGLASS:  Your Honor, I think  
13 he ought to be questioned more closely by counsel.  
14 I think he's giving answers that's not expected.

15                   MR. DABROWSKI:  He offered an  
16 opinion.  Mr. Weinglass' objection is that it was  
17 without back-up.  I was just inquiring of the  
18 back-up.

19                   THE COURT:  Proceed with the back-up.

20                   MR. DABROWSKI:  I don't understand  
21 the basis for the objection.

22 BY MR. DABROWSKI:

23           Q.    You made reference to the Wells Fargo  
24 robbery.  What is the Wells Fargo robbery?  You  
25 should assume we know nothing about the Wells

1 Fargo robbery.

2 A. The Wells Fargo robbery? It was a  
3 robbery that happened in West Hartford,  
4 Connecticut.

5 Q. Can you relate that robbery to a manner  
6 in which the organization known as the Macheteros  
7 funds its activities?

8 A. Through robbery.

9 Q. Was the Wells Fargo robbery to your  
10 knowledge a robbery that was used to fund the  
11 activities of the Macheteros?

12 A. Yes.

13 Q. How do you know that?

14 A. Mr. Segarra told me that.

15 MR. WEINGLASS: Your Honor, usually  
16 when a question is asked of that nature, the  
17 Government is required to lay a foundation as to  
18 when, where and who, if anyone else was present.

19 I object to it because this witness  
20 can just say anything that comes to mind. We need  
21 a foundation.

22 MR. DABROWSKI: During the course of  
23 my direct examination, and I will be bringing into  
24 play a lot more of the details, your Honor, by way  
25 of foundation for these kinds of statements and,

1 number two, Mr. Weinglass as he well knows, can  
2 explore this as much on cross-examination.

3 MR. WEINGLASS: It's not admissible  
4 unless we know when, where and who else was  
5 present. They could put anyone up to just say  
6 anything, the Government.

7 THE COURT: Counsel can bring up the  
8 facts that he objected to. It's admissible, but  
9 it would be better to ask, "Did you ever have a  
10 conversation with Mr. Segarra-Palmer concerning  
11 this subject?" "Yes." "When did that happen?"

12 And we develop a background for it  
13 and if anybody else was present, if they were, or  
14 the circumstances under which it was said.

15 MR. WEINGLASS: Thank you, your  
16 Honor.

17 MR. BERGENN: Your Honor, can we  
18 also have the instruction that we discussed  
19 earlier or have the Government indicate the  
20 context or the scope that this evidence is coming  
21 in?

22 THE COURT: At this point the Court  
23 is going to leave the record as it is. We'll see  
24 what develops as it affects, possibly affects, any  
25 of the other Defendants.



1 Right now, the record is against  
2 Segarra-Palmer and the admission, if made, and the  
3 jury believes it, it's admissible against him only  
4 at this time.

5 MR. BERGENN: Thank you, your Honor.

6 THE COURT: Proceed.

7 MR. DABROWSKI: Your Honor, I for  
8 the moment am going to put aside this response. I  
9 will develop it later in the context in which it  
10 was made in relation to the period of the  
11 conspiracy, in relation to it being in furtherance  
12 of the conspiracy.

13 For the moment I think it's logical  
14 for me to proceed along different lines. If the  
15 Court wants me to explore it, I will. It will  
16 come up again later.

17 MR. WEINGLASS: I ask it be stricken.  
18 It is irresponsible.

19 THE COURT: The record may stand as  
20 it is on the representation counsel will support  
21 it by further questions.

22 BY MR. DABROWSKI:

23 Q. Do you know whether or not the  
24 organization known as the Macheteros in connection  
25 with the Wells Fargo robbery and in connection

1 with Juan Segarra specifically used aliases?

2 A. Yes, they did.

3 Q. How do you know that?

4 A. Because a couple of times Juan Segarra  
5 asked me to get some birth certificates to be made  
6 out in different names.

7 THE COURT: When did that happen?

8 THE WITNESS: In 1983.

9 THE COURT: Where did it happen?

10 THE WITNESS: In Boston.

11 BY MR. DABROWSKI:

12 Q. Do you recall what month it was?

13 A. No, I don't recall what month it was.

14 Q. Do you recall in relation to the Wells  
15 Fargo robbery itself how far -- was it in advance  
16 of the robbery?

17 A. Yes, it was.

18 Q. How far in advance, talking a week, month  
19 or years?

20 A. Months.

21 Q. When you say, "months," are you talking --  
22 approximately how many months prior to the actual  
23 robbery itself did he make this request?

24 A. Three to four months.

25 MR. WEINGLASS: Same objection.

1 Inadequate foundation. Who else was present?  
2 Where are the certificates? I object to this kind  
3 of questioning. Again, the witness could say  
4 anything.

5 MR. DABROWSKI: All of the  
6 foundational aspects have been met.

7 THE COURT: The Court will allow it.  
8 Proceed.

9 MR. DABROWSKI: Those are areas that  
10 the Government will develop or Mr. Weinglass can  
11 cross on.

12 BY MR. DABROWSKI:

13 Q. Where are the certificates?

14 A. If they were not needed, I got rid of  
15 them.

16 Q. Why were they not needed?

17 A. Because other arrangements were made.

18 Q. Do you know what the other arrangements  
19 were?

20 A. No, I don't.

21 Q. How did you learn the other arrangements  
22 were made?

23 A. Because Mr. Segarra told me to -- told me  
24 so.

25 Q. What did he tell you?

1           A.    That they got identification someplace  
2 else.

3           Q.    Do you know whether or not the  
4 organization known as the Macheteros acted in a  
5 secret, clandestine manner?

6           A.    Yes, I do.

7           Q.    Do you know whether or not they wore  
8 hoods on occasion?

9           A.    Yes.

10          Q.    Showing you --

11                    (Government's Exhibit 56: Marked in  
12 evidence.)

13                   MR. DABROWSKI: Your Honor, I'm  
14 going to show the witness Government trial Exhibit  
15 Number 56. It has been previously marked as a  
16 Defense Exhibit Number 688.

17                   THE COURT: It's already been marked  
18 as a Defense exhibit.

19                   MR. DABROWSKI: This was the  
20 document we needed to locate in the records of  
21 court this morning.

22                   THE COURT: Was this an exhibit  
23 listed by the Government or Defense as an exhibit  
24 for trial purposes?

25                   MR. DABROWSKI: It is not, your

1 Honor. On the sequentially numbered exhibit list  
2 it was not listed.

3 THE COURT: If it was not on the  
4 list, the only way the Court will permit you to  
5 use it as was agreed out of the presence of the  
6 jury. If you want to show him, let him describe  
7 first what he's referring to and then if he can't  
8 describe it, then that part of it which refers to  
9 what you have pictured there may be used to see  
10 whether or not it can refresh his recollection.  
11 For that limited purpose only.

12 MR. DABROWSKI: First of all, your  
13 Honor, the Court's order relates to the  
14 introduction into evidence before this jury of any  
15 exhibits. That is requiring if the document was  
16 not on a list that was filed some two years ago  
17 that it could not be used absent due course.

18 THE COURT: So the jury will know,  
19 before this trial started both the Government and  
20 the Defense, at least the Government, was asked to  
21 make a list of the exhibits they were going to use.  
22 If the exhibit is not on the list which is notice  
23 to the other side that's going to be used, then  
24 it's objectionable.

25 It's been offered now and the Court

1 has noted out of the presence of the jury that  
2 this was not on the list of the Government's list  
3 of exhibits. Unless it is, the Court will not  
4 permit it to be used because it would or might  
5 take the Defendants by surprise. That's the  
6 reason for it.

7 MR. DABROWSKI: Your Honor, the  
8 document was not on the June 30, 1986 list, nor  
9 was it on the November 1986 sequentially numbered  
10 exhibit list.

11 However, I do not propose and the  
12 Government does not propose to offer it in  
13 evidence as a full exhibit at this time and,  
14 therefore, until we make such an offer, which we  
15 intend to do at a later time, I don't think it's  
16 necessary to have it out of the hearing of the  
17 presence of the jury.

18 We can do it at some time when it's  
19 not at their inconvenience. It's been marked for  
20 identification. I am going to ask him to refer to  
21 it, but I am not going to move it as a full  
22 exhibit at this time.

23 THE COURT: We'll see what you do  
24 with it. We'll see what action should be taken.

25 BY MR. DABROWSKI:

1           Q.    Can you first tell us what is the basis  
2 of your knowledge that the organization known as  
3 the Macheteros acts secretly in a clandestine  
4 matter and have, in effect, used hoods; how do you  
5 know that?

6           A.    Well, the Judge instructed me not to  
7 volunteer any information that's not pertaining to  
8 this case.

9           Q.    I believe that can be done without  
10 violating the Court's order. Because of the  
11 technical difficulty and the way the Court's  
12 instruction was given to this witness, he doesn't  
13 understand that this is a permissible area of  
14 inquiry whereas other areas may not.

15                   THE COURT: Well, I don't know what  
16 he understands and what you understand. I've got  
17 to try to reconcile it, too.

18 BY MR. DABROWSKI:

19           Q.    I'm showing you Government trial  
20 exhibit --

21                   THE COURT: Just don't show that to  
22 the jury.

23 BY MR. DABROWSKI:

24           Q.    I ask you to take a look at this yourself.  
25 There's an image depicted in the upper left-hand

1 corner of the document; do you see that?

2 A. Yes.

3 Q. Does that fairly describe an item that  
4 you've seen in the past?

5 A. Yes, it does.

6 Q. Where did the material come from with  
7 which the item that you saw was made, if you know?

8 A. The material --

9 MR. WEINGLASS: Objection on the  
10 grounds of relevance. Your Honor, there's no  
11 testimony that could be used in that hood were  
12 used in this case. The Government is going all  
13 over with a witness who's, for obvious reasons,  
14 very willing to go with the Government. It has no  
15 relevance.

16 THE COURT: Where the material came  
17 from isn't particularly relevant. How does he  
18 know that that particular item was used by the  
19 Macheteros? What did you see, what did you know?

20 MR. DABROWSKI: Your Honor, with all  
21 due respect, that's going to get us an answer that  
22 would be within the -- is objectionable within  
23 your order. It's not objectionable to me, but I  
24 have to warn the Court the way that question was  
25 phrased --



1 THE COURT: You phrase it so it  
2 won't bring out what we agreed wouldn't be brought  
3 out before the jury.

4 BY MR. DABROWSKI:

5 Q. You have information and knowledge that  
6 the organization known as the Macheteros acts in a  
7 clandestine and secret manner; is that correct?

8 MR. WEINGLASS: Objection as to the  
9 form.

10 THE COURT: Sustained as to the form  
11 of the question.

12 BY MR. DABROWSKI:

13 Q. You have previously testified that you  
14 knew that the Macheteros and its members including  
15 Mr. Segarra acted in a secret manner?

16 A. Yes.

17 THE COURT: Was their identity  
18 concealed?

19 THE WITNESS: Yes.

20 THE COURT: Can you describe how  
21 their identity was concealed, if you know, of your  
22 own knowledge?

23 THE WITNESS: Yes.

24 THE COURT: Describe it.

25 THE WITNESS: With --

1 THE COURT: How you know.

2 THE WITNESS: With hoods over their  
3 heads.

4 THE COURT: Can you describe what  
5 kind of a hood?

6 THE WITNESS: Black material. Linen  
7 cloth material.

8 THE COURT: Linen cloth material?

9 THE WITNESS: Yes.

10 THE COURT: Can you describe, did it  
11 have eyes in it?

12 THE WITNESS: Yes, it did.

13 THE COURT: How far down on the neck  
14 or shoulders did it come, if it came down at all?

15 THE WITNESS: It came down to the  
16 neckline (indicating).

17 THE COURT: All right.

18 BY MR. DABROWSKI:

19 Q. Did the image that you observe on  
20 Government Exhibit 56 fairly and accurately  
21 reflect the hoods that you're talking about?

22 A. Yes, it does.

23 Q. Do you know where the material that was  
24 used to make the hoods came from?

25 A. Yes, I do.

1 Q. Was Mr. Segarra-Palmer involved in the  
2 purchase?

3 A. Yes, he was.

4 MR. WEINGLASS: Objection, leading.

5 THE COURT: The Court will allow  
6 that. Was he involved in the purchase and he said,  
7 "Yes."

8 BY MR. DABROWSKI:

9 Q. How do you know that?

10 A. Because I was with him at the five and  
11 ten-cent store on Fernandez and Juncos in Santurce,  
12 Puerto Rico when he bought the material.

13 Q. Now, directing your attention to August  
14 of 1983, were you employed at that time?

15 A. Yes, I was.

16 Q. In what capacity, what were you doing?

17 A. Selling flowers.

18 Q. Where did you sell flowers?

19 A. On the corner of University Road and  
20 Commonwealth Avenue and also at 755 Commonwealth  
21 Avenue, Boston, Massachusetts.

22 Q. That's in Boston, Massachusetts. How  
23 long had you been selling flowers in Boston as of  
24 that time?

25 A. Thirteen years.

1 Q. Now, in August of 1983 while you were  
2 engaged in the business of selling flowers, did  
3 you have occasion to meet with Juan Segarra?

4 A. Yes, I did.

5 Q. Was the meeting related to the robbery of  
6 the Wells Fargo depot in West Hartford,  
7 Connecticut?

8 MR. WEINGLASS: Objection, leading.  
9 Obviously leading.

10 MR. DABROWSKI: You can't ask a  
11 simple question, your Honor. "Was the meeting  
12 related to the Wells Fargo robbery?"

13 THE COURT: Without leading him, let  
14 him tell you. Rephrase your question so it won't  
15 be leading.

16 MR. WEINGLASS: The simple question  
17 is, "What was discussed at the meeting?"

18 BY MR. DABROWSKI:

19 Q. Who else was there?

20 A. Juan Segarra.

21 Q. And you?

22 A. And me.

23 Q. Was anyone else there?

24 A. No.

25 Q. What did he say and what did you say?



1 did he say at that time, if anything?

2 A. Would I come to Hartford with him and  
3 that there was going to be a robbery in Hartford.

4 Q. Now, you indicated in the response to the  
5 prior question that it was going to be a big  
6 robbery. Could you tell us, are those his words?  
7 How big a robbery was it going to be?

8 MR. WEINGLASS: Objection, your  
9 Honor. The witness is obviously being coached by  
10 being asked repetitive questions with special  
11 emphasis by the prosecutor.

12 THE COURT: "What did he say about  
13 the nature of the robbery?" Simple question.

14 THE WITNESS: He said it was going  
15 to be one of the biggest robberies in the United  
16 States.

17 BY MR. DABROWSKI:

18 Q. Your role in this was to do what?

19 A. To pick up somebody who he dropped off  
20 and bring him back to Boston and show him how to  
21 get back to New York.

22 Q. Now, you indicated you then went to  
23 Connecticut on a Sunday?

24 A. Sunday morning.

25 Q. Was that the following Sunday?

1 A. The next day.

2 Q. So, do you recall this meeting then to be  
3 on a Saturday?

4 A. Yes.

5 Q. The following Sunday you went to Hartford?

6 A. Yes.

7 Q. How did you get to Hartford?

8 A. We drove down in a little blue Champ  
9 automobile with New York plates on it.

10 Q. Who's we?

11 A. Juan Segarra and me.

12 Q. Did anyone else go with you?

13 A. No.

14 THE COURT: Where did you get the  
15 car; who furnished the car?

16 THE WITNESS: I guess you'd have to  
17 ask Mr. Segarra that.

18 BY MR. DABROWSKI:

19 Q. He picked you up?

20 A. Yes.

21 Q. In the Plymouth Champ?

22 A. Yes.

23 Q. Do you know what the registration of the  
24 car --

25 A. No, I don't. It had New York plates.

1 Q. Do you know where he got the car?

2 A. No, I don't.

3 Q. Did you drive straight to Connecticut?

4 A. Yes, we did.

5 Q. Approximately how long did it take you to  
6 get to Connecticut?

7 A. About 90, 95 minutes.

8 Q. Could you tell us the route that you took?

9 A. We took the Mass. Turnpike to Route 84.

10 Q. On the way to -- well, where in  
11 Connecticut did you go?

12 A. To McDonald's Restaurant near Airport  
13 Road.

14 Q. In what town?

15 A. Hartford, Connecticut.

16 Q. On the way from Boston, Massachusetts to  
17 Hartford, Connecticut, Airport Road McDonald's,  
18 did you have a conversation with him that related  
19 to the reason you were coming to Connecticut?

20 A. Yes.

21 Q. And what did he say?

22 A. That one of the biggest robberies in the  
23 United States was going to happen in Hartford and  
24 when we got down near Hartford, he told me to be  
25 careful not to take this road, make sure you don't



1 go to this road until you get to the right  
2 location.

3 Q. Could you tell us with a little more  
4 specific detail what roads he was talking about?  
5 He said not to take this road, take this road?

6 A. Well, not to take 91 south and not to  
7 take the one that said downtown Hartford; to take  
8 the other one in the middle that looped around to  
9 where Airport Road goes.

10 Q. You said the other one that looped around.  
11 Could you describe that?

12 A. No, I don't know the number of that road.

13 Q. You were supposed to then go to Airport  
14 Road?

15 A. We did go to Airport Road.

16 Q. What did you do when you got to Airport  
17 Road?

18 A. Reviewed the pickup site and left.  
19 Proceeded from there to Bradley Field in, I think,  
20 it's Windsor Locks, Connecticut.

21 THE COURT: What do you mean by you  
22 reviewed the pickup site?

23 THE WITNESS: Where I was supposed  
24 to pick up an individual that he dropped off.

25 BY MR. DABROWSKI:

1 Q. Now, on Sunday or on the day of the  
2 robbery?

3 A. What do you mean on Sunday or the day of  
4 the robbery?

5 Q. You're now relating to us circumstances  
6 and details involving a trip from Boston,  
7 Massachusetts to Hartford, Connecticut on the  
8 Sunday following the first time he talked to you  
9 about this robbery which was on a Saturday. We're  
10 talking about Sunday.

11 A. The Sunday morning that we came down to  
12 Hartford?

13 Q. That's right.

14 A. We left from McDonald's and went to the  
15 airport and then to Springfield.

16 Q. Did he tell you anything about the amount  
17 of money that was involved?

18 A. He assumed it would be three or four  
19 million dollars.

20 Q. Did he tell you anything about the plan?

21 A. He discussed a little bit about one plan  
22 about hitting a Wells Fargo truck on the side of  
23 the road and --

24 Q. What did he say?

25 A. He said they were thinking, you know,

1 about both of the drivers smoke marijuana; to have  
2 one pull over and offer the other one a marijuana  
3 break and they come down on the truck.

4 Q. How did he know that both the drivers  
5 smoked marijuana?

6 A. I have no idea.

7 THE COURT: Excuse me, counsel, we  
8 have a request for a short recess so the jury will  
9 be excused now for about 10 minutes. Then we'll  
10 resume.

11 THE COURT: The marshal will escort  
12 the witness out for a recess. The Court will  
13 recess for 10 minutes.

14 (Whereupon, the jury was excused.)

15 (Whereupon, a recess was taken from  
16 3:20 o'clock p.m. to 3:35 o'clock p.m.)

17 THE COURT: Have the witness come in.

18 MS. BACKIEL: Mr. Weinglass will be  
19 here momentarily.

20 MR. DABROWSKI: Your Honor, before  
21 the jury comes in, the witness is obviously having  
22 a problem with the microphone. We brought it to  
23 the attention of the Clerk.

24 THE COURT: I think the Clerk  
25 explained and I suggested to her we would like a

1 different type of microphone. She tells me that  
2 if he picks it up, and it starts to broadcast with  
3 his holding it, it will, the electric current will,  
4 cut off for three seconds and then come back on  
5 again. It may cause a little variation.

6 I think if it's left down here --  
7 these are new microphones, so we're just getting  
8 used to using them, like you are -- as long as you  
9 don't hold it in your hand, it should operate.

10 Move your chair forward or back and  
11 we'll hear your voice until it sounds best. I  
12 have this one up here and until we get a different  
13 one, we have to use the one we've got.

14 MR. DABROWSKI: It's something that  
15 I thought perhaps we could remedy before the jury  
16 came back in.

17 THE COURT: If he leaves it there or  
18 back about halfway on the bench, to the middle  
19 there, and speaks into it, I think he'll be picked  
20 up all right. Very good. Call the jury please.

21 (Whereupon, the jury entered the  
22 courtroom.)

23 THE COURT: All right, you may  
24 proceed, counselor.

25 BY MR. DABROWSKI:

1 Q. Let me just back up for a moment, Mr. Cox,  
2 and make sure that the timing here is perfectly  
3 clear.

4 You know when and on what date the Wells  
5 Fargo robbery occurred; is that correct?

6 A. I know from the news media, I know that  
7 on what date and time it occurred.

8 Q. The Sunday that you've been testifying  
9 about is before the robbery; is that correct?

10 A. Yes.

11 Q. Approximately how long before the robbery  
12 was this Sunday?

13 A. Four to five weeks.

14 Q. Now, you also referred to the trip from  
15 Boston to Hartford, Connecticut as a trip which  
16 took you to, I think your word was, the site.  
17 What's the site?

18 A. McDonald's Restaurant near Airport Road.

19 Q. Now, what was supposed to happen at that  
20 particular site?

21 A. I was supposed to pick someone up that  
22 was dropped off.

23 Q. Now, were you supposed to pick up that  
24 person on that Sunday or what were you doing there  
25 that Sunday?

1 A. No.

2 Q. What were you doing there that Sunday at  
3 that site, McDonald's on Airport Road?

4 A. To see where I was supposed to be at a  
5 later time.

6 Q. What else is in the neighborhood of  
7 McDonald's on Airport Road as far as you observed  
8 it on that day?

9 A. There's a Burger King, a Wendy's, a  
10 cinema down at the end of the street, the same  
11 street that McDonald's is on.

12 Q. Do you know where the Swiss Chalet Motel  
13 is?

14 A. No, I really don't.

15 Q. Now --

16 THE COURT: Have you ever heard of  
17 Valle's Restaurant?

18 THE WITNESS: I heard of those  
19 restaurants, but I don't know where they are. I  
20 might have passed it and not noticed it.

21 BY MR. DABROWSKI:

22 Q. Now, you referred, just before the recess,  
23 to the fact that both of the drivers, I think was  
24 your statement, smoked marijuana; the drivers of  
25 the truck. What truck was that again?

1           A.    That was the Wells Fargo truck and that  
2 was told to me by Mr. Segarra.

3           Q.    Now, was there then a plan at this  
4 particular moment in time on Sunday?

5           A.    Yes, there was a plan.

6           Q.    What was the plan?

7           A.    The plan was to hit a Wells Fargo truck  
8 on the road and to go to the airport.

9           Q.    Who was going to go to the airport?

10          A.    One or some of the participants who may  
11 have hit the truck.

12          Q.    Do you know whether or not either one of  
13 the guards or drivers of the truck were involved?

14          A.    Not at this time. I'm quoting what was  
15 told to me by Mr. Segarra.

16          Q.    When you say, "Not at this time," you  
17 mean not on that date, that Sunday?

18          A.    That's right.

19          Q.    You know now?

20          A.    Yes, I do. I found out later from the  
21 media.

22          Q.    Now, the plan then was to hit the truck?

23          A.    On the road, yes.

24          Q.    Did you have a discussion about hitting  
25 the truck on the road and the trip to the airport

1 with Mr. Segarra on that Sunday?

2 A. Yes, we did.

3 Q. What was the discussion?

4 A. Well, the discussion was, I said it was  
5 in the opening there would be a lot of witnesses.  
6 You would have to do it like lightning and the  
7 airport would be under pretty good surveillance  
8 when a situation like that happens.

9 Q. On that Sunday was there a date that had  
10 been planned for the actual robbery?

11 A. Yes, it was.

12 Q. Were you supposed to do something on that  
13 date?

14 A. Yes, I was supposed to come to Hartford,  
15 Connecticut and wait at McDonald's, split my time  
16 between McDonald's and Burger King from 7:00 until  
17 10:00 o'clock.

18 Q. Did you, in fact, on that date come to  
19 Hartford?

20 A. Yes, I did.

21 Q. How did you get to Hartford?

22 A. I rented a car and I drove and I arrived  
23 about 3:30 that afternoon.

24 Q. Where did you rent the car?

25 A. Mini-Cost Car Rental in Park Square in



1 Boston, Mass.

2 Q. Do you recall what name you used to rent  
3 the car?

4 A. James Cox.

5 Q. Do you recall now what the date was?

6 A. No, I really don't still recall what the  
7 date was. I just know the incident of me renting  
8 the car happened.

9 Q. How far after the trip that you took down  
10 to Hartford on Sunday did this next trip when you  
11 rented the car take place?

12 A. Between eight to ten days -- it was nine  
13 to ten days.

14 Q. You drove the car to Hartford?

15 A. Yes, I did.

16 Q. Where did you go?

17 A. Well, when I arrived in town, it was  
18 early. So, I just went and hung out around Albany  
19 Avenue on and off Main Street. You know, hanging  
20 around until it came time to go to the site.

21 Q. Did you go to the site?

22 A. Yes, I did.

23 Q. The site again was where?

24 A. The site was McDonald's near Airport Road.  
25 I'm not sure if it's on Airport Road. I know it's

1 near there.

2 Q. Now, how did you get from the area of  
3 Albany Avenue to the site in Airport Road?

4 A. I came through, you know, down near the  
5 highway, got on the highway and went the way that  
6 I was shown.

7 Q. You arrived there at approximately 7:00  
8 o'clock?

9 A. I arrived about 20 minutes before 7:00.

10 Q. What happened when you got there?

11 A. I had told Mr. Segarra previously to that  
12 to come down or send someone down to check on me  
13 to make sure I was there and that's what happened.

14 Q. Now, how did you know what individual it  
15 was that you were supposed to pick up?

16 A. I didn't know at that time. Mr. Segarra  
17 brought an individual by and I knew then.

18 Q. When did that happen?

19 A. Five to ten minutes before 7:00.

20 Q. Now, this is the day that you rented the  
21 car, drove down and arrived at the site at  
22 McDonald's about 20 minutes of 7:00?

23 A. Yes.

24 THE COURT: When you say, "before  
25 7:00," you mean 7:00 a.m. or 7:00 p.m.?

1 THE WITNESS: Before 7:00 p.m.

2 THE COURT: P.m.?

3 THE WITNESS: Yes.

4 BY MR. DABROWSKI:

5 Q. Was the robbery supposed to happen that  
6 night?

7 A. Yes, it was.

8 Q. Did Mr. Segarra come by?

9 A. Yes, he did.

10 Q. Was another individual with him?

11 A. Yes, he was.

12 Q. Describe again your role.

13 A. Was to pick that individual up after the  
14 robbery and take him back to Boston and show him  
15 how to get to New York the next day.

16 Q. There was then a plan with regard to your  
17 taking that individual back to Boston?

18 A. Yes, it was.

19 Q. How did you hear, where did you get your  
20 instructions? From whom did you get your  
21 instructions?

22 A. Mr. Segarra.

23 Q. Specifically, as you can relate them,  
24 what were the instructions?

25 A. To pick this guy up, take him back, get

1 him a hotel. I said I'll let him stay at my place  
2 and show him the way to get the bus to New York in  
3 the morning.

4 Q. Now, Mr. Segarra, in fact, showed up then  
5 with this other person?

6 A. Yes, he did.

7 Q. What happened?

8 A. They left and I waited there until.

9 Q. While they were there with you, was there  
10 a conversation?

11 A. Yes.

12 Q. What was said and what happened during  
13 that conversation?

14 A. This is the dude that he picked up right  
15 here and he told the guy to remember the color of  
16 the car and they left.

17 Q. The color of what car?

18 A. The car I had rented.

19 Q. Did you look at the dude you were going  
20 to pick up?

21 A. Yes, I did.

22 Q. Could you describe him?

23 A. Heavy set, about five feet seven, five  
24 feet eight.

25 Q. Now, originally, the plan involved taking

1 someone to the airport. You've just related to us  
2 a sequence in which you were going to take this  
3 individual to Boston.

4 A. Yes.

5 Q. The plan changed?

6 A. Yes, it did.

7 Q. What happened?

8 A. The robbery didn't happen that night.

9 Q. Well, what happened between Sunday and  
10 that night? The plan obviously changed. What was  
11 the plan as of the night you saw this dude at  
12 McDonald's?

13 A. The plan -- I don't know what the plan  
14 for the robbery was that night. The previous plan  
15 had changed. That night I didn't know. All I  
16 knew was I was supposed to pick someone up.

17 Q. How did you know that the robbery was  
18 going to happen that night?

19 A. That was the reason why I was asked to  
20 come here on that night.

21 Q. Now, by the way, what were you going to  
22 get out of this robbery?

23 A. Nothing.

24 Q. I thought you indicated that he expected  
25 to take three or four million dollars; that is

1 "he" being Mr. Segarra?

2 A. Yes, that was the indication.

3 Q. He told you that?

4 A. Yes.

5 Q. And you weren't supposed to get anything  
6 out of it?

7 A. No.

8 Q. Did you ask him for money?

9 A. Yes.

10 Q. What was his response?

11 A. No. Do it for the revolution.

12 Q. And you agreed?

13 A. At that time.

14 Q. What revolution was he talking about?

15 A. He didn't mention any one in particular.

16 Q. Had you had previous conversations with  
17 him in connection with his political philosophy?

18 A. At different times.

19 Q. At the time he mentioned the revolution  
20 was it clear by virtue of what he said he was  
21 talking about a particular revolution?

22 A. Particularly the independence of Puerto  
23 Rico, but the independence of all Latin America.

24 Q. Now, at this particular time did you know  
25 whether or not anyone on the inside, that is

1 employed by Wells Fargo, was involved in this  
2 robbery, planned robbery?

3 A. He had conveyed to me that someone inside  
4 of Wells Fargo was going to be involved, but no  
5 names at this time.

6 Q. Did you ask him?

7 A. No.

8 Q. Why not?

9 A. Because when you're involved in certain  
10 types of those activities, you don't ask too much.  
11 You just do your part.

12 Q. Mr. Segarra came with this other  
13 individual, you met him, he saw your car and they  
14 left; is that correct?

15 A. Yes, it is.

16 Q. What was the plan, how long were you  
17 supposed to wait for this individual? That's the  
18 individual you were supposed to pick up and take  
19 to Boston; is that correct?

20 A. Yes.

21 Q. Is that individual in the courtroom?

22 A. No.

23 Q. What was the plan? How long was this  
24 supposed to take? How long were you supposed to  
25 wait there?

1 A. From 7:00 until 10:00 o'clock.

2 Q. What was supposed to happen at 10:00  
3 o'clock?

4 A. I was either supposed to pick that  
5 individual up -- it didn't happen.

6 Q. What happened, if you know? What  
7 happened to you? What did you do?

8 A. I left early, too, five to seven minutes  
9 early, either five to seven minutes before 10:00  
10 o'clock.

11 Q. Did you later learn that there had been a  
12 robbery in West Hartford?

13 A. At a later date.

14 Q. How much later was that?

15 A. Five to six weeks.

16 Q. What did you hear, what did you learn?

17 A. I heard that Wells Fargo had been robbed  
18 on the news media about 4:00 o'clock in the  
19 morning.

20 Q. What did you conclude?

21 A. I concluded that it had happened.

22 Q. Why did you make the link between the  
23 Wells Fargo robbery in West Hartford and Juan  
24 Segarra?

25 A. Because I had reason to suspect that that



1 was going to happen the night that I was there,  
2 but it didn't happen and it was postponed until a  
3 later time.

4 Q. You had reason to suspect it was going to  
5 happen. What's the reason?

6 A. Because Mr. Segarra asked me to come down  
7 here for that to happen that night.

8 Q. Now, did there come a time when you met  
9 Mr. Segarra again?

10 A. Yes, I did.

11 Q. Did you have a discussion with him about  
12 the robbery?

13 THE COURT: Where he met him, where  
14 he saw him, where he talked with him.

15 BY MR. DABROWSKI:

16 Q. Did you have a discussion with him?  
17 Without going into the details of it, was there a  
18 discussion?

19 A. Yes, there was.

20 Q. When did that conversation occur?

21 A. It occurred in the fall of '83.

22 Q. Who else was present?

23 A. No one.

24 Q. Where were you when the conversation  
25 occurred?

1 A. Boston.

2 Q. Were you in a car, a home, on the street?

3 A. We were in a car.

4 Q. Where were you going?

5 A. Well, we were in a car a few times. One  
6 time in particular, we were going from Boston to  
7 Newport, Rhode Island.

8 Q. Now, what did Mr. Segarra relate to you  
9 at that time?

10 A. He related to me that a robbery happened  
11 in Hartford.

12 Q. Did he tell you what happened to the  
13 money?

14 A. Yes.

15 Q. What did he say happened to the money?

16 A. The money went to Springfield in cars.

17 Q. Did he tell you what happened to the  
18 money after it got to Springfield?

19 A. No.

20 Q. Did he relate to you -- at this  
21 particular time did you know that Victor Gerena  
22 had been involved in this robbery?

23 A. Yes, at this time because it was on the  
24 news media and his photograph was in the  
25 newspapers.

1 Q. Did Mr. Segarra tell you what happened to  
2 Mr. Gerena?

3 A. Yes, he did.

4 Q. What did he say?

5 A. Tell me what happened to Mr. Gerena at  
6 what time?

7 Q. What did he say happened to Mr. Gerena?

8 A. Well, one time he told me Mr. Gerena was  
9 taken on the night of the robbery from Hartford to  
10 Springfield on a motorcycle.

11 Q. What happened after that?

12 A. He told me he was taken to Boston, then  
13 to Mexico.

14 Q. Now, at the time of this --

15 MR. WEINGLASS: May we have the time,  
16 place and who was present during this alleged  
17 conversation? We have no idea of when this  
18 supposedly happened, who was present or where it  
19 happened.

20 BY MR. DABROWSKI:

21 Q. When did this conversation occur, the  
22 conversation --

23 A. This conversation occurred in November of  
24 '83 while we were riding through Newport, Rhode  
25 Island.

1 Q. Was anyone else present?

2 A. No.

3 Q. He related --

4 A. Just Mr. Segarra was present.

5 Q. He related to you that Victor Gerena was  
6 taken to Springfield on a motorcycle?

7 A. Yes, he did.

8 Q. Did he tell you -- and then to Boston and  
9 then on Mexico?

10 A. Yes.

11 Q. Now, is this an event that had already  
12 occurred?

13 A. Yes, it is.

14 Q. Was that the same conversation in which  
15 he related to you that the money had also been  
16 taken to Springfield in cars?

17 A. Yes.

18 MR. WEINGLASS: Objection, leading  
19 and counsel is repeating it in summary fashion for  
20 the witness. It's just improper.

21 THE COURT: Let him tell you,  
22 counsel, "When did the subject come up, and under  
23 what circumstances?"

24 MR. DABROWSKI: I don't know that it  
25 came up again, your Honor.

1 BY MR. DABROWSKI:

2 Q. When did Mr. Segarra tell you that the  
3 money from the robbery had been taken to  
4 Springfield in cars?

5 A. When we were riding to Newport.

6 Q. What did he say?

7 A. He said it quick. You know, Victor got  
8 taken to a motorcycle and the money went the other  
9 way in cars to Springfield. And I didn't ask  
10 anything.

11 Q. You said you didn't ask anything.

12 A. I didn't ask anything more in detail  
13 about what he had just stated.

14 Q. Did he tell you what happened to the  
15 money after it got to Springfield?

16 A. No, he did not.

17 Q. Did he tell you how much money was taken?

18 A. I already knew from the figure the news  
19 media gave.

20 Q. Was there a discussion between you and he  
21 as to how much money was taken?

22 A. A vague discussion.

23 Q. A vague discussion?

24 A. Yes.

25 Q. What was discussed?

1           A.     Seven million and some checks or  
2 something.

3           Q.     Did he tell you what happened to any of  
4 that \$7 million?

5           A.     No, he did not. He told me that \$2  
6 million was supposed to go to the revolution, one  
7 million to El Salvador and one million to  
8 Nicaragua to help purchase weapons.

9           Q.     Now, there was a conversation and you  
10 were in a car with Mr. Segarra, just you and he,  
11 and you were going to Newport; is that right?

12          A.     Yes.

13          Q.     Was there a discussion about the kind of  
14 vehicle that was used to travel to Mexico?

15          A.     Yes. We were riding down the road and  
16 saw something like a Winnebago camper-type vehicle,  
17 he said that's what they had, something similar to  
18 that or one of those.

19          Q.     When you say, "That's what they had," who  
20 are they?

21          A.     This is Segarra and his associates.

22          Q.     What were they doing with the Winnebago  
23 or the vehicle like the Winnebago?

24          A.     He said they were going to Mexico.

25          Q.     Who was it that was going to Mexico?

1           A.    Victor Gerena.

2           Q.    Now, did he indicate to you whether any  
3 of the money that you spoke of that was to go to  
4 El Salvador or Nicaragua was going to Mexico at  
5 the same time?

6           A.    No, he did not.

7           Q.    Did that subject come up?

8           A.    No, it did not.

9                       MR. BERGENN:   Your Honor, while  
10 that's being marked, could we have a reminder as  
11 to the limiting instruction that you've given  
12 before because there has been a series of  
13 questions, I didn't want to keep interrupting the  
14 stories, but I wanted to be sure that the jury  
15 understood your instructions that that pertained  
16 both as to before and after the break.

17                      THE COURT:   Those instructions were  
18 that the area of evidence presently being pursued  
19 was directed up to this time against Juan Segarra  
20 as he calls him.   We call him Segarra-Palmer.

21                      As I told you in the beginning, in  
22 the Spanish name the second name is the father's  
23 name and the last name is the mother's name.

24                      So, the full name is Segarra-Palmer,  
25 but the first of the two names is the name of the

1 father, Segarra.

2 This evidence is offered against, as  
3 I understand it, against Mr. Segarra only, not the  
4 other three at this time, unless it can later be  
5 developed.

6 MR. BERGENN: You mean the other  
7 three? You mean the other four?

8 THE COURT: Mr. Norman  
9 Ramirez-Talavera, Mr. Maldonado, Mr. Antonio  
10 Camacho-Negron and Mr. Carlos Ayes-Suarez.

11 MR. BERGENN: Thank you, your Honor.

12 BY MR. DABROWSKI:

13 Q. I'm showing you Government's 58. Would  
14 you take a look at that document and tell us if  
15 you've ever seen that before?

16 A. Yes, I have.

17 Q. What is it?

18 A. It's a receipt, either a copy of a  
19 receipt of the rental car or the receipt.

20 Q. Does your signature appear on the  
21 document?

22 A. Yes, it does.

23 Q. It's the signature of what name?

24 A. James Cox.

25 Q. Do you use the name, James Cox?



1 A. Yes, I do.

2 Q. When did you sign that document?

3 A. I signed it on the date -- on this date  
4 that's on this receipt, but I couldn't have  
5 remembered the date until I see it now, but I know  
6 that this happened.

7 THE COURT: What's the date on it?

8 THE WITNESS: The out date was on  
9 August 29.

10 THE COURT: What year?

11 THE WITNESS: Nineteen eighty-three.  
12 The in date was August 30, 1983. Overnight.

13 BY MR. DABROWSKI:

14 Q. Now --

15 THE COURT: What date did the  
16 alleged robbery take place, if you know?

17 THE WITNESS: Well, from now  
18 reviewing this receipt, the alleged one that I was  
19 supposed to be conspirator in was supposed to  
20 happen on the evening of August 29th. My memory  
21 is refreshed from having reviewed this receipt on  
22 the dates.

23 THE COURT: When did the Wells Fargo  
24 take place, if you know?

25 THE WITNESS: Five to six weeks

1 after that.

2 BY MR. DABROWSKI:

3 Q. Is this the receipt for the car that you  
4 rented in Boston and used to drive down to  
5 Connecticut?

6 A. Yes, it is.

7 MR. DABROWSKI: Your Honor, I would  
8 move for the full admission of this document.

9 THE COURT: Without objection, full  
10 exhibit.

11 MR. ACEVEDO: Could we have the  
12 number please?

13 MR. DABROWSKI: Fifty-eight.

14 (Government's Exhibit 58: Received  
15 in evidence.)

16 BY MR. DABROWSKI:

17 Q. Now, the document reflects the vehicle  
18 was to be returned on August 30, 1983; do you see  
19 that on the left-hand side?

20 A. Yes.

21 Q. That was the date it was to be returned?

22 A. It was returned that day.

23 Q. By you?

24 A. Yes.

25 Q. Who paid for the car?

1 A. I did.

2 Q. How much did you pay for it?

3 A. I think I had to give them a hundred  
4 dollars -- \$200 deposit and then get a refund when  
5 you take the car back.

6 Q. You paid for it?

7 A. Yes.

8 Q. Did you ask for reimbursement from Mr.  
9 Segarra?

10 A. No, I didn't.

11 Q. Did you talk to him about either money  
12 for yourself or the car after you learned that \$7  
13 million had been taken?

14 A. No, I didn't even ask that.

15 Q. Did you talk to him about money that you  
16 felt you should get as a result of the robbery?

17 A. No.

18 Q. Why is that?

19 A. Because it was made clear to me, do me a  
20 favor and at that time that's what I did.

21 Q. Now, this lists the address, 754 Tremont  
22 Street, Boston, Massachusetts and a telephone  
23 number, 536-5679.

24 Is that your address at the time?

25 A. At that time it was.

1 Q. And your phone number?

2 A. Yes, that was my phone number at that  
3 time.

4 Q. Now, you indicated that Mr. Segarra told  
5 you that Mr. Gerena was taken to Springfield on a  
6 motorcycle. Do you know anything more about that?

7 A. No, I do not.

8 Q. Do you know Charlie Crafts?

9 A. Yes, I did.

10 Q. Did he have anything to do with this  
11 robbery?

12 A. No, he did not. Not to my knowledge.

13 Q. Do you know Phil Weinberg?

14 A. Yes, I do.

15 Q. Do you know Debbie Weaver?

16 A. I'm not sure about Debbie. Yeah, I did  
17 know a Debbie. I didn't know if her last name was  
18 Weaver.

19 Q. Does the Debbie you know know Phil  
20 Weinberg?

21 A. I really couldn't say.

22 Q. Do you know whether they had anything to  
23 do with this robbery?

24 A. To my knowledge, no.

25 Q. Where in Massachusetts did Mr. Gerena go,

Error - box left\_line right\_line

1 if you know, after the robbery?

2 A. I don't really know. My assumption was  
3 the Dorchester area.

4 Q. Why do you assume the Dorchester area?

5 A. Because I have visited a few houses up  
6 there with Mr. Segarra before.

7 Q. What is it about that visit that caused  
8 you to believe that Mr. Gerena went there?

9 MR. WEINGLASS: Your Honor, I'm  
10 sorry to interrupt counsel, but the Court's ruling  
11 does not allow for conjecture, surmise or  
12 assumption. I object to this line of questioning.

13 THE COURT: Just what he knows. Not  
14 what he assumes.

15 BY MR. DABROWSKI:

16 Q. Did Mr. Segarra at any time tell you that  
17 either the money or Mr. Gerena were taken to the  
18 Dorchester section of Boston?

19 A. No, he did not.

20 MR. DABROWSKI: May I have one  
21 moment, your Honor?

22 (Pause.)

23 MR. DABROWSKI: No further questions,  
24 your Honor.

25 THE COURT: May I see counsel at

1 sidebar for a moment before we proceed?

2 MS. BACKIEL: Could I make a request?  
3 That the Court reiterate its instruction that the  
4 spectators not use headphones during these  
5 conferences. There's a reporter who speaks  
6 Spanish.

7 THE COURT: Yes. Those who may have  
8 headphones who are in the spectator section will  
9 please remove them while sidebar conference is in  
10 order. That's the agreement of counsel, including  
11 Defendants' counsel.

12 (At sidebar:)

13 THE COURT: Mr. Weinglass, I told  
14 you this morning that if you waited until tomorrow  
15 to review your notes and whatever papers are  
16 relevant, the Court would not press you to go  
17 forward after the direct examination had been  
18 completed, in fairness to you.

19 If you want to go through some of  
20 the information now to expedite the trial, of  
21 course, I would be very pleased with it, but I  
22 want you to know I'm not going to pressure you to  
23 do it unless you're willing to do it.

24 MR. WEINGLASS: I think I could  
25 start, but if I could signal the Court when I'm

1 finished.

2 THE COURT: Fair enough.

3 (End of sidebar.)

4 THE COURT: Counsel, Mr. Prosecutor,  
5 I don't think the jury has seen this last exhibit.  
6 Whether you want them to see it or not, I don't  
7 know. They all would like to see everything.

8 MR. WEINGLASS: Does the Court wish  
9 I begin while the jury is examining the one  
10 exhibit or should I --

11 THE COURT: I think you can. It's a  
12 simple exhibit. It's a rental agreement of a car.  
13 It doesn't take much concentration to review it.

14

15 CROSS EXAMINATION

16 BY MR. WEINGLASS:

17 Q. Good afternoon, Mr. Cox.

18 A. Good afternoon, sir.

19 Q. Could you indicate to the Court and jury  
20 how old you are?

21 A. I'm 43 years old. BORN 1945

22 Q. Right now are you in any special program  
23 of the federal Government?

24 A. No, I'm not.

25 Q. Are you in any custodial status with

1 marshals?

2 A. As far as coming to this trial only.

3 Q. I see. Now, I guess I ought to start by  
4 asking the classic question of where were you on  
5 the night of September 12, 1983 between the hours  
6 of 9:00 p.m. and 12:00 midnight?

7 A. I was in Boston, Massachusetts.

8 Q. You were not in Hartford?

9 A. No, I was not.

10 Q. Of your own personal knowledge, do you  
11 know what happened in Hartford?

12 A. Not of my own personal knowledge at that  
13 time. From the news media the early next morning  
14 I --

15 Q. Fine. Now, Mr. Cox, were you ever known  
16 by any name other than Kenneth Cox? *See 10-21-88*  
*PP. 76-77*

17 A. Yes.

18 Q. What other name?

19 A. All of the names that was on the rap  
20 sheet that was presented to you.

21 Q. Well --

22 A. Gerard James, William Thomas, Kenneth  
23 Thomas, Harold Deloach.

24 Q. Thomas Smith?

25 A. Thomas Smith.



- 1 Q. James Kenneth Cox?
- 2 A. Yes.
- 3 Q. Kenneth M. Thomas?
- 4 A. Yes.
- 5 Q. Bobby Thomas?
- 6 A. Yes.
- 7 Q. Any other names that I've left off?
- 8 A. Gerard Cox.
- 9 Q. Gerard Cox. Are there other names?
- 10 A. No, not that I can remember.
- 11 Q. You told us about your involvement with
- 12 the law over a number of years.
- 13 A. Yes, I did.
- 14 Q. Would it be fair to say that you were
- 15 arrested about 21 times --
- 16 A. Yes, that would be fair to say.
- 17 Q. In 25 years?
- 18 A. Yes.
- 19 Q. Now, you met Juan Segarra-Palmer, known
- 20 here as Juan Segarra-Palmer?
- 21 A. Okay. This is the first I've heard of
- 22 Palmer.
- 23 Q. You knew him to go by his regular name,
- 24 Juan Segarra?
- 25 A. Yes.

1 Q. Formally here they add his mother's  
2 maiden name.

3 A. I knew Juan Enrique Segarra.

4 Q. You knew him in 1971; is that right?

5 A. Yes, I did.

6 Q. Let's bring it to September 1983, okay.

7 That's 12 years.

8 A. Yes.

9 Q. In the 12 years, in that time that you  
10 knew Juan Segarra, you were never arrested; isn't  
11 that right? Do you need your rap sheet?

12 A. I think I might have been arrested in --  
13 in the 12 years in that period just about, no.  
14 There could have been one simple possession of  
15 marijuana in that time.

16 Q. Well, you didn't read to us any marijuana  
17 arrests when you read us your rap sheet?

18 A. Well, it says possession. That  
19 particular one in that 12 years.

20 Q. Let's show you the rap sheet so there's  
21 no guesswork. I want you to look from 1971 to  
22 September 1983 and tell the jury whether or not  
23 that was the one clean period in your life when  
24 you knew or related to Juan Segarra and his family?

25 A. That was a clean period in my life

1 whether I knew Juan Segarra and his family or not.

2 Q. Now, sometime prior to 1971, shortly  
3 before 1971, you did your longest stretch in  
4 prison?

5 A. Yes, I did.

6 Q. In Massachusetts?

7 A. Yes.

8 Q. Juan Segarra told you that he had worked  
9 as a student in the prisons in Massachusetts;  
10 isn't that true?

11 A. He told me I wasn't in prison at that  
12 time.

13 Q. Not in '71.

14 A. He told me that he was associated with  
15 Norfolk Prison Colony.

16 Q. In what capacity?

17 A. I don't know the capacity.

18 Q. So, during this 12 years, '71 to '83,  
19 when you befriended Juan Segarra, you came to know  
20 his family?

21 A. Yes, I did.

22 Q. He invited you down to Puerto Rico?

23 A. Yes, he did.

24 Q. In the cold winter of '71, '72?

25 A. Yes, he did.

1 Q. You stayed with his father, his mother?

2 A. And two brothers and a sister.

3 Q. They took you in, his family?

4 A. They let me stay there.

5 Q. Was there an episode when you were down  
6 there that winter for approximately a month when  
7 you almost drowned?

8 A. Yes, there was.

9 Q. Anyone help save your life?

10 A. Yes.

11 Q. Who was that?

12 A. Well, let me clarify that. I would have  
13 never went into La Salva Beach if I wasn't with  
14 them. I followed them in there and I almost  
15 drowned and they helped me out.

16 Q. Who's the they?

17 A. Juan Segarra and Antonio Segarra.

18 Q. Antonio is his brother?

19 A. Yes.

20 Q. You knew his dad to be a lawyer?

21 A. Yes.

22 Q. Did you tell his father what you did when  
23 you were down there?

24 A. What I did in reference to what?

25 Q. What kind of work or occupation you were

1 engaged in?

2 A. Yes.

3 Q. What was that?

4 A. The floral business.

5 Q. The flower business?

6 A. Yes.

7 Q. You were selling flowers on the street in  
8 Cambridge about that time?

9 A. On the streets of Boston and sometimes  
10 Cambridge, but my main on location was in Boston.

11 Q. Did Juan Segarra have any relationship to  
12 your business or your work?

13 A. Yes. I purchased flowers and he sold  
14 them and he also worked around the corner from my  
15 business for, I'm not sure, I think it was for \$5.  
16 an hour.

17 Q. So, he was helping you and you were  
18 paying him?

19 A. Yes.

20 Q. You started out working for somebody else  
21 in the flower business, didn't you?

22 A. No.

23 Q. This is going to be a problem I know for  
24 the Court Reporter. Do you know a gentleman who  
25 went by the name of Cackle Lackle?

1           A.    Yes, I do.  Correct pronunciation is  
2   Cack Lackle.

3           Q.    Cack Lackle?

4           A.    Yes.

5           Q.    Who is he?

6           A.    He was a fellow who I had met and he let  
7   me come down the street on the street where he was  
8   and let me sell single carnations.  And then I  
9   used to give him my extra flowers to sell and he'd  
10  give me some of the profit the next day.  Then he  
11  would go to Miami or Miami Beach every winter and  
12  with the fall of '71 he told me to take his spot  
13  over and give it back when he came back in March  
14  or first of April.

15          Q.    Did you take his spot over?

16          A.    Yes, I did.

17          Q.    How much were you making when you were  
18  working his spot?

19          A.    How much was I making?

20          Q.    Yes.

21          A.    It varies from day to day.

22          Q.    Generally, how much a week?

23          A.    Four or five hundred dollars.

24          Q.    When he came back from Florida, he wanted  
25  his corner back, didn't he?

1           A.    Yes, he did.  No, he didn't want his  
2 corner back.  When he came back from Florida, I  
3 was at the flower market and they said he was at  
4 the restaurant.  I went down to the restaurant to  
5 have breakfast with him and he said, "Come here  
6 kid, sit down."  He called me kid.  "Come here,  
7 kid, sit down."

8                        So, I sat down and he says, "I thought  
9 the whole thing over on the plane on the way back  
10 from Florida.  I can't carry the burden no more.  
11 I got a heart condition and I need an operation on  
12 my leg, so I thought it over, kid.  I'm gonna make  
13 you my partner."  I said, "How are we going to  
14 split the money?"  He said, "Down the middle."  I  
15 said, "All right, we'll be partners," and I shook  
16 on it.

17           Q.    What happened to the gentleman?

18           A.    He died in July of '72.

19           Q.    How did he die?

20           A.    I heard it was a -- I heard it was a  
21 homicide.

22           Q.    He was murdered?

23           A.    That's what I heard.

24           Q.    Did the FBI interview you about that  
25 murder?

1           A.    No, the FBI did not interview me about  
2 that murder. I came into the flower market to  
3 purchase flowers one morning and a couple of the  
4 wholesalers who sell the flowers told me that the  
5 detectives were there from the Boston police  
6 headquarters interviewing people in reference to  
7 his death and that we were partners so I should go  
8 up to headquarters and I left the market and went  
9 to headquarters to be interviewed.

10           Q.    Now, we heard about your record which you  
11 read to us. Do you recall appearing before the  
12 Grand Jury?

13           A.    Which incident, Cack Lackle incident or  
14 this Grand Jury in Hartford?

15           Q.    The Grand Jury in Hartford?

16           A.    Yes, I do.

17           Q.    You were questioned there also, weren't  
18 you?

19           A.    Yes, I was.

20           Q.    Ms. Van Kirk questioned you?

21           A.    Yes, and Assistant U.S. Attorney Nevas.

22           Q.    When you appeared and gave your story  
23 before the Grand Jury, no questions were asked of  
24 you about your record; isn't that true?

25           A.    Not at that time.



1 Q. Not at any time before the Grand Jury  
2 were you questioned about your criminal record.

3 A. The FBI already knew about that.

4 Q. But did the Grand Jury ask or did they  
5 know any questions about your record when you were  
6 there?

7 MR. DABROWSKI: Objection to what  
8 the Grand Jury knew, your Honor. He only knows  
9 what he personally told the Grand Jury.

10 BY MR. WEINGLASS:

11 Q. Were you questioned before the Grand Jury  
12 as Mr. Dabrowski did this morning by reading to  
13 the grand jurors your rap sheet?

14 A. No, I did not read any rap sheet to the  
15 Grand Jury.

16 Q. Did anyone question you about anything of  
17 a criminal nature in your past before the Grand  
18 Jury?

19 A. No, not to my -- no.

20 Q. Now, you haven't applied for your reward  
21 yet from Wells Fargo; is that correct?

22 A. No, I haven't applied. I just ask that  
23 they be put on notice yesterday.

24 Q. Yesterday. It's been about five years.

25 A. Yes, it has.

1 Q. In those five years has the Government of  
2 the United States been paying you some money?

3 A. Before I went to the Grand Jury the FBI  
4 was paying me for information. After testifying  
5 before the Grand Jury there were no more payments.  
6 There was living costs.

7 Q. About how much has the Government paid  
8 you in connection with --

9 A. Between 14 and \$15,000.

10 Q. Fourteen and --

11 A. For information and living costs.

12 Q. Were you asked any questions about that  
13 before the Grand Jury?

14 A. No, I was not.

15 Q. Were you asked any questions about that  
16 by Mr. Dabrowski today?

17 A. No, I was not.

18 MR. DABROWSKI: Your Honor, I think  
19 Mr. Weinglass should establish when and in what  
20 specific capacity payments were made. I'm talking  
21 specifically about any payments that may have been  
22 made after the Grand Jury in August of 1985.

23 Obviously, it couldn't have been  
24 brought to the attention of the Grand Jury if it  
25 hadn't happened yet.

1 THE COURT: Any objection to that  
2 procedure?

3 MR. WEINGLASS: We'll get to that,  
4 yes, sir.

5 BY MR. WEINGLASS:

6 Q. Now, I want to show you your rap sheet  
7 again and with that in front of you, I want to ask  
8 you this --

9 THE COURT: Excuse me, counselor,  
10 you know what a rap sheet is and the prosecutor  
11 does.

12 MR. WEINGLASS: Yes.

13 THE COURT: Can you both agree as to  
14 define what it is to the jury? Maybe they don't  
15 know what a rap sheet is. Can you state it by  
16 agreement?

17 MR. WEINGLASS: Certainly. I'll  
18 yield to someone who is more expert than myself.

19 MR. DABROWSKI: A written history of  
20 the information possessed by the FBI relating to  
21 the individual's arrest record and record of  
22 convictions.

23 BY MR. WEINGLASS:

24 Q. Now, the conversations that you claim you  
25 remember that you had with Mr. Segarra occurred in

1 the year 1983; isn't that correct?

2 A. The conversations occurred between --  
3 what did you say? Could you repeat that question,  
4 please?

5 Q. I'll try to clarify it. The  
6 conversations that you had with Mr. Segarra  
7 respecting Wells Fargo that you've told us about,  
8 that you claim happened, happened in the year 1983?

9 A. Yes.

10 Q. Did you go to the FBI with that  
11 information in 1983?

12 A. No, I did not.

13 Q. Did you go to the FBI with that  
14 information in 1984?

15 A. No.

16 Q. Did you go to the FBI with that  
17 information in 1985?

18 A. Yes, I did.

19 Q. Do you recall when you did that?

20 A. It was either in April or May of 1985.

21 Q. Could it have been May 24, 1985?

22 A. It could have been.

23 Q. Now, I ask you to look at your rap sheet.  
24 Look at the date, April 23, 1985; the day before  
25 April 24th.

1           What happened to you on April 23, 1985?

2           A.    This is May 23rd.

3           Q.    I'm sorry.  May 23rd.

4           A.    I was picked up for -- I was with a young  
5 lady and we got -- she and I got arrested at the  
6 Watertown mall for shoplifting.

7           Q.    So, you were arrested on May 23, 1985 and  
8 you decided to go to the FBI on May 24, 1985; is  
9 that true?

10          A.    I'm not very certain about the dates, but  
11 it was in, like I said, April or May of 1985.

12          Q.    Now, wasn't part of your motivation, Mr.  
13 Cox, the fact that you faced prison again after  
14 many years --

15          A.    No, I did not face prison.

16          Q.    How many cases were outstanding against  
17 you in May 1985, if you know, when you went to the  
18 FBI?

19          A.    One or two.

20                   THE COURT:  This might be a good  
21 time to suspend.  It's 4:30.  Our procedure,  
22 ladies and gentlemen, will be this:  The jury will  
23 be excused and after they've had five minutes to  
24 leave, the Court will stand in recess.

25                   In the meantime, I would ask

1 everyone to remain here until the jury has been  
2 excused. We will resume tomorrow at 10:00 o'clock,  
3 ladies and gentlemen.

4 Please do not read about this case  
5 or listen to anything, as I've told you, so you  
6 can respond tomorrow truthfully and properly.

7 (Whereupon, the jury was excused.)

8 THE COURT: The witness may be  
9 excused, Mr. Marshal.

10 (Witness excused.)

11 THE COURT: The Clerk reminded me  
12 this would be a good moment to mention one of the  
13 things we talked about in regard to the week in  
14 November on which Armistice Day falls on Friday  
15 the 11th, which is a federal holiday.

16 The suggestion was that we put in  
17 our four days, Monday through Thursday, and I  
18 should give you adequate notice and the Clerk just  
19 reminded me to make sure I didn't forget it so  
20 that we get our four days in. So starting the 7th,  
21 8th, 9th and 10th and Friday we would have off.

22 MR. ACEVEDO: Your Honor, I think  
23 what we submitted to the Court was that the week  
24 of Thanksgiving we will work on that Monday so we  
25 could get Wednesday, Thursday and Friday.

1                   THE COURT: We may have a problem  
2 there. I have to talk that over with you, because  
3 I understand there may be one member of the jury  
4 that has tickets that have been paid for of which  
5 I didn't have knowledge.

6                   MR. ACEVEDO: I see.

7                   THE COURT: It may change that  
8 Thanksgiving week. You may get more than you  
9 bargained for.

10                  MR. ACEVEDO: Fine. I'll make good  
11 use of it, your Honor. I also would like to  
12 purchase -- I also have reservations --

13                  THE COURT: I'm looking into that  
14 through the Clerk. She'll advise me of that  
15 situation. I don't want to state that now.

16                  On the 7th, 8th, 9th and 10th we'll  
17 be in court session. The 11th we'll have off. It  
18 will be a long weekend. I don't think we'll be  
19 quite finished by then but I hope we'll be on the  
20 way towards completion.

21                  MR. BERGENN: Have you discussed the  
22 Christmas holiday? You were thinking about doing  
23 that once the jury was fully impaneled.

24                  THE COURT: That's a little bit too  
25 far ahead. The case might be over by then.

1 MR. BERGENN: It would be delightful  
2 if it was. A number of people have to make  
3 reservations.

4 THE COURT: I understand.

5 MR. BERGENN: I would ask if it was  
6 possible to address that, I think in all  
7 practicality, we ought not to assume it's going to  
8 be done by Christmas.

9 THE COURT: I understand. We're  
10 thinking about it.

11 MR. ACEVEDO: Your Honor, I urge you  
12 to make a decision quick because it will be  
13 impossible to find plane tickets to San Juan if we  
14 don't do it quick. It's very, very hard.

15 THE COURT: We will think about it  
16 very carefully at the earliest possible date.

17 MR. DABROWSKI: Could I ask the  
18 Court to inquire of counsel for the Defendants  
19 what they estimate to be the length of their  
20 cross-examination? Mr. Weinglass indicated to me  
21 he will more than likely use not all of tomorrow.  
22 I had assumed that Mr. Cox would be on not only  
23 tomorrow, but perhaps into next week. If that's  
24 in error, we'll get additional witnesses here.

25 THE COURT: I think you ought to



1 have additional witnesses. We want to move  
2 forward.

3 MR. WEINGLASS: If I were wiser, I'd  
4 stop right now, but I think it's going to take  
5 some time.

6 I indicated to the Government  
7 clearly not all day.

8 MR. DABROWSKI: If we follow the  
9 pattern and other counsel don't question, it's not  
10 going to be a problem. The reason I raise it,  
11 amongst the next witnesses are a couple --

12 THE COURT: Who's the next one?

13 MR. DABROWSKI: I'm referring to  
14 Kevin and Nancy Quinn. They have young children  
15 and have asked us to be as considerate as we could  
16 to accommodating them.

17 THE COURT: Are they local?

18 MR. DABROWSKI: No, they're from out  
19 of state. I'm going to mispronounce his name,  
20 it's the Mini-Cost Car employee who rented the car  
21 to Kenneth Cox is scheduled to testify as well.

22 THE COURT: Those wouldn't take long.

23 MR. DABROWSKI: No, your Honor, but  
24 they're three people as well as a possible witness  
25 from Puerto Rico who may be on the way. That's

1 another problem.

2 THE COURT: Why don't you talk with  
3 Mr. Weinglass after court and work out a schedule  
4 because you can talk informally and gain some  
5 practical understanding of the time element and we  
6 intend to move along quickly as possible.

7 MR. DABROWSKI: I ordinarily do that.  
8 The other counsel came into play. I apologize for  
9 taking up the Court's time. I thought it might be  
10 easier to do it this way.

11 THE COURT: The jury has been  
12 excused and we'll return tomorrow at 10:00 o'clock.

13 (Whereupon, court was adjourned at  
14 4:35 o'clock p.m.)

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