

COPY 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Criminal H-85-50
)	
VICTOR MANUEL GERENA, ET AL)	
)	
Defendants.)	

450 Main Street
Hartford, Connecticut

October 21, 1988
10:00 a.m.

TRIAL

Held Before:

The Honorable T. Emmet Clarie

Senior U. S. D. J.

And A Jury of Twelve

Cunningham Reporting Associates

Specialists in Court Reporting and Litigation Management

Member,  The Cunningham
Group, Inc.

111 Gillett Street
(Corner Asylum Ave.)
Hartford, CT 06105

Danbury
797-8107

1633 Washington Boulevard
Suite 2-C
Stamford, CT 06902

A P P E A R A N C E S:

For the Government:

OFFICE OF THE U.S. ATTORNEY
450 Main Street
Hartford, Connecticut 06103
BY: ALBERT S. DABROWSKI, ESQUIRE
CARMEN E. VAN KIRK, ESQUIRE
LEONARD BOYLE, ESQUIRE

For the Defendant Antonio Camacho-Negron:

LINDA BACKIEL, ESQUIRE
424 West Schoolhouse Lane
Philadelphia, Pennsylvania 19144

For the Defendant Norman Ramirez-Talavera:

JUAN R. ACEVEDO, ESQUIRE
107 Franklin Avenue
Hartford, Connecticut 06114

For the Defendant Carlos Ayes-Suarez:

SHIPMAN & GOODWIN
799 Main Street
Hartford, Connecticut 06103
BY: JAMES BERGENN, ESQUIRE

For the Defendant Juan E. Segarra-Palmer:

LEONARD I. WEINGLASS, ESQUIRE
6 West 20th Street
New York, New York 10011

For the Defendant Roberto Maldonado:

ROBERTO MALDONADO, ESQUIRE, PRO SE

1 THE COURT: Will you call the roll, Madam
2 Clerk, please?

3 THE CLERK: Mr. Ramirez-Talavera, Mr.
4 Ayes-Suarez, Mr. Maldonado, Mr. Antonio Camacho-Negron,
5 and Mr. Segarra-Palmer are present, Your Honor.

6 THE COURT: Glad to see you back, Mr.
7 Maldonado. I trust you're in good health.

8 MR. MALDONADO: Thank you, Your Honor. I'm
9 still not a hundred percent. After all, the Los Angeles
10 Dodgers were only 60 percent and won the world series.

11 THE COURT: I want to call to the attention
12 of the prosecutor that the probation report is being
13 prepared on Luz Berrios and the probation officer said he
14 had not yet received any input from the prosecutor's
15 office. I told him it had to be received by Monday or
16 else it would be excluded. So the record will be
17 complete.

18 MR. DABROWSKI: Your Honor, what the
19 Probation Office hasn't received is a sentencing
20 memorandum which the Government intends to file either --

21 THE COURT: I think that's what they
22 mentioned to me they hadn't received.

23 MR. DABROWSKI: You indicated they hadn't
24 received any input, Your Honor.

25 THE COURT: I figured that was the input.

1 But it should be in by Monday and I told him that Mr.
2 Wieselmann should receive their report on Thursday. So you
3 have Thursday and Friday to review it and over the
4 weekend, that should be time enough.

5 MR. DABROWSKI: Sentencing memoranda will be
6 filed today or Monday, Your Honor.

7 MR. WIESELMAN: Yesterday afternoon I
8 spoke to Ms. Solak who also indicated a problem in
9 receiving the version of the report or the segment of the
10 report being done by the Pretrial Services Department in
11 Puerto Rico.

12 THE COURT: She said they would have it
13 Monday, it was being sent up here.

14 MR. WIESELMAN: Thank you, sir.

15 THE COURT: No problem. Counsel ready to
16 proceed?

17 MR. DABROWSKI: Yes, Your Honor.

18 MR. WEINGLASS: Yes. If Your Honor will
19 give me a moment, we're getting exhibits together. We'll
20 be no more than five minutes.

21 THE COURT: All right.

22

23 (Pause in proceedings)

24

25 MR. WEINGLASS: We're ready.

1 THE COURT: Call the jury, please.

2

3 (Whereupon the jury was
4 brought into the courtroom.)

5

6 THE COURT: Good morning, ladies and
7 gentlemen of the jury. I'm glad to see everyone is here
8 in good health this morning. I'll ask the usual
9 questions. All those who have followed the Court's
10 instructions and did not read anything about this matter
11 or discuss it or permitting any anybody to discuss it with
12 you or listening to any radio or television reports
13 in regard to this case, all those who have followed the
14 Court's instructions please raise their right hand.

15 Thank you.

16 You may call in the witness, Mr. Marshal,
17 please.

18 The witness was previously sworn in this case
19 and his testimony will continue to be under oath today.
20 That's understood, Mr. Cox, right?

21 THE WITNESS: Yes.

22 THE COURT: Very well.

23

24

25

KENNETH COX (continued)

CONTINUED CROSS EXAMINATION BY WEINGLASS

Q. Good morning, Mr. Cox.

A. Good morning, sir.

Q. Does last Thursday seem as long ago to you as it does to me?

A. No.

Q. Okay. Since last Thursday have you had occasion to discuss your testimony with anyone?

A. No, I haven't.

Q. Okay. Have you discussed this case with anyone?

A. No, I haven't.

Q. Let's start with your looking at the table that's here to your right with the people seated behind it. Do you recognize anyone besides Mr. Segarra?

A. No, I don't.

Q. You don't. Take your time and look at all of the persons sitting there.

1 A. No, I don't.

2 Q. Okay. Now, a part of what we were discussing
3 last Thursday when we left was the question of the
4 payments to you by the FBI.

5 Do you recall there were some mention of that?

6 A. Yes.

7 Q. Now, who was it who was giving you payments
8 from the FBI?

9 A. Who was it in particular?

10 Q. Yes.

11 A. Special Agent Neil Cronin.

12 Q. Cronin?

13 A. Yes.

14 Q. And Special Agent Cronin would pay you in
15 person?

16 A. Yes.

17 Q. Would he pay you in the check of the Treasury
18 of the United States?

19 A. No, in cash and I'd have to sign a receipt.

20 Q. He would pay you in cash?

21 A. Yes.

22 MR. WEINGLASS: Before we go any further,
23 Your Honor, I might point out we have not received any of
24 the receipts that the witness claims he signed.

25 Q. (By MR. WEINGLASS) You signed receipts each

1 time you got money?

2 A. Yes.

3 Q. The money you got was cash?

4 A. Yes.

5 Q. Was it --

6 A. It was a check cashed and given to me in cash.

7 Q. I see. Who was the check made out to?

8 A. I don't know.

9 Q. In other words, you would go to a bank with an
10 agent of the FBI, he would cash a check --

11 A. No, they would do that before they saw me.

12 Q. So you don't know if he cashed a check?

13 A. I know on a couple of occasions, yes.

14 Q. How do you know?

15 A. Because we went to a bank.

16 Q. Would they have you sign the check?

17 A. No.

18 Q. The agent would present --

19 A. I don't know who did what, I got cash.

20 Q. You got cash?

21 A. Yes.

22 Q. Was your cash in large bills or small bills?

23 A. What do you consider large bills?

24 Q. Well, twenty dollar bill or a hundred dollar
25 bill?

1 A. Yes.

2 Q. Yes to which one?

3 A. Both.

4 Q. They gave you hundred dollar bills?

5 A. Yes.

6 Q. And when they gave you those bills, would they
7 just hand it to you, Agent Cronin?

8 A. Yes.

9 Q. You would put your hand out and the agent would
10 lay the hundred dollar bill in your palm?

11 A. Yes.

12 Q. And where would this take place?

13 A. Different locations.

14 Q. Secret locations?

15 A. No.

16 Q. Would it take place in parking lots?

17 A. No.

18 Q. In hotel lobbies?

19 A. No.

20 Q. Where would it take place?

21 A. Phone company lobby.

22 Q. Phone company lobby?

23 A. Uhm-hmm.

24 Q. You weren't working at the phone company, were
25 you?

1 A. No.

2 Q. You would just meet in the lobby?

3 A. Yes, the doorway.

4 Q. In the doorway?

5 A. Yes.

6 Q. And the agent would put a hundred dollar bill
7 in your palm?

8 A. Yes.

9 Q. Now, the first time you met with Agent Cronin
10 according to the records that I've been given, was May
11 24th, 1985?

12 A. Yes.

13 Q. At that time he gave you \$200 in cash?

14 A. I don't remember all the times but I did
15 receive something at that time.

16 Q. Right. I want to show you what's been marked
17 33 A for identification and lay it in front of you and see
18 if this will help you refresh your recollection.

19 (Handing)

20 Do you see on the top of the page, 5/24/85?

21 A. Yes.

22 Q. Does it say \$200?

23 A. Yes, it does.

24 MR. DABROWSKI: Objection, Your Honor. If
25 he's going to be reading from a document that is not in

1 evidence, he's using the document for the purpose of
2 refreshing the witness.

3 THE COURT: If it's going to be offered, why
4 don't we mark it and put it in evidence.

5 MR. WEINGLASS: It's been marked, I believe
6 it should go into evidence, at least that page, and the
7 next page.

8 THE COURT: In other words, this is
9 something the Government has given you of the payments?

10 MR. WEINGLASS: Yes, a recitation of
11 payments.

12 THE COURT: Why don't we mark it, you can't
13 be in disagreement on what you're marking.

14 MR. WEINGLASS: I've marked it already.

15 THE COURT: Without objection, it may be a
16 full exhibit.

17 MR. DABROWSKI: I object to that page; the
18 entire document should go into evidence. I'd like to see
19 what's put before the witness. I have no objection to that
20 entire document being marked.

21 THE COURT: Any objection?

22 MR. WEINGLASS: No, the entire document.

23 THE COURT: It may be marked, Madam Clerk.
24 Suppose we mark it now so there will be no confusion later.

25 THE CLERK: Yes, Your Honor.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Defendant's Exhibit 33 A
offered and marked into
evidence)

THE COURT: The exhibit number, for my
records?

THE CLERK: Thirty-three A, Your Honor.

THE COURT: Thirty-three A.

Q. (By MR. WEINGLASS) Now, according to 33 A,
you got \$200 in cash on May 24th, 1985. The first day you
spoke to the FBI, is that right?

A. Yes, it is.

Q. Was that given to you in a doorway of a
telephone company lobby or do you know where that was?

A. It was at a hotel where we were having a
meeting.

Q. That was at a hotel?

A. Yes.

Q. I see. You talked to Agent Cronin?

A. Yes.

Q. And he then gave you \$200?

A. Yes.

Q. And within a week on May 29th, you had another
meeting, isn't that right?

A. Yes.

- 1 Q. He gave you \$315 in cash?
- 2 A. Yes.
- 3 Q. Now, you've made \$515 in your first week, is
- 4 that right?
- 5 A. Yes.
- 6 Q. For how much time did you spend with the FBI?
- 7 A. I didn't clock the time.
- 8 Q. Less than an hour?
- 9 A. I really couldn't say.
- 10 Q. Okay. And as a matter of fact, the day before
- 11 the May 29th meeting, they gave you \$400, isn't that right?
- 12 A. Yes.
- 13 Q. So in your first week you made almost a
- 14 thousand dollars, \$915?
- 15 A. Yes.
- 16 Q. Okay. And then the next day on May 30th, they
- 17 gave you another \$220?
- 18 A. Yes.
- 19 Q. Now, some of this was in hundred dollar bills,
- 20 is that right?
- 21 A. Yes.
- 22 Q. Do you recall what you did with the money?
- 23 A. No.
- 24 Q. On June 4th they gave you \$165?
- 25 A. Yes.

1 Q. On June 6th, they gave you \$90.

2 Now, on June 12th, you hit a bonanza; it was
3 a big day, right?

4 A. It all depends on what you consider a big day.

5 Q. Well, is \$1270 by your standards a big day?

6 A. Not really.

7 Q. Not a big day. When did you ever do better
8 than that?

9 A. In business.

10 Q. Something called boosting?

11 A. No.

12 Q. What is boosting, by the way?

13 A. Boosting?

14 Q. Yes.

15 A. I don't know, what is it?

16 Q. Or boothing?

17 A. What is it? I don't know.

18 Q. You don't know?

19 A. No.

20 Q. Okay. You never use the word?

21 A. No.

22 Q. Okay. What is shoplifting called on the
23 street?

24 A. Shoplifting.

25 Q. Okay. Then you received regular payment for

1 that -- why did you get \$1270 on June 12th, do you know?

2 A. I don't know, I really don't.

3 Q. You didn't ask?

4 A. No.

5 Q. Did you ask for these payments or were they
6 just again roughly offered?

7 A. No, I asked for them.

8 Q. You asked for them?

9 A. Yes.

10 Q. Did you say to Agent Cronin, "I want \$400
11 tomorrow"?

12 A. No, not like that.

13 Q. How did you say it?

14 A. Just asked for payments.

15 Q. "Help me out a little"?

16 A. Yeah.

17 Q. I've got --

18 A. Information payments.

19 Q. Information payments?

20 A. Yes.

21 Q. In other words, you said to Agent Cronin, "I'll
22 give you a little information, you give me a little money"?

23 A. No, I didn't say that in particular to Agent
24 Cronin. I asked what was the Justice Department's
25 interest.

1 Q. This is when you first went to see him?

2 A. Yes.

3 Q. This was a negotiation phase, right?

4 A. Yeah, you could call it that.

5 Q. In other words, you didn't come forward and
6 say to the FBI, "I have some information about crimes, my
7 conscience is bothering me, I feel I have to cooperate
8 with the Government, I want to tell you what I know." You
9 came to the FBI and you said, "I have a little
10 information, how much are you willing to pay for it?"

11 A. Not exactly in them terms but along those
12 lines.

13 Q. Along those lines. So there was a little
14 negotiation with the FBI and they came up with, oh, about
15 a thousand dollars in the first week, and then into the
16 third week, they gave you in one lump sum, \$1270?

17 A. Yes.

18 Q. Now, can you explain to us why you were given
19 \$1270?

20 A. No, I really couldn't.

21 Q. Was it just generosity?

22 A. The Government was interested.

23 Q. All right. Did you go to that meeting on June
24 12th expecting over a thousand dollars?

25 A. No.

1 Q. Were you surprised when you got it?

2 A. Yes.

3 Q. It came as a surprise?

4 A. Yes.

5 Q. You never expected the Government to come up
6 with that kind of money for you?

7 A. More than that I expected.

8 Q. You expected more?

9 A. Yeah.

10 Q. About how much did you expect?

11 A. As much as they were willing to pay.

12 Q. So you were always aware of the money and aware
13 of the fact that you could -- I don't want to use the word
14 squeeze, but you could get as much out of them as you could
15 by giving them information?

16 A. That's one way of phrasing it.

17 Q. Well, didn't you, Mr. Cox, at one point confess
18 that you lied to the FBI in order to get money?

19 A. Now, the Judge instructed me not to go into
20 anything other than the Wells Fargo. Now, if you want that
21 answered, it may infringe on other activities. Would you
22 like that answered?

23 Q. Let's try to see if you can answer my question
24 with a yes or no first.

25 A. No, I can't answer it with a yes or no, it

1 will be an extended answer and it will carry over into
2 other activities. Now, are you sure you want that answer?

3 Q. I want to ask you a simple yes or no. Did you
4 -- listen to me closely. Did you ever tell anyone, yes or
5 no, that you lied to the FBI --

6 A. Do you want to discuss other activities?

7 Q. In other words to get money?

8 A. Do you want that answered the way I'm going to
9 answer it?

10 Q. I have no idea what you might say.

11 A. Well, do you want --

12 Q. But I do -- I think you can, the Court can
13 instruct you.

14 A. Well, the Court insructed me not to go into
15 those --

16 Q. I'm going to ask the Court to instruct you as
17 the Court does with every witness, when you have a yes or
18 no question, the answer is either yes or no. And your
19 counsel can elaborate after I'm finished on whether or not
20 you want to add to that question. But my question to you
21 is a simple yes or no.

22 Did you ever tell anyone that you lied to the
23 FBI in order to get money, yes or no?

24 THE COURT: If you can answer it in yes or
25 no.

1 MR. WEINGLASS: Your Honor, it's a simple
2 yes or no.

3 THE COURT: Well, I don't know. Some
4 questions aren't as simple as they appear to be. I don't
5 know what the answer is.

6 THE WITNESS: Do you want the answer? I'm
7 not going to answer yes or no, I'm going to give you an
8 extended answer.

9 MR. WEINGLASS: I'm going to ask the Court,
10 as the Court always does in these situations, to instruct
11 the witness to answer yes or no. The elaboration might
12 follow if the Government counsel wants to elaborate on
13 that answer.

14 THE COURT: If you can answer the question
15 yes or no honestly, then you should answer it yes or no.
16 If you cannot answer it yes or no honestly, then tell
17 counsel, "I cannot answer that with a yes or no answer, it
18 requires more explanation." He may not want your
19 explanation and may not want to get into that material.
20 Then he can make his choice.

21 THE WITNESS: I cannot answer that with a
22 yes or no because it requires more than a yes or no.

23 Q. (By MR. WEINGLASS) Did you tell Special Agent
24 Baker of the FBI in Boston, Massachusetts on or about
25 June 11th, 1985 that you lied to the FBI in order to get

1 money, to Special Agent Baker of the FBI?

2 A. Which one was Special Agent Baker?

3 Q. He was the one who administered a lie detector
4 test to you?

5 A. Yes. Before the lie detector test I did admit
6 that I gave erroneous information to get money.

7 Q. Okay. While we're on the subject of you and
8 money, you told us in your direct testimony that you came
9 forward in part to get the reward from Wells Fargo?

10 A. Yes, I did say that.

11 Q. And then you told us all that that was your
12 motivation in May of 1985, you didn't even ask Wells Fargo
13 for that money for three and a half years?

14 A. Well, I understood that when I read their
15 posters.

16 Q. When did you read their posters?

17 A. When they first started putting them in the
18 paper.

19 Q. Back in '85?

20 A. In '83.

21 Q. Right. Well, can you explain to the Court and
22 the jury why you waited three and a half years, if your
23 motivation in May of '85 was to come forward to get money,
24 why did you wait three and a half years before you even
25 asked for your reward?

1 A. Why did I wait?

2 Q. Yes.

3 A. Because I had to give it a lot of thought
4 because of the danger involved.

5 Q. I see. It wasn't that you weren't sure that
6 you wanted the money?

7 A. Right, until the Macheteros kept advertising in
8 the paper and that even made me more certain to come
9 forward. It kept putting it on my mind, you know. They
10 put it on my mind.

11 Q. Otherwise you would have forgotten about the
12 reward?

13 A. No.

14 Q. How much did you think the reward was, by the
15 way?

16 A. With the -- I thought it was a half million
17 dollars.

18 Q. Yes. So you kept forgetting about that but
19 advertising kept putting that back on your mind?

20 A. Yes, and getting over the feeling of the danger
21 involved.

22 Q. Right. Now, who applied to Wells Fargo for
23 you?

24 A. No one applied to Wells Fargo. Wells Fargo has
25 just been put on notice that there may be somebody that

1 comes in the category of receiving the reward.

2 Q. Who put Wells Fargo on notice?

3 A. The Justice Department.

4 Q. More particularly, the FBI?

5 A. Yeah, I'd say.

6 Q. So the FBI on your behalf put Wells Fargo on
7 notice?

8 A. Yes.

9 Q. The FBI is going to help you get that money,
10 is that your understanding?

11 A. No, they're not going to help me get that.
12 It's just go through the procedure, Wells Fargo is going
13 to honor their commitment.

14 Q. You didn't call the Wells Fargo, you had a
15 special agent of the FBI call Wells Fargo?

16 A. I didn't have anyone in particular, I just
17 asked that Wells Fargo be notified.

18 Q. In your presence an agent of the FBI called
19 Wells Fargo?

20 A. No.

21 Q. Do you know if Special Agent Cronin had
22 anything to do with it?

23 A. No, I don't.

24 Q. Okay. But you're thinking in terms of not just
25 the \$15,000 you got from the FBI, but possibly the half

1 million you might get from Wells Fargo?

2 A. I don't think it's quite a half million. That
3 half million figure was for the return of the property.

4 Q. I see. You told us that -- so money is a
5 factor here, money always --

6 A. Money and my anticommunist views.

7 Q. And your anticommunist views?

8 A. Yes.

9 Q. Okay. Now, while we're talking about money, is
10 it your testimony that you rented a car as a favor to Juan
11 Segarra and you paid \$48.46 for that car --

12 A. I'm not sure what I paid. If I could see the
13 receipt, then I'd know.

14 Q. Sure. Let's put it in front of you.

15 A. I think I put a \$200 deposit and I got a refund
16 after they took off for the mileage and stuff.

17 Q. Why do you say \$200 deposit?

18 A. I said I think. I'm not sure.

19 Q. Why do you think that?

20 A. Because you had to leave a cash deposit if you
21 didn't have a credit card.

22 Q. I see. You think you left \$200?

23 A. I'm not certain. Something like that.

24 Q. Right. Okay. We'll get to that in a moment.

25 But I just want you to look at the charges for your car

1 rental and they're right there.

2 (Hanging)

3 \$48.46 seem right? Tell me if I'm wrong.

4 A. That's what the receipt says.

5 Q. Well, does the receipt refresh your
6 recollection?

7 A. Similar.

8 Q. Right. So then getting back to my question,
9 you claim that you rented a car at Juan Segarra's request,
10 you paid \$48.46 and you never asked him for that money
11 back?

12 A. No.

13 Q. You're telling the jury that you think he was
14 involved in a robbery of three to four million dollars is
15 what you said you thought, then you read in the paper, it
16 was seven million, and you never asked for your \$48 back?

17 A. No.

18 Q. Or any money, is that your testimony?

19 A. No. I think I mentioned some figure about a
20 hundred thousand, then I was told no, do this here for the
21 revolution.

22 Q. Did you ever tell the FBI that you asked for a
23 hundred thousand dollars?

24 A. I think I did mention that. Yeah, I did, I
25 mentioned that I asked Mr. Segarra for a hundred thousand

1 dollars.

2 Q. Who did you tell that to?

3 A. I don't recollect which special agents but I
4 did mention something like that.

5 Q. Right. Okay. And would it surprise you that
6 they never wrote that down in your interview notes?

7 A. I really don't know.

8 Q. You never told the grand jury anything about a
9 hundred thousand dollars either?

10 A. They didn't ask me.

11 Q. I see. Might it be that you've never told
12 anyone that until just now?

13 A. No, that's not a might it be.

14 Q. So you asked for a hundred thousand, you say,
15 that was turned down. But you never asked for your \$48?

16 A. No.

17 Q. Okay. Now, let's move into another area.

18 You told us that you made two visits to Puerto
19 Rico to visit the Segarra family?

20 A. Yes.

21 Q. When you appeared before the grand jury, did
22 you take the same oath to tell the truth that you've taken
23 here in court?

24 A. Yes.

25 Q. Could you explain to the members of this jury

1 why you told the grand jury that you went there four times?

2 A. I went there two times.

3 MR. DABROWSKI: Objection, Your Honor.

4 It states a fact not in evidence at this time. I don't
5 dispute the evidence, I'm just simply saying the question
6 states a fact that is not in evidence.

7 MR. WEINGLASS: Okay. I'll withdraw that
8 question, in light of the objection.

9 Q. (By MR. WEINGLASS) Did you ever tell anyone
10 under oath that you went there four times?

11 A. I did go there a couple times passing through
12 to get to the Virgin Islands. I took a trip from the
13 Virgin Islands to Puerto Rico. That was a couple times
14 that the Segarras, I didn't visit them. I've been to
15 Puerto Rico a total of four times.

16 Q. I see.

17 A. I was at the airport, I didn't get any further
18 than that two times. My daughter was living in St. Croix.

19 Q. Did you ever tell anyone under oath that you
20 visited Juan Segarra four times?

21 A. No.

22 MR. WEINGLASS: Okay, Government Exhibit 57,
23 which is a grand jury testimony, for Government counsel,
24 Page 3.

25 MR. DABROWSKI: Line 13, counsel, and I

1 don't think it states what you indicated.

2 MR. WEINGLASS: Line 11 actually.

3 MR. DABROWSKI: That's the question. The
4 answer is thirteen.

5 THE COURT: Is this being offered as an
6 exhibit?

7 MR. WEINGLASS: Grand jury testimony, it's
8 being used for impeachment.

9 THE COURT: You're not offering it as an
10 exhibit.

11 MR. WEINGLASS: No, it's been marked 57
12 properly, it's being used for impeachment.

13 MR. DABROWSKI: On what question?

14 THE WITNESS: I've been to Puerto Rico four
15 times, you can't impeach that.

16 Q. (BY MR. WEINGLASS) Well, we'll see. But let's
17 start with my question. Which was did you visit Juan
18 Segarra four times in Puerto Rico?

19 A. I've been to Puerto Rico four times. I
20 visited Juan Segarra many more than four times while I was
21 there.

22 Q. Okay. How many times did you go to Puerto Rico
23 to visit Juan Segarra?

24 A. Two.

25 Q. Were you asked under oath by the grand jury,

1 Line 11, how many times did you visit him in Puerto Rico
2 and your answer was about four?

3 A. My answer was I went to Puerto Rico four
4 times.

5 Q. Wasn't the question: "How many times did you
6 visit him in Puerto Rico?" Answer: "About four"?

7 A. Well, I've been there four times. I visited
8 him more than four times.

9 Q. You visited him in Puerto Rico more than four
10 times?

11 MR. DABROWSKI: Your Honor, I am objecting
12 to this line of questioning. First of all, the document
13 is not in evidence. I have no objection to the entire
14 document being placed in evidence if counsel wants to read
15 from it. If it's not in evidence, it shouldn't be read
16 from. If in fact it's going to be read from, the entire
17 question and the entire answer ought to be read.

18 And in addition, it's not being used to
19 impeach upon the issue that counsel claims.

20 THE COURT: Up to now he's questioning
21 whether he made such a statement and later on if Government
22 counsel wants to offer it, you can and see maybe there will
23 be an objection to it, maybe there won't be. The jury
24 will have all that before them.

25 MR. DABROWSKI: My objection is then he's

1 reading from a document not evidence.

2 MR. WEINGLASS: That's a false
3 objection, counsel knows it. I'm entitled to impeach
4 this witness with testimony under oath from a grand jury
5 transcript without offering the entire transcript,
6 Government counsel knows that.

7 THE COURT: You may ask the question, did
8 you ever tell the grand jury and you can state what such
9 and such whatever it was said. And that will be permitted.
10 If you're going to start to quote at great length from the
11 document, then it would be necessary the document should
12 be in evidence as an exhibit because you are not supposed
13 to read from something that isn't an exhibit. But the
14 point is you can ask the question that you have so far
15 legitimately, but if you wanted to quote at length from
16 it, the document would have to be in evidence.

17 MR. DABROWSKI: Your Honor is exactly
18 correct. If he purports to read from a document as part
19 of his question, and leaves out, in this case, Line 14 --

20 MR. WEINGLASS: Your Honor, this -- I am not
21 leaving out and we'll get to this in a minute.

22 MR. DABROWSKI: I'd like to finish my
23 objection.

24 MR. WEINGLASS: This is very improper, Your
25 Honor. Your Honor doesn't permit counsel in front of the --

1 THE COURT: The young lady can't take down
2 two of you speaking. The point is the Court is going to
3 rule that you can make the offer and you can ask the
4 question. The objection of the Government is overruled at
5 this point.

6 MR. WEINGLASS: That should end it.

7 THE COURT: If they want to offer the
8 whole thing later, you can object to its being offered.

9 MR. WEINGLASS: Precisely. Okay.

10 THE COURT: I want to warn both
11 counsel, when the Court is speaking, you are to keep
12 quiet, both of you, as a matter of courtesy.

13 MR. WEINGLASS: I think when the Court
14 rules, we're to abide by it, and not add.

15 THE COURT: Very well.

16 Q. (By MR. WEINGLASS) Now, Mr. Cox, you told this
17 jury you visited him twice in Puerto Rico?

18 A. Yes.

19 Q. How many times did you tell the grand jury?

20 A. More than twice I visited him in Puerto Rico,
21 while I was there.

22 Q. But you told this jury?

23 A. More than four times, while I was in Puerto
24 Rico, I visited the Segarras and Juan Segarra.

25 Q. When you say more than for times, you mean

- 1 just dropped in?
- 2 A. Every day almost.
- 3 Q. How many times did you go to Puerto Rico and
4 drop in every day?
- 5 A. Two times.
- 6 Q. And the other times?
- 7 A. I was just passing through.
- 8 Q. Just passing through?
- 9 A. (Nodding affirmatively).
- 10 Q. You're sure of that?
- 11 A. Yes.
- 12 Q. Do you remember you told the FBI the first time
13 -- I'm sorry, not the first time, the third time you met
14 with them, that on five occasions you stayed for more than
15 a month?
- 16 A. No, I never said that.
- 17 Q. You never said that to the FBI?
- 18 A. I never said that on five occasions I've
19 stayed more than a month. On two occasions and the first
20 occasion was about a month, the second one was about three
21 and a half weeks to a month, to four weeks.
- 22 Q. Did you tell the FBI when you got \$315 on May
23 29th, 1985 that you visited him eight times?
- 24 A. No, I did not. No, no.
- 25 Q. You're sure of that?

1 A. Yes.

2 Q. If they wrote that down in the interview
3 notes, the agent would be mistaken?

4 A. Well, somebody would be because I never made
5 that statement that I visited him eight times, no.

6 Q. No, and you never said to the FBI you stayed
7 there for more than a month or five separate occasions?

8 A. No, I never said that to anybody.

9 Q. The agent who paid you \$315 for that
10 information on May 29th would have written that down wrong
11 also?

12 A. I never said I stayed there for that many times
13 for that length of time.

14 Q. Okay. Did you tell the grand jury your
15 marital status?

16 A. Yes, I did.

17 Q. What did you tell the grand jury your
18 marital status was?

19 A. That I have a common law wife and we have two
20 children.

21 Q. Did you tell him you were married?

22 A. Yes, I am married.

23 Q. Right. And that you told him that you had two
24 children?

25 A. Yes.

1 Q. Did you tell the FBI, Special Agent Baker
2 again, the man with the lie detector, that you were single
3 and had three children just about two months before?

4 A. I have been married twice. I've got three
5 children by a first wife and two by a second wife.

6 Q. Did you tell the FBI you were single on June
7 11th, 1985?

8 A. In Massachusetts, they don't recognize common
9 law in Massachusetts, but in the state where I reside they
10 do.

11 Q. I see. So you told --

12 A. At that time I was single.

13 Q. So you were single in June when you talked to
14 Agent Baker and you were married in August of '85 when you
15 talked to the grand jury?

16 A. Yes.

17 Q. Your status changed?

18 A. Yeah.

19 Q. How did it change?

20 A. Because I moved to a state where they recognize
21 common law marriage.

22 Q. I see. So when did you move?

23 A. In -- sometime that summer. You know, I
24 commute, I travel, I do a lot of traveling.

25 Q. You do a lot of traveling?

1 A. Yes.

2 Q. Tell us where you've been to traveling?

3 A. Around the United States. For security
4 reasons, I'm not going to say in particular. This is a
5 very dangerous situation that we're discussing here.

6 Q. Right. Prior to May of 1985, where had you
7 traveled; prior to your coming to the FBI?

8 MR. DABROWSKI: Objection, irrelevant, Your
9 Honor.

10 MR. WEINGLASS: All right, I'll tie it up,
11 Your Honor.

12 THE COURT: The Court will allow it within
13 reason, we'll see how far counsel takes him.

14 Q. (By MR. WEINGLASS) Where did you travel?

15 MR. DABROWSKI: Objection.

16 Q. (By MR. WEINGLASS) Prior to May of '85?

17 A. Around the United States.

18 MR. DABROWSKI: Objection.

19 THE COURT: There is an objection. What is
20 your objection, Counsel?

21 MR. DABROWSKI: The question as phrased is
22 far too broad to be relevant. The Court rules he would
23 permit an answer that was reasonable. The question
24 solicits an answer that is not reasonable, it's far too
25 broad. It seeks travel anywhere he ever went in his life

1 prior to that period of time. No relationship whatsoever
2 to this case.

3 THE COURT: He says he's been in St. Croix,
4 he's been in Puerto Rico, he's been --

5 THE WITNESS: The United States, Canada.

6 THE COURT: And he's entitled to have some
7 leeway in questioning credibility so he's entitled to have
8 some leeway in questioning about what kind of a life-style
9 he had within reason. I'm not going to go into everyplace
10 he visited and what he saw or said to each person or
11 for whom he worked each time or the like. But within
12 reason, the Court will allow it, we'll see how far you
13 carry it.

14 MR. WEINGLASS: Okay.

15 Q. (By MR. WEINGLASS) Where in the United States
16 had you traveled prior to May of '85?

17 A. From north to south, east to west.

18 Q. That pretty much covers it. Any part of the
19 United States you hadn't been in?

20 A. There are states I haven't been in.

21 Q. Like what states?

22 A. A lot of them.

23 Q. We'll get back to that in a moment.

24 Who is Julio Rivera?

25 A. Julio Rivera?

1 Q. Yes.

2 A. I'm not sure but if I had that document, I'd
3 be able to show you that Julio Rivera was a name on a
4 registration on an automobile that Mr. Segarra gave me
5 that he said was involved in the Wells Fargo robbery.

6 Q. I see. What registration?

7 A. It was a 1973 Buick Regal. It's on file at the
8 registry in Massachusetts.

9 Q. Where does Julio Rivera live?

10 A. I really didn't know. It had a Brooklyn
11 address.

12 Q. Brooklyn, New York?

13 A. I don't know if he lived there. The
14 registration said Brooklyn.

15 Q. You told the FBI that he was from New York?

16 A. I didn't tell the FBI Julio was from anywhere.
17 I told the FBI that Juan Segarra gave me a car that he
18 said was used in the transportation of the money from the
19 Wells Fargo and he turned the car over to me after he said
20 he had no further use for it. And I registered the car and
21 the registration that he had gave me had the name Julio
22 Rivera on it. And Mr. Segarra made me out a bill of sale
23 so therefore I could, in fact, reregister the car into the
24 name that was on the bill of sale.

25 Q. Okay.

1 A. That's what I recollected the name Julio
2 Rivera.

3 Q. You never told the FBI Julio Rivera lives
4 in Springfield, Massachusetts, did you?

5 A. I think I did say Julio Rivera did live in
6 Springfield. But I wasn't sure where he lived. He
7 probably travels like I do, you know, so really it could
8 be here today and there tomorrow.

9 Q. But you told the FBI Julio Rivera, this fellow
10 lives in Springfield, didn't you; now you're telling this
11 jury he lives in Brooklyn?

12 A. I'm saying the name on the registration Julio
13 Rivera, was a Brooklyn address.

14 Q. Mr. Cox, did you tell the FBI this man lives in
15 Springfield, Massachusetts?

16 A. I don't think I said that in fact. I might
17 have said I had an idea that, you know, he might have lived
18 in Springfield.

19 Q. Who is Ramon Cruz?

20 A. What was the question?

21 Q. Who is Ramon Cruz?

22 A. I think Ramon Cruz was another name I heard
23 mentioned about Springfield.

24 Q. Did you tell the FBI where Ramon Cruz lived in
25 New York?

1 A. It's possible.

2 Q. Aren't you a little confused?

3 A. No, I'm not confused.

4 Q. Okay.

5 A. But it's been -- this is, you know, that was
6 just hearsay. Mr. Segarra mentioned a lot of things, I
7 couldn't remember all of them.

8 Q. It wasn't you that gave the FBI two made up
9 names and placed them in various places and got confused
10 yourself in where you put them?

11 A. No, no.

12 Q. Okay. Did you ever meet these people?

13 A. No.

14 Q. Now, the first time you talked to the FBI on
15 May 24th, 1985, did you tell them you made this alleged
16 trip with Mr. Segarra to Hartford?

17 A. That was a fact.

18 Q. Right. That's what you're saying?

19 A. Yes.

20 Q. Did you tell them you made that trip according
21 to your story, the second week of July?

22 A. It was in July. I'm not really certain of the
23 dates and all of that.

24 Q. You're sure it was in July?

25 A. It was on Sunday morning, too.

1 Q. In July?

2 A. Yes.

3 Q. You know you told this jury on Thursday it was
4 in August?

5 A. When I came down here to participate in what I
6 was supposed to participate in, that was in August.

7 Q. Right. Did you tell the FBI that you went
8 there the second week of July and one week later which
9 would still be in July, you thought you came back to
10 Hartford alone?

11 A. I did come back to Hartford alone in a rented
12 car that you just showed me the receipt for.

13 Q. Was that in July?

14 A. It was in the summer of '83.

15 Q. That's the best you can do for us, isn't it?

16 A. I'm not going to make up dates that I really
17 don't recollect but I can positively recollect the
18 incident.

19 Q. Right. But if you told the FBI back in 1985,
20 three years ago almost, that you thought you came down to
21 Hartford, according to your story in July, would that be
22 true or would the story you gave this jury be true?

23 A. I came down to Hartford in the summer of '83.

24 Q. But when --

25 A. To participate --

1 Q. You didn't say to the FBI in '85 that you came
2 down in the summer. You said according to you, you made a
3 trip with Mr. Segarra, that's your story, the second week
4 of July?

5 A. No, I don't recollect if I said the second week
6 of July. I might have said the month of July.

7 Q. If the FBI wrote down in that interview that
8 you said the second week of July and gave you \$200 for that
9 information, you would say the FBI was mistaken?

10 A. Could you repeat that question again, please?

11 Q. Yes. If the FBI wrote down in their notes that
12 you said you made this alleged trip the second week of
13 July, the FBI agent would be mistaken who wrote that?

14 A. Well, I could have been the one that was
15 mistaken on the date, but it was the summer of '83.

16 Q. But when Mr. Dabrowski on Thursday asked you in
17 front of this jury when it was that you claim you came to
18 Hartford, the story you told, you didn't say it was the
19 summer, you said it was August?

20 A. Yeah, I came to Hartford in August.

21 Q. Why did you say in August when you were here
22 before this jury, but July with the FBI?

23 A. I might have not recollected the -- like the
24 dates and things you're putting on it, but that incident
25 happened.

1 Q. Right. Did you talk to anybody in the
2 Government just prior to your testimony about your
3 testimony?

4 A. No, I did not. You asked me that question
5 earlier, I answered no. I'm answering no now.

6 Q. I don't mean today, I mean, Mr. Cox, before you
7 testified on Thursday?

8 A. No.

9 Q. You didn't talk to anyone in the Government
10 about your testimony before you testified on Thursday of
11 last week?

12 A. Before I testified on Thursday of last week?

13 Q. Yes.

14 A. I was shown the grand jury testimony by the
15 U. S. Attorney.

16 Q. You were?

17 A. Prior to that.

18 Q. You were shown that testimony?

19 A. Yes.

20 Q. Were you shown anything else?

21 A. No.

22 Q. No other documents?

23 A. No.

24 Q. Not this car rental agreement?

25 A. I wasn't shown that until in the court.

1 Q. Until you were here?

2 A. In court, yes.

3 Q. Did you read your grand jury testimony before
4 you testified?

5 A. Yes, I did.

6 Q. Did you go over it with the prosecutor?

7 A. Not in detail.

8 Q. All right. How much time did you spend with
9 the prosecutor before you testified last Thursday?

10 A. Maybe an hour and a half.

11 Q. Did you spend anytime with Agent Cronin, the
12 agent who had paid you?

13 A. No, sir.

14 Q. No time with him about your testimony?

15 A. No, sir.

16 Q. Were you shown the FBI agents' notes of their
17 interviews with you?

18 A. No, sir.

19 Q. You were not shown those, right?

20 A. No, I wasn't.

21 Q. Now, how many times did you meet with the FBI?

22 A. How many times in what --

23 Q. In these meetings that you had with the FBI?

24 A. When?

25 Q. Prior to your testimony before the grand jury?

1 A. So you're saying that's from -- on the -- well,
2 this here will give you an idea some of the meetings.
3 Count the dates and the times on here.

4 Q. Because every time you met with the FBI you
5 were paid in cash?

6 A. No, not every time.

7 Q. Okay. Sometimes you extended credit?

8 A. No, I didn't extend credit.

9 Q. You were just on a straight cash for
10 information basis?

11 A. No, not all the time.

12 Q. Okay. Now, you met with them on May 24th,
13 1985, right?

14 A. Yes.

15 Q. And on May 28th?

16 A. Yes.

17 Q. On May 30th?

18 A. Yes.

19 Q. June 4th?

20 A. Yes.

21 Q. July 18th?

22 A. I don't see where it says July 18th on here.

23 Q. That might have been a time you met with them
24 and they didn't give you cash. Do you see July 19th?

25 A. Yes -- wait a minute, wait a minute. No, I

1 don't.

2 Q. Were you always meeting with Agent Cronin?

3 A. The majority of the time.

4 Q. Who else were you meeting with in the FBI?

5 A. Special Agent John Huyler.

6 THE COURT: I didn't get that name.

7 THE WITNESS: Huyler.

8 THE COURT: Spell it.

9 THE WITNESS: H U Y L E R.

10 Q. (By MR. WEINGLASS) When you were meeting with
11 the agents were there two of them present or one?

12 A. The majority of the times it was two present.

13 Q. Now, how would you know when and where to meet
14 with the agents?

15 A. From calling.

16 Q. You would call the agents?

17 A. Yes.

18 Q. And what would you say, "I need some money"?

19 A. No.

20 Q. What would you say?

21 A. I really couldn't recollect anything I said but
22 I didn't call and said I need money because, you know, if
23 that was the case, I'd call every five seconds and say
24 I need money.

25 Q. So you kind of spaced it out a little?

1 A. No, I didn't space out anything. It's the
2 Justice Department was in charge of this, running this
3 investigation.

4 Q. But you would call in and arrange a meeting?

5 A. When they were interested in having a meeting,
6 not at my discretion.

7 Q. You would initiate the call and they would tell
8 you whether or not they wanted to meet with you?

9 A. Yes, because I didn't have any place where they
10 could call me because I travel a lot.

11 Q. Okay. We'll get into that in a moment.

12 Now, I'd like to show you this rental
13 agreement. Did it help refresh your recollection about
14 what date you claim you made a trip to Hartford?

15 A. Yes, it did.

16 Q. Okay. Had you been to Hartford before?

17 A. Yes.

18 Q. Well, tell us about your familiarity with
19 Hartford?

20 A. I'm not too familiar with Hartford. Just in
21 the sixties, it was about '65 was the first time I came to
22 Hartford. And it was mainly in the, you know, what do you
23 call that section around North Main Street? Albany Avenue,
24 what section is that?

25 Q. Yes, Main Street and Albany?

1 A. That section in downtown, that was my
2 familiarity with Hartford and the times I came here after
3 that, too.

4 Q. What were you doing here coming here in the
5 sixties?

6 A. Visiting friends.

7 Q. Do you have family here in Hartford?

8 A. No.

9 Q. So you would come down and visit friends?

10 A. Uhm-hmm.

11 Q. You got to know part of Hartford?

12 A. Just that section.

13 Q. Downtown?

14 A. Yes.

15 Q. And north?

16 A. Uhm-hmm. I didn't really get to know it, I
17 just had, you know, a concept of, you know, where I was
18 geographically.

19 Q. How many times did you come to Hartford?

20 A. Referring to the Wells Fargo case or before
21 this?

22 Q. Before?

23 A. I couldn't even count them.

24 Q. A lot?

25 A. No, I wouldn't say a lot.

1 Q. But you couldn't count them?

2 A. No, but it wasn't a lot. It was insignificant
3 for me to even keep count on something like that.

4 Q. Right. Okay. Between what period of time did
5 you come down to Hartford when you were visiting your
6 friends?

7 A. In the sixties, through the years of the
8 sixties.

9 Q. The years of the sixties, okay.

10 Now, you did indicate last Thursday that with
11 respect to this trip you claim you made to Hartford, that
12 your memory was refreshed as to what date you made the
13 trip by looking at the rental agreement?

14 A. Yes, it was. By looking at the rental
15 agreement.

16 Q. By looking at the rental agreement?

17 A. Uhm-hmm. It gave me, you know, the dates on
18 there.

19 Q. So although you had told the FBI that you think
20 you made this trip the second week in July, when you looked
21 at this rental agreement and saw August 29th, you said,
22 "Oh, that must have been the date"?

23 A. No, that's the date that I rented the car.

24 Q. Yes.

25 A. And that was the date I was supposed to -- that

1 I, in fact, that evening met Juan Segarra in Hartford at
2 McDonald's and that did happen.

3 Q. Right. You claim that happened. Incidentally --

4 A. I know that happened for a fact.

5 Q. Okay. We'll get to that.

6 You said you met someone else also, right?

7 A. Yeah, but I can't remember. It was just a
8 flash thing, you know, and --

9 Q. Just a flash?

10 A. The person I was shown -- you know, just look
11 at you quick, I can remember if I seen you that night
12 again, but --

13 Q. Just looking this quick?

14 A. Yeah, I can remember your face.

15 Q. Good, okay.

16 A. That's how that happened that night.

17 Q. Good. Did you meet Victor Gerena that night?

18 A. No, I did not.

19 Q. Okay. As a matter of fact, your friend, you
20 claim Juan Segarra is the only one you can actually say
21 you were involved with, no one also?

22 A. That's a fair statement.

23 Q. All right. Now, about this rental agreement
24 which is Government Exhibit 58 in evidence, what was the
25 year of the car that you rented on August 29th? This will

1 help.

2 (Handing)

3 A. I think it was the year, whatever year that
4 was.

5 Q. A new car, a red Zephyr?

6 A. Yeah, Mercury Zephyr.

7 Q. New, right? Only had 17,000 miles on it?

8 A. Yeah, this says seventeen.

9 Q. 072?

10 A. Yes, it does.

11 Q. And you told this jury that when you rented
12 this new car from Minicost, you didn't have a credit card?

13 A. No, I did not. I had to file a previous
14 application for a credit check, then they notified me that
15 they would accept cash.

16 Q. Who did you apply to for the credit card?

17 A. No, I didn't apply anywhere for a credit card.
18 Minicost had me fill out a little -- some type of
19 application that they do a credit check.

20 Q. I see.

21 A. Then they let you know if they will accept
22 cash.

23 Q. Now, when did you fill that application out for
24 your credit card -- for your credit?

25 A. I filled it out previously to this, to renting

1 the car.

2 Q. How much previous?

3 A. Anywhere from a day to a week.

4 Q. Right. Now, you told the jury that you paid
5 \$200 in cash as a deposit for the car. That fact is not
6 the case, is it?

7 A. I had to leave a deposit and got a refund on
8 returning the car.

9 Q. Right, exactly. How much did you leave as a
10 deposit?

11 A. I said I thought I left \$200.

12 Q. Now that you see the rental agreement --

13 A. I don't even -- I still don't see it on here.

14 Q. Take your time and see if Minicost wrote down
15 how much of a deposit you left for a new red Mercury
16 Zephyr?

17 A. No, I don't even see it on here.

18 Q. Let me help you out.

19 A. Okay.

20 Q. Item Number 10 says, "deposit". Do you see
21 that?

22 A. Yes.

23 Q. Okay. How much did you leave?

24 A. This says \$70.

25 Q. Seventy dollars?

1 A. Yes.

2 Q. So Minicost gave you a brand new Mercury
3 Zephyr and you left a \$70 deposit?

4 A. Yeah, that's what this says.

5 Q. Had you done business with them before?

6 A. No, no.

7 Q. With other car rental agencies?

8 A. No.

9 Q. Can you explain how it was then that you were
10 able to drive out a new car leaving just \$70?

11 MR. DABROWSKI: Objection, Your Honor, he
12 would not have that knowledge. That would have to be
13 directed to Minicar or individuals from Minicar.

14 THE COURT: If he knows, maybe he said I
15 left my watch with them, a camera. I don't know what he's
16 going to say, he's entitled to ask them.

17 THE WITNESS: Could you repeat that
18 question, please?

19 MR. WEINGLASS: Yes, I'll adopt the Court's
20 question.

21 Q. (By MR. WEINGLASS) Did you leave a camera or a
22 watch?

23 THE COURT: I didn't mean to insert that,
24 Counsellor, I meant any other security.

25 MR. WEINGLASS: Your Honor raises it, I

1 think it's a good suggestion.

2 Q. (By MR. WEINGLASS) So you left -- they
3 accepted \$70 from you?

4 A. I assume so. That's what this says.

5 Q. Okay. Now, Mr. Cox, you said you did a lot of
6 traveling. I want to explore that a little with you.

7 You were arrested for shoplifting in Brighton,
8 right?

9 A. Yes.

10 Q. Massachusetts. Norwich, Massachusetts?

11 A. Norwich? Is that --

12 Q. Not --

13 A. Norfolk.

14 Q. What is the name of the town?

15 A. I don't know, you're asking the question.

16 Q. Natick?

17 A. Natick, how do you spell that?

18 Q. N A T I C K.

19 THE COURT: Natick.

20 Q. (By MR. WEINGLASS) Natick?

21 A. Yeah, that's right.

22 Q. You were arrested there?

23 A. Yes.

24 Q. You were arrested in Waltham, Massachusetts?

25 A. Waltham? Yes.

1 Q. You were arrested in Brighton?

2 A. Yes.

3 Q. You were arrested in Brooklyn, Massachusetts?

4 A. Brookline.

5 Q. Brookline?

6 A. Yes.

7 Q. Lowell, Massachusetts?

8 A. Yes.

9 Q. New Bedford, Massachusetts?

10 A. Yes.

11 Q. Cambridge, Massachusetts?

12 A. Yes.

13 Q. As a shoplifter, you would travel around so
14 you couldn't shop in the same store twice, right; you had
15 to move around a bit?

16 A. You didn't have to.

17 MR. DABROWSKI: Objection. Irrelevant, Your
18 Honor. We're not here to litigate the modus operandi of
19 an individual who engages in shoplifting. These questions
20 really are well beyond the scope of any legitimate
21 impeachment. They're permitted to be this broad because
22 the Government opened it up on direct.

23 THE COURT: He can ask in a different way.
24 That was part of your modus operandi to move around and
25 not go to the same place twice.

1 MR. WEINGLASS: Thank you, Your Honor. I
2 thought there was an objection with respect to modus
3 operandi but I agree with the Court it should be asked.

4 Q. (BY MR. WEINGLASS) Was it part of your modus
5 operandi to move around so you wouldn't be identified or
6 observed when you did your shopliftings?

7 A. No.

8 Q. That wasn't? As a matter of fact, Mr. Cox, you
9 did a lot of shoplifting and you didn't get arrested; these
10 are only the times you got caught?

11 A. I don't know. Can you prove that?

12 Q. No, I'm afraid I'm going to have to ask you, I
13 wasn't there.

14 A. No, those are just the ones, the ones I got
15 caught for.

16 Q. Every time you tried shoplifting, you got
17 caught?

18 A. The times there, yeah.

19 Q. You never did a shoplift and got away with it?

20 A. What type of shoplifting are you talking
21 about?

22 Q. Just take goods and not paying?

23 A. Yeah, when I was a kid I used to get away with
24 bubble gum and yo-yo's and stuff like that.

25 Q. Well, but moving off of yo-yo's, were there

1 times when you shoplifted more than bubble gum and yo-yo's
2 and got away with it as an adult?

3 A. No, the times I got arrested, they were on
4 that sheet that you just read on.

5 Q. Every time you shoplifted you got arrested?

6 A. No, I didn't shoplift as much as you're
7 insinuating.

8 Q. I have no idea of knowing.

9 A. That's right and I don't either.

10 Q. You don't know?

11 A. I just know the times when I got arrested.

12 Q. Okay. You don't remember once as an adult when
13 you took something from a store and didn't pay and got away
14 with it?

15 A. I really don't even remember.

16 Q. Right.

17 A. I --

18 Q. You have pretty bad luck?

19 A. Yeah, I did.

20 Q. Now, you even shoplifted at a federal
21 reservation, South Carolina?

22 A. Yeah, I did.

23 Q. That's pretty funny?

24 A. I had bad luck, too.

25 Q. You were being paid by the FBI then you went on

1 to a federal reservation and you helped yourself to what, a
2 computer?

3 MR. DABROWSKI: Objection to being paid by
4 the FBI, Your Honor. There is no evidence that at that
5 particular time he was receiving any funds whatsoever.

6 MR. WEINGLASS: I agree. The Government had
7 cut him off, require that he go on to a federal
8 reservation, steal a computer.

9 THE WITNESS: The Government never suggested
10 anything of that nature.

11 MR. DABROWSKI: Your Honor --

12 THE COURT: We're getting side tracked now,
13 Counsellor.

14 MR. DABROWSKI: Your Honor, I object to
15 these kind of comments by counsel. They're designed to
16 influence the jury. They're inappropriate, he knows that.

17 MR. WEINGLASS: It's all in the record, Your
18 Honor.

19 THE COURT: Specifically your point may be
20 well taken, but I think he's entitled to ask a question.
21 Was this a means of livelihood during this period of time
22 to shoplift and live off of that? I don't know. He's
23 entitled to ask that if he wants to.

24 MR. DABROWSKI: I have no objection. I
25 would not object to that question. I was objecting to a

1 specific question asked by counsel that was asked for a
2 specific reason and the reason he asked it was
3 inappropriate. I'd ask the Court to instruct him to
4 refrain from doing that in the future.

5 THE COURT: The specifics I can see would be
6 objectionable, but you can ask how did he live during that
7 period, do you have a job or did he just go to town and
8 shoplift, I don't know.

9 MR. WEINGLASS: We're going to get back to
10 it, but I'll adopt the Court's question, as I remember the
11 Court phrasing it.

12 Q. (By MR. WEINGLASS) Did you shoplift a computer
13 from a federal reservation?

14 A. No, I did not.

15 Q. Where did you shoplift the computer from?

16 A. I didn't shoplift a computer from anywhere.

17 Q. What did you do on the federal reservation
18 that you were arrested for?

19 A. I was arrested for shoplifting two Sony
20 Walkmans, radios.

21 Q. Two Sony Walkman radios. That was on a
22 federal reservation?

23 A. Yes, it was.

24 Q. How did you -- that was a Marine base at Parris
25 Island?

- 1 A. Yes, it was.
- 2 Q. How did you get on the base to shoplift some
- 3 Sonys?
- 4 A. You just drive through the security gate.
- 5 Q. And you went to where, the B X?
- 6 A. The P X.
- 7 Q. The P X. And you shoplifted in the P X?
- 8 A. Yes.
- 9 Q. Two Sony Walkmans?
- 10 A. Yes.
- 11 Q. You mentioned an involvement with a computer?
- 12 A. I didn't mention that, you did.
- 13 Q. Did you have an involvement with the computer?
- 14 A. In what respect, involvement with computer?
- 15 Q. In South Carolina somewhere?
- 16 A. Yes.
- 17 Q. Tell us about that.
- 18 A. I had bought a computer off a fellow and the
- 19 computer was stolen and I got arrested for receiving stolen
- 20 goods.
- 21 Q. That was an Apple computer?
- 22 A. No, it wasn't an Apple computer.
- 23 Q. What kind of computer was it?
- 24 A. It was a Tandy 100 -- Tandy 200.
- 25 Q. Right, okay. That happened after your work on

1 this case?

2 A. Yes.

3 Q. And your stealing the Walkmans from the

4 P X happened after your work on this case?

5 A. Yes.

6 Q. How far from your home in South Carolina is
7 Parris Island?

8 A. It might be twenty-two miles.

9 Q. Twenty-two miles?

10 A. I don't have a home in South Carolina.

11 Q. Where were you living at the time in South
12 Carolina?

13 A. I was renting a place.

14 Q. Where?

15 A. In Frogmore, South Carolina.

16 Q. It was twenty-two miles to Parris Island?

17 A. Roughly.

18 Q. How did you get there?

19 A. I drove there.

20 Q. Did you have a car in South Carolina?

21 A. Yes, I had access to cars.

22 Q. Did you buy a car in South Carolina?

23 A. No, I had access to cars.

24 Q. What do you mean by that?

25 A. I used friends' cars.

1 Q. Right. Isn't it fair to say, Mr. Cox, that
2 your method of operation was in connection with
3 shoplifting, to rent a car or acquire a car, drive away
4 from where you lived, and do the shoplifting in an area
5 away from where you lived which was a different area than
6 where you had previously been arrested? Wasn't that your
7 method of operation?

8 A. No, that -- I didn't really have a method of
9 operation.

10 Q. Did you have an operational car in the summer
11 of 1983?

12 A. In the summer of 1983?

13 Q. Yes.

14 A. Did -- now, what do you mean by operational
15 car?

16 Q. Did you have a car that would be able to drive
17 you from where you were living to a place outside the City
18 of Boston?

19 A. Yes, I did.

20 Q. What kind of a car was that?

21 A. It was an '83 blue Chevrolet Belair, an '81,
22 '81.

23 Q. Now, could you tell the members of the jury
24 and the Court why it was necessary for you to rent this
25 car on August 29th, 1983 when you had an operational car?

1 A. Because Mr. Segarra asked me to come to
2 Hartford in my car and I said my car really wasn't -- it
3 was operational but it wasn't running too good at that
4 time to chance coming to Hartford, a 200 mile drive to
5 Hartford and back to Boston.

6 So I says I'll rent a car. Then I says if
7 something happened, I wouldn't want may car to get hot
8 anyway.

9 Q. Speaking of getting hot, the reason why you
10 rented that car, August 29th, 1983 was because your car was
11 hot and you were engaged in your shoplifting and you needed
12 a car?

13 A. That's incorrect.

14 Q. Incorrect?

15 A. Yes, it is.

16 Q. Tell us how you got caught in Northampton,
17 Massachusetts on this petty shoplift in 1967; was it
18 because the car license was noted by someone and you got
19 caught?

20 A. Two days later in another area of western
21 Massachusetts.

22 Q. Because your car license was noted?

23 A. No, it wasn't my car.

24 Q. It was the other car license?

25 A. What other car?

1 Q. Your colleague's?

2 A. Yes.

3 Q. So it's important you learned in 1967 if you're
4 going to do shoplifting, that you have a car that can't be
5 traceable directly to you through your registration?

6 A. No, I didn't learn that.

7 Q. You didn't learn that. That was the only time
8 you did real time in Northampton, right?

9 A. Yes. Well, there are real times, an hour is
10 real time.

11 Q. I'm inclined to agree with you. But the only
12 time you got years?

13 A. No.

14 Q. You haven't been sentenced to years other than
15 that one time?

16 A. One year.

17 Q. But did you serve one year?

18 A. No, the parole system let's you go in half the
19 time.

20 Q. Okay. But in Northampton, Massachusetts, on
21 your petty shoplift, where you got caught because a car
22 license was noted, you did serve more than one year in
23 prison?

24 A. Yes, I did.

25 Q. You told the Court and the members of the jury

1 this was a petty shoplift?

2 A. No, I didn't say it was a petty shoplift,
3 that was a felony conviction. When you asked me last
4 Thursday, was I a convicted felon, I says yes, I was a
5 convicted felon because of that incident and because of the
6 dollar value of the merchandise. That's what I told the
7 Court and the jury.

8 Q. The transcript of your testimony, Thursday,
9 October 13th, beginning on Page 63, Line 23.

10 MR. WEINGLASS: Line 23, Your Honor, on
11 Page 63, question by Mr. Dabrowski, not by me. Line 22.

12 Q. (BY MR. WEINGLASS) "When was the next time you
13 were arrested?" Your answer, "In 1967 in Northampton,
14 Massachusetts". "Eventually from that arrest, that was in
15 '67, we got it postponed for a couple years and
16 eventually, I got four and a half to five years."
17 Question, "That was in '69?" Answer, "Yes." Question,
18 "Were a number of charges consolidated into a disposition
19 that caused you to do four and a half to five years?"
20 Answer, "Yes." Question, "Could you tell us what those
21 charges were?" Answer, "Petty shoplifting."

22 A. Yeah, that's right.

23 Q. So in Northampton, you were involved in a
24 petty shoplifting?

25 A. No, I didn't say I was involved in a petty

1 shoplifting in Northampton. I was involved as a convicted
2 felon because of the dollar value of the merchandise made
3 it a felony but no violence involved.

4 Q. In Northampton, was a yo-yo involved or bubble
5 gum, in that shoplift?

6 A. No.

7 Q. What was involved?

8 A. Diamond rings.

9 Q. Diamond rings. How many?

10 A. Four or five.

11 Q. You call that petty shoplifting?

12 A. No, I didn't call it petty shoplifting.

13 MR. DABROWSKI: Objection, Your Honor.

14 Counsel is mischaracterizing the testimony. If you read
15 the testimony, it does not stand for the purpose that
16 Mr. Weinglass states in his question.

17 MR. WEINGLASS: Your Honor, counsel -- this
18 is an improper form of objection, Your Honor. I'm going to
19 ask you to first tell counsel to not interrupt me; but
20 secondly, to advise counsel that objections which this
21 Court receives as appropriate are stated with either a
22 single sentence or a single word, as I have done and I've
23 tried to do. But argument in front of the jury under the
24 rulings of this Court is improper, and Government counsel
25 knows it. If he wants to go over this area in his

1 redirect, he may. But I've --

2 THE COURT: If you're going to do argument,
3 it should be done at side bar, not in the presence of
4 the jury.

5 MR. DABROWSKI: I was not arguing, Your
6 Honor. I was stating an objection to an improper question.

7 MR. WEINGLASS: The objection should be --

8 MR. DABROWSKI: Excuse me, Counsel, I'm now
9 speaking. I'd appreciate it if you wouldn't interrupt me.

10 MR. WEINGLASS: He's going to repeat the
11 wrong, it should be at side bar.

12 THE COURT: If it should be at side bar --

13 MR. WEINGLASS: He's only going to repeat
14 it.

15 MR. DABROWSKI: I know what I'm going to
16 say. It's not argument, it's not inappropriate, it can be
17 made right here.

18 I was objecting to an improper question that
19 phrased a transcript in an inappropriate manner and it's
20 as simple as that. It need not be argued further. I ask
21 we go onto the next question, counsel refrain from asking
22 those kinds of questions in the future.

23 THE COURT: Proceed with your next
24 question, let's proceed.

25 MR. WEINGLASS: Your Honor is the

1 Governor of what's proper and improper.

2 Q. (By MR. WEINGLASS) Four diamond rings, right?

3 A. It could have been four or five.

4 Q. It could have been five. Would you tell us how
5 that occurred?

6 A. Do I want to tell you how that occurred?

7 Q. Yes.

8 MR. DABROWSKI: Objection, Your Honor.

9 THE COURT: Make your objection at side
10 bar, because I don't know what's going to be stated.

11 MR. DABROWSKI: It's irrelevant, one word.

12 MR. WEINGLASS: That's proper.

13 MR. DABROWSKI: I can state the objection in
14 one word, Your Honor. I'm trying to save the
15 time of going to side bar.

16 THE COURT: What was the question again?
17 Read it back, please.

18

19 (Record read as requested)

20

21 THE COURT: How the robbery occurred?

22 MR. WEINGLASS: Yes, Your Honor.

23 THE WITNESS: We're not talking --

24 THE COURT: Just a moment now, just a
25 moment. Sustained, it's irrelevant to the issues that we

1 Q. Unfortunately, you're the only person we can
2 rely on, you were there. Can you tell us what ploy you
3 used to get those four to five diamond rings out of that
4 store?

5 A. What ploy who used?

6 Q. You and your colleagues?

7 A. What colleagues, how many colleagues?

8 Q. The other two.

9 A. What other two, who were they?

10 MR. WEINGLASS: Your Honor, I object. Will
11 the Court instruct the witness to answer?

12 THE COURT: Very simple question. The
13 question is this: Did you or your colleagues, if you want
14 to call them that -- if there were any, I don't know,
15 maybe you were all alone -- was deception the means by
16 which the rings were taken from the store? I wasn't
17 there, so I can't tell you.

18 THE WITNESS: How many colleagues are you
19 referring to?

20 THE COURT: Well, without -- we're not
21 interested in whether there was any colleagues. The
22 question was was there any deception used in taking the
23 rings from the store? You know what deception means, try
24 and fool somebody by some method.

25 THE WITNESS: It would be fair to say that

1 that deals with some of that.

2 Q. (By MR. WEINGLASS) Tell us about the
3 deception?

4 MR. DABROWSKI: Objection, irrelevant, Your
5 Honor.

6 MR. WEINGLASS: Deception --

7 THE COURT: Well, counsel is claiming
8 deception by the nature of it on the credibility issue
9 to determine whether or not any deception is being used
10 now or has been used in the past by this witness in his
11 becoming a witness in this case. That's what he's asking
12 about. I presume that's what he's pursuing.

13 MR. WEINGLASS: Precisely.

14 THE COURT: I think he should be given some
15 leeway. If there was deception, he can tell what he did.
16 I can imagine ten different ways one could go into a store
17 and pick up rings that were lying on the counter or got
18 them put there for display purposes to compare or the
19 like, and then pick them up and walk out.

20 I don't know what happened. I wasn't there.
21 But I think he's entitled to pursue was deception used to
22 procure possession of the rings.

23 MR. WEINGLASS: Exactly.

24 MR. DABROWSKI: Your Honor, I agree he's
25 entitled to pursue that particular question, I did not

1 object to it. He got an answer. It's an answer that he
2 liked, the answer is yes.

3 My objection goes to taking it beyond that for
4 to go beyond that, will require us to litigate every
5 offense that he's ever committed.

6 THE COURT: We don't intend to let counsel
7 do that. I don't think counsel intends to pursue it, do
8 you?

9 MR. WEINGLASS: No.

10 MR. DABROWSKI: It's to that I object, not
11 to the question of deception.

12 THE COURT: Limit it to this, what
13 deception, if any, was used with the jewelry store owner
14 or clerk or whatever it was that permitted you to, you or
15 whoever was with you, to abscond, take out the rings?

16 THE WITNESS: He happened to be in the back
17 of the store and I just picked them up and put them in my
18 pocket.

19 THE COURT: The man went to the back of the
20 store?

21 THE WITNESS: He was in the back of the
22 store when I came in, the front door was open.

23 THE COURT: Were they on the counter?

24 THE WITNESS: In the display case, in the
25 front window.

1 THE COURT: In the front window.

2 THE WITNESS: Yes.

3 THE COURT: I see. All right.

4 Q. (By MR. WEINGLASS) Were you alone?

5 A. No, I wasn't.

6 Q. You don't recall one of the three of you acted
7 out a seizure which distracted the owner/salesman and the
8 other grabbed the rings and ran?

9 A. He didn't really have to act on a seizure
10 because the fellow didn't see, before he got to him to
11 really do that, I had already picked the rings up.

12 Q. Was that the plan?

13 A. Similar, yeah, something like that, but that
14 wasn't needed.

15 Q. So there was a plan to deceive and you're
16 telling the Court and the jury that wasn't needed?

17 A. Because it happened so fast but there was a
18 plan.

19 Q. There was a plan. So you were involved in a
20 plan to deceive in order to acquire money?

21 A. What are you referring that question to?

22 Q. The Northampton case?

23 A. Not to obtain money, merchandise.

24 Q. Merchandise?

25 A. Yes.

1 Q. What did you do with the diamond rings?

2 A. We split them up.

3 Q. And you sold them?

4 A. Yes.

5 Q. For money?

6 A. Yes.

7 Q. More recently you were involved with a
8 possession of what the police believed to be heroin, Class
9 A substance?

10 A. How recently are you referring to?

11 Q. 1986?

12 A. Yes, but it wasn't a Class A substance, it was
13 what they call on the street, it was a burn, it was
14 crushed up aspirins made to resemble a white powdery drug
15 substance such as speed, heroin, cocaine.

16 Q. Was this another act to deceive on your part?

17 A. Was what an act to deceive?

18 Q. Were you trying to tell someone that you had
19 heroin for sale when all you had was crushed up aspirin?

20 A. No, I was not.

21 Q. What do you mean by a burn?

22 A. That I bought it from someone and I got found
23 in possession with it and it wasn't any substance, it was
24 crushed up aspirins.

25 Q. Why were you buying heroin the year after you

1 started working with the FBI?

2 A. I was doing a favor for someone. I was
3 purchasing it for someone with their money.

4 Q. Pardon?

5 A. Purchasing it for someone with their money.

6 Q. You were purchasing what you thought was
7 heroin?

8 A. Yes.

9 Q. For someone else?

10 A. Uhm-hmm.

11 Q. With their money?

12 A. Uhm-hmm.

13 Q. That's when you got arrested?

14 A. Yes.

15 Q. About this charge of procuring in New York,
16 where you told us that you were asking a guy if he wanted
17 to buy a girl, do you remember telling us that?

18 A. Yes, I do.

19 Q. Incidentally, who was the girl involved?

20 A. It could have been one of a thousand girls on
21 7th Avenue at that time.

22 Q. So you weren't working with any particular
23 girl?

24 A. No.

25 Q. I see. Were you actually trying to get someone

1 to buy a girl?

2 A. Well, that's what all those guys who were
3 coming down there were willing to do with that in mind.

4 Q. Were you trying to fool someone into thinking
5 you could provide a girl or were you actually going to
6 provide a girl?

7 A. I was actually going to provide a girl.

8 Q. You don't know who the girl was?

9 A. No, it would have been any one of a thousand
10 who I told her that this fellow was interested.

11 Q. How long were you engaged in that activity?

12 A. One night.

13 Q. Again, this is the only time you tried this and
14 you got caught, is that what you're saying?

15 A. Yes.

16 Q. You never did it and didn't get caught, is that
17 your testimony?

18 A. No.

19 Q. Pardon?

20 A. No.

21 Q. Who were you buying what you thought was heroin
22 for in 1986 when you got arrested?

23 A. I was buying --

24 MR. DABROWSKI: Objection, irrelevant, Your
25 Honor.

1 MR. WEINGLASS: It goes to credibility, Your
2 Honor.

3 THE COURT: I think it's close, sustain the
4 objection. We're taking this too far afield.

5 MR. WEINGLASS: Your Honor, I'm going to
6 move into another area.

7 THE COURT: It's now 11:30, it's very close
8 to it, we'll take our usual recess. The jury will now be
9 excused.

10

11

(Jury excused)

12

13

14

THE COURT: Recess until quarter of twelve,
Mr. Bailiff.

15

16

17

18

(Recess)

19

20

21

22

23

24

25

MR. BERGENN: Your Honor, I would request
five minutes. I was just shown a document that may be used
during cross examination and I'd like to have an
opportunity, if I might, to be able to discuss it with
defense counsel because it affects not just Mr. Segarra's
case.

1 THE COURT: We'll give you two minutes,
2 I'll sit here and wait while you read it. You've had
3 fifteen minutes.

4
5 (Pause in proceedings)
6

7 MR. BERGENN: Thank you, Your Honor.

8 MR. WEINGLASS: Thank you, Your Honor.

9 THE COURT: All right. Call the jury
10 please, and then the witness.

11
12 (Whereupon the jury
13 was brought into the courtroom)
14

15 THE COURT: All right. You may proceed,
16 Counsellor.

17 MR. WEINGLASS: Thank you, Your Honor.

18 Q. (By MR. WEINGLASS) Mr. Cox, on this rental
19 agreement which has been marked Government Exhibit 58, do
20 you use the name Kenneth Cox?

21 A. No, I use the name James Cox.

22 Q. That's one of your aliases?

23 A. Yes, it is.

24 Q. Incidentally, we got new information from the
25 Government this morning. Did you ever use the alias Irving

1 Jones?

2 A. Irving Jones?

3 Q. Yes.

4 A. Yes.

5 Q. Okay. That was one we didn't go over the

6 other day. You also used the alias Kenneth Michael

7 Thomas?

8 A. Yes.

9 Q. Those are two more. On that rental agreement,
10 you put your birth date or your birth date is shown, I
11 should say?

12 A. Yeah.

13 Q. What date?

14 A. 8/23/44.

15 Q. Is that your birth date?

16 A. No.

17 Q. That's a false birth date?

18 A. And that's a false name and a false birth date.

19 Q. A false name and a false birth date that you
20 gave the officials of the state of Massachusetts when you
21 applied for a license?

22 A. Yes.

23 Q. Have you also used the birth date of December
24 24th, 1944?

25 A. Yes.

1 Q. Have you used the birth date of December 29th,
2 1944?

3 A. Yes.

4 Q. Have you used the birth date of August 23rd,
5 1942?

6 A. Yes.

7 Q. Have you used the birth date of August 27th,
8 1942?

9 A. August 27th?

10 Q. Yes. 8/27/42?

11 A. It's possible.

12 Q. How is it, could you explain to the Court and
13 jury, you've used all these different birth dates?

14 A. Well, when I got released from prison when I
15 did that time, I just said that four and a half to five
16 years, I changed that so it wouldn't indicate that I have a
17 record when you apply for different things.

18 Q. That was to fool a prospective employer?

19 A. No. I've always been self-employed.

20 Q. Pardon?

21 A. I've mostly been self-employed, so it wasn't
22 to fool a prospective employer.

23 Q. Who, if anyone, was it intended to fool?

24 A. No one in particular.

25 Q. Just everyone?

1 A. No, not everyone. It wasn't to fool anyone.
2 It was just a starting over.

3 Q. Right. Then could you explain all the other
4 six birth dates, why you adopted those?

5 A. At different times when I got arrested for
6 shoplifting, to keep them from finding out about other
7 things, you use a different name and a different date of
8 birth.

9 Q. Right, it's fair enough.

10 In other words, after you were arrested on
11 various occasions, in order to fool law enforcement and
12 deceive a Court, you would use another name and a different
13 birth date?

14 A. True.

15 Q. How many courts have you deceived in the
16 course of your --

17 A. I don't know.

18 Q. -- twenty-one arrests?

19 A. I really couldn't pinpoint that.

20 Q. It would be hard to keep track of?

21 A. It would be -- not each particular situation, I
22 couldn't -- I don't remember all of them.

23 Q. Yes. How many different police departments or
24 law enforcement agencies did you deceive?

25 A. Really I didn't deceive any because when they

1 fingerprinted you, they find out who you are.

2 Q. Right. But when you started with them, you
3 would give them a false name and false birth date?

4 A. Yes.

5 Q. Then get caught?

6 A. Yes.

7 Q. By the fingerprint?

8 A. Yes.

9 Q. So you tried to deceive them, right?

10 A. Yes.

11 Q. It didn't work?

12 A. True.

13 Q. When you were about to take the lie detector
14 test which we'll get to --

15 A. Did you want the information on the lie
16 detector test, do you want to talk about that?

17 Q. Oh, yes, we'll be getting to that momentarily.

18 A. You want to talk about the airport and
19 everything else, right?

20 Q. Yes.

21 A. Okay, good.

22 Q. We're going to get to that momentarily.

23 A. Very good.

24 Q. Did you tell the person who administered it
25 that you made your living by stealing, boosting, B O O S T

1 I N G, and mostly illegal type jobs?

2 A. No, I don't recollect telling them that. I
3 make my living selling flowers.

4 Q. So if the agent wrote that down, as your
5 previous employment several part-time jobs, mostly illegal
6 type jobs, stealing, boosting --

7 A. Illegal type? What type of illegal part-time
8 jobs?

9 Q. Well, he didn't mention it, but --

10 A. You're mentioning it now. Could you specify
11 which particular legal part-time jobs you're referring to?

12 Q. Shoplifting.

13 A. I never referred to that as a part-time job.

14 Q. Did you use the word boosting when you were
15 interviewed by Agent Baker before you took the lie
16 detector test?

17 A. I could have. And I used the word
18 shoplifting, I could have said boosting or creeping.

19 Q. All right. Now, will you tell the jury what
20 the word boosting means? You didn't know it about an hour
21 or so ago.

22 A. I have an idea that it's along the lines of
23 shoplifting.

24 Q. I see. Okay. Incidentally, when you were
25 arrested up in Northampton on this four diamond rings, did

1 the Court order you that you be mentally examined?

2 A. Yeah, they did have someone from the
3 Department of Mental Health give a brief interview.

4 Q. Do you remember that interview?

5 A. No, I don't.

6 Q. At that time were you a heroin addict?

7 A. At that time I was indulging in different
8 drugs, yes, I was. But I wasn't an addict.

9 Q. Let's get specific. Were you taking heroin?

10 A. Yes, I was.

11 Q. And you had been taking it for a number of
12 years before?

13 A. No, no, no. Not a number of years.

14 Q. How many years?

15 A. It didn't even amount to years.

16 Q. How many months?

17 A. Maybe eighteen months.

18 Q. That's more than one year?

19 A. Yes, it is.

20 Q. Might you have told the person who administered
21 the exam to you in 1969 that you were using heroin since
22 you were twenty-two and that the last time you used it was
23 ten days ago?

24 MR. DABROWSKI: Objection to the form of the
25 question, Your Honor. Mr. Weinglass is making it a point

1 to read from a document which is not in evidence. He
2 can cross examine on this issue, he can ask appropriate
3 questions but this is not the appropriate way to ask this
4 question.

5 THE COURT: Well if he wants to put the
6 document in evidence, of course, and you have no objection,
7 he's privileged to do so. But he's entitled to ask
8 preliminary questions as to what he told at the time of
9 certain examinations by doctors, if there were such, or
10 interrogators that are a matter of record, he can either
11 deny it or admit it. If he denies it, then he can offer
12 the document.

13 MR. DABROWSKI: Until that point, he can't
14 offer the document or read from the document which is not
15 in evidence, and that's my objection, Your Honor.

16 THE COURT: He hasn't offered it yet.

17 MR. WEINGLASS: Thank you, Your Honor.

18 THE COURT: He hasn't offered the document
19 yet.

20 Q. (By MR. WEINGLASS) Did you tell the examining
21 mental worker up in Massachusetts that you had been using
22 heroin since you were twenty-two years of age?

23 A. I don't recollect telling him any specific age.
24 He could be -- he probably was in error on that.

25 Q. He was in error?

1 A. Uhm-hmm. Because I didn't tell him any
2 specific age.

3 Q. When did you start using heroin?

4 A. I don't even remember.

5 Q. Was it in your early twenties?

6 A. That's about a fair statement.

7 Q. This year, March 19th, to be exact, you were
8 arrested in Port Royal, South Carolina. Do you recall what
9 that was for?

10 A. D U I.

11 Q. D U I?

12 A. D U I.

13 Q. What does that mean?

14 A. Drinking and driving.

15 Q. Had you been drinking?

16 A. Yes, I was at that time.

17 Q. Had you been taking drugs also?

18 A. No, sir.

19 Q. Okay. Do you recall in the interview with the
20 health worker in Massachusetts that you said you don't
21 drink alcohol?

22 A. I didn't drink at that time, I was just using
23 heroin. I did one thing at a time.

24 Q. Okay. So your arrest for driving under the
25 influence was about five months ago?

1 A. Yeah, that's kind of close to the time.

2 Q. That was after you started with the FBI, isn't
3 that correct?

4 A. Yes, it is.

5 Q. Now, after you started with the FBI, you've
6 been arrested a number of times, isn't that correct?

7 A. Yes.

8 Q. Would it be safe to say about eight times?

9 A. It would be safe to say between six to eight.

10 Q. With about five shoplifts?

11 A. Yes.

12 Q. Did you ever ask the FBI or anyone in the
13 Justice Department through your attorney to come to your
14 aid when you were in trouble in South Carolina?

15 A. I had made it known to the Justice Department
16 that I had a problem and that my life could be in danger
17 if I was incarcerated because I'm afraid of the Macheteros
18 because they're a dangerous organization.

19 Q. Did you ask Mr. Dabrowski, the attorney who
20 questioned you here in Court, to write a letter --

21 A. I didn't ask --

22 Q. A character letter to keep you out of jail in
23 South Carolina?

24 A. I didn't --

25 MR. DABROWSKI: Objection.

1 MR. WEINGLASS: I'll rephrase the question.

2 MR. DABROWSKI: I hope so, Your Honor, but
3 I would like to address this at side bar. There is a
4 continuing pattern here in these questions.

5 THE COURT: Side bar. So the jury may not
6 wonder what someone turned on, I didn't know it was here
7 either, but I understand the clerk arranged at side bar
8 when counsel is here to turn on some gadgets to give the
9 supposed sound of running water or falling water so the
10 jury could not hear what was being said at side bar. And
11 if you wonder what that noise is, that's what it's
12 supposed to be, all right. It's the first I've ever heard
13 of it, it's quite a surprise to me as it is to you.

14
15 SIDE BAR CONFERENCE

16
17 MR. DABROWSKI: Your Honor, I make these
18 observations at side bar because they're both general
19 and specific in nature. What is being considered here
20 is now quite a clear pattern by Mr. Weinglass of making
21 reference to documents that are not in evidence, docu-
22 ments whose value may very well be limited to
23 impeachment purposes only after the witness testifies
24 in a particular manner.

25 And these are references he's begun to make

1 these documents before they've ever been introduced and
2 indeed in most cases, they will never be introduced, none
3 have so far.

4 So my objection is what I'm going to see as an
5 instruction by the Court to counsel, not to refer to
6 documents that are not yet offered into evidence and not
7 to use documents and not to make reference in the
8 particular manner he has been to documents that he does
9 not intend to introduce into evidence.

10 He, for example, is characterizing a letter
11 which was written and which has been disclosed to him,
12 written by myself to Mr. Cox's public defender in South
13 Carolina, as a character letter. If the letter goes
14 before the jury, the letter will speak for itself. It's
15 inappropriate for him to characterize the document. It's
16 also inappropriate for him to characterize the document
17 prior to its admission into evidence or use.

18 He's done that, not only with regard to this
19 last question, but it's a pattern of conduct and I ask the
20 Court to order him to refrain from that.

21 MR. WEINGLASS: It might be that I have a
22 complete misunderstanding of the law. And if I do, I'm
23 willing to be corrected. The question I asked this witness
24 was did you ask someone in the Justice Department to write
25 a letter for you. I don't have to mark that letter, I

1 don't have to introduce that letter. That question goes
2 to the witness' bias. He's a Government witness, he asks
3 the Government for help. We don't need the letter, it's
4 that he made the request for help that goes to his bias.
5 That's number one.

6 Number two, I can always refer to documents
7 without marking them or introducing them by asking the
8 witness did you write such a thing, did you request such a
9 writing. It just goes to his credibility and his bias. I
10 don't have to produce the documents at all. If the
11 witness denies it, and I question the witness on the
12 document, I will mark the document. But I don't have to
13 introduce that document.

14 Your Honor, we have a fundamental difference.
15 It's my understanding that I can cross examine him on
16 grand jury transcript testimony without putting the entire
17 transcript in evidence if I ask him on impeachment if he
18 was asked such a question and gave such an answer. Now,
19 the Government contends that's not impeachment, but they
20 can on redirect go into the whole thing with him. That's
21 my understanding of the way this works.

22 Lastly, I chastise myself, I should not have
23 said character letter. And I withdraw that and I
24 apologize. I had used that.

25 THE COURT: I think that was the basic

1 objection.

2 MR. WEINGLASS: I think that's right.

3 MR. DABROWSKI: The question that is phrased
4 here at side bar is not objectionable. The question being
5 as phrased by Mr. Weinglass here at side bar, did you ask
6 anyone of the Justice Department to write a letter.
7 That's not an objectionable question. That, however, is
8 not the question that was asked. And it's the manner in
9 which the those questions are being asked that I'm bringing
10 to the Court's attention so I don't object to Mr.
11 Weinglass's question, that question as phrased here at
12 side bar. I do object to the way it was asked in front of
13 the jury.

14 MR. WEINGLASS: I'll withdraw the question
15 and ask it the proper way.

16 MR. DABROWSKI: Let me go one step beyond,
17 we also do have a fundamental difference as to what the
18 law is or what the procedure is governing the use of
19 documents. Mr. Weinglass can, as he indicated, cross
20 examine this witness on the basis of statements he made to
21 the grand jury. But what Mr. Weinglass is doing is taking
22 the grand jury testimony, he's making a point to show this
23 jury that he's reading from it, then he's misreading
24 it. He did that at Page 3, Lines 11 through 14 of the
25 grand jury testimony.

1 He gets up before the jury, picks up what he
2 purports to be the grand jury testimony, then appears to
3 read from it, as though it's there, then that is
4 objectionable.

5 THE COURT: I think he'll agree to that,
6 that will be objectionable.

7 MR. DABROWSKI: He may agree to that.

8 THE COURT: If you did do that, I don't
9 know.

10 MR. WEINGLASS: If I read the part of the
11 testimony that's helpful to my impeachment. I'm allowed to
12 read that. If the Government feels that there is
13 additional contextural material that they can bring out on
14 redirect, they're allowed to to do that. That's my
15 understanding of the way it works.

16 He said that he visited Mr. Segarra twice. In
17 the grand jury, when asked how many times had you visited
18 him, he said about four times. Then he added additional
19 material. I think the "about four times" is impeachment,
20 pure and simple.

21 MR. DABROWSKI: I agree, he didn't say about
22 four, he didn't add the additional material.

23 THE COURT: I think you're both in
24 agreement, you're both self-disciplined enough to know what
25 is expected of you. I don't want to interrupt or give

1 any disciplinary admonition in front of the jury so use
2 your own self-discipline and follow the rulings.

3 MR. DABROWSKI: If I may make one brief
4 comment, at side bar Mr. Weinglass shows precisely what
5 he's doing. He just, without referring to the transcript,
6 characterized Page 3 of the grand jury testimony
7 accurately, accurately by saying it was about four. When
8 he had the transcript right in his hand, he was
9 questioning the witness and appearing to be reading from
10 it, he did not say about four, he did not add the
11 additional information.

12 And that's quite clear to the fact that he
13 is intentionally misreading information that he knows
14 about, that he's memorized, he had right before him. It is
15 that conduct which I find objectionable.

16 THE COURT: Well, I think you both know now
17 what is expected.

18

19 (Side bar conference concluded)

20

21 Q. (By MR. WEINGLASS) Mr. Cox, did you ask your
22 attorney in South Carolina to have someone in the Justice
23 Department write a letter on your behalf after you were
24 arrested in South Carolina?

25 A. No.

1 Q. To your knowledge, did your attorney ask
2 someone to write a letter on your behalf in the Justice
3 Department?

4 A. Could you repeat that question, please?

5 Q. Yes. To your knowledge, did your attorney ask
6 someone in the Justice Department to write a letter on
7 your behalf?

8 A. I don't know if she asked anyone to write a
9 letter on my behalf, but she did tell me that she had
10 received a letter.

11 Q. Okay. From the Justice Department?

12 A. Yes.

13 Q. From Mr. Dabrowski, to be exact?

14 A. Yes.

15 Q. Okay. And this is when you were facing charges
16 in South Carolina for what?

17 A. Receiving stolen goods.

18 Q. Was this the computer?

19 A. Yes.

20 Q. Was it before you went on to the federal
21 reservation and helped yourself to two Sony Walkmans or
22 after?

23 A. It was before. Before.

24 Q. It was before?

25 A. Yes.

1 Q. So after, to your knowledge, a letter was
2 written by Mr. Dabrowski for you, it was after that that
3 you went on to a federal reservation and helped yourself to
4 some Sonys?

5 A. Yes.

6 Q. Was that the last of it or did you commit
7 other larcenies after that?

8 A. No, that was the last.

9 Q. And that was when?

10 A. I got arrested on the reservation, I think it
11 was the 22nd of December, 1987.

12 Q. 1987?

13 A. Uhm-hmm. I went to trial in April, April 7th
14 and I was incarcerated for four months.

15 THE COURT: You served four months?

16 THE WITNESS: Yes.

17 Q. (By MR. WEINGLASS) Now, during this period of
18 time when you're with -- when you're providing information
19 to the FBI and later you started this pattern of larceny,
20 did the FBI send you to any kind of school for
21 rehabilitation?

22 A. No.

23 Q. They didn't. Did they assist you in any way?

24 A. The Justice Department sent me to jail for four
25 months for rehabilitation.

1 Q. I see. Were you -- did they afford you an
2 opportunity to get your high school degree?

3 A. No.

4 Q. Did they -- did the Government, while you were
5 working with the Government, in any way suggest that you do
6 that?

7 A. Not to my recollection.

8 Q. Now, you've told us that you read about the
9 Wells Fargo case and you saw it on T V?

10 A. No. I said I heard it on the news media three
11 or four that morning, the morning after it happened, and
12 then I read about it in the media because the Macheteros
13 kept ragging about it.

14 Q. Okay. What newspapers were you reading?

15 A. I was reading the Boston Herald.

16 Q. Okay.

17 A. And also the Boston Globe. And the New York
18 Times and the New York Daily News.

19 Q. Do you want to share any others you were
20 reading?

21 A. That's about it.

22 Q. Okay. Now, you went to the FBI with the
23 information in May of 1985 about a robbery that allegedly
24 occurred on September 12th, 1983, about a year and a half
25 earlier, isn't that correct?

1 want. He's admitted the offense and the time he got for
2 it, we don't want to get into any issues, try any side
3 cases of his involvement. Unless there was something that
4 involved something that would affect his credibility or
5 his character by the nature of how it was committed, he
6 said there was no force used. I don't know.

7 MR. WEINGLASS: Your Honor, I'll try to
8 refine my question to meet the Court's comment.

9 Q. (BY MR. WEINGLASS) Was there an element of
10 deception involved in that theft?

11 A. What do you mean by the word deception?

12 Q. Did you and others behave in a way to throw the
13 owners and the sales people of the jewelry store off guard
14 through a deceptive ploy?

15 A. I don't know. Maybe if you get the transcript
16 from that case, you could find out, you know, what
17 happened.

18 Q. Well, you were there, I thought you could help
19 me?

20 A. It's been so long, I don't exactly remember. I
21 know I got found guilty by the Court, had a trial before a
22 judge without a jury and was sentenced to four and a half
23 to five years. I think if you ask the Commonwealth, they
24 might give you a transcript. You can see if there was
25 deception or not.

1 A. Yes.

2 Q. Isn't it true, as you told us, that when you
3 went to the FBI in May of 1985 you had about two cases
4 pending?

5 A. That didn't have anything to do with me going
6 to the FBI.

7 Q. But you had two cases pending?

8 A. Yes.

9 Q. Now, isn't it true, Mr. Cox, that just before,
10 to be exact, on April 28th, 1985, you read in the Boston
11 Herald in a big headline with a big photograph, an article
12 about the Wells Fargo robbery?

13 A. Yeah, I think I read an article that the
14 Macheteros sent the communique in and Wells Fargo published
15 that in the papers and something similar to that, yeah.

16 Q. I want to show you what's --

17 A. And then also I saw Victor Gerena's picture in
18 the police station when I did get arrested for one of those
19 cases. That kind of brought that back to my memory.

20 Q. Good. Now, I want to show you what's been
21 marked. I'll give Government counsel a copy, Defendant's
22 Exhibit 35 for Identification.

23 (Hanging)

24 It's a two-page document purporting to be a
25 headline story on the front page of the Sunday Boston

1 Herald, April 28th, 1985.

2 Do you recognize first the Sunday Boston
3 Herald; this is a copy, of course?

4 A. Yes, I recognize the Boston Sunday Herald, the
5 copy here.

6 Q. Three weeks before you went to the FBI or four
7 weeks, you read this?

8 A. I read a number of these.

9 Q. Right, but this headline, you saw that the FBI
10 was seeking information and they gave a phone number, at
11 the end of the article, the very end of the article.

12 MR. DABROWSKI: My copy is not legible, I
13 don't see it in the headline.

14 THE WITNESS: I can't even hardly read
15 this. It's really fine print. I'd appreciate it if you
16 could read it for me.

17 MR. WEINGLASS: I'll try to help you, we'll
18 read it together.

19 THE COURT: Why don't we mark it as a full
20 exhibit before we start to read it.

21 MR. WEINGLASS: It's marked for
22 identification at this point.

23 THE COURT: Well, if it's going to be read
24 into the record, it should be a full exhibit, Counsellor.

25 MR. WEINGLASS: Well, Your Honor, I could

1 have -- it's hard reading, because of the print. And I do
2 want to assist the witness in reading it.

3 THE COURT: Well, let's follow the rules and
4 the clerk at noontime can put it on a photostat and make it
5 bigger, if you need to. I'm sure she can do it.

6 MR. DABROWSKI: Your Honor, we may very well
7 be able to agree over the noon recess to admit it in full,
8 we have --

9 THE COURT: Does anyone have the original of
10 that?

11 MR. DABROWSKI: Yes, we do, Your Honor. I
12 believe it's in evidence in a prior hearing. We can
13 submit that. But I do want to reread it. Just to make
14 sure there is nothing that's inappropriate in here for
15 this jury to see. I don't believe, however, that this
16 particular copy should go in, it's something not really
17 legible.

18 THE COURT: If it's going to be given to the
19 jury, they should be able to read it for what it's worth.
20 Why don't we offer it as a full exhibit with the
21 understanding that you'll provide the original if you got
22 it?

23 MR. DABROWSKI: Your Honor, I misspoke.
24 Mrs. Van Kirk reminds me that it was another article that
25 was introduced here in the related hearings, it is not

1 this article. I believe we may have this and we'll
2 attempt to locate it. I can't read the copy, I can read
3 it in part, I would like to see the article and we might
4 be able to agree.

5 THE COURT: Is there any question about the
6 telephone number and the FBI location?

7 MR. WEINGLASS: It's right there in the last
8 paragraph.

9 THE COURT: Maybe the content may not be
10 what we're going to get into.

11 MR. DABROWSKI: If that's the limited
12 purpose of the offer, I don't have any objection for Mr.
13 Weinglass pursuing that.

14 THE COURT: I'm just assuming it, I don't
15 know what the purpose is, until we get into it.

16 MR. WEINGLASS: Well, let's see how far we
17 can go with it as it is.

18 THE COURT: All right.

19 Q. (By MR. WEINGLASS) You referred to
20 advertisements that you read?

21 A. Yes, I did.

22 Q. Is this news article that was on the front page
23 in the headline of the Boston Herald one of the
24 advertisements that you're referring to?

25 A. It looks like a copy of one of the ones I

1 looked at.

2 Q. When you looked at it, at the end of the
3 article it had the number for the FBI, did it not, if you
4 can recall?

5 A. I can't recall remembering the number because
6 the FBI number is in the phone book.

7 Q. But you don't know if the number was in this
8 article which you call an advertisement?

9 A. It's possible that it could have been.

10 Q. This --

11 MR. DABROWSKI: Can I have a moment, Your
12 Honor?

13 MR. WEINGLASS: Sure. In that time, I'll
14 give the witness a copy, see if you can read the last
15 paragraph of the article.

16 THE COURT: Can we get a magnifying
17 glass, do we have one? Can you read it all right with
18 your glasses?

19 MR. WEINGLASS: Don't read it out loud.
20 See if that refreshes your recollection about what was in
21 the article.

22 THE COURT: Could you read that all right?

23 THE WITNESS: What, the last paragraph?

24 THE COURT: I don't want to embarrass the
25 witness, but I've seen sometimes, we have asked a witness

1 to read something and the witness couldn't read. So to
2 make sure that there is no embarrassing situation here,
3 can you read that all right, can you understand it and
4 read it?

5 THE WITNESS: Yes, I can.

6 THE COURT: If you can't, say so.

7 THE WITNESS: This last paragraph I can.

8 THE COURT: All right.

9 Q. (By MR. WEINGLASS) Having read that, Mr. Cox,
10 does that refresh your recollection that the telephone
11 number of the FBI was at the end of the article?

12 A. That really didn't stick in my recollection
13 because --

14 THE COURT: The clerk has offered me a
15 little glass here. It isn't a very good one, I think we
16 should have a better one, but nevertheless, you might try
17 it.

18 (Handing)

19 THE WITNESS: It does help.

20 Q. (By MR. WEINGLASS) Does it help you to recall
21 that the article had the telephone number of the FBI?

22 A. I really can't say that I recall the telephone
23 number. I can recall reading different articles but, you
24 know, the phone numbers and things, I really couldn't say
25 if I recall that. Because I already knew the FBI's phone

1 number, it was in the phone book.

2 Q. Is it your testimony you got the FBI's number
3 out of the phone book?

4 A. No, it's not my testimony. It's not my
5 testimony that I even recollect whether I got the FBI
6 phone number out of the phone book or the newspaper.

7 Q. It might have been either one?

8 A. Or from information from directory assistance.

9 Q. I see. Now, looking at the front page of that
10 article, again, not reading the article --

11 A. Are you referring to this page here?

12 (Indicating)

13 Q. Yes. Do you recall if that article which you
14 call an advertisement also indicated that the authorities
15 are hoping that the -- I think I'm going to have to
16 borrow your glass.

17 MR. WEINGLASS: May I, Your Honor?

18 (Hanging)

19 Q. (By MR. WEINGLASS) That authorities are hoping
20 that a \$330,000 reward will entice someone to come
21 forward. Do you remember an award in that amount being
22 broadcast about three weeks before you went to the FBI?

23 A. This says \$350,000. I remember one in that
24 amount.

25 Q. You remember more than that?

1 A. No, you said 320. I remember 350 and \$500,000.

2 Q. Okay. Do you remember reading about that in
3 your Boston papers, right?

4 A. Yes, I do.

5 Q. So you knew a year and a half after this
6 robbery happened the FBI was looking for people to help and
7 and you knew that Wells Fargo was offering this money; that
8 was in the Boston papers that you were reading?

9 A. Yes, it was.

10 Q. The Boston paper that you were reading also
11 contained information about allegedly the Macheteros being
12 involved in the robbery?

13 A. After the Macheteros started bragging that they
14 were involved.

15 Q. Okay. So you read that in the Boston papers
16 also?

17 A. Yes.

18 Q. So you then, did you not, put together your
19 relationship with Juan Segarra, who you knew was involved
20 in independence politics in Puerto Rico with the
21 Macheteros, and decided that you would sell a story to the
22 FBI and to Wells Fargo for money?

23 A. No, I didn't decide that I would sell a story
24 to the FBI and Wells Fargo for money, I decided that I
25 would come forward and provide information on facts that

1 Juan Segarra related to me.

2 Q. I see. These conversations you told us about,
3 is there a single person alive who could confirm your
4 testimony that any of these conversations occurred?

5 A. Yes, Juan Segarra.

6 Q. No one else?

7 A. At what particular conversations are you
8 referring to?

9 Q. Any of the conversations you told us about that
10 you claim you had with Juan Segarra about robbery; is there
11 anyone else?

12 A. No one except Juan Segarra.

13 Q. Right. Okay. No one else was present, no one
14 else heard it?

15 A. The gentlemen who he showed me the night that
16 I was supposed to pick him up at McDonald's, him also.

17 Q. You don't know who he is?

18 A. He heard a brief, just something briefly, what
19 he heard.

20 Q. That wasn't Victor Gerena, but you don't know
21 who that was, that's what you're claiming?

22 A. No, I really don't recollect who he was.

23 Q. Right, okay. Did the FBI in the eight meetings
24 that you had that I referred to, ever ask you to put in
25 writing any of these conversations you claim you had with

1 Juan Segarra?

2 A. Not that I can recollect.

3 Q. Did they ever ask you to sign a statement that
4 you had those conversations with Juan Segarra after they
5 reduced what you claimed happened to writing?

6 A. Could you please repeat that?

7 Q. Did they ever ask you to sign a statement that
8 the FBI wrote relating to those conversations you claim you
9 had with Juan Segarra?

10 A. Did they ever ask me to sign a statement
11 relating to the conversations that I had with Juan
12 Segarra?

13 Q. Yes.

14 A. Not that I can recollect.

15 Q. Did the FBI, Mr. Cox, ever record you in any of
16 these conversations or at the FBI offices telling the story
17 that you've told?

18 A. Did they ever record this?

19 Q. Yes.

20 A. In what form of recording are you talking
21 about?

22 Q. Put it on sound tape?

23 A. Not that I can recollect. I can recollect them
24 taking notes.

25 Q. You saw them taking notes, right?

1 A. Yes, I did.

2 Q. But they never asked you to write it out and
3 they never recorded your voice, to your knowledge?

4 A. I saw them taking notes and they did record my
5 voice at one time, to my knowledge.

6 Q. When did they record your voice?

7 A. When I made a telephone call to Antonio
8 Segarra in Santurce, Puerto Rico.

9 Q. They recorded that phone conversation?

10 A. Yes, they did.

11 MR. WEINGLASS: Your Honor, may we have a
12 copy of that?

13 THE COURT: When was this?

14 THE WITNESS: One time that I made a phone
15 call there was a tape machine connected to the phone.

16 THE COURT: Where did you call from and
17 where did you call to?

18 THE WITNESS: I called from Boston to Puerto
19 Rico; Santurce, Puerto Rico.

20 THE COURT: Was that in the FBI office or
21 was it at some other location?

22 THE WITNESS: It was at another location.

23 Q. (By MR. WEINGLASS) Was that an FBI recorder?

24 A. I don't know whose recorder it was.

25 Q. But the FBI was there and they had a recorder?

1 A. Yes.

2 Q. Okay. Now, that was a call that was made in
3 August of 1985, isn't that correct?

4 A. I'm not absolutely certain about the date.

5 Q. You don't -- I'm talking about the month of
6 August, anytime in the month of August?

7 A. I don't recollect the month, but it was in the
8 summer.

9 Q. The summer?

10 A. Yes.

11 Q. Of '85. And the FBI was attempting to locate
12 Juan Segarra in Puerto Rico?

13 A. I don't know what they were attempting to do.
14 I assume they knew where he was.

15 Q. They asked you to call his brother Antonio,
16 isn't that right?

17 A. Yes.

18 Q. And ask for Juan Segarra?

19 A. No, they didn't -- yeah, something similar to
20 that.

21 Q. Did Antonio answer?

22 A. Yes, he did.

23 Q. Did you ask for Juan Segarra?

24 A. Yes, I did.

25 Q. What did he say?

1 A. He said he was gone to Mexico and he wasn't
2 coming back.

3 Q. Now, that was recorded, that answer was
4 recorded by the FBI, right?

5 A. I would assume, if the tape wasn't
6 malfunctioning at that time.

7 MR. WEINGLASS: Okay. Your Honor, I ask for
8 that tape.

9 THE COURT: Is there such a conversation?

10 MR. DABROWSKI: Yes, there is, I believe
11 there is. We'll locate it and provide it to counsel
12 during the lunch recess.

13 MR. WEINGLASS: These things are supposed
14 to be provided beforehand. I accept it whenever I can get
15 it but under the rules of court, they are supposed to be
16 provided beforehand.

17 MR. DABROWSKI: It's not an exhibit that
18 was premarked.

19 MR. WEINGLASS: It's a statement of a
20 witness.

21 THE COURT: We're going into a question of
22 completing discovery. If you want to make a comment on
23 that, you better make it at side bar.

24 MR. WEINGLASS: No, I'll move on, Your
25 Honor, but I just can't help but note that.

1 Q. (By MR. WEINGLASS) Aside from that one
2 recording by the FBI, did the FBI ever record, to your
3 knowledge, your telling the FBI what you've told this jury
4 about conversations that you said you had with Juan Segarra
5 about a robbery?

6 A. Could you please repeat that question?

7 Q. Yes. It will be read back.

8

9 (Record read as requested)

10

11 THE WITNESS: Did the FBI ever record my
12 conversations of what I told them pertaining to Juan
13 Segarra about robbery? Not to my knowledge, do I know of
14 them recording anything other than what I just stated.

15 Q. (By MR. WEINGLASS) So although the FBI had a
16 recorder, which was used on this one phone call, to find
17 out where Juan was, they never recorded the stories you've
18 told us about conversations?

19 A. They took notes of the stories I told about
20 conversations.

21 Q. But they never recorded?

22 A. Not to my knowledge.

23 Q. They never asked you to write it down?

24 A. No.

25 Q. Now, at one point you told the FBI you were

1 willing to take a lie detector test?

2 A. Yes, I initiated that.

3 Q. You insisted on it?

4 A. No, I didn't insist on it, I says I'd be
5 willing to take a polygraph.

6 Q. You took it on two occasions? P, 116

7 A. Yes.

8 Q. Okay. They asked you these questions about
9 your involvement, your involvement in the robbery?

10 A. I didn't have any involvement.

11 Q. Right. Let me just ask the question. Were you
12 asked, "Were you in Hartford, Connecticut on September 12th
13 or 13th, 1983" and you answered no. And you were telling
14 the truth, isn't that right?

15 MR. DABROWSKI: Objection, Your Honor. The
16 question whether the witness was telling the truth or
17 not is not for the witness to decide. In addition, we
18 shouldn't be getting into the area of the polygraph,
19 regardless of what the results were. I'm not really
20 objecting to it, but as a practical matter, we should
21 not be getting into the area of polygraph examinations,
22 they're not admissible in court.

23 But my objection to the question is that he
24 has asked the witness to characterize the truthfulness of
25 his own testimony. That was the nature of the question.

1 MR. WEINGLASS: I agree with that
2 objection. I'll withdraw it.

3 Q. (By MR. WEINGLASS) When you were asked, "Were
4 you in Hartford, Connecticut on September 12th, 1983" and
5 answered no, which is what you've told this jury, the
6 polygraph operator told you you were -- the polygraph
7 indicated you were telling the truth?

8 MR. DABROWSKI: Objection, Your Honor.

9 Q. (By MR. WEINGLASS) Isn't that true?

10 THE COURT: We're getting into the
11 polygraph.

12 MR. WEINGLASS: Your Honor, I want to get
13 into it.

14 THE COURT: You've got some documents I've
15 never seen, I don't know what you want to ask or get out.
16 The point is, the polygraph man can be summoned in here,
17 maybe he's coming anyway, to testify what he observed and
18 how it operated and what he found.

19 MR. DABROWSKI: Your Honor is not suggesting
20 that polygraph evidence is admissible whether it favors or
21 hurts the Government. It's simply not admissible.

22 MR. WEINGLASS: We'd like to have it
23 admitted.

24 MR. DABROWSKI: I'm not sure I have any
25 problems admitting it, the problem is the law doesn't

1 permit its use.

2 THE COURT: I think both counsel know it's
3 not admitted in evidence as such. The fact that he took
4 such a test, period, all right. What you showed of course
5 is not determinative because it's not admissible evidence,
6 the Court has found it's not so reliable it could be
7 offered as evidence, that's why it isn't admitted. But
8 he's alluded to it and the point is he made some
9 statement. I don't know, he's got documents I haven't
10 seen and you have them, that I haven't seen and the jury
11 hasn't seen.

12 The question is he said at one time before he
13 took a polygraph test, he admitted that he had given some
14 false statement. I understood that came out this morning.
15 Now, how this is going to work into that, I don't know.
16 So I have to find out through both counsel where we're
17 going. If you want to make it at side bar, if it's
18 something that should be made out of the presence of the
19 jury, I'm willing to do that. But as long as you're both
20 mindful of what the Court has in mind.

21 MR. DABROWSKI: I think I can make my
22 comments very briefly in front of the jury in a way which
23 would not prejudice anyone. The question that was asked
24 by Mr. Weinglass was addressed to Mr. Cox, whether or
25 not he was asked if he was in Hartford on September 12th,

1 1983. What his answer was, he indicated it was no, I was
2 not in Hartford on September 12th, 1983. And now Mr.
3 Weinglass asked the leading question -- leading questions
4 are permissible on cross -- as to whether or not the
5 polygraph examiner found that to be truthful.

6 THE COURT: I think that's an objectionable
7 question.

8 MR. WEINGLASS: I'll withdraw it.

9 MR. DABROWSKI: It's to the conclusion of
10 the polygraph examiner, that I object, Obviously not in
11 this case because I have a problem with it. Polygraph
12 examination is not admissible, it's an inappropriate area
13 of inquiry.

14 THE COURT: Well, I think you're both in
15 agreement now so let's proceed on that basis.

16 MR. DABROWSKI: I would further ask that you
17 caution counsel to ask no further questions with regard to
18 the polygraph. It's not admissible as a matter of law,
19 whether it's this witness or any other witness.

20 THE COURT: The findings of the polygraph
21 are objectionable, you both agree. The question is, did
22 he make some statement before he took the polygraph test
23 about having given some false information. I think that's
24 already in the record.

25 MR. DABROWSKI: He previously testified that

1 he did, in fact, before a polygraph examination
2 acknowledged that he had attempted to deceive the FBI.
3 Those are my words --

4 MR. WEINGLASS: For cash.

5 THE COURT: All right.

6 MR. DABROWSKI: In an attempt to take
7 money.

8 MR. WEINGLASS: I won't go into the results
9 as yet.

10 MR. DABROWSKI: Well --

11 MR. WEINGLASS: But I will get into the
12 questions that were asked of him and that is probative and
13 relevant.

14 THE COURT: We'll take each question one at
15 a time.

16 MR. WEINGLASS: Thank you.

17 Q. (By MR. WEINGLASS) And you were asked, were
18 you not, by the examiner of the lie detector test, "Were
19 you in Hartford on September 12th or 13th, 1983 during the
20 Wells Fargo robbery", to which you answered no, the same
21 as you have here in court, okay?

22 A. That's correct.

23 Q. But Mr. Cox, you were never asked by the FBI
24 while you were hooked up to that lie detector test if you
25 ever had a conversation with Juan Segarra about the Wells

1 Fargo robbery, were you?

2 A. Could you repeat that question?

3 MR. WEINGLASS: It will be read back.

4

5 (Record read as requested)

6

7 THE WITNESS: Was I asked did I ever have a
8 conversation with Mr. Segarra about the Wells Fargo
9 robbery?

10 Q. (By MR. WEINGLASS) While you were hooked up to
11 the lie detector?

12 A. I don't recollect that question at that time.

13 Q. Right. And you were never asked by the FBI
14 examiner while you were hooked up to the lie detector test
15 if you went to Hartford, as you're claiming here, on August
16 29th, 1985?

17 A. I don't know if I was asked that question, but
18 I was asked did I have anything to do with the robbery.

19 Q. Exactly. It's true you had nothing to do with
20 the robbery?

21 A. Not when it actually happened.

22 Q. Right. And it's true that the FBI questioned
23 you about your involvement in the robbery, but asked you
24 no questions, none, about what you claim to have been Juan
25 Segarra's involvement in the robbery while you were hooked

1 up to a polygraph?

2 MR. DABROWSKI: Objection to the questions
3 that were asked while he was hooked up to the polygraph,
4 Your Honor. Counsel well knows how polygraph examinations
5 are conducted. He knows the number of questions that are
6 asked, he knows the nature of those questions.

7 MR. WEINGLASS: This is argument, Your
8 Honor.

9 THE COURT: Well, the Court will allow that
10 question. If he remembers. If he doesn't remember, why
11 that's it. I think he said he didn't remember. I think
12 that's in the record.

13 Do you want to ask him the same question again
14 and see if his memory --

15 MR. WEINGLASS: May I have the question and
16 the answer read back?

17 MR. DABROWSKI: I'm asking to go to side
18 bar, I think a warning is appropriate before we go any
19 further with this witness because of something that may
20 come up.

21 THE COURT: All right.

22

23 SIDE BAR CONFERENCE

24

25 THE COURT: All right.

1 MR. DABROWSKI: Counsel has now opened the
2 door to --

3 THE COURT: Does anyone have any of the
4 headsets in the audience?

5 THE INTERPRETER: Three defendants, Your
6 Honor.

7 THE COURT: What?

8 THE INTERPRETER: Three defendants, Your
9 Honor.

10 THE COURT: Out in the audience?

11 THE INTERPRETER: No, Your Honor.

12 THE COURT: The defendants, that's all
13 right.

14 MR. DABROWSKI: As counsel well knows, the
15 questions which follow the questions which he has related
16 to the jury, relate to other crimes and they include
17 specifically these questions did you -- the very next
18 question, "Did you participate in the bombing at the
19 airport?" Next question, "Did you lie about Segarra
20 telling you he went through the swamp?" Next question,
21 "Did you lie about staying at Segarra's house a few days
22 before the airport bombing?" Next question, "Did you lie
23 about accompanying Segarra when he purchased some black
24 cloth?" The last question of that series, "Have you told
25 Segarra or any member of the Macheteros about your FBI

1 contacts?" No, but creating the illusion that Mr. Segarra
2 -- excuse me, that Mr. Cox who has testified extensively
3 was questioned extensively during a polygraph examination
4 about this robbery.

5 The Government must necessarily go into some
6 of these other questions. Counsel has opened the door,
7 permitting those questions. I intend to ask them and the
8 warning I ask that be given to counsel, is that if he
9 opens the door further, the Government is going to open it
10 wide and put everything on the record.

11 We're being forced to bring in these other
12 crimes at this point. The only two questions asked in
13 that series were the questions asked by counsel. The very
14 next one goes to the bombing of aircraft at Muniz. Counsel
15 knew this, he's attempting to pull the wool over this
16 jury's eyes by suggesting that the Bureau inappropriately
17 failed to address the number of questions for some
18 sinister purpose. Indeed and in fact, normally ten
19 questions are asked by the FBI during a polygraph
20 examination, approximately ten and there were a great
21 number of other incidents under investigation and that
22 were the subject of that polygraph examination.

23 THE COURT: Any comment?

24 MR. WEINGLASS: Yes, Your Honor. Number
25 one, it's --

1 THE COURT: In other words, did you open up
2 the issue?

3 MR. WEINGLASS: Not at all. It's absolutely
4 appropriate, Your Honor. The Government had this witness
5 beginning in May of '85. In June of '85 when he was a paid
6 informant on this case, they've already brought him in for
7 a polygraph, repeated it in July. At neither occasion did
8 they ask this witness anything about my client's
9 involvement in a robbery.

10 Now, they asked him about his, the witness'
11 involvement in a robbery, and the witness answered
12 truthfully that he wasn't involved, but the Government has
13 brought this witness in to testify about my client. And
14 all of this testimony was about trips with my client,
15 conversations with my client. And while the FBI had
16 him as a witness in this case, they never polygraphed him
17 in connection with the testimony that he's given in this
18 case. And that is very probative. The fact that they
19 questioned him about other matters is totally irrelevant
20 to that fact.

21 THE COURT: Unless you bring in the
22 polygraph man and then he may be asked to testify as to
23 all the questions he asked now that you mention an
24 illusion, that you might do that. I guess number one, you
25 could do that, then you open it up unquestionably.

1 MR. DABROWSKI: Your Honor, regardless of
2 what the determination was by the polygrapher, regardless
3 of what the determination was, the fact of the matter is
4 that a very limited number of questions were asked of the
5 witness and the vast majority of them related to other
6 crimes.

7 THE COURT: Well, the Court is going to let
8 him ask the question he did because it's argumentative. He
9 could argue that they didn't ask him the \$64 question,
10 so to speak, that involved his client. But how far he
11 pursues that, he may then open it up. But at the moment, I
12 don't think he has. But I just want to warn him, if he
13 goes into the question of the lie detector in the
14 whole, then all the questions are going to go in. I want
15 you to know that.

16 MR. WEINGLASS: Your Honor, while we're at
17 side bar, could I impose upon the Court and ask that we
18 break at this time for lunch for two reasons? One, I am
19 almost finished, and I want to go over my notes. Two, I
20 want to get the Government's transcript of the tape that
21 was referred to by the witness and it is a statement by a
22 witness. And thirdly, I just need a little time to re --
23 I'm not feeling that well and if I have these extra
24 minutes, it would help me. But I'm almost finished and I
25 want to go over my notes. It's quarter to one.

1 THE COURT: The question in my mind is why
2 didn't the Government give him this tape previously? Why
3 wasn't it produced in the discovery matter?

4 MR. DABROWSKI: My answer, Your Honor,
5 my answer is I thought they had it. I asked counsel at
6 the table -- I in fact was about to advise the Court that I
7 thought it was part of the discovery package some years
8 ago and I was advised by other counsel, that they didn't
9 believe that was the case.

10 So the answer, Your Honor, is from my
11 perspective, I thought they had it. I thought they had it
12 several years ago.

13 THE COURT: I can understand, it's possible
14 to miss one tape out of the many that we've had, I can
15 understand that. Mrs. Van Kirk?

16 MS. VAN KIRK: I just wanted to say, Your
17 Honor, so that the record is clear, we're not talking
18 about tapes that were generated during the course of the
19 investigation through Court-authorized monitoring. This
20 was a consensual monitoring with Mr. Cox being the
21 consenting party to a conversation with another person,
22 and not a defendant in this case. It's not Jencks
23 material, because Mr. Cox didn't testify about it in his
24 direct case for one thing. So it isn't Jencks material.

25 Secondly, it's not that, legally, we're not

1 saying we don't want to turn it over, but just our legal
2 position is it is not Jencks material.

3 MR. DABROWSKI: There is no problem, Your
4 Honor. There may be a problem if it's not in Hartford.

5 THE COURT: How long will it take you to
6 find it?

7 MR. DABROWSKI: We think it's upstairs.
8 We'll try to locate it immediately.

9 THE COURT: What do you think of the
10 suggestion of Mr. Weinglass to recess at this point so he
11 can finish up his cross examination?

12 MR. DABROWSKI: If I thought Mr. Weinglass
13 had the sniffles, I think I'd object.

14 THE COURT: What's that?

15 MR. DABROWSKI: If I thought Mr. Weinglass
16 really had the sniffles, I think I might object. But I
17 know that that is not the case and I have no objection.

18 THE COURT: All right.

19 MR. WEINGLASS: Thank you.

20

21 (Side bar conference concluded)

22

23 THE COURT: So that counsel will have the
24 benefit of whatever is on the tape that allegedly was made
25 when Mr. Cox talked purportedly with Mr. Segarra-Palmer's

1 brother, Antonio, so he may have that when he completes
2 his examination, it was agreed at side bar that we would
3 recess for lunch at this point and resume at two o'clock.

4 The tape would be provided to counsel during
5 the noon recess and he would complete his examination
6 shortly thereafter, at two o'clock. So I think it would
7 profit everybody in causing progress in the case by
8 following that procedure. The Court has agreed to it.

9 So we're closing ten minutes early, but I think
10 in the long run, it may save us twenty to twenty-five
11 minutes in the afternoon session. So the jury is now
12 excused.

13

14 (Jury excused)

15

16 THE COURT: The witness is now excused.
17 The interpreters will refrain from talking until the Court
18 is in recess.

19 MR. WEINGLASS: Your Honor, there is one
20 matter, and I think we might be able to use the last few
21 minutes productively against my own interests. But I
22 wanted to bring to the Court's attention, I was a little
23 concerned moments ago when I heard Assistant District
24 Attorney Van Kirk advise the Court that in part, I believe
25 it's the view of the Government, that this recorded

1 conversation, recorded by the FBI of this witness talking
2 to my client's brother, does not fall within Jencks.

3 But I don't want to argue that because I think
4 the Court has ordered that it be turned over, belatedly,
5 but it will be turned over. But my request now goes
6 beyond that.

7 Yesterday in a newspaper entitled El
8 Vocero, V O C E R O, there appeared an article about this
9 case.

10 THE COURT: Where is that published?

11 MR. WEINGLASS: Published in a number of
12 cities but also in Puerto Rico.

13 THE COURT: Is it published in a number of
14 cities or is it published in Puerto Rico and distributed
15 to a number of cities; which is it?

16 MR. WEINGLASS: The latter.

17 THE COURT: I would think so.

18 MR. WEINGLASS: In that article which is in
19 Spanish and has been translated for me --

20 THE COURT: Do you have it here in court?

21 MR. WEINGLASS: I have it here in court.

22 THE COURT: I haven't read it I assure you.

23 MR. WEINGLASS: It's in Spanish but the
24 article claims, makes a number of claims, some accurate,
25 some not so accurate. But the author of the article claims

1 the following in the article: "The FBI confirmed that Cox
2 is a former drug addict." Well, we know that's true. And
3 that he had lied in testimony in previous criminal cases.
4 That's new. And we haven't been told that. And if the
5 FBI, in fact, knows that this witness had lied under oath
6 in previous criminal cases, that is Jencks material.

7 And I would now make a request for it based on
8 this article. Now, I know Government counsel is going
9 to say, "We can't litigate a case on newspaper
10 articles." I agree. But I have information here which
11 alleges that the FBI confirmed to the editor' Jose Purcell
12 that they had information that he had lied in previous
13 cases. I have a basis --

14 THE COURT: Purcell?

15 MR. WEINGLASS: P U R C E L L.

16 MR. DABROWSKI: Your Honor, could I just
17 ask Mr. Weinglass, at one point he said lied in previous
18 testimony, in previous cases?

19 MR. WEINGLASS: The article says and that
20 he had lied in testimony in previous criminal cases.

21 I just use this article, Your Honor, as thin as
22 it is, but it's serious, as a bootstrap for saying I have a
23 basis for claiming that the FBI might have more
24 information here than we've been given. And on the
25 strength of that article, I ask the Court to ask the

1 Government to inquire of the FBI whether or not they have
2 information that this witness had perjured himself in
3 other criminal cases. That's very serious.

4 THE COURT: Has he ever been convicted of
5 perjury?

6 MR. WEINGLASS: Not as far as the rap sheet
7 that I have shows. He might not have been prosecuted.

8 THE COURT: I suppose the question is
9 generated, you never know, for example, when a witness
10 doesn't tell the whole truth. That's for the jury and the
11 Court to evaluate. So whatever cases he had through the
12 years, he had quite a number, whether he always told the
13 truth or not, whether there is some record, query, I don't
14 know. If there is some official record of his -- of
15 committing perjury, I think probably you'd be entitled to
16 it. But just as you're claiming here today, as a question
17 of credibility, I imagine in all the trials he had,
18 credibility was an issue, and who is going to decide
19 whether he told the truth or whether he didn't. There is
20 the problem you've got.

21 MR. WEINGLASS: That's a problem but that's
22 not the issue. The issue is does the FBI have evaluative
23 information or any other kind of information where the FBI
24 believes that he had lied in prior testimony. If the FBI
25 believes it, I'm entitled to have that, I'm entitled to

1 call that agent, I'm entitled to find out what information
2 they had of his practice of lying, and what conclusions
3 they've reached. The jury should have that.

4 THE COURT: Does counsel for the Government
5 have any such information in your possession?

6 MR. DABROWSKI: I wish to respond to
7 counsel's comments, Your Honor.

8 THE COURT: All right.

9 MR. DABROWSKI: Three brief observations,
10 Your Honor. One, I think it's Mr. Weinglass who doesn't
11 understand the Jencks Act, not Ms. Van Kirk. The Jencks
12 Act is codified in Section 3500 of Title 18 United States
13 Code. It was Brady material within the rule of Brady
14 versus Maryland of which Mr. Weinglass spoke, not Jencks
15 Act material. Our obligations under Brady are clear,
16 they've been complied with.

17 Two, with regard to stories in newspapers, I
18 submit, Your Honor, that anybody who believes everything
19 they read in a newspaper is as silly as a reindeer. It's
20 just not something one can rely on or count on. The
21 articles I've read in this case have been replete with
22 misinformation. I suspect this one is as well on this
23 particular issue.

24 I would like to have a copy of the Spanish
25 rather than the translation. I will represent to the

1 Court that the Government has no such knowledge, knowledge
2 that Mr. Cox lied in testimony in a previous case. If we
3 did, it would have been and if I find out that it exists,
4 it will be immediately turned over. I will make an inquiry
5 over the luncheon recess and advise the Court of the
6 results of the inquiry. But as I stand here, the
7 prosecution has no such knowledge.

8 Everything in connection with this witness
9 with regard to a situation where he did acknowledge that
10 he attempted to deceive the FBI, has been turned over to
11 the defense and they're well aware of that.

12 I suspect that it's that issue that may be the
13 subject of this story, although I wouldn't -- I simply
14 don't know that. I don't believe what I read in the
15 newspapers, I don't rely on it. It is an important issue,
16 I will check it out and report to the clerk however.

17 THE COURT: Very well.

18 MR. DABROWSKI: I would ask counsel if he
19 has --

20 MR. WEINGLASS: I have a Spanish copy. I
21 would ask that the Court read over the polygraph
22 examiner's report over lunch which I've had marked as an
23 exhibit with the clerk, and I have no objection to the
24 Court being given a copy that has been marked so that the
25 Court will know the basis of the questions that are being

1 asked relative to the polygraph.

2 THE COURT: As you know, in a polygraph, I'm
3 sure you've used it many times, when it is used, there are
4 many inconsequential questions asked first. In other
5 words, are your shoes tied, do you have hair on your head,
6 and so on. Then they shoot a question which is a hard
7 one, and then see the difference in the reaction of the
8 individual.

9 So my point is that if we get into how many
10 questions were asked in more detail --

11 MR. WEINGLASS: Your Honor, by my tally,
12 about --

13 THE COURT: It might open up an area that
14 could be harmful to your clients.

15 MR. WEINGLASS: I don't think I open up --
16 and I say this representing this to the Court -- I don't
17 open up any area harmful to my client relative to the
18 Wells Fargo case that is being litigated here. I open up
19 no area. He was never asked any questions about my client
20 and Wells Fargo.

21 THE COURT: I think we've covered that at
22 side bar.

23 MR. WEINGLASS: Yes. He was asked, the
24 Court is quite right, the Court is familiar with these
25 procedures, he was asked is his name Kenneth. He said

1 yes, although there could be a problem with that question.
2 But he was asked is his last name Cox, and he was asked
3 have you ever lied. All the preliminary questions were
4 asked. But then he was asked five or six key questions
5 where the examiner wanted to test credibility. And none of
6 those key questions dealt with my client and his alleged
7 involvement in Wells Fargo. That's what he was brought in
8 here to testify about.

9 THE COURT: All right. I guess we've
10 covered it, we'll have it by -- a little before two, if we
11 can, ten minutes of two so counsel can read it over. Is
12 it going to require translation?

13 MR. WEINGLASS: No.

14 THE COURT: The tape or has it been
15 translated.

16 MR. DABROWSKI: I don't believe Mr. Cox
17 speaks Spanish, I believe he only speaks English so the
18 conversation should be in English but we'll check it.

19 THE COURT: See what you can develop so we
20 can get moving at 2:00. All right.

21

22

23

24

(Luncheon recess)

25

1 AFTERNOON SESSION

2 2:00 O'CLOCK P.M.

3

4

5

MR. WEINGLASS: Your Honor, we simply cannot proceed this way.

6

THE COURT: What's that?

7

8

MR. WEINGLASS: We simply can't proceed this way.

9

THE COURT: I don't know what way you're proceeding. What's the problem?

10

11

MR. DABROWSKI: I just want to advise the Court very briefly as a result of --

12

13

THE COURT: Wait just a moment.

14

15

MR. DABROWSKI: The Court requested the Government make an appropriate inquiry, I've made the inquiry, I think I should report to the Court.

16

17

THE COURT: Inquiry concerning what?

18

19

20

21

MR. DABROWSKI: Concerning the statement that was in the El Vocera article, attributing a confirmation in the FBI that Cox is a former drug addict and that he lied in testimony in previous criminal cases.

22

23

24

25

Your Honor, Number one, I've now read the article, at least a translation of it, I've attempted to read the Spanish, as best I can, and it's interesting that in large measure, it attributes comment to me with regard

1 to Kenny Cox. It states according to Dabrowski, Cox spoke
2 about how the accused made plans to store explosives used
3 in the attack at Muniz Air Base and was involved in a
4 complicated escape plan. According to me, that is
5 principal prosecutor Albert Dabrowski, I explained
6 according to this particular author, that the witness
7 Kenneth Cox, a 43 year old native of Boston, gave extensive
8 testimony to the FBI about the activities of the presumed
9 Macheteros.

10 Your Honor, I can state affirmatively to the
11 Court, and I do that, I have not spoken to this individual,
12 I have spoken to no one associated with that paper. I have
13 made no such statements to anyone outside of the FBI and
14 Assistant U. S. Attorneys in my office.

15 So right off the bat I've got a very serious
16 problem in terms of the credibility here. It attributes
17 to me statements I did not make. The only explanation I
18 have is that they are somehow paraphrasing comments I may
19 have made in Court. It then goes on and it does say the
20 FBI confident Cox is a former drug addict, he had lied in
21 testimony in previous criminal cases.

22 I was able to check through Special Agent
23 Rodriquez with the assistant special agent in charge in
24 Puerto Rico, John Phillips, through whom all press contact
25 is confirmed and approved, and he indicated that he has had

1 -- he made no such statements nor did he approve of any.
2 I know of no one within the FBI who made a statement and I
3 know of no one within the FBI who has a basis to make a
4 statement that Mr. Cox has lied in testimony in previous
5 criminal cases.

6 That may be a reference to the polygraph, it
7 may be a reference to -- I don't know what it's a
8 reference to, Your Honor.

9 THE COURT: Where is this published, in San
10 Juan?

11 MR. DABROWSKI: In Puerto Rico, Your Honor.
12 It says published in San Juan, Puerto Rico.

13 I would relate to the Court in addition, we
14 have located a tape, a consensually monitored tape
15 recording between the witness, Kenneth Cox, and Mr.
16 Segarra's brother. That tape is in the courtroom at the
17 present time, and we have played it for Mr. --

18 THE COURT: Is it in English or Spanish?

19 MR. DABROWSKI: It is in English and we have
20 played it for Mr. Weinglass and he has heard it.

21 THE COURT: Anything on it?

22 MR. DABROWSKI: Yes, Your Honor.

23 THE COURT: Does it say substantially what
24 he said?

25 MR. DABROWSKI: That and more, although I

1 would have to say in a nutshell, it's a call by Kenneth
2 Cox to attempt to make contact with Juan Segarra. And
3 during that conversation, there are words attributed to
4 Mr. Segarra's brother that he's in Mexico and will be
5 there for a long time. I'm paraphrasing but --

6 THE COURT: Anything else on there?

7 MR. DABROWSKI: Well, Your Honor, the tape
8 is perhaps several minutes long. There are other things
9 on there, but there are no startling revelations.

10 THE COURT: Do you have a copy of it?

11 MR. DABROWSKI: It's right in court.

12 THE COURT: Do you have a written,
13 typewritten copy?

14 MR. DABROWSKI: No, Your Honor, we do not.

15 THE COURT: All right. What have you
16 agreed upon, if anything, with Mr. Weinglass?

17 MR. DABROWSKI: We've agreed to play it for
18 him, and we have.

19 MR. WEINGLASS: At my request, at 1:55, it
20 was played for me and it did consume about four or five
21 minutes which brought us up to 2:00. This is, as
22 Your Honor knows, no way for us to proceed. I have to
23 have some time to digest what I heard. There is no
24 transcript. I have to find in the record the witness's
25 answers about this conversation, which he gave this

1 morning, and the court stenographer is attempting to
2 assist me in that regard.

3 And furthermore, I have to have some
4 representation from the Government as to how this tape was
5 made because it's my understanding that under
6 Massachusetts state law -- just my understanding, I didn't
7 come prepared to argue this or brief it, because I didn't
8 know about it -- that consensual recording is not lawful.
9 And that if the FBI engaged in this, they would have to
10 follow a certain procedure, again my understanding.

11 And I don't know if that procedure was
12 followed. In other words --

13 THE COURT: What's the procedure? I'm not
14 familiar with it.

15 MR. WEINGLASS: Well, I think, Your Honor,
16 that my understanding of the procedure is that the process
17 has to be approved by an Assistant United States Attorney
18 or the United States Attorney in order for local law to be
19 overruled, in effect, by an FBI process. And we've had
20 experience in this case with what the defense contends is
21 unlawful use of recording devices.

22 This very well might be another example of it,
23 I don't know. Because I didn't know anything about this
24 until just this morning. But I would like to have
25 representations from the Government as to first, where was

1 this recorded. Where, Massachusetts, or Connecticut? My
2 understanding is Massachusetts. Secondly, what is the
3 applicable state law in Massachusetts on consensual
4 recording. And thirdly, what procedures were followed by
5 the FBI in order to obtain this recording.

6 THE COURT: Counsel care to comment?

7 MR. DABROWSKI: I do, Your Honor.
8 Consentually monitoring the conversations by the FBI
9 whether in Massachusetts, Connecticut or any other state,
10 is not a violation of the law contrary to Mr. Weinglass's
11 representations. He is misinformed, he does not know of
12 what he speaks.

13 There are procedures set up by the United
14 States Department of Justice. In addition, United States
15 attorneys set up their own procedures, governing
16 consentually monitored conversations. They do exist. I
17 know what they are in Connecticut, I'm part of them. I do
18 not know what they are in Massachusetts, I presume that
19 they are the same.

20 Even if they were to be violated, however,
21 that does not leave you to suppress of this kind of
22 evidence. Moreover, we do not seek to introduce this as
23 evidence. It's as though the Government were offering
24 this and Mr. Weinglass was raising some violation of law
25 to pursue the remedy of suppression of evidence. For

1 those three reasons, it's not unlawful, even if procedures
2 were violated and there is no evidence to believe that
3 they were, we'd still be exactly where we are.

4 We have a piece of evidence that's in this
5 courtroom that could be listened to within a few minutes
6 that's clear and concise. It does not need assistance in
7 order to understand it, of a stenographer's or anyone else,
8 and rather than take a half hour to go through that
9 process, I'd simply recommend we play it for the Court. It
10 is not as clear as a tape as I would hope a tape would be,
11 but I recommend we just play it, the Court listen to it,
12 you can hear what it is, it's very simple.

13 THE COURT: I'd want to know what is on it,
14 before I consent to it being played. I'd like to know what
15 the content is.

16 MR. DABROWSKI: Simply a call made, we
17 allege, by Kenneth Cox to Antonio Segarra, Mr. Juan
18 Segarra's brother, then in Puerto Rico, for the purpose of
19 precipitating or attempting to precipitate communication
20 between Mr. Cox and Mr. Segarra. It was a conversation
21 which ensues. It's already been played in the court for
22 Mr. Weinglass in the presence of almost --

23 THE COURT: He says it goes on for ten or
24 twelve minutes. What does it say? It should take one
25 minute to say what was originally stated.

1 MR. DABROWSKI: I heard it played in my
2 office while I was eating lunch. I instructed Mr.
3 Rodriguez to get a recorder to bring it down to the
4 courtroom. I had previously advised Mr. Weinglass that at
5 his request, we'd get it down to the Court early enough so
6 he could hear it. At five of, we showed up, before two he
7 heard it and was done with it.

8 I don't want to represent -- I can represent
9 what's on it, Your Honor, but it speaks for itself, it's
10 very short.

11 THE COURT: If there is a question of its
12 legality or illegality, I think counsel should submit
13 briefs on that issue first before it's played in Court or
14 in front of the jury.

15 MR. DABROWSKI: Judge, in all due respect,
16 what are you going to do as a Court if it was obtained in
17 -- what are you going to do as a District Court Judge
18 sitting in Connecticut, hypothetically, if the procedures --

19 THE COURT: If it were illegal, I wouldn't
20 submit it to the jury so they could hear it.

21 MR. DABROWSKI: No one has offered to.

22 THE COURT: I understood you were going to
23 play it in court.

24 MR. DABROWSKI: I don't know that he's going
25 to do that. If he wants to, I won't object. I don't

1 understand what the tadoo is about.

2 THE COURT: It hasn't been offered yet as
3 evidence, it's true. If he wants to verify this was said
4 to him by Antonio Segarra-Palmer, that's another matter.
5 But the only question now, if he wants to use it to
6 contest what this witness has said on the witness stand as
7 to what he said the conversation was, that's another
8 matter. I don't know how counsel wants to use it. But if
9 it's going to be used before a jury, I want to make
10 certain first it's legal before it's used before a jury.
11 That's the only point I want to make.

12 MR. DABROWSKI: If it were a conversation
13 that was obtained pursuant to Title 3, then we might have a
14 problem if it was derived as a result of some illegality.

15 THE COURT: If the defendant were the
16 person on the other end.

17 MR. DABROWSKI: This is not within that
18 statute. This is a consensually-monitored conversation.
19 A participant to the conversation, Mr. Cox, has consented
20 to record the conversation.

21 THE COURT: I understand.

22 MR. DABROWSKI: There is absolutely nothing
23 unlawful about the federal Government doing that in
24 connection with a lawful investigation.

25 THE COURT: We're going to proceed this

1 afternoon and if there is something illegal about the
2 matter, and before it's offered in court, by either
3 counsel, I would ask that briefs be submitted on the
4 legality of it. I do not know what Massachusetts law
5 provides.

6 MR. DABROWSKI: As stated in a nutshell,
7 it's this: If the Government attempts to offer it, Mr.
8 Weinglass claims there is something illegal about it, we'll
9 litigate that. If Mr. Weinglass attempts to offer it, I'll
10 stipulate it's legal.

11 MR. WEINGLASS: There are a couple of things
12 that are overlooked here, perhaps conveniently. One, I
13 think the jury is entitled to know that the FBI used
14 illegal means in this case, if that's the fact.

15 THE COURT: Maybe it isn't illegal at all,
16 Counsellor.

17 MR. WEINGLASS: I'm just saying if that's
18 the fact.

19 THE COURT: I'm saying we wouldn't permit it
20 before them if it is illegal.

21 MR. WEINGLASS: Now, Mr. Dabrowski's
22 answers, as always, are very carefully couched. He didn't
23 tell the Court whether it's illegal to do this under
24 Massachusetts state law. He did say no matter what that
25 law is, the FBI has the power to do this, which might be

1 true. But he doesn't know if they did it correctly within
2 the law in this instance.

3 And he doesn't tell the Court what the
4 procedures are that he alludes to where it has to be
5 sanctioned by an attorney in the Justice Department, that
6 the FBI can't do this on its own. I don't believe those
7 procedures were followed here.

8 THE COURT: Well, we don't know. It's your
9 guess as much as mine and I don't know.

10 MR. WEINGLASS: It's my guess because I'm
11 not in the Government. But you have a representative here
12 who is.

13 THE COURT: The way we're going to handle
14 it is this: If you want to use it, that's one thing, and
15 want to offer it on your own as the record now stands.
16 If the Government wants to use it, before it can be used,
17 and since you've raised the issue, I will insist first
18 that the briefs be filed on its legality and an affidavit
19 at least as to how it was done.

20 Beyond that, we're going to proceed to
21 conclude with this witness and go on to the next witness.
22 We're not going to hold up the trial because of it.

23 MR. WEINGLASS: I didn't mean to hold up
24 the trial.

25 MR. DABROWSKI: I need to address this

1 matter before we leave it.

2 MR. WEINGLASS: This is in connection with
3 this tape. I came into court before five of two but the
4 tape machine wasn't set up. To my observation, it was
5 ready to go at five of two. I don't know a lot about these
6 machines but it was my impression that's when they were
7 ready to play it. It was played for me at my request.
8 But my cocounsel did not hear it.

9 Your Honor, I would like to take ten minutes,
10 so that the attorneys involved in this case -- and there
11 are other matters on this tape -- could hear that tape as
12 well as myself. Because --

13 THE COURT: Does it involve them or only
14 your client?

15 MR. DABROWSKI: That's a matter that I want
16 to address in connection with this.

17 MR. WEINGLASS: Well, Your Honor, these
18 lawyers are here in court defending a client. They're
19 entitled to hear evidence that may or may not be submitted
20 and to consult with me as to what their position is with
21 respect to their client's interests as to whether or not I
22 should proceed with this tape. I cannot proceed on my own
23 in derogation of the rights of cocounsel and their
24 clients. I simply cannot do that.

25 I've heard the tape, they haven't. They can't

1 sit here and let me play this tape, it will be too late.

2 THE COURT: Are you going to play it in
3 open court?

4 MR. WEINGLASS: I might, that is a
5 determination I have to make.

6 THE COURT: You want to play it before them
7 privately first, is that it?

8 MR. WEINGLASS: Yes, Your Honor. It would
9 take less than ten minutes.

10 THE COURT: Where are you going to do that?

11 MR. WEINGLASS: Here in court.

12 THE COURT: You've got a whole audience
13 here.

14 MR. WEINGLASS: We don't mind the public.

15 THE COURT: Well, if you're going to do it
16 in open Court, let the Court hear it, too.

17 MR. DABROWSKI: Your Honor, you know what
18 I --

19 THE COURT: I'm a little curious, too.

20 MR. WEINGLASS: That's fine. Your Honor is
21 going to have difficulty, you can do it.

22 MR. DABROWSKI: I find interesting Mr.
23 Weinglass has now suggested the suggestion I made at the
24 commencement of my argument. We take a minute or two, we
25 all listen to the tape.

1 THE COURT: If you're in agreement, let's
2 do it.

3 MR. DABROWSKI: I do want to make this
4 observation, cocounsel were here when I gave Mr. Weinglass
5 his opportunity when he requested to listen to this tape
6 prior to 2:00. Not one of them, not one of them took the
7 time or made the effort to come over and listen with Mr.
8 Weinglass. But nevertheless, I'll concede that they do
9 have a right to listen to this tape before it's played by
10 Mr. Weinglass for the jury.

11 As a matter of law, however, if the question of
12 suppression comes up, I would request that the Court
13 require that in any brief that's filed, the attorneys
14 address the issue of standing. None of these individuals
15 have standing to suppress this particular conversation or
16 to seek to suppress it.

17 THE COURT: All right.

18 MR. WEINGLASS: So Your Honor, I really
19 would want the tape played first for my colleagues before
20 it's played for the Court to get their determination as to
21 whether or not they want it played for the Court.

22 THE COURT: Where are you going to play it?

23 MR. WEINGLASS: Right here in court.

24 THE COURT: You just don't want the Court
25 to hear it.

1 MR. WEINGLASS: I want them to gather around
2 and hear it, but I think out of respect to them, they
3 haven't heard it yet. I have no objection to the Court
4 hearing it.

5 THE COURT: How long will it take you to do
6 it?

7 MR. DABROWSKI: Why don't we do this, I'll
8 move this speaker, that machine right up here. It's the
9 only means we have at this particular moment to play that
10 cassette. There are problems with it's audibility. Let's
11 just play it, it will take about two minutes.

12 THE COURT: Why don't you do it and get it
13 over with, no reason keeping the jury waiting while we
14 argue over nothing. So I'll recess and I'll give you ten
15 minutes. At 2:30 I'll be on the bench and we'll believe
16 you're ready to proceed.

17 MR. DABROWSKI: If there is going to be
18 further argument, I think the Court should listen to the
19 tape. I don't know whether there is going to be further
20 arguments or not, we'll end up repeating it for the Court.

21 MR. WEINGLASS: It might not be necessary.

22 THE COURT: All right. We'll recess until
23 2:30.

24

25

1

2

(Recess)

3

4

5

6

THE COURT: Ready to go, ladies and gentlemen?

7

MR. DABROWSKI: Yes, Your Honor.

8

THE COURT: Call the jury.

9

10

(Whereupon the jury was brought into the courtroom)

11

12

13

THE COURT: Proceed, gentlemen.

14

Q. (By MR. WEINGLASS) Good afternoon, Mr. Cox.

15

A. Good afternoon, sir.

16

17

Q. About a year ago on September 17th, 1987, you recall you were arrested in Denver, Colorado for possession of a controlled substance?

18

19

A. That was dismissed.

20

Q. What was the alleged substance?

21

22

A. The alleged substance? It was alleged to be heroin, but it was dismissed.

23

Q. I see. What was it?

24

A. I don't even know what it was, a piece of tar.

25

Q. A piece of what?

1 A. It's supposed to be Mexican tar.

2 Q. I'm not sure I understood you correctly.

3 Mexican tar?

4 A. Yeah, something they call Mexican tar.

5 Q. The police thought it was heroin?

6 A. Yes.

7 Q. Was this a situation where you were attempting
8 to buy or sell a substance?

9 A. No, this was --

10 MR. DABROWSKI: Objection, Your Honor.

11 Irrelevant. The charge was dismissed, it can't be used
12 for impeachment purposes in argument or any other way.

13 THE COURT: Very well. Let's proceed to the
14 next question.

15 MR. WEINGLASS: Right.

16 Q. (By MR. WEINGLASS) Now, you told us last
17 Thursday that you claim that once when you were driving in
18 a vehicle with Mr. Segarra, I believe you said on your way
19 to Rhode Island --

20 A. That's correct.

21 Q. That you passed a Winnebago?

22 A. A camper-type Winnebago vehicle.

23 Q. You claim that on that occasion, Mr. Segarra
24 said something to you about that vehicle?

25 A. Yes.

1 Q. What did he say?

2 A. He said that that was one of the types that
3 they used to go to Mexico with.

4 Q. I see. Did you ever tell the FBI that prior to
5 your testimony?

6 A. Did I ever tell the FBI the statement that I
7 just made?

8 Q. Yes.

9 A. Yes, I did.

10 Q. When did you tell them that?

11 A. On one interview occasion, or maybe more. I'm
12 not certain, I don't have the records.

13 Q. You said you saw them writing down when you
14 would be interviewed by the FBI, correct?

15 A. Sometimes.

16 Q. Do you know if they ever wrote that down?

17 A. I really don't know.

18 Q. Would it surprise you to know that it shows up
19 nowhere in any FBI notes or records?

20 MR. DABROWSKI: Objection to what would or
21 would not surprise the witness, Your Honor.

22 Q. (By MR. WEINGLASS) Who would be your --

23 THE COURT: Whether he's surprised or not
24 is not material as counsel knows. The question is is it
25 true or isn't it, I don't know.

1 Q. (By MR. WEINGLASS) What's your reaction if, in
2 fact, there is no reference whatsoever to that?

3 MR. DABROWSKI: Objection, Your Honor.

4 THE COURT: Sustained. Just a moment, the
5 Court sustained the objection. Next question.

6 Q. (By MR. WEINGLASS) You never mentioned
7 a Winnebago to the grand jury either, did you?

8 A. Not that I recollect. There might be other
9 things that was told to me about the Wells Fargo case that
10 I didn't tell the grand jury, too.

11 Q. Right. About that incident with the automobile
12 antenna?

13 A. Yeah, I was a fifteen year old juvenile.

14 Q. Was there anything attached to the antenna?

15 A. No.

16 Q. Now, from 1983, the end of the year, until
17 early 1985, let's just say 1984, that year, were you in
18 Boston?

19 A. I may have been a few places, that was one of
20 them.

21 Q. Where else in that year were you?

22 A. Different places. I really travel a lot, I
23 can't recollect every little pit stop I make.

24 Q. I'm not talking about pit stops, Mr. Cox. Did
25 you move and live somewhere else?

1 A. Sometimes I might move and live somewhere else
2 every other week.

3 Q. Every other week?

4 A. Yes, if I choose to.

5 Q. Right. In the year 1984, this is the year
6 after 1983, and evidently, you have some recollection, in
7 the year 1984, the next year, a year closer to now, could
8 you tell us if you moved and lived anywhere other than
9 Boston?

10 A. Like I stated, there had been numerous places
11 where I've lived throughout the United States and Canada.

12 Q. In the year 1984?

13 A. I don't recollect exactly. I was in Boston
14 most of that year.

15 Q. You were in Boston most of that year?

16 A. Boston and New York, New Jersey, Philadelphia,
17 you know, different places. Montreal, Canada.

18 Q. All in 1984?

19 A. Yes.

20 Q. Were you in Seattle, Washington?

21 A. Was I in Seattle, Washington? I could have
22 been.

23 Q. Well, try to search your memory. The year
24 1984, were you in Seattle, Washington?

25 A. No, I was not.

1 Q. The year 1985 were you in Seattle, Washington?

2 A. No, I was not.

3 Q. Did you tell anyone you were?

4 A. I don't recollect telling anyone that.

5 Q. Might you have told someone that you were in
6 Seattle, Washington when you weren't?

7 A. I don't think so. Who is this someone?

8 Q. Well, if you can recall, one, ever telling
9 someone, anyone, that you were in Seattle, Washington in
10 1984 or 1985?

11 A. No.

12 Q. Now, when you first saw the FBI, first time, do
13 you remember where it was?

14 A. Yes, it was in Waltham, Massachusetts.

15 Q. In the town of Waltham, Massachusetts?

16 A. Yes.

17 Q. Was it in any particular building?

18 A. It was in the Waltham court building.

19 Q. In the where?

20 A. The court building in Waltham.

21 Q. In the court building?

22 A. Uhm-hmm, one of those charges that you said
23 at that time two cases were pending, one of those was
24 pending.

25 Q. I see. So when you first saw the FBI, you

1 called them and asked them to come to court in the
2 Waltham District Court in Massachusetts where you had
3 a case pending and the FBI showed up in court?

4 A. Yes, they showed up in court to interview me.

5 Q. While your case was pending, right in that
6 court?

7 A. No, the case was postponed and dismissed, and I
8 was interviewed downstairs and then taken to a Ramada Inn
9 and further debriefed.

10 Q. Right. But you asked them to come to court
11 where you had a case pending on that day and they --

12 MR. DABROWSKI: Objection, Your Honor.

13 THE WITNESS: I didn't ask them to come and
14 meet me there.

15 MR. DABROWSKI: It mischaracterizes the
16 testimony. The witness testified the case was postponed
17 and dismissed.

18 MR. WEINGLASS: Not on that day, Your Honor.

19 MR. DABROWSKI: I must have misheard the
20 testimony and I apologize.

21 MR. WEINGLASS: We'll go back.

22 Q. (By MR. WEINGLASS) On the day the FBI showed
23 up, the case was pending, isn't that right?

24 THE COURT: Let me make a ruling on the
25 objection, first. What is the objection?

1 MR. DABROWSKI: The objection is that he
2 has mischaracterized the testimony. The case was not
3 pending according to the witness. It's my recollection
4 that the witness testified the case was postponed and
5 dismissed. He was then debriefed. Mr. Weinglass's
6 recollection is that the matter was pending according to
7 the witness. I'd like the testimony read back, it will
8 clarify the issue.

9 THE COURT: Why don't we clarify it. While
10 the case was pending at the Waltham court, did the FBI
11 come there to interview him. Then we'll have the whole
12 story.

13 THE WITNESS: The case had been continued
14 and dismissed at a later date.

15 Q. (By MR. WEINGLASS) At a later date?

16 A. And the FBI interviewed me at that time.

17 Q. So on the day that the FBI came to see you in
18 the courthouse in Waltham, the case was still pending?

19 A. Yes.

20 Q. Okay. Did you tell the FBI to come to court?

21 A. No, I don't tell the Justice Department
22 anything.

23 Q. Right.

24 A. How to take care of their business.

25 Q. How did they know you were in court?

1 A. I called.

2 Q. And did you ask them to come to court?

3 A. No, I said I'd like to -- would they be
4 interested in the Wells Fargo robbery, some information
5 pertaining to the Wells Fargo robbery. And they said yes
6 and they came there. Downstairs in the basement.

7 Q. Who told them to come -- who told them where
8 you were?

9 A. I did.

10 Q. Now, and you had been arrested the day before?

11 A. I don't know if it was the day before or if it
12 was a Monday and I got arrested on a Saturday or whatever.

13 Q. Okay. Now, during that period of time between
14 '83 and '85, did you engage in a counterfeiting operation?

15 A. No, I did not.

16 Q. Did you tell anyone?

17 A. Who is anyone?

18 Q. Did you tell Mr. Segarra that you were engaged
19 in a counterfeiting operation?

20 A. Yes, I told Mr. Segarra that for --

21 Q. Was that the truth?

22 A. No, that's not the truth.

23 Q. Who told you to tell him that?

24 A. I made that up to give him a reason why to have
25 further contact.

1 Q. I see. Did anyone in the FBI tell you that to
2 make that up?

3 A. No, sir.

4 Q. You made that one up on your own?

5 A. Yes, I did.

6 Q. You were then already working with the FBI when
7 you told him that?

8 A. Yes, I was.

9 Q. So you're working with the FBI, you tell Mr.
10 Segarra that you're engaged in counterfeiting, right?

11 A. Yes, I did.

12 Q. The FBI didn't know you were saying that?

13 A. No.

14 Q. This was something you were doing on your own?

15 A. Yes.

16 Q. And you were doing it in order to keep in
17 contact with him?

18 A. Yes, to have something that he would be
19 interested in to keep a contact up.

20 Q. Did there ever come a time -- did the FBI know
21 you were in contact with him?

22 A. Yes.

23 Q. Now, we're talking about 1985 in the spring of
24 1985, isn't that correct?

25 A. I don't know if it was the spring or the

1 summer, but it was '85.

2 Q. You were doing this just before you went to the
3 FBI?

4 A. No.

5 Q. It was after you went to the FBI?

6 A. Yes.

7 Q. Okay. You told the FBI you were in contact
8 with him?

9 A. Yes, I did.

10 Q. Okay. Mr. Cox, did the FBI ever, to use the
11 colloquial term, wire you up so that you could record
12 these conversations with Mr. Segarra?

13 A. No, they did not.

14 Q. It's a fact, is it not, that Mr. Segarra said
15 to you he's not interested in your counterfeiting?

16 A. No, that's not the fact. He said he was
17 interested.

18 Q. What happened to that?

19 A. I couldn't get in touch with him after that.

20 Q. Did you try?

21 A. Yes.

22 Q. And did you ever get a message back saying that
23 he wasn't interested in anything that you had to do with
24 that?

25 A. No, I never did get a message back stating

1 that.

2 Q. You never did?

3 A. No.

4 Q. From no one?

5 A. No one.

6 Q. Not from Anne Gassin?

7 A. No. As a matter of fact, Anne Gassin said he
8 was interested and that she was holding a package for him
9 also.

10 Q. I see. Did you say you were holding a package
11 for him?

12 A. No. I told her to tell him I got that thing.

13 Q. And you never -- he never said that he wanted
14 to get back to you on that?

15 A. One time he did and then it was no further
16 contact.

17 Q. He never got back to you?

18 A. No, he didn't.

19 Q. Have you testified ever in court before?

20 A. At one of my shoplifting cases, yes.

21 Q. In Northampton?

22 A. No, I didn't take the stand in Northampton.

23 Q. In one of the other shoplifting cases?

24 A. Uhm-hmm.

25 Q. Other than that, do you recall when that was?

1 A. It was in 1964 at the Boston Municipal Court in
2 front of Judge Adlow.

3 Q. Mr. Cox, did you see Mr. Segarra at all in the
4 year 1984?

5 A. I don't think I saw him in '84, but I
6 recollect like there was a time when he came by and left
7 a note. I wasn't there, but I got the note.

8 Q. You were away, right?

9 A. Yes, I was.

10 Q. Could you explain to the Court and jury why you
11 were away in the year 1984?

12 A. There is no -- I don't have specific reasons
13 why I'm away. Sometimes I might just feel like riding to
14 Canada to watch the New England foliage, or those type of
15 reasons might be why I'm away, on scenic tours.

16 Q. Do they have anything that had to do with a
17 stabbing that occurred on your corner in Boston?

18 A. There has never been a stabbing on my corner
19 that I can ever recollect. A stabbing of who and when?

20 Q. Someone who was involved in a competing flower
21 business?

22 A. There has never been a stabbing on my corner.

23 Q. Isn't it a fact that you shaved your head in
24 1984 and '85 and took off, because the police were after
25 you?

1 A. No, that's not a fact.

2 Q. Can you describe what your hair condition was
3 like in early 1985?

4 A. I think it was similar to the way it is now.

5 Q. Did you ever shave your head?

6 A. Yeah, I shaved my head when I was doing that
7 last four months that you had referred to about in when
8 the Justice Department sent me away.

9 Q. What, in 19 --

10 A. I shaved my head then, that was a few months
11 ago, about three months ago.

12 Q. In '84 and '85, you never altered your
13 appearance?

14 A. No, I never try to alter my appearance.

15 Q. Is it your testimony that in that period of
16 time, the police in Boston or in Cambridge, were not
17 looking for you?

18 A. I could have had a default or something like
19 that that I got picked up on and had to straighten out.

20 Q. It wasn't you were traveling away from Boston
21 having something to do with your attempting to avoid law
22 enforcement?

23 A. No, no. Because I knew what law enforcement
24 was interested in me about was just something minor. It
25 wasn't even worth being a fugitive about or flight to

1 avoid prosecution. It was simple matters, petty
2 shoplifting.

3 Q. Just to categorize, you have lied to the
4 police, haven't you, in the past?

5 A. Yeah, it would be fair to say that.

6 Q. You've lied to courts?

7 A. It would be fair to say that.

8 Q. And you've lied to the FBI?

9 A. It would be fair to say that.

10 MR. WEINGLASS: I have nothing further.

11 THE COURT: No other questions?

12 MR. DABROWSKI: I have questions, Your
13 Honor. I assumed --

14 THE COURT: Anything from the defendants?
15 All right. Proceed.

16

17 *****

18

19

20 REDIRECT EXAMINATION BY MR. DABROWSKI

21

22 Q. Mr. Cox, Mr. Weinglass just concluded with an
23 acknowledgment on your part that you had lied to the FBI.
24 You of course, recall that, is that correct?

25 A. Yes.

1 Q. Do you recall his questions about your use of
2 deception in connection with criminal activity?

3 A. Yes.

4 Q. And do you recall his many questions about your
5 extensive prior record?

6 A. Yes, I do.

7 Q. And about the particulars associated with some
8 of those offenses; do you recall generally all of those
9 questions?

10 A. Yes, I do.

11 Q. Did Juan Segarra-Palmer know about your prior
12 criminal record and about the particulars?

13 A. No, he didn't know anything about the
14 particulars, but he knew I had a prior criminal record.

15 Q. What did he know?

16 A. He knew that --

17 Q. As best you can relate it, what did he know
18 about you?

19 MR. WEINGLASS: Objection, Your Honor. One
20 witness cannot testify about the state of mind of another,
21 that's elementary.

22 THE COURT: The point is taken provided
23 did he ever discuss the particular elements of these
24 crimes with him, thereby giving him knowledge. If that is
25 brought out in that manner, the Court will allow it.

1 MR. DABROWSKI: Mr. Weinglass's objection,
2 Your Honor, is well taken on the knowledge element.

3 Q. BY MR. DABROWSKI) What, if anything, did you
4 tell Mr. Juan Segarra?

5 A. After I met Juan Segarra and we started a
6 friendship, I had told him that I had been in Norfolk
7 prison where he had some association on a counselling
8 level, and that was about it on the nature of as far as
9 me ever telling him anything about my past activities.

10 Q. He knew you were a convicted felon?

11 A. Yes, he did.

12 Q. You described in response to questions asked by
13 Mr. Weinglass, the incident on August 29th of 1983
14 involving Mr. Juan Segarra and his introduction to you of
15 an individual on that night as just a "flash". Do you
16 recall your answer to that question, it was just a flash;
17 you met someone else and it was just a flash?

18 A. Yeah, that was my answer to that question.

19 Q. Could you take us back for a moment to that
20 evening and tell us who was that individual again, what was
21 that individual doing on that evening?

22 A. That individual didn't, in my sight, do
23 anything. He got out of a blue Buick Regal with Mr.
24 Segarra, the car that I stated which was later given to
25 me, and I looked at him. And the individual didn't seem

1 to speaking English so Mr. Segarra instructed him in Spanish
2 and then told me in English and then left. The whole
3 encounter was, I'd say, less than a minute.

4 Q. Why were you meeting Mr. Segarra and this
5 individual at that particular moment in time?

6 A. Because at that particular moment in time,
7 there was supposed to be a Wells Fargo robbery in Hartford
8 that night. But it was postponed until a later date. That
9 was the reason why I was meeting Mr. Segarra and that
10 individual.

11 Q. Was that individual supposed to be involved in
12 that robbery?

13 A. To my knowledge, I don't know what role that
14 individual was to play in the robbery. My role was to pick
15 that individual up later on that evening.

16 Q. And do what with him?

17 A. Take him back to Boston and show him how to get
18 back to New York.

19 Q. Now, you've told us a couple of things about
20 this individual, one of which is he's not in this
21 courtroom, is that correct?

22 A. Not that I can recollect.

23 Q. Is there any question about that?

24 A. No. I can't make assumptions and I'm not even
25 going to attempt to.

1 Q. We're not asking you to make assumptions, we're
2 trying to establish facts. As a matter of fact, is that
3 individual in this courtroom, if you know?

4 A. I really wouldn't be able to recognize that
5 individual if I seen him again.

6 Q. Number one, you don't know whether he's in
7 this -- is it fair to say then you don't know if he's in
8 this courtroom?

9 A. That's right.

10 Q. Are you sure that the individual was a he, that
11 is a male?

12 A. I'm pretty sure of that, unless he was in drag.

13 Q. Are you sure that the individual spoke little
14 English?

15 A. He didn't speak any English.

16 Q. What language did he speak, if you know?

17 A. I assume, from as much of it that I heard, it
18 was Spanish.

19 MR. WEINGLASS: Objection on assumption,
20 Your Honor.

21 THE COURT: Well, the Court will let it
22 stand. I mean, you or I could hear somebody speak
23 Spanish, we'd know what it was, but we wouldn't know the
24 details of it. And to the extent you want to cross
25 examine him on it, you can. If I heard somebody speaking

1 French, I'd know what language they were speaking. I
2 might not know everything they said.

3 So we'll let it stand. If you want to cross
4 examine him, you may.

5 Q. (BY MR. DABROWSKI) So the individual is a
6 male, he may or may not be in this courtroom?

7 A. It's possible but I wouldn't be able to
8 recognize him if he was because it was such a fast
9 encounter, you know, meeting. And you know, I would have
10 known him if I had seen him to pick him up later that
11 night from the clothing and everything but this long
12 period of time that has elapsed, if the individual is in
13 the courtroom, I really wouldn't be able to recognize him.

14 Q. Is there anyone in this courtroom who
15 resembles that individual?

16 A. Not -- no.

17 Q. Now, the individual you believe spoke Spanish?

18 A. (Nodding affirmatively).

19 Q. And you also said that later that night if he
20 came back, you would recognize him because of his
21 clothing?

22 A. And I had just seen him earlier that night
23 and the impression was in my mind of his features and
24 characteristics and clothing.

25 Q. Could you describe his features,

1 characteristics and clothing; what was he wearing, what
2 did he look like?

3 A. He was maybe between five feet six or five
4 feet eight, kind of plump in weight, stocky, and just a
5 white T-shirt and a pair of pants, regular pair of pants.

6 Q. How about his shoes -- was he wearing shoes?

7 A. Yes.

8 Q. Do you recall?

9 A. I don't recall whether he had on jogging shoes
10 or regular shoes.

11 Q. A white T-shirt and a pair of pants?

12 A. Yes.

13 Q. Did he have anything on his head?

14 A. No, he did not.

15 MR. DABROWSKI: May I have one minute, Your
16 Honor?

17

18 (Pause in proceedings)

19

20 Q. (BY MR. DABROWSKI) With regard to Mr.
21 Weinglass's questions about what you may have read in the
22 newspaper, you related to us that you had read what you
23 described as advertising by the Macheteros and that played
24 a role apparently in your coming forward, is that correct?

25 A. Yes, it did.

1 Q. What is it that you read about the Macheteros
2 that played a role in your cooperation with the FBI?

3 MR. WEINGLASS: Objection, Your Honor,
4 relevance. If I may be heard?

5 THE COURT: Well, the problem concerning the
6 Court is this, in that piece of paper, there are some
7 extraneous things that might be objectionable and it
8 hasn't been offered in evidence and I don't want it to in
9 any way prejudice the jury. And you might be leading into
10 that. That's what I'm concerned about, Counsellor.

11 Q. (BY MR. DABROWSKI) Mr. Cox, if there is any
12 question about my question being in conflict with the
13 Court's prior order that you not testify about certain
14 matters, then please don't go into that. But can you
15 answer that question, that is what did you read about the
16 Macheteros that caused you to cooperate with the FBI? Can
17 you answer that without referring to matters within the
18 Court's order?

19 MR. WEINGLASS: Your Honor, I'd rather
20 leave that judgment up to the Court rather than Mr. Cox.
21 I think the Court ought to hear us on this.

22 THE COURT: Hear it out of the presence of
23 the jury, you mean?

24 MR. WEINGLASS: Yes, if it's necessary, if
25 counsel persists.

1 THE COURT: That's what concerns me, if he
2 recites everything in that article, some of it may claim
3 to be prejudicial then we'd have a claim for a mistrial. I
4 don't want to have that happen. I don't know what he's
5 going to say.

6 MR. DABROWSKI: We should hear the answer
7 outside the presence of jury, Your Honor. I don't believe
8 it's going to be a problem. I wouldn't have asked it if I
9 thought it was.

10 THE COURT: We'll have to excuse the jury
11 for two minutes and get the answer in the record.

12

13

14

15

(Jury excused)

16

17

THE COURT: Do you want to ask the question
18 now and see what the witness responds to?

19

Q. (BY MR. DABROWSKI) Mr. Cox, you testified on
20 cross examination that the Macheteros kept putting things
21 in the paper, they kept advertising and that was in the
22 back of your mind.

23

What is it that you read that caused you to
24 refer to the Macheteros advertising?

25

MR. WEINGLASS: I'm going to object to the

1 form of the question. I don't believe the witness said the
2 Macheteros were advertising. I asked the witness if he
3 referred to those news articles as advertisements. He said
4 the news articles were advertisements.

5 THE COURT: So the word advertising was
6 used.

7 MR. WEINGLASS: It was but the Macheteros
8 weren't advertising. Wells Fargo was advertising for
9 rewards.

10 THE COURT: He's entitled to ask it and
11 let him tell you.

12 MR. WEINGLASS: But the question --

13 THE COURT: There is no jury here, no one
14 way of being harmed.

15 MR. WEINGLASS: That question is improper
16 if it includes a statement of fact that is not in the
17 record. The question the Government has just asked
18 includes a statement of fact not in the record, that is
19 that the Macheteros were advertising.

20 THE COURT: A simple question is, what was
21 the nature of the advertising you referred to in your
22 original direct testimony; what was the advertising you
23 referred to?

24 THE WITNESS: I didn't say they were
25 advertising, I said they were bragging. That put that

1 thought in the back of my mind to cooperate and come
2 forward.

3 THE COURT: They were bragging?

4 THE WITNESS: Yes. They wanted publicity
5 and notoriety. I don't know for what reason, but that's
6 what they were doing.

7 THE COURT: All right. Go ahead,
8 Counsellor.

9 Q. (BY MR. DABROWSKI) What were they bragging
10 about?

11 A. That Victor Gerena was a member of their
12 organization and that they had the money under tight
13 security and that they gave out toys and this and that in
14 Hartford, Connecticut one Christmas. And, you know, if
15 they were so professional, I don't see why they were
16 acknowledging all that.

17 Q. Why did that bragging cause you to want to
18 cooperate?

19 A. Because I thought that my phone might have been
20 tapped and that the FBI had me under surveillance.

21 Q. And that would provide -- did that provide
22 an incentive for you to come in and talk to the FBI?

23 A. The reward provided the incentive and their
24 unprofessional conduct after activities that they had got
25 away with in the bragging.

1 Q. This bragging did not include the bombing of
2 the aircraft at Muniz that you knew about, is that
3 correct?

4 A. Not in the newspapers.

5 Q. And that's one of the things that's within the
6 Court order which we did not want you relating to the
7 jury, you understand that?

8 A. Yes.

9 Q. In fact, that wasn't involved in this bragging,
10 isn't that correct?

11 A. Not in this particular bragging.

12 Q. This particular bragging was related to Wells
13 Fargo, isn't that correct?

14 A. Yes.

15 Q. It didn't involve the shooting of the sailors
16 at Sabana Seca?

17 A. No.

18 Q. Did it involve the blowing up of the
19 electrical installations?

20 A. Not in these newspapers. You know, I read
21 something to them types of natures in newspapers in Puerto
22 Rico, and in the United States when some of those incidents
23 happened and a group calling themselves the Macheteros
24 was claiming responsibility for such activities.

25 MR. DABROWSKI: I have no further questions

1 outside the presence of the jury, Your Honor.

2 THE COURT: What do you propose to go into
3 in the presence of the jury, Counsellor, so we can rule on
4 it now?

5 MR. DABROWSKI: Mr. Weinglass on cross
6 examination raised the -- received the answer that there
7 was something done by the Macheteros which this witness
8 characterized then as advertising. He's now characterizing
9 it as a form of bragging. They kept putting it in and it
10 remained in the back of his mind and it was -- that was one
11 of the reasons why he came in and began to cooperate with
12 the FBI.

13 THE COURT: See, the way it's put,
14 Counsellor, one of the things it does, it presumes, as far
15 as he's concerned, that they put this in the paper or it
16 may turn out before you're through, you'll be able to show
17 they did put it in the paper, part of their
18 correspondence.

19 But at the moment, he doesn't know who put it
20 in the paper, he read it in the paper. So you may be
21 developing something that could cause harmful error.

22 MR. DABROWSKI: I didn't develop it, Your
23 Honor.

24 THE COURT: I don't want to get into that.

25 MR. DABROWSKI: I didn't develop it, Mr.

1 Weinglass did.

2 THE COURT: I know that the area that
3 you're moving into could well cause error. I want to avoid
4 it.

5 MR. DABROWSKI: Well, Your Honor, I want to
6 avoid error as well, but what I'm moving into does not
7 cause error. We are not, for example, nor do we have any
8 reason to believe the witness is going to testify that the
9 bragging that caused him to want to cooperate with the FBI
10 had anything to do with the bombing of aircraft in Muniz.

11 THE COURT: It seems to me a simple
12 question would be to ask the witness what was the
13 motivation that attracted your attention on the particular
14 date in September that you decided to explain to the FBI
15 the alleged involvement of Mr. Segarra-Palmer. Then if he
16 wants to tell you whatever he's going to tell you what
17 caused him to do it, then let him do it. But to use these
18 pieces of paper as motivation as ads or anything else of
19 that kind, it seems to me might mislead the jury and
20 argumentatively cause error on appellate review. That's
21 what I want to avoid. Maybe I'm being too careful, but --

22 MR. DABROWSKI: Let me take it one final
23 step further, we'll see whether to pursue it or not in
24 front of the jury.

25 Q. (BY MR. DABROWSKI) You read what you have

1 characterized to us to be bragging by the organization
2 known as the Macheteros, is that correct?

3 A. Yes.

4 Q. And you previously testified that Mr. Segarra
5 had advised you that he was a member of the Macheteros?

6 A. Yes, he did.

7 Q. Now, did you discuss this bragging that you had
8 read with Mr. Segarra at any time?

9 A. Yes, I did.

10 Q. Could you tell us where and when that
11 discussion occurred?

12 A. I can't exactly pinpoint where or when but at
13 one time he says what do you get when you do something
14 and get away with it, and let it die. What's the reason
15 for wanting all this publicity?

16 Q. What did he say?

17 A. That was -- his answer was because that makes
18 the people aware that what they're doing is supposed to be
19 in the best interest for the struggle and the independence
20 of Puerto Rico. They want the people to be aware of that.

21 Q. Now, you mentioned a toy giveaway. Did you
22 have a discussion with Mr. Segarra about a toy giveaway?

23 THE COURT: And if so, when.

24 THE WITNESS: No. Maybe I read that in the
25 newspaper. No, that's the only way I can answer that.

1 Q. (BY MR. DABROWSKI) Was that part of what
2 you read that you've characterized as bragging by the
3 Macheteros?

4 A. Yes.

5 Q. Was that part of the -- did the discussion with
6 Mr. Segarra about the bragging follow reading what you did
7 about the toy giveaway in the newspaper?

8 A. I don't recollect any consultation about the
9 toy giveaway. If it did occur, I don't recollect or if it
10 did, it was such a brief exchange.

11 MR. DABROWSKI: I have nothing further
12 outside the presence of the jury, Your Honor.

13 MR. WEINGLASS: All of these questions, Your
14 Honor, are based on triple unfounded hearsay.

15 MR. DABROWSKI: Your Honor, to save
16 some time, I may not even pursue this in front of the jury.

17 MR. WEINGLASS: Well, if counsel is not
18 going to, then we will save time. The word "may" troubles
19 me.

20 MR. BERGENN: If we could have an answer
21 one way or the other, I'll sit down as well, Your Honor.

22 MR. DABROWSKI: Sit down, Mr. Bergenn.

23 MR. WEINGLASS: Does the Government intend
24 to argue that they could bring in this triple hearsay?

25 Your Honor, I presume that the record doesn't

1 pick up counsel's orders to other counsel in the
2 courtroom.

3 MR. DABROWSKI: Mr. Bergenn solicited a
4 observation on my part as to whether he should sit down.
5 I told him he should sit down.

6 MR. BERGENN: Thank you very much, Mr.
7 Dabrowski.

8 THE COURT: Do I understand, Counsel, you're
9 not going to pursue this in the presence of jury?

10 MR. DABROWSKI: That's correct, Your Honor.

11 THE COURT: All right. Call the jury,
12 please.

13

14 (Whereupon the jury was
15 brought into the courtroom)

16

17

18 THE COURT: You may proceed, Counsellor.

19 Q. (BY MR. DABROWSKI) Mr. Cox, directing your
20 attention back just briefly to this individual that you
21 were supposed to pick up and who you met in a brief moment
22 on August 29th of 1983, I'd like to place in front of you
23 and I am placing in front of you at this point Government
24 Exhibit 59 for identification, which is not a full exhibit,
25 so therefore read it to yourself.

And I direct your attention to the ninth line

1 on that document.

2 THE COURT: On which page?

3 MR. DABROWSKI: That's on the last page,
4 Your Honor, of that document. These have previously been
5 provided to counsel. I will give Mr. Weinglass an extra
6 copy. I am referring to the last page of the exhibit.

7 MR. WEINGLASS: Your Honor, the Government
8 is about to impeach its own witness. It must claim
9 surprise, as I understand the rules of federal evidence.
10 Is the Government claiming it's surprised this witness has
11 given previously false information?

12 MR. DABROWSKI: I'm not claiming that we're
13 surprised he gave previously false information, Your
14 Honor.

15 THE COURT: Objection is noted. Under the
16 rules it's permissible, if that's what he wants to do. I
17 don't know yet until I've found out what the subject
18 matter is and what the question relates to.

19 MR. WEINGLASS: I think the Government
20 should --

21 THE COURT: The rule, as counsel knows,
22 does permit if you so choose, if that's what it is,
23 impeachment, you can impeach your own witness should you
24 so choose.

25 MR. WEINGLASS: If that's what the

1 Government wants to do.

2 THE COURT: Nothing in the rules prohibits
3 it.

4 MR. WEINGLASS: I think they have to claim
5 a surprise, Your Honor.

6 THE COURT: I don't know what it's about, I
7 haven't seen any surprise yet.

8 MR. WEINGLASS: I think we're about to.

9 THE COURT: Has the witness read Line 9 on
10 the last page of the document, Government Exhibit 59 for
11 identification?

12 THE WITNESS: Line 9? Yes, I did.

13 THE COURT: The witness has read it.

14 Q. (BY MR. DABROWSKI) Could you tell us -- put
15 that document down, Mr. Cox, for the moment and just tell
16 us based on your present recollection right here in the
17 courtroom right now, what your best recollection is as to
18 what that individual looked like and what he was wearing?

19 MR. WEINGLASS: Your Honor, I object because
20 the document may be used to refresh the witness'
21 recollection. The witness did not say he had a failure of
22 recollection that needed refreshment. When he was asked
23 if the witness was wearing a hat, I believe the witness
24 answered no. And now the Government is showing --

25 THE COURT: That was his answer, that's

1 correct.

2 MR. WEINGLASS: Now the Government is
3 showing him a document that does not refresh his
4 recollection but impeaches and contradicts that answer.

5 THE COURT: Well, he has the right to do
6 that if he so chooses.

7 MR. DABROWSKI: That's not what's happening.
8 Right now, we haven't got to impeachment yet, we're not --
9 we're working on refreshed recollection, Your Honor.

10 MR. WEINGLASS: The witness didn't have a
11 failure of recollection, didn't request a refreshment.

12 THE COURT: He's entitled to refresh his
13 recollection, Counsellor. The objection is overruled.
14 Proceed.

15 Q. (BY MR. DABROWSKI) What is your present
16 recollection as to what the individual was wearing that you
17 -- that was with Mr. Segarra on August 29th of 1983?

18 A. My present recollection was as I stated
19 earlier, a white T-shirt.

20 THE COURT: What?

21 THE WITNESS: My present recollection was
22 as I stated earlier when I was asked that question, a
23 white T-shirt, a regular pair of pants. I wasn't sure if
24 he had on jogging shoes or regular shoes.

25 THE COURT: How about did he wear a hat?

1 THE WITNESS: My present recollection, I
2 didn't state that.

3 Q. (BY MR. DABROWSKI) Now, I'd ask you to look
4 at Government Exhibit --

5 MR. WEINGLASS: Your Honor, I ask that the
6 prior answer be read back to the witness since the witness
7 denies stating it.

8 THE COURT: Well, a simple question to make
9 it clear, not to make confusion, having read Line 9 of the
10 last page of Government Exhibit 59, what is your present
11 recollection as of this moment; does that refresh your
12 recollection or not?

13 THE WITNESS: This says --

14 THE COURT: Never mind what it says. Does
15 it refresh your recollection? You know what refresh
16 means, don't you you?

17 THE WITNESS: Yes, do I remember what I
18 said. And --

19 THE COURT: All right.

20 THE WITNESS: Like I said, I just stated
21 what my, you know, current recollection was. At that time
22 I might have -- this is one word different but I just gave
23 the best identification I could of that individual. As I
24 stated, it was such a brief encounter, my mind was on Wells
25 Fargo, not -- and, you know, not on what color his

1 shoelaces were or if he had on fingernail polish or
2 something like that, at that time.

3 MR. WEINGLASS: Your Honor, I think the jury
4 should be informed that these notes are FBI handwritten
5 notes taken pursuant to interviews of the witness.

6 THE COURT: Is that what they are,
7 Counsellor? I don't know what they are.

8 MR. DABROWSKI: I would move them into full
9 admission at this point, Your Honor. If we're going to be
10 referring to them, it's inappropriate to characterize them
11 in any way. What's happened is they've been
12 marked for identification. That's an -- he shouldn't do
13 that, Your Honor.

14 MR. WEINGLASS: When a witness picks up a
15 document and reads it, the jury should know what he's
16 reading.

17 MR. DABROWSKI: Your Honor, a witness could
18 pick up a stone and refresh his recollection and in fact,
19 I think I've --

20 MR. WEINGLASS: I think this witness could.

21 MR. DABROWSKI: Then we'll use this
22 document, which is more than a stone to refresh his
23 recollection if that's counsel's position.

24 THE COURT: A simple question, does that
25 document, Line 9, refresh your recollection now sitting

1 there, having read it, whatever it says?

2 THE WITNESS: Yes, it refreshes one thing
3 that I made as stated here.

4 THE COURT: That you what?

5 THE WITNESS: It says one thing.

6 Q. (BY MR. DABROWSKI) Not what it says, does it
7 cause you to recall? Does it cause you to recall?

8 A. This is the same description I gave with one
9 item left out.

10 Q. Okay. Now, regardless of what you told the FBI
11 on whatever date this was, regardless of what the document
12 is in front of you, do you now have a present recollection
13 as to whether or not the individual had something on his
14 head?

15 A. No, I don't.

16 Q. Do you recall for a fact that he did not or
17 that he did; I mean, what is your best recollection?

18 A. I couldn't recall for a fact.

19 MR. WEINGLASS: Objection, asked and
20 answered, Your Honor. We've gone over and over this. The
21 witness has given the Government his full answer and I
22 object to the Government going back and back. It's
23 repetitive.

24 THE COURT: He does say it doesn't refresh
25 his recollection. He still doesn't remember whether or

1 not he had the hat.

2 MR. DABROWSKI: If his recollection is
3 unclear, the Government can go to the next step in
4 attempting to introduce a prior --

5 THE COURT: Who recorded it? Did he sign
6 it?

7 MR. DABROWSKI: He didn't, Your Honor. Did
8 he sign it? He didn't.

9 THE COURT: Did you?

10 MR. DABROWSKI: That's correct, Your Honor,
11 we may be able to do that if it's significant enough. What
12 I'm doing is setting up a foundational basis to pursue a
13 refreshed recollection. If it's not refreshed, I then go
14 on to a past recollection recorded. In order to do that,
15 I need to establish a basis that his present recollection
16 in fact is not solid. If he remembers definitively that
17 the individual did not or did.

18 THE COURT: He says it doesn't refresh
19 his recollection, period.

20 MR. WEINGLASS: That's what he said.

21 MR. DABROWSKI: Mr. Weinglass will later
22 argue that his recollection was clear, he was not wearing
23 anything on his head. I want to establish whether or not
24 that is a fact.

25 THE COURT: Well, we'll get to that at

1 another time.

2 MR. DABROWSKI: We will, Your Honor, because
3 it's a basis for putting in a past recorded recollection.
4 And if I don't have the basis now, I don't get the
5 information in later. I simply need to establish whether
6 or not the individual now has a certain memory. If he
7 doesn't then we can move on.

8 THE COURT: He says says he doesn't
9 remember.

10 MR. DABROWSKI: I am not satisfied that the
11 record is clear enough to permit me to introduce this
12 document later for that purpose.

13 THE COURT: If you could make it clearer,
14 go ahead and ask the question. It's clear to me.

15 MR. WEINGLASS: I object to the argument
16 after the Court has ruled. Your Honor has ruled that the
17 witness says he has no recall, that should end it. I
18 object to the Government going back over an area once the
19 Court has ruled.

20 THE COURT: He says he'd like to make it
21 clearer. If he can, let him try, if he's reasonable about
22 it. The Court has ruled, Mr. Weinglass. We're not going
23 to be delayed over there. Ask the question, get it over
24 with. Otherwise I'll ask the question, I'll get it over
25 with very quickly.

1 MR. DABROWSKI: Mr. Weinglass may have just
2 clarified the record, Your Honor. If he agrees that the
3 witness has no recall, then I have a basis to do this
4 later.

5 Q. (BY MR. DABROWSKI) Do you presently know
6 whether or not the individual that you met on August 29th
7 of 1983 who was with Mr. Juan Segarra was wearing
8 something on his head?

9 A. No, I don't presently know.

10 Q. On May 24th, of 1985, were you interviewed by
11 the FBI?

12 A. Yes, I was.

13 Q. Was your recollection of what that individual
14 was wearing better at that time?

15 A. Yes, it was.

16 Q. Did you describe that individual on that date?

17 A. Yes, I did.

18 MR. WEINGLASS: Your Honor, I object.
19 It's the witness's statement, it's not an FBI statement.

20 Q. (BY MR. DABROWSKI) And is the description
21 that is recorded in front of you as Exhibit 59 an accurate
22 recitation of what you told the FBI on that date with
23 regard to that individual and what he had on his head?

24 MR. WEINGLASS: Your Honor, the Government
25 can only do this if the Government had the witness sign

1 a statement. The Government never did that.

2 THE COURT: He didn't sign it. It's up to
3 the Government to bring in the agent to wrote down those
4 notes.

5 MR. WEINGLASS: I would agree.

6 Q. (BY MR. DABROWSKI) Does the statement on the
7 last page of Government Exhibit 59 accurately reflect what
8 you told the FBI agent on May 24th of 1985?

9 MR. WEINGLASS: Objection.

10 MR. DABROWSKI: What's the basis of the
11 objection?

12 THE COURT: May I see it so we'll know what
13 we're talking about? I don't know what they're talking
14 about, the jury doesn't know what they're talking about.

15 Would you read back the last question, please?

16

17 (Record read as requested)

18

19 THE COURT: Do you want him to read the
20 whole page?

21 MR. DABROWSKI: No, Your Honor, I was
22 directing his attention specifically to Line 9 and
23 specifically to what the individual had or did not have on
24 his head.

25 MR. WEINGLASS: Well, that wasn't the

1 question, Your Honor. I think the Court correctly pointed
2 out the question was an entire page. I object to the form
3 of the question and I object to any questions of this
4 witness with respect to what appears on an FBI interview
5 note. We have to have that agent in here to testify as to
6 whether he wrote it accurately.

7 MR. DABROWSKI: I agree, but before I can
8 get the agent in, I have to establish a basis to ask the
9 agent the question.

10 THE COURT: Do you recall, Mr. Witness,
11 whether or not on Line 9, you made this statement to the
12 agent on the date in question when he wrote it; do you
13 recall?

14 THE WITNESS: Yes, I made that statement.

15 MR. WEINGLASS: Your Honor, this is the
16 problem. We have a witness who has been paid by the
17 Government, badgered by Government prosecutor who is going
18 to help him get his reward. Ultimately you get an answer
19 like that. I object to this whole proceeding.

20 THE COURT: Objection overruled. Proceed.
21 Next question.

22 Q. (BY MR. DABROWSKI) One last time, has your
23 recollection been refreshed, your present recollection been
24 refreshed by anything that's occurred here; do you now
25 remember, have a present recollection of whether the

1 individual had anything on his head?

2 MR. WEINGLASS: Asked and answered three or
3 four times.

4 THE COURT: He answered it once that he
5 didn't remember.

6 THE WITNESS: And I still don't clearly
7 remember whether he had something on his head or not at
8 that time. You know, that's my answer.

9 MR. WEINGLASS: That's what he said before.

10 Q. (By MR. DABROWSKI) What is your best
11 recollection, whether it's clear or not, of what the
12 individual had on his head?

13 MR. WEINGLASS: Your Honor, this should
14 not be permitted.

15 THE COURT: I think we've covered it enough
16 and we'll terminate the questioning on that issue at this
17 point. Bring in your agent, let him testify what he told
18 him.

19 MR. DABROWSKI: Your Honor, if I may just
20 make this one brief observation. He indicated in response
21 to the last question, that he did not clearly remember
22 what the individual had on his head. It's not necessary
23 to be admissible for this witness to indicate that he must
24 remember something precisely and clearly, he can state
25 what he remembers to the best of his recollection. The

1 question I asked him was addressed to that, what's his
2 best recollection, whether clear or not as to what the
3 individual had on his head. That is a permissible
4 question. And --

5 THE COURT: Well, we can argue over it all
6 day long. Do you remember whether this man had anything on
7 his head when you saw him, yes or no.

8 THE WITNESS: No.

9 THE COURT: All right. Next question.

10 Q. (BY MR. DABROWSKI) Mr. Weinglass on several
11 occasions questioned your motivation for cooperation. Your
12 answer was for money and "because of my anticommunist
13 views"; do you recall that?

14 A. Yes, I do.

15 Q. What is it about your anticommunist views that
16 motivated you to begin cooperating with the FBI?

17 MR. WEINGLASS: Objection to the form of the
18 question.

19 THE COURT: Permissible question within two
20 parts. He answered one, he wanted the money for the
21 reward. His attitude on the other motivation, he's
22 entitled to question him further.

23 THE WITNESS: Do you want me to answer the
24 prior question?

25 Q. (BY MR. DABROWSKI) Yes.

1 A. Because that would be going against something I
2 believe in, because I believe in America. And to help out
3 an organization like that, is helping out to overthrow this
4 Government. And I believe in America. I'm black American
5 and I'm proud of that.

6 Q. And that in addition, your desire to obtain
7 money was a factor that motivated you to come forward?

8 MR. WEINGLASS: Objection, asked and
9 answered.

10 MR. DABROWSKI: I'll withdraw the question,
11 Your Honor.

12 Q. (BY MR. DABROWSKI) Mr. Weinglass asked you at
13 least two questions about your encounter with -- your most
14 recent encounter with the criminal justice system, the
15 theft of two Sony Walkmans, I think they were, is that
16 correct?

17 A. Yes, he did.

18 Q. You indicated in response to one that you had
19 shaved your head when justice sent you away. Were you
20 referring to the Justice Department?

21 A. Yeah, I referred to the federal court sent me
22 away.

23 Q. That was in --

24 A. April 7th of 1988.

25 Q. This year?

1 A. Until August 5th of 1988.

2 Q. And what was the bad luck that you testified
3 about? You said that you had run into a streak of bad
4 luck --

5 A. Getting arrested for shoplifting and possession
6 of stolen goods.

7 THE COURT: I didn't get that. Getting a
8 message to what?

9 THE WITNESS: Getting arrested. Getting
10 arrested is bad luck, you have bad luck, my luck was bad.

11 Q. (BY MR. DABROWSKI) Now, you went to jail
12 for I think you said a six-month sentence of which you
13 served approximately four months, is that correct?

14 A. No, I went to jail, I was sentenced to four
15 months under the new federal guidelines and the new
16 guidelines stipulate you do every day. I did every day
17 of a four-month sentence. Not a six-month sentence; four
18 months and do four months.

19 Q. Were any promises made to you by the Government
20 in connection with this case that impacted in any way that
21 sentence that you received or any other sentence?

22 A. No, there was not any promises or anything.

23 Q. Do you know whether or not the judge that
24 sentenced you, in fact, to jail, was aware of your
25 cooperation with the FBI at the time he sent you to jail?

1 A. Yes, he was very aware and he still sent me to
2 jail.

3 Q. Was any effort made to keep you out of jail?

4 A. No, there was not by no one.

5 Q. Is it clear to you that to the extent that
6 you're permitted to be at liberty as anyone is who doesn't
7 commit crimes, that you will remain at liberty only if
8 you remain crime free?

9 A. Yes. That's the American system, if you remain
10 crime free, you'll be allowed to be at liberty.

11 Q. What's going to happen to you if you get caught
12 stealing another Sony Walkman?

13 A. I'll go to jail.

14 Q. Now, Mr. Weinglass questioned you about a
15 letter that had been sent to an attorney that was
16 representing you in connection with another matter, by me,
17 in fact. Do you recall that?

18 A. Yes, I do.

19 Q. Was that letter, to your knowledge,
20 disseminated to anyone other than your attorney?

21 A. No, it was not.

22 Q. Did the prosecutor in that case, who is
23 prosecuting you --

24 A. No, the prosecutor didn't introduce that or
25 mention anything of that nature to the judge.

1 Q. Did he know about it?

2 MR. WEINGLASS: Objection, there is no way --

3 THE COURT: Sustained, unless he told him
4 he had received such a letter and knew about it.

5 Q. (BY MR. DABROWSKI) What did you do; how was
6 that case disposed of? Was there a trial?

7 A. No, I pled guilty.

8 Q. Did you receive a sentence?

9 A. I received one year probation for a sentence.

10 Q. Was the disposition that you received in any
11 way related to the -- your cooperation of the Federal
12 Government?

13 A. No, it was not.

14 Q. To your knowledge, did anyone other than your
15 own attorney, know that at the time you were cooperating
16 with the FBI and that was also involved in that
17 prosecution?

18 A. No, just my attorney.

19 Q. Mr. Weinglass questioned you about two
20 questions that you were asked when a polygraph test was
21 given, they were both related to this case. Do you
22 remember those questions, by Mr. Weinglass?

23 A. Yes.

24 Q. You testified that you told the FBI that you
25 were not, you were not in Hartford on September 12th, 1983,

1 is that correct?

2 A. Yes, I did.

3 Q. That was one of the questions asked by you by
4 that agent?

5 A. Yes, it was.

6 Q. There was another question that Mr. Weinglass
7 touched upon, that is were you in Hartford and did you
8 participate in the Wells Fargo robbery on September 12th of
9 1983 and you said to the the FBI no, you did not. Do you
10 remember that question?

11 A. Yes, I do.

12 Q. Were any of the other questions that were asked
13 of you during that polygraph examination, the so-called
14 relevant questions, related to the Wells Fargo robbery?

15 A. Were any of the other questions asked of me --

16 Q. Well, let me ask a preliminary question. Do
17 you remember what the other questions were?

18 A. Some of them.

19 Q. I'm showing you Government 56.

20 THE COURT: We don't want to get into those
21 questions, counsellor.

22 MR. DABROWSKI: I understand that, Your
23 Honor. But then again, I wasn't the one who raised them.

24 THE COURT: I understand.

25 Q. (BY MR. DABROWSKI) I'm showing you Exhibit

1 56, which is a exhibit marked for identification. The jury
2 has not seen this as of yet.

3 I ask that you look at that document, just
4 briefly. There is a question that you were asked, was one
5 of the questions, one of the additional questions that was
6 not directly related to the Wells Fargo robbery, related
7 to this exhibit?

8 MR. WEINGLASS: It was not related to the
9 Wells Fargo robbery at all, it's therefore irrelevant. I
10 object.

11 THE COURT: I don't understand, Counsellor.
12 It isn't clear to me. I know what's been shown once, but
13 not to the jury, just to the witness.

14 MR. DABROWSKI: This document was coming in
15 later, Your Honor.

16 THE COURT: It may come in later.

17 MR. WEINGLASS: It has nothing to do with
18 the Wells Fargo robbery, Your Honor, I assure the Court.
19 It's a question that was asked of him that has nothing to
20 do with the Wells Fargo robbery.

21 MR. DABROWSKI: You see, the whole line of
22 Mr. Weinglass's cross examination was directed at
23 establishing that the FBI didn't even bother to ask this
24 witness about other matters related to the Wells Fargo
25 robbery, other than important matters, including his

1 relationship. And if in fact the Government can establish
2 which we can do very easily, Your Honor, that none of the
3 questions related to the Wells Fargo, robbery, in fact
4 they related to other matters of great significance --

5 MR. WEINGLASS: That none of the questions --

6 MR. DABROWSKI: None of the other questions.

7 MR. WEINGLASS: I'll agree, I'll stipulate
8 to that. They only asked him those two questions, nothing
9 else about Wells Fargo. I'll agree, I'll stipulate to
10 that. We don't have to ask anymore.

11 MR. DABROWSKI: Well, then if that was the
12 position then, he shouldn't have pursued that line of
13 inquiry. Mr. Weinglass opened the door. He created the
14 illusion.

15 THE COURT: I don't know what you're going
16 to ask. You ask your next question, I'll rule on it. I'll
17 grant it or sustain the objection.

18 Q. (BY MR. DABROWSKI) Do you recall whether any
19 of the other questions asked of you during the course of
20 that polygraph examination or by any agents that were
21 there during the course of the polygraph examination
22 related -- what they related to generally, if you recall?

23 THE COURT: If he bursts out with an
24 answer, you create a mistrial right here. I know what was
25 asked because I've seen the paper. If he comes out with

1 one of them, then we've got problems and I don't want --
2 it isn't worth the risk of having him blurt out some
3 materials which concern something else which is highly
4 objectionable. I don't want to get into that.

5 MR. DABROWSKI: I'm not sure that there is
6 any risk, Your Honor, seeing that Mr. --

7 THE COURT: You don't intend to, I don't
8 intend to. We don't know what he intends.

9 MR. DABROWSKI: Let me see if I can address
10 the Court's concern simply by rephrasing the question.

11 Q. (BY MR. DABROWSKI) Did any of the other
12 questions have anything to do directly with the September
13 12th, 1983 Wells Fargo robbery?

14 A. No.

15 Q. Just yes or no. I'm sorry, was there an
16 answer?

17 MR. WEINGLASS: Yes.

18 Q. (BY MR. DABROWSKI) And the answer was?

19 A. No.

20 Q. The other questions that were asked of you at
21 that time simply didn't relate to the September 12th, 1983
22 robbery, they related to other matters?

23 MR. WEINGLASS: Objection, asked and
24 answered.

25 THE WITNESS: The court instructed me not

1 to answer those types of questions.

2 Q. (BY MR. DABROWSKI) Now, Mr. Weinglass asked
3 you some questions about articles you had read in the
4 Boston Herald and other newspapers. You named the Daily
5 news and New York Times and the Boston Globe. And in a
6 similar vein, in a related manner, he also asked you
7 questions about your contact with Juan Segarra on August
8 29th. He ended with a question, is there a single person
9 alive who can confirm what you've told us here?

10 MR. WEINGLASS: Objection, the question was
11 asked and answered. It's not proper cross examination.

12 Q. (BY MR. DABROWSKI) That's correct, the
13 answer was yes, there was, and it was Juan Segarra-Palmer.
14 Do you recall that answer?

15 A. Yes, I do.

16 MR. WEINGLASS: Improper redirect, it
17 merely repeats statements.

18 MR. DABROWSKI: It's a foundation for the
19 next series of questions, Your Honor.

20 THE COURT: He's entitled to ask it,
21 Counsellor.

22 Q. (BY MR. DABROWSKI) Mr. Cox, in any article
23 that you read, prior to 1985, did you read anything
24 linking a motorcycle to the Wells Fargo robbery?

25 A. No, I did not. I was told that by Mr. Segarra.

1 Q. Is there any --

2 MR. WEINGLASS: Objection to the form of the
3 answer. I ask that the latter part be stricken, it is
4 nonresponsive to the question. If the Court will hear the
5 question, I think the Court will understand.

6 THE COURT: The question and the answer may
7 stand. Proceed, next question.

8 Q. (BY MR. DABROWSKI) To the best of your
9 knowledge and belief, the only other person alive in this
10 world who knows that fact is Juan Segarra-Palmer?

11 MR. WEINGLASS: Objection, the witness has
12 no way of knowing that. I don't know what fact.

13 MR. DABROWSKI: To the best of his
14 knowledge, I said. I agree with the objection, except I
15 qualified my question.

16 Q. (BY MR. DABROWSKI) To the best of your
17 knowledge, is Mr. Segarra the only other individual who
18 knows that fact, according to your knowledge?

19 A. Yes, that's a fair statement.

20 Q. So let me ask you this question, do you know an
21 individual by the name of Kevin Quinn?

22 A. No, I don't.

23 Q. Do you know an individual by the name of Nancy
24 Quinn?

25 A. No, I don't.

1 Q. You indicated that a Winnebago type of vehicle
2 had been used in connection with the Wells Fargo robbery,
3 do you recall that?

4 A. I indicated that Mr. Segarra stated that to me.

5 MR. WEINGLASS: Objection to the form of the
6 question. That was not what was indicated.

7 THE COURT: Read the question and answer
8 back, please.

9

10 (Record read as requested)

11
12 THE COURT: The question and answer may
13 stand.

14 Q. (BY MR. DABROWSKI) Other than Mr. Segarra and
15 yourself, is there anyone known to you who could confirm
16 that information?

17 A. I couldn't answer that. All I can state is
18 that -- what Mr. Segarra told me.

19 Q. Did you read about that in the paper prior to
20 1985 when you began cooperating with the FBI?

21 A. No, I did not.

22 Q. You told us that the money had been taken to
23 Mexico, is that correct?

24 A. No, I didn't say the money was taken to
25 Mexico, I stated that Mr. Segarra told me Victor Gerena

1 was taken to Springfield on a motorcycle, the money was
2 taken in cars.

3 Q. You also testified that the money was taken
4 thereafter, at least a part of the money, excuse me, was
5 taken to Mexico and then to El Salvador and Nicaragua?

6 MR. WEINGLASS: Objection to the form of
7 the question.

8 THE COURT: The question is a leading one,
9 Counsellor. Restated as on your direct, but it wasn't
10 quite stated in that form. He said that's where it was,
11 he understood it was sent, but if you want to explore it
12 more, go ahead.

13 Q. (BY MR. DABROWSKI) Prior to your beginning
14 to cooperate with the FBI, did you read in any newspaper
15 that money taken, a part of the money taken from Wells
16 Fargo had been taken to Mexico and then on to Nicaragua?

17 A. No, I did not read that. I stated that I was
18 told that by Mr. Segarra, that a million dollars was
19 allocated for Nicaragua and a million dollars was
20 allocated for El Salvador to help buy arms.

21 Q. So as far as then the movement of the money and
22 the method of its movement and the transportation of
23 Victor Gerena is concerned, you neither read anything
24 about that nor had any source of information other than
25 Mr. Segarra, is that right?

1 MR. WEINGLASS: Objection to the form of the
2 question. Questions are being asked in summation form
3 now, I object to that.

4 THE COURT: Read the question back, see how
5 clear it is.

6

7 (Record read as requested)

8

9 THE COURT: The Court will allow it,
10 it's permissible.

11 THE WITNESS: Yes, that's right.

12 Q. (BY MR. DABROWSKI) Do you know Paul Weinberg?

13 A. No, I do not.

14 Q. Do you know Anne Gassin?

15 A. I've talked to her on the phone, and I've seen
16 her photograph in the news media.

17 Q. What do you know about Anne Gassin?

18 A. I know that Anne Gassin was a lady friend of
19 Mr. Segarra's.

20 Q. How do you know that?

21 A. From Mr. Segarra and from Anne Gassin.

22 Q. At any time prior to your beginning to
23 cooperate with the FBI, did you read in the newspaper that
24 Mr. Segarra had, or anyone else had advanced knowledge and
25 assistance of someone else inside of the Wells Fargo

1 service corporation in connection with the robbery?

2 A. Yes, I did have knowledge that Mr. Segarra
3 had knowledge of advanced inside information.

4 Q. Now, Mr. Weinglass asked you if the FBI had
5 ever wired you up. Do you recall that question?

6 A. Yes, I do.

7 Q. By wiring up, you know that he meant putting a
8 microphone on your body?

9 A. Yes.

10 Q. At any time while you were cooperating with the
11 FBI, did you have occasion to meet with Juan Segarra?

12 A. Yes, I did.

13 Q. Was that meeting surveilled by the FBI?

14 A. Yes, it was.

15 Q. Were you wearing a wire at the time?

16 A. No, I wasn't.

17 Q. Did Mr. Segarra touch you during that meeting?

18 A. Yes, we embraced, shook hands and, you know,
19 put your hand around the shoulder.

20 Q. How would you describe the embrace?

21 MR. WEINGLASS: Objection, he described
22 shaking hands and putting hands on the shoulder. I don't
23 think he described an embrace.

24 Q. (BY MR. DABROWSKI) Can you further describe
25 the embrace?

1 MR. WEINGLASS: Objection to the use of the
2 word embrace.

3 THE COURT: Describe what he did. Let's
4 not argue over embrace.

5 THE WITNESS: We shook hands and hugged
6 a little bit.

7 MR. WEINGLASS: All right.

8 MR. DABROWSKI: Excuse me, Counsellor.

9 MR. WEINGLASS: It sounded like embrace,
10 hugging a little bit.

11 MR. DABROWSKI: I'll live with hugging.

12 MR. WEINGLASS: Pardon?

13 MR. DABROWSKI: I'll live with hugging.

14 MR. WEINGLASS: The Government can live
15 with hugging. That's a revelation.

16 Q. (BY MR. DABROWSKI) Do you know why the FBI
17 didn't put a bug on your body?

18 A. Because they wasn't authorized to.

19 Q. How do you know that?

20 A. Because you have to go to court to get
21 authorization to do that. I don't think they had did that.
22 They didn't advise that and I didn't ask for that to be
23 done.

24 THE COURT: Excuse me, it's one thing that
25 bothers me, see, because we had a little interlude around

1 3:00, I should have stopped and let the jury go out and
2 have a five-minute rest period. But because they went out
3 and counsel were arguing over certain things, I missed
4 that rest period. But I don't want any member of the jury
5 to feel uncomfortable. If you want a five-minute recess
6 now, anyone, just put up your hand and I'll give you the
7 five-minute recess now. If not, we'll go to 4:30. I'll
8 leave it up to you.

9 No response. Proceed.

10 Q. (By MR. DABROWSKI) In response to a question
11 asked by Mr. Weinglass, you indicated that Anne Gassin was
12 holding a package for him. Do you recall that correctly?

13 A. Yes. I responded like that.

14 Q. Did you have a conversation with Anne Gassin
15 in which she related that to you?

16 A. Yes, I did.

17 Q. What was the package that Anne Gassin was
18 holding?

19 A. She didn't state and I didn't ask. She just
20 stated that she had a package for him, too.

21 MR. DABROWSKI: May I have a minute, Your
22 Honor?

23

24 (Pause in proceedings)

25

1 Q. (BY MR. DABROWSKI) Ms. Gassin didn't
2 volunteer anymore information to you, I gather?

3 A. No, and I didn't ask.

4 Q. Did you have any kind of a detailed discussion
5 with her with regard to what you knew?

6 A. What I knew in retrospect to what?

7 Q. To the Wells Fargo robbery?

8 A. No.

9 Q. Did Anne Gassin know anything at all about your
10 participation in the planning stage of the Wells Fargo
11 robbery?

12 MR. WEINGLASS: Objection to the form of the
13 question. The witness is being asked what another person
14 knew, improper form.

15 THE COURT: The form of the question is
16 objectionable, Counsellor, rephrase it.

17 MR. DABROWSKI: I agree.

18 Q. (BY MR. DABROWSKI) Did you discuss at
19 anytime the fact that you came down to Hartford on August
20 29th, 1983 with Anne Gassin?

21 A. No, I never discussed that with anyone until
22 I talked with the FBI.

23 Q. Did you discuss with Anne Gassin the fact that
24 Juan Segarra told you that Victor escaped on a motorcycle?

25 A. No, I did not.

1 Q. Did you discuss with Anne Gassin the fact that
2 Juan Segarra told that you a Winnebago type vehicle had
3 been used in connection with the Wells Fargo robbery?

4 A. No, I did not.

5 Q. Did you discuss with Anne Gassin the fact that
6 Juan Segarra had told you that Victor Gerena had either
7 been taken to or gone to Mexico?

8 A. No, I did not.

9 Q. Did you have any kind of a detailed
10 conversation with Juan Segarra that extended beyond the
11 fact of this package?

12 A. Are you referring to Anne Gassin or Juan
13 Segarra?

14 Q. I'm sorry, I think I said Juan Segarra. I
15 meant Anne Gassin.

16 A. Could you repeat that question, please?

17 Q. Did you have any further conversation, any
18 detailed conversation with Anne Gassin in which you learned
19 from her anything other than the fact that she was holding
20 some kind of a package for Juan Segarra?

21 A. No, I did not.

22 Q. Did you relate any details to her about
23 anything else you were doing?

24 A. I just related the detail to her would she
25 inform Mr. Segarra that I had the package for him.

1 Q. And nothing further, and nothing beyond that?

2 A. That's right.

3 MR. DABROWSKI: Nothing further, Your Honor.

4 THE COURT: Anything further, Counsellor?

5 MR. WEINGLASS: Yes.

6

7

8

9

10 RECROSS EXAMINATION BY MR. WEINGLASS

11

12 Q. This business about your having a package for
13 Mr. Segarra is all fiction, right?

14 A. Yes, I stated that.

15 Q. It's all fiction, you didn't have a package for
16 Mr. Segarra, did you?

17 A. Not at that time.

18 Q. Okay. So you were lying to Anne Gassin?

19 A. Yes.

20 Q. Did she know you were lying?

21 A. No, she did not.

22 Q. You're pretty good at concealing that?

23 A. You don't have to be pretty good to conceal
24 that to someone you never seen and then opened up like
25 wide open to someone they never saw in their life on the

1 telephone, I never saw being opened up like that on the
2 phone.

3 Q. That's why you felt you could deceive her?

4 A. No, I wasn't trying to deceive her.

5 Q. You were just lying to her?

6 A. Yeah, I mean, making a misstatement to her.

7 Q. A misstatement.

8 A. What's that?

9 Q. What's the difference between a misstatement
10 and a lie?

11 A. The wording.

12 Q. The wording. So and listening to you, the jury
13 couldn't tell the difference between a misstatement or a
14 lie, could they?

15 MR. DABROWSKI: Objection.

16 THE WITNESS: What was that?

17 MR. DABROWSKI: Objection, unintelligible,
18 Your Honor.

19 THE COURT: Sustained.

20 Q. (By MR. WEINGLASS) Now, you spoke with Agent
21 Cronin a lot, right?

22 A. Yes.

23 Q. And he's a gentleman who was paying you, giving
24 you the cash?

25 A. No, he's not paying me, the Justice Department

1 is paying me for information and no further payments after
2 testimony before the grand jury.

3 Q. Right. They cut you off after that?

4 A. No, they paid for relocation and for security,
5 you know, reasons and relocation.

6 Q. About another \$10,000 after the grand jury?

7 A. For relocation purposes and expense purposes.

8 Q. Yes.

9 A. Not payments.

10 Q. Right. But about \$10,000, right?

11 A. I don't know. You usually have the figures,
12 so what would you say?

13 Q. I would say ten thousand.

14 A. Okay, you say that?

15 Q. Right.

16 THE COURT: So there won't be any jocular
17 mood about it, there is a document here revealed by the
18 Government with that information on it.

19 MR. DABROWSKI: Your Honor, it may be that
20 this witness does not know the expenditures incurred on
21 his behalf in connection with relocation. That fact
22 should be established first.

23 THE COURT: Is this a full exhibit?

24 MR. DABROWSKI: I believe the one that Mr.
25 -- one is, one isn't.

1 THE COURT: The jury will have it before
2 them.

3 MR. WEINGLASS: Good, that's good.

4 MR. DABROWSKI: Your Honor, the document
5 that you referred to is not a full exhibit.

6 MR. WEINGLASS: Yes, it is.

7 MR. DABROWSKI: It is not.

8 THE COURT: Do you want a make it a full
9 exhibit?

10 MR. DABROWSKI: It is not a full exhibit.

11 MR. WEINGLASS: 33 A is a full exhibit.

12 The clerk says it is a full exhibit.

13 THE COURT: The clerk says it's a full
14 exhibit.

15 MR. DABROWSKI: 33 A is a full exhibit, 33
16 A, the full exhibit, is not the witness protection
17 relocation expenditure form. So the fact that this is a
18 full exhibit is irrelevant to the figure that Mr.
19 Weinglass used.

20 THE COURT: The question is, does 33 A
21 contain all of the money paid to this witness either for
22 his relocation and whatever other expenses there were in
23 addition to what he was paid for in respect to the
24 information. I don't know. If it isn't, then there
25 should be a separate exhibit showing the whole. It's as

1 simple as that.

2 Can both counsel agree upon both exhibits?

3 MR. WEINGLASS: We'll work it out, Your
4 Honor.

5 MR. DABROWSKI: I don't think there is going
6 to be a problem. But to be precise, Your Honor, the
7 exhibit that is marked in full is not the exhibit that was
8 described by the Court, which is not in full.

9 THE COURT: Whatever it is, the jury should
10 know at the time later on when they consider this matter
11 the total amount for whatever purposes, this man received,
12 period. I'll leave it up to counsel to work that out and
13 mark it as an exhibit so they will know.

14 MR. DABROWSKI: So we can resolve it, 33 A
15 is one, it's a full exhibit. 33 B is the other, it's only
16 for identification. 33 B can go in full, if that's what
17 counsel desires.

18 THE COURT: Is that agreed?

19 MR. WEINGLASS: Sure.

20 THE COURT: They may be both marked, Madam
21 Clerk.

22 (Defendant's Exhibit 33 B
23 offered and marked into
24 evidence)

25 Q. (BY MR. DABROWSKI) Now, the agent who was

1 personally handing you cash prior to your appearance
2 before the grand jury was Special Agent Cronin, isn't that
3 right?

4 A. That's right.

5 Q. He was the agent you were testifying -- you
6 were talking to during that period of time together with
7 Special Agent John Huyler?

8 A. That's correct.

9 Q. You spoke with them and they spoke with you
10 during these meetings, is that correct?

11 A. Yes, that's correct.

12 Q. All right. And it's a fact, is it not, that
13 Special Agent Cronin was the special agent in charge of
14 this investigation for the Boston office of the FBI?

15 THE COURT: If you know.

16 THE WITNESS: I don't know the particulars
17 about how the infrastructure of the Justice Department
18 functions. I really couldn't answer that on, you know, yes
19 or no.

20 Q. (By MR. WEINGLASS) Did he ever identify
21 himself to you as being the agent in charge of the
22 investigation?

23 A. Not really.

24 Q. He never did. Did he share with you the fact
25 that he knew when you were talking with him all of the

1 evidence that the FBI had accumulated up to that point and
2 had not as yet made public?

3 A. No, he didn't share any information gathering
4 that went on within the FBI.

5 Q. Did he tell you that he had met and talked with
6 people named Quinn more than a year before he met with you?

7 A. No, he didn't.

8 Q. And talked to them about a motorcycle?

9 A. No, he didn't. They don't divulge what they're
10 doing. He didn't talk to me about anything, just mostly
11 questioning me and not answering because they're not
12 authorized and he didn't.

13 Q. Did, Mr. Cox, the FBI raise with you what do
14 you know about a motorcycle, and what do you know about
15 Victor Gerena on a motorcycle because the FBI had already
16 gathered information from the Quinn family, more than a
17 year earlier about those very facts?

18 A. I don't know what they had gathered or
19 anything. They never mentioned it to me. The only
20 mention of Victor Gerena on a motorcycle was me mentioning
21 that to them. I don't have any idea about any Quinns
22 or --

23 Q. All right. And you -- I'm sorry.

24 A. You see, they had information before I even
25 came forward.

1 Q. They never put you on a polygraph on the issue
2 of whether or not you knew about a motorcycle and Victor
3 Gerena, did they?

4 A. No, they did not.

5 MR. WEINGLASS: I have nothing further.

6 THE COURT: Nothing further. The witness is
7 excused.

8

9

10

11

(Witness excused)

12

13

THE COURT: Call your next witness.

14

15

MR. WEINGLASS: Your Honor, may we have a
few minute break?

16

17

18

THE COURT: Well, I saw you put up your
hand when I asked the jury, so as an old school teacher,
I'll give you five minutes. Five-minute recess.

19

20

21

22

(Jury excused)

23

24

25

THE COURT: I will caution the interpreters
and the defendants and the people who are in the back of