

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

1 UNITED STATES OF AMERICA,)
2 Plaintiff,)
3 VS.) H-85-50
4 VICTOR GERENA, et al.,)
5 Defendants.)

February 24, 1987
~~1987~~

BEFORE: HONORABLE T. EMMET CLARIE, U.S.D.J.

A P P E A R A N C E S

For the Plaintiff:

OFFICE OF THE U.S. ATTORNEY
450 Main Street
Hartford, Connecticut 06103
BY: ALBERT S. DABROWSKI, ESQUIRE
JOHN A. DANAHER, ESQUIRE
WILLIAM J. CORCORAN, ESQUIRE
STANLEY A. TWARDY, ESQUIRE
DAVID A. BAVINGER, ESQUIRE
CARMEN E. VAN KIRK, ESQUIRE

For the Defendant Antonio Camacho-Negron:

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

CAPITOL COURT REPORTERS
P.O. Box 1532
Hartford, Connecticut 06101
(203) 247-8200

1 For the Defendant Norman Ramirez-Talavera:

2 JUAN R. ACEVEDO, ESQUIRE
3 107 Franklin Avenue
4 Hartford, Connecticut 06114

4 For the Defendant Ivonne Melendez-Carrion:

5 HAROLD MEYERSON, ESQUIRE
6 6 East 45th Street
7 New York, New York 10017

7 For the Defendant Elias Castro-Ramos:

8 DIANE POLAN, ESQUIRE
9 265 Church Street
10 Suite 808
11 New Haven, Connecticut 06510

11 For the Defendant Carlos Ayes-Suarez:

12 SHIPMAN & GOODWIN
13 799 Main Street
14 Hartford, Connecticut 06103
15 BY: JAMES BERGEN, ESQUIRE

15 For the Defendant Isaac Camacho-Negron:

16 RICHARD REEVE, ESQUIRE
17 Assistant Public Defender
18 234 Church Street
19 New Haven, Connecticut 06510

19 For the Defendant Juan E. Segarra-Palmer:

20 LEONARD I. WEINGLASS, ESQUIRE
21 6 W. 20th Street
22 New York, New York 10011

22 For the Defendant Filiberto Ojeda-Rios:

23 WILLIAM M. KUNSTLER, ESQUIRE
24 13 Gay Street
25 New York, New York 10014

1 For the Defendant Jorge Farinacci-Garcia:

2 AVERY & FRIEDMAN
3 Six Beacon Street
4 Boston, Massachusetts 02108
BY: ELLEN WADE, ESQUIRE

5 For the Defendant Angel Diaz-Ruiz:

6 MARGARET P. LEVY, ESQUIRE
7 60 Washington Street
8 Suite 1402
Hartford, Connecticut 06106

9 For the Defendant Orlando Gonzalez-Claudio:

10 MICHAEL E. DEUTSCH, ESQUIRE
11 343 S. Dearborn
Chicago, Illinois 60604

12 For the Defendant Hilton Fernandez-Diamante:

13 JOHN WILLIAMS, ESQUIRE
14 51 Elm Street
15 New Haven, Connecticut 06510

16 For the Defendant Luis Alfredo Colon-Osorio:

17 RONALD L. KUBY, ESQUIRE
18 13 Gay Street
New York, New York 10014

19 For the Defendant Luz Maria Berrios-Berrios:

20 BLUME, ELBAUM & SEIDMAN, ESQUIRE
21 50 Columbus Boulevard
22 Hartford, Connecticut 06103
BY: JACOB WIESELMAN, ESQ.

23 For the Defendant Paul Weinberg:

24 BUCKLEY & SANTOS
25 51 Russ Street
Hartford, Connecticut 06106
BY: F. MAC BUCKLEY, ESQUIRE

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1 THE COURT: Mr. Avery, I believe
2 you are the main counsel this morning. Maybe we
3 should have the Clerk call the role first as we
4 usually do.

5 THE CLERK: Diane Polan?

6 MR. WILLIAMS: I am standing in for
7 her, Your Honor. She'll be about an hour late.
8 She has a medical appointment.

9 THE CLERK: John Williams?

10 MR. WILLIAMS: Here.

11 THE CLERK: James Bergen? Absent.
12 Juan Acevedo?

13 MR. ACEVEDO: Present.

14 THE CLERK: Ron Kuby?

15 MR. KUBY: Present.

16 THE CLERK: Mac Buckley? Absent.
17 Jack Wieselmann? Absent. Michael Avery?

18 MR. AVERY: Present, Your Honor.
19 May I introduce to the Court Nereyda Garcia who
20 is a law student from Northern Law School. And
21 I'd like the Court's permission for her to sit at
22 counsel table to assist me during the hearing.

23 THE COURT: Surely. Be glad to
24 have her.

25 THE CLERK: Margaret Levy?

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MS. LEVY: Here.

THE COURT: Leonard Weinglass?

MR. WEINGLASS: Here.

THE CLERK: Linda Backiel?

MS. BACKIEL: Here.

THE CLERK: Richard Reeve?

MR. REEVE: Here.

THE CLERK: Michael Deutsch?

MR. DEUTSCH: Here.

THE CLERK: Harold Meyerson?

MR. ANGLADA-LOPEZ: Good morning.

THE CLERK: William Kunstler?

MR. KUBY: Covering for Mr.

Kunstler.

THE CLERK: Roberto Maldonado?

Absent.

Antonio Camacho-Negron? Norman
Ramirez-Talavera?

MR. ACEVEDO: He's in Puerto Rico.

THE CLERK: Ivonne
Melendez-Carrion?

MR. ANGLADA-LOPEZ: She's on her
way.

THE CLERK: Okay. Elias
Castro-Ramos?

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MR. CASTRO-RAMOS: Here.

THE CLERK: Carlos Ayes-Suarez?

MR. AYES-SUAREZ: Present.

THE CLERK: Isaac Camacho-Negron?

MR. REEVE: In Puerto Rico pursuant
to a waiver.

THE CLERK: Juan Segarra-Palmer?

MR. SEGARRA: Good morning.

THE CLERK: Filiberto Ojeda-Rios?

MR. OJEDA-RIOS: Yes.

THE CLERK: Jorge Farinacci-Garcia?

MR. FARINACCI-GARCIA: Present.

THE CLERK: Angel Diaz-Ruiz?

MS. LEVY: He's at home in Puerto
Rico pursuant to a waiver.

THE CLERK: Orlando
Gonzalez-Claudio?

MR. DEUTSCH: In Puerto Rico.

THE CLERK: Hilton
Fernandez-Diamante?

MR. WILLIAMS: In Puerto Rico, Your
Honor.

THE CLERK: Luis Colon-Osorio.

MR. KUBY: In Puerto Rico.

THE CLERK: Luz Berrios-Berrios?

1 Present. Roberto Maldonado? Absent. And Paul
2 Weinberg? Absent.

3 MR. REEVE: Your Honor, just a
4 brief point of order. My client signed a waiver
5 requiring his presence back for a hearing on
6 February 26th. Because of the state of the case
7 at this time, I think all parties agree that that
8 hearing will not be held at that time. I just
9 wanted to orally move to change that waiver time
10 and we will -- I will sit down with the
11 Government. And we will determine when it's
12 necessary. And if necessary, we'll file
13 something in writing with the Court.

14 THE COURT: Is that agreed?

15 MR. DABROWSKI: Yes, Your Honor.

16 MR. REEVE: Thank you.

17 MR. DABROWSKI: Your Honor, on
18 Friday the Court ordered the Government to submit
19 to the Court in camera a copy of any search plan
20 that was utilized by Agent Williamson or other
21 search team leaders or members of the search
22 teams that participated in the various executions
23 of warrants in this case. What I did is I filed
24 a copy of that search plan with the Court and
25 provided copies of the bulk of it to the

1 defendants this morning.

2 There were certain portions of it that
3 were excised, and it was those portions that were
4 submitted to the Court in camera. And there is
5 an in camera notice particularizing in some
6 detail, but obviously not in great detail, the
7 information that was submitted in camera.

8 THE COURT: When was that filed,
9 Counsellor?

10 MR. DABROWSKI: That was filed --

11 THE CLERK: This morning, Your
12 Honor.

13 MR. DABROWSKI: That was filed this
14 morning, Your Honor. The notice says yesterday.

15 THE COURT: I haven't read it yet,
16 so that's the reason for my question.

17 MR. DABROWSKI: I hopefully have
18 saved the Court some time by providing the
19 defendants with the bulk of it. It would not be
20 necessary for the Court to read all of it. The
21 in camera portion is relatively limited. And
22 it's -- I wanted the record to reflect that -- I
23 also want the Court and the defendants to
24 understand that specifically this is a plan.

25 And if I might give one example, and

1 this is from a document and a page that was
2 turned over to the defendant, defendants. Search
3 team number 6, that's the search team that was
4 headed by Mr. Williamson, has on the plan that
5 the sketcher or the sketch agent, was one Agent
6 Cleary, C L E A R Y. Now, we know from testimony
7 in this court that --

8 THE COURT: No relation to the
9 presiding judge.

10 MR. DABROWSKI: Nor spelled -- it's
11 spelled differently. And there is no relation,
12 Your Honor.

13 I would note that during testimony in
14 the Court, in this Court, it turns out that Agent
15 Caldwell was the sketch agent. The point I'm
16 making is that this is a plan. It doesn't
17 necessarily represent what happened. And, in
18 fact, in that particular instance, did not
19 represent what happened. Now, in general, these
20 guidelines were followed.

21 But I did not -- do not want the
22 defendants, in particular, relying on the list of
23 members of the search team because there were
24 some variations. We will try as we increase
25 these searches to particularize those variations

1 by providing to the defendants the actual names
2 of the agents who did, in fact, participate in
3 those searches.

4 On a related matter, the Court on
5 Friday expressed a strong preference that the
6 former special agent in charge of the San Juan
7 office, Special Agent Held, testify in connection
8 with these hearings. Agent Held is in
9 California. I have made arrangements to speak
10 with him at some point after twelve noon today.
11 I could not reach him yesterday. He was not in
12 his office.

13 However, it's my clear understanding
14 that while Agent Held did participate in a
15 briefing to the -- and to that extent did address
16 the various agents who were assembled in Puerto
17 Rico on August 30th of 1985, the substance of his
18 remarks were limited to advising them to be
19 careful, to be cautious, and then making a
20 referral of those agents to their search team
21 leaders for further particularized briefings.

22 So that if Agent Held were to appear
23 here in this courtroom, he would, in effect,
24 simply be indicating that he spoke to the agents
25 in mass, told them to be careful, words to that

1 effect. And as far as the particulars of the
2 execution of these searches were concerned, he
3 referred each and every one of the agents to the
4 search team leader, the arrest team leader and to
5 the security team leader. And it was through
6 those particular individuals that the detailed
7 briefings came.

8 Now, the Government, based upon our
9 understanding of what Agent Held said during
10 those remarks, has no need whatsoever to subpoena
11 him here and does not intend to do so. However,
12 it was quite clear on Friday that the defense was
13 demanding that he be produced. And it was also
14 quite clear that this Court was leaning quite
15 strongly towards honoring that request and
16 requiring the Government to produce Agent Held.

17 THE COURT: After you talk with
18 him, if that's all he's got to offer, why don't
19 you have him submit an affidavit limiting himself
20 just to the limited remarks that you've just
21 stated. And if that's -- have him say
22 specifically that he did not go into detail and
23 specify the particular procedures to be followed.
24 And in the individual cases, it was left to the
25 team leader. And it would seem that should cover

1 it. If that's all he gave them, that's all he
2 gave them.

3 MR. DABROWSKI: The substance of
4 those remarks, of course, if the Court wanted to
5 hear them in a preliminary fashion, could be
6 obtained through the very witnesses who are here
7 in connection with these hearings who heard them
8 to the extent they recalled them.

9 THE COURT: Knowing that, maybe
10 when the next team leader testifies, it could be
11 brought out how much had been given by this man,
12 Held. And if it concurs with what he says, they
13 probably will agree.

14 MR. DABROWSKI: All right. I will
15 report in writing to the Court or in some other
16 way to the Court with notice to the defendants of
17 the particular -- of the substance of my personal
18 conversation with Special Agent Held this
19 afternoon.

20 I would also like to report to the
21 Court that I've made inquiry and I've been
22 advised that that speech and those remarks were
23 not tape recorded or otherwise recorded. I will
24 ask Agent Held, Special Agent Held, that question
25 as well when I talk to him. But it's my

1 understanding that there was no tape recording
2 made of those remarks.

3 THE COURT: All right.

4 MR. WILLIAMS: Your Honor, very
5 briefly. John Williams.

6 It was my impression and the impression
7 of co-counsel that Your Honor did not express a
8 preference that Mr. Held be here, but rather Your
9 Honor ordered that he be here. I think it is
10 remarkable that the Government would so
11 cavalierly choose to disregard an order of Court.
12 I think it's safe to say the defendants have
13 agreed, since Mr. Held indisputably spoke to
14 these agents, he ought to be here to submit to
15 cross examination.

16 MR. BERGEN: Your Honor, one
17 procedural matter. My paralegal, Laura Ingersol,
18 who is well versed in Spanish and English and has
19 served to assist me with Carlos Ayes-Suarez
20 throughout this case, is here prepared to serve
21 as a translator. The normal translator came in
22 with Carlos at 4:00 in the morning with a delayed
23 air flight. And for health reasons, she has not
24 been able to come in this morning.

25 And I would ask -- and I've checked

1 with the Clerk. I would ask if the Court would
2 approve Laura Ingersol to serve as individual
3 defense translator for Carlos Ayes-Suarez for
4 purposes of attorney-client discussions today in
5 Court.

6 THE COURT: I don't think we'll
7 reach her today. Your case, according to
8 counsel, is going to take most of this week.

9 MR. BERGEN: I understand. I guess
10 what I'm speaking about -- just as we have
11 individual attorney-client defense translators
12 for all proceedings, I would ask for today,
13 either until the normal translator is able to
14 arrive or until tomorrow.

15 THE COURT: Does your client need a
16 translator?

17 MR. BERGEN: Yes, that's correct.

18 THE COURT: Has he had one before?

19 MR. BERGEN: He's had one
20 throughout. Normally the translator has been
21 here on all occasions when Carlos has been here.
22 He can pick up some English, and he does not need
23 a translator necessarily for every word. But
24 there are numerous occasions throughout the day
25 where he has need of a translator to discuss

1 things. And he has been using the earphones
2 throughout the hearings.

3 THE COURT: I have no objection to
4 it.

5 MR. BERGEN: Thank you, Your Honor.

6 MR. DABROWSKI: Your Honor, the
7 Government is relying on what we believe to be an
8 accurate projection of the schedule here. And we
9 are preparing to go forward with the search, the
10 litigation of the search in connection with the
11 residence of Carlos Ayes-Suarez, commencing no
12 earlier than Thursday. We could make an
13 adjustment in that regard. We don't believe it's
14 necessary.

15 I would like to inquire of Mr. Avery
16 through the Court as to whether or not that's a
17 fair assessment of the length of the time he
18 anticipates it will take to litigate both the
19 **suppression** issue with regard to the premises of
20 **Jorge Farinacci** as well as the suppression issue
21 with regard to the alleged statements made by
22 **Jorge Farinacci**; that is, that we'll be hearing
23 those matters until Thursday.

24 MR. AVERY: Your Honor, this is the
25 thing that I'm worse at of anything, trying to

1 estimate how much time things take.

2 THE COURT: Your best judgement.

3 MR. AVERY: My best judgement. It
4 will be at least two days with this, given that
5 we have two motions. I have told Ms. Van Kirk
6 that the agents, who were testifying only about
7 the statements allegedly made by Mr. Farinacci,
8 in my view, need not arrive until tomorrow
9 because I'm quite certain that we'll be at least
10 all day today on the search.

11 THE COURT: All right. Let's
12 proceed on the two days' theory.

13 MR. AVERY: It may be longer. I
14 never say it's going to take longer than it does.
15 It always takes longer than I say.

16 THE COURT: We'll encourage you to
17 be brief, Counsellor.

18 MS. VAN KIRK: Your Honor, the
19 Government calls John Williamson for the hearing
20 on the Motion to Suppress by defendant Jorge
21 Farinacci-Garcia.

22

23

24

JOHN WILLIAMSON (sworn)

25

1 THE CLERK: Please state your name
2 and spell your last name for the record.

3 MR. WILLIAMSON: John Williamson,
4 W I L L I A M S O N.

5 THE CLERK: Your address, please?

6 THE WITNESS: San Juan, Puerto
7 Rico.

8 THE CLERK: Thank you.

9

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DIRECT EXAMINATION BY MS. VAN KIRK

13

14 Q. Mr. Williamson, are you an F B I agent?

15 A. Yes, I am.

16 Q. How long have you been employed by the
17 F B I?

18 A. Since November 1977.

19 THE COURT: Excuse me just a
20 moment. Are there any new are interpreters this
21 morning?

22 THE INTERPRETER: No, Your Honor.
23 This is the initial group that was here the first
24 week.

25 THE COURT: Very good. I didn't

1 recognize the one on the right. Maybe she has a
2 new hairdo.

3 THE INTERPRETER: We've switched
4 seats, Your Honor, and we've all gained weight.

5 THE COURT: All right. Proceed.

6 Q. (BY MS. VAN KIRK) Now, how long have
7 you been assigned to San Juan, Puerto Rico?

8 A. I've been assigned there since July
9 1984.

10 Q. What is your assignment in San Juan?

11 A. I'm assigned as a special agent.

12 Q. Do you work terrorism matters?

13 A. No, I do not.

14 Q. Were you in San Juan then in August of
15 1985?

16 A. Yes, I was.

17 Q. Would you tell us, please, what your
18 educational background is?

19 A. Yes. I'm an attorney. I graduated
20 from law school in 1976 and was admitted to the
21 New York State Bar in 1977.

22 Q. Where did you go to law school?

23 A. Albany Law School, Albany, New York.

24 Q. Now, what was your first involvement in
25 this case regarding the Wells Fargo robbery?

1 A. I was given an assignment as a team
2 leader, a search team leader, for the arrests and
3 searches that took place on August 30th, 1985. I
4 was given an assignment approximately one month
5 prior to the searches.

6 Q. Now, you've already testified in the
7 hearing of the defendant Elias Castro-Ramos, is
8 that correct?

9 A. That's correct.

10 Q. You were the team leader for that
11 search as well?

12 A. Yes.

13 Q. What was your assignment with respect
14 to this particular defendant, Jorge
15 Farinacci-Garcia?

16 A. My assignment was essentially the same.
17 I was the search team leader, the team that
18 searched pursuant to a search warrant the
19 residence of Jorge Farinacci.

20 Q. Now, you stated that you received your
21 assignment to become the team leader for this
22 particular search approximately one month before
23 the actual search occurred, is that correct?

24 A. That's correct.

25 Q. How -- did you prepare yourself for

1 this assignment?

2 A. Yes, I did.

3 Q. How did you do that?

4 A. By discussions with the members of the
5 terrorism squad, and when it was available, I
6 read the draft of the affidavit that would be
7 used in support of the search warrant. And I
8 also read the statutes that would be cited in the
9 search warrant.

10 Q. Did you learn anything specifically
11 about the group?

12 A. Yes, I did.

13 Q. What group was it?

14 A. The name of the group was Los
15 Macheteros.

16 Q. What did you learn then from your -- in
17 your preparation for the execution of the search
18 regarding Los Macheteros?

19 A. I learned that the Macheteros are a
20 very violent, well organized group of terrorists
21 in Puerto Rico. They first came to light in the
22 1970's. We -- there is an extensive number of
23 members, some of which had been identified by the
24 F B I; others that have not been identified.

25 I knew that they used code names, met

1 in safe houses, used telephones extensively,
2 traveled under false identification, that they
3 were responsible for armed robberies, bank
4 robberies, robberies of Wells Fargo trucks,
5 ambushes, assassinations, attacks on military
6 personnel, military bases.

7 Q. Did you learn anything about their
8 international contacts?

9 A. Yes. I knew that they had received
10 training and assistance from organizations
11 overseas including the countries of Cuba and
12 Nicaragua, El Salvador. And they were also --
13 had conducted joint operations with other
14 terrorist groups in the United States.

15 Q. Did you learn anything specific about
16 the particular defendant, Jorge Farinacci-Garcia?

17 A. Yes. I knew that he used the code name
18 Fari and the code name Roberto, among others.

19 THE COURT: What was the first one?

20 THE WITNESS: Fari, Your Honor.

21 It's -- I believe it's F A R Y or F A R I.

22 That he was a member of the Directive
23 Committee, which is one of the leaders of the
24 terrorist group; that he had been involved in
25 various of their operations; that he was involved

1 in a bank robbery in 1977; that he was involved
2 in the killing of a labor attorney, Alan Randall
3 in 1977; that he was involved in secreting a
4 former Machetero, Carlos Rodriguez-Rodriguez, in
5 a safe house, among other things. And that he
6 was a continuing member of the Macheteros and one
7 of their top leaders.

8 Q. Did you learn any specifics about the
9 clandestine nature of the group?

10 A. I knew that they -- the group was a
11 clandestine organization; that they used the code
12 names; that they were broken down into what they
13 called cells that consisted of a small number of
14 individuals and the identities of these
15 individuals were not known to other cells; that
16 there was an hierarchy within the organization;
17 that you had to start out at a lower level in the
18 organization, and over a period of time you would
19 gradually become a full fledged member of the
20 terrorist organization with more benefits and
21 privileges and be allowed to know more
22 information about the group.

23 Q. Did you learn anything about the
24 specific operating procedures of the group?

25 A. I know that it was a very structured

1 group, that they had -- they were broken down
2 into -- they have rules and regulations. They
3 have security regulations as to where to secrete
4 weapons in their houses or in other secure
5 locations, how they would protect their
6 identities by using false identities and the fact
7 that the -- they had rules on vehicles and that
8 they --

9 Q. What rules on vehicles?

10 A. Well, that they had to be careful about
11 being surveilled by law enforcement personnel.
12 That continued with their safe houses, that they
13 would sweep their houses for eavesdropping
14 devices and also their vehicles.

15 Q. Now, what were your duties and
16 responsibilities as a team leader of this
17 particular search?

18 A. I was in charge of the search team
19 which was composed of myself and three other
20 individuals. These other agents were not
21 assigned to Puerto Rico so I was their only
22 contact with this case. I essentially took care
23 of them when they came to Puerto Rico, gave them
24 the briefings as to what their responsibilities
25 were and gave them certain specific assignments

1 as to the actual mechanics of the search itself.

2 Q. All right. Were you briefed before you
3 briefed your members?

4 A. Yes, I was.

5 Q. When were you briefed?

6 A. The briefings were -- they began
7 shortly after I was given my assignment which was
8 approximately one month prior to the August 30th
9 arrest and searches. And the briefings continued
10 throughout that time period up until the day of
11 August 30, 1985.

12 Q. Who briefed you?

13 A. Well, there were various individuals.
14 We had a search team coordinator that would call
15 meetings of the search team leaders. In
16 addition, there were --

17 THE COURT: Who was he?

18 THE WITNESS: His name was Dwight
19 Dennett.

20 THE COURT: Dwight --

21 THE WITNESS: Dwight Dennett.

22 THE COURT: How do you spell the
23 last name?

24 THE WITNESS: I believe it's
25 spelled D E N N E T T.

1 Q. (BY MS. VAN KIRK) All right. So what
2 was his responsibility?

3 A. He was the search team -- well, the
4 search coordinator. He was in charge of all of
5 the search teams. And he drew up the search
6 plans that we were given prior to the searches.

7 Q. All right. Who else briefed you?

8 A. Also our principal legal advisor was
9 present for certain of the briefings.

10 Q. What was his role, other than being
11 present; did he actually --

12 A. He would discuss certain legal issues
13 that would -- that could arise during the
14 searches.

15 Q. All right. Did the special agent in
16 charge, Richard Held, give any briefings?

17 A. He was present for at least one of the
18 meetings of the search team leaders, although he
19 did not lead the group discussions. In addition,
20 he was present and he spoke at the briefing that
21 we had on the morning of August 30, 1985.

22 Q. What was his instruction?

23 A. It was essentially that the operation
24 was going to continue that day -- it was going to
25 take place that day. The arrests were going to

1 take place. And we anticipated the search
2 warrants being signed. They were to follow the
3 instructions previously given, and that we were
4 to be extremely careful.

5 Q. Now, were you given any instructions by
6 anybody else as to how to operate?

7 A. Not that I recall.

8 Q. All right. So did you take it upon
9 yourself to decide or organize your particular
10 search instructions?

11 A. Yes.

12 Q. All right. And what was that based on?

13 A. Well, based upon my knowledge as an
14 agent that, you know, how to conduct a search and
15 how to organize the team. And in addition, the
16 search packet that we had gave certain specific
17 instructions about how to brief our team.

18 Q. How many searches had you participated
19 in before the search of the defendant Jorge
20 Farinacci-Garcia's residence?

21 A. I don't know exactly. I'd say
22 approximately a dozen.

23 Q. That's in your entire F B I career?

24 A. Yes.

25 Q. Had you received any training at the

1 F B I Academy as to how to conduct searches?

2 A. Yes. That's part of our training at
3 the Academy.

4 Q. Now, what specifically did you instruct
5 your agents on the team to do with respect to the
6 search of the defendant's residence, Jorge
7 Farinacci-Garcia?

8 A. Well, there were two parts to it.
9 There were general instructions on what we were
10 looking for and exactly how we would go about the
11 search. And there were also specific assignments
12 given to each member. Agent Reilly was a
13 photographer. He was given specific instructions
14 as to what his responsibilities were as a
15 photographer.

16 Agent Jim Lyons, he was our bomb and
17 explosives expert. He had certain
18 responsibilities to make sure the location was
19 safe from booby traps or other explosives prior
20 to the search being conducted and also to be
21 consulted about any items that might contain
22 explosives during the search.

23 Agent John Caldwell, he was given the
24 assignment being the sketch artist to sketch the
25 premises prior to the search being conducted and

1 to assist Agent Reilly in preparing a
2 photographic log while the photographs were being
3 taken.

4 Q. Were those the members of the search
5 team?

6 A. Yes.

7 Q. All right. So you briefed the members
8 on your team?

9 A. Yes. The briefings were from the time
10 they arrived in Puerto Rico, approximately two
11 weeks before the search commenced. The briefings
12 began then. And I was in contact with the
13 individuals on a daily basis giving them
14 briefings.

15 Q. Did you advise them of what you had
16 learned in preparation for these searches?

17 A. Yes, I did.

18 Q. Now, did you have a copy of the search
19 warrant affidavit when you briefed the members of
20 your team?

21 A. Not at the very beginning. During the
22 week previous to the search, I obtained a copy of
23 the affidavit and the warrant. And I gave that
24 to each of the members of the team. And they
25 were required to read it, and they did read it.

1 Q. Did they do that in your presence?

2 A. Yes.

3 Q. Now, this affidavit and warrant, was it
4 executed and authorized by the magistrate when
5 you gave it to your members?

6 A. No, it was not.

7 Q. When was the affidavit and the search
8 warrant -- when was the search warrant approved,
9 signed by the magistrate?

10 A. On the morning of August 30th, 1985.

11 Q. When did you receive notification that,
12 in fact, the warrant had been signed?

13 A. We received the notification by radio.
14 And I heard the transmission while in the bureau
15 vehicle on the way to Mr. Castro-Ramos' residence
16 on that morning.

17 Q. Could you describe for us the
18 procedures which you were going to use for the
19 search?

20 A. Well, the procedure that we set up was
21 that on each residence the first individual to
22 enter the residence would be the explosives
23 expert. He would do whatever was necessary to
24 assure the safety of the other agents, looking
25 specifically for booby traps or other explosives.

1 After he finished, then the premises
2 would be photographed by Agent Reilly prior to
3 the search commencing. And at the same time
4 Agent Caldwell would be sketching the premises
5 and assisting in drawing up the photographic log.

6 After that procedure was finished, then
7 we would be ready to start the actual search. As
8 the team leader, I did not actually participate
9 in searching for evidence. I stationed myself at
10 a location within the residence where the
11 evidence would be brought to me by the searching
12 agents: They would -- if we decided to seize it,
13 they would initial the evidence, I would initial
14 it, and then I would enter the evidence into my
15 inventory log.

16 Q. Were there any special procedures to
17 safeguard for possible fingerprints?

18 A. Yes. We all wore fingerprint gloves,
19 plastic gloves, so that our fingerprints did not
20 appear on the evidence.

21 Q. Now, were the search agents the only
22 agents to appear at the house on the morning on
23 August 30th?

24 A. No.

25 Q. Who else was there?

1 A. Prior to --

2 MR. AVERY: If Your Honor please, I
3 don't think there has been any testimony that the
4 search agents themselves appeared at Mr.
5 Farinacci's house on the morning of August 30, so
6 perhaps we could sort that out before we get into
7 who he feels was there. I don't think the
8 question was accurate.

9 Q. (BY MS. VAN KIRK) Generally, when you
10 were establishing procedures for the searches,
11 were there any other procedures as to the
12 participation of other agents?

13 A. Yes.

14 Q. What was that?

15 A. Because there were security teams made
16 up of agents, their job was to secure the
17 premises. And essentially they were in charge of
18 keeping people that didn't belong in the house
19 out of the house and assuring the safety of the
20 agents that were searching the residence.

21 When the search team was present, the
22 search team leader would be in charge of all the
23 people at the location. And the search team
24 leader determined that the -- that all the
25 security team personnel were not needed for

1 security. Those people could also be used as
2 searching agents and look for evidence.

3 Q. All right. Now, I direct your
4 attention to the morning of August 30th, 1985.
5 Would you describe to us when you first received
6 notice that the home of the defendant, Jorge
7 Farinacci-Garcia, would be searched?

8 A. I guess that that was in the meeting
9 early in the morning prior to going to Mr.
10 Castro-Ramos' house. We were told that we
11 anticipated that the other search warrants would
12 be signed.

13 Q. Approximately what time was that?

14 A. As I recall, that was 4:30 a.m. or 5:00
15 a.m. in the morning.

16 Q. Who notified you that there was to be a
17 briefing at that hour of the morning?

18 A. Special Agent George Clow telephoned me
19 at my residence earlier in the morning.

20 Q. All right. So describe for us then
21 what you did after you received notification by
22 Agent Clow that the operation was going to
23 happen?

24 A. I received that notification at
25 approximately 2:30 in the morning. I telephoned

1 my search team members, told them that I would be
2 picking them up in my bureau vehicle shortly
3 thereafter. I proceeded then to the office where
4 I picked up certain equipment that we'd need for
5 the search. I then picked up the search team
6 agents and then proceeded to a predesignated
7 location where we had one more meeting.

8 Q. All right. Was that before you were to
9 start searching the Farinacci house?

10 A. Yes. This was very early in the
11 morning. This would have been at the meeting
12 that took place sometime between 4:30 or 5:00
13 a.m.

14 Q. All right. What did you do next?

15 A. Then we proceeded to the residence of
16 Mr. Castro-Ramos where we subsequently
17 participated in the arrest of the defendant
18 Castro-Ramos and subsequently searched his
19 residence.

20 Q. All right. Now, approximately what
21 time did you finish searching the home of the
22 defendant, Elias Castro-Ramos?

23 A. It was between noon and 1 p.m., as I
24 recall.

25 Q. What did you do after you left the

1 residence of the defendant, Castro-Ramos?

2 A. We took the evidence to a predesignated
3 central location where the evidence was turned
4 over to other personnel of the F B I. They
5 inventoried and logged the evidence. And we
6 picked up additional search supplies that we'd
7 need in conducting the next search at Mr.
8 Farinacci's residence. And we proceeded to Mr.
9 Farinacci's residence.

10 Q. All right. Approximately what time did
11 you arrive at Mr. Farinacci's residence?

12 A. It was about 5:20 p.m.

13 Q. Now, who were the members, the search
14 team members with you at that residence?

15 A. Well, at that point I had my search
16 team consisting of myself, Agents Reilly,
17 Caldwell and Lyons. And then I also used, as
18 part of the search team for Mr. Farinacci's
19 house, a security team that was present at the
20 house. That consisted of Agents David Miller,
21 John Morrison and Roy Delagarza.

22 THE COURT: Roy who?

23 THE WITNESS: Delagarza I believe
24 is D E L A G A R Z A.

25 Q. (BY MS. VAN KIRK) All right. Now,

1 would you explain to us how you conducted the
2 search; first of all -- withdrawn.

3 How did you set up to conduct the
4 search?

5 THE COURT: I'd be interested in
6 this question, Counsellor: Who decided to go to
7 Castro-Ramos first and then go to the second one
8 at 5:20 or whenever it was; who decided that and
9 when was that decision made, which one would come
10 first, which would come second in the hour?

11 THE WITNESS: Your Honor, that
12 decision was made at least -- during the week
13 previous to the searches --

14 THE COURT: Who made that decision?

15 THE WITNESS: I don't know.

16 THE COURT: If you know?

17 THE WITNESS: I don't know exactly,
18 Your Honor.

19 THE COURT: All right.

20 Q. (BY MS. VAN KIRK) Would you describe
21 for us the procedures that you utilized to
22 conduct the search at the Farinacci residence?

23 A. Well, I positioned myself at the dining
24 room table as the search team leader and the -- I
25 made specific assignments, specific room

1 assignments, to the searching agents so that the
2 entire residence would eventually be searched.

3 Q. How was that done; any particular order
4 or reason for assigning a particular agent to a
5 particular room?

6 A. Not that I recall. Generally -- by
7 this time the majority of the search team -- we
8 had been working together most of the day. And
9 the agents were working quite well.

10 THE COURT: A point of inquiry,
11 Counsellor. It isn't clear to me who first went
12 to the door; and if there is any question about
13 the entrance. Maybe there is but --

14 MS. VAN KIRK: I'm going to get to
15 that, Your Honor.

16 THE COURT: All right.

17 THE WITNESS: But the -- it was
18 basically the guys on my search team. It would
19 be the type of thing one agent would say, "I'll
20 take the back bedroom." The other one would say,
21 "I'll start with the library." Another agent
22 would say, "I'll start here." And if there were
23 gaps, I'd assign the other agents to the rooms
24 that needed to be searched.

25 Q. Where did you set up?

1 A. It was at a dining room table close to
2 the front entrance of the residence.

3 Q. All right. What was the mechanism then
4 for retrieving the items?

5 A. Well, the searching agents would look
6 for items that were specifically enumerated in
7 the warrant. When they located an item they
8 thought fell within the warrant, they would bring
9 it to me. If it was an item that fell within the
10 warrant, they would initial the evidence, I would
11 initial the evidence. Then I would describe the
12 item found in my inventory log, entered it in and
13 leave the piece of evidence in a pile that we
14 later transported from the residence.

15 Q. If it were something you decided you
16 would not seize, what would happen?

17 A. After a discussion as to why the item
18 was picked up, if I decided not to seize it, the
19 agent would return it to its location.

20 Q. Now, who was present at the house when
21 you arrived?

22 A. Well, there were agents -- the security
23 team agents consisting of Agents David Miller,
24 Roy Delagarza and John Morrison.

25 Q. What was their function?

1 A. They had been present there during the
2 day. Mr. Farinacci had been arrested earlier
3 that morning. And their job was to secure the
4 residence and assure that no evidence was removed
5 until the search team arrived at the residence to
6 conduct the search.

7 Q. All right. So who else was there?

8 A. In addition there were some other
9 individuals. There is Maria Fernos who is
10 identified as Mr. Farinacci's wife. Then there
11 were several other individuals who -- I did not
12 know their identities. There is at least one
13 female and two males.

14 Q. Did you subsequently learn the
15 identities of any of these unknown individuals?

16 A. I was told that the one female -- her
17 name was Judith Berkan. And the males -- when I
18 arrived at the house, I inquired of the security
19 team leader, David Miller, as to the identities
20 of these people. And he described them as
21 various friends and attorneys of Miss Fernos.

22 Q. Where were these people located?

23 A. As I arrived there, as I entered the
24 house, off to the left there was an outdoor
25 patio. Two of the individuals were seated in

1 that area. And the female, who was later
2 identified to me as Judith Berkan, she was with
3 Ms. Fernos.

4 Q. What did you do after you saw these
5 people in the area or in the residence?

6 A. I asked the security team leader why
7 they were in the residence. And he told me that
8 they were basically Ms. Ferno's support group and
9 that he had told them to restrict their movements
10 until the search team leader arrived. And then
11 it would be up to me whether they could stay or
12 whether they should leave the residence. So I
13 requested that he tell them to leave the
14 residence now that we were going to begin the
15 search of the premises.

16 Q. Did they all leave?

17 A. Not initially. They left with the
18 exception of Ms. Berkan who told me that that
19 must not apply to her because she was actually
20 Ms. Fernos' attorney. That led to a discussion.
21 I told her that she would have to leave the
22 premises and she asked me under what authority
23 she was being made to leave.

24 Q. All right. Did anybody stay?

25 A. Yes. The defendant's wife, Maria

1 Fernos.

2 Q. Did she make any comment about
3 requiring the other people to leave?

4 A. Yes. After we told her attorney, the
5 woman identifying herself as her attorney, Ms.
6 Berkan, to leave, Ms. Fernos was extremely upset.
7 And she yelled that the reason we were making her
8 leave -- her attorney leave the residence, was
9 that we wanted to rape her.

10 Q. Were there any other confrontations
11 with the defendant's wife, Maria Fernos?

12 A. Yes. There were numerous
13 confrontations throughout the search. It started
14 -- one of my first assignments that I gave --
15 Agent Reilly was assigned to look on a counter
16 for evidence that was near a telephone. This
17 counter was, from where I entered the house, was
18 to the right-hand side. It was between the
19 living room and the kitchen. Ms. Fernos started
20 into a loud discussion with Agent Reilly as to
21 why he was looking at certain documents. And he
22 requested that I ask Ms. Fernos to leave him
23 alone to allow him to conduct his search. I
24 admonished her at that point to keep her distance
25 from the searching agents.

1 And within a short time she was in
2 another loud discussion with Agent Reilly, and I
3 again admonished her. This continued with
4 various other agents in the house that we were
5 searching. I would continue to admonish her.
6 And finally I asked her to please restrict her
7 movements and stay in the living room area of the
8 house, and that if she wanted to go to a specific
9 room, you know, she could do that. But not to go
10 wandering around the house.

11 Eventually, when she refused to do that
12 and would again get into more loud
13 confrontations, I assigned one of the security
14 agents, John Morrison, to specifically -- John
15 Morrison to specifically stay with Ms. Fernos, to
16 watch her.

17 Subsequent to that she was in another
18 confrontation with Agent Reilly in the master
19 bedroom. I again proceeded to the bedroom and
20 told Ms. Fernos that she should not bother the
21 agents while they were searching. And she was
22 welcome to stay in the room but she could only
23 watch them. At that point she said fine and she
24 wouldn't talk to the agents, she would just
25 watch.

1 Q. Anything else?

2 A. Within a few minutes of that
3 confrontation, I heard more loud voices, and I
4 walked down towards the bedroom. And as I
5 approached the bedroom, she -- I observed Ms.
6 Fernos spitting on Agent Reilly. She called him
7 an animal and walked towards me in the hallway.

8 At that point I tried to talk to her
9 and she responded, "Fuck all of you" and exited
10 the premises. She attempted to enter the
11 premises about one half hour later. And I had
12 instructed the security personnel at that point
13 that she would not be able to reenter the
14 residence, that she had been obstructing the
15 search warrant.

16 Q. Did she call the agents any other
17 names?

18 A. She called us "capitalist pigs".

19 Q. Now, during all this time the search
20 did go on, is that correct?

21 A. Yes. It went much smoother after she
22 left the residence.

23 Q. And what was the basis of your seizing
24 a particular item?

25 A. My basis was my knowledge of the case,

1 my knowledge of the affidavit and the warrant
2 itself. And the actual basis was whether this
3 item was particularly described in the warrant.

4 Q. All right. Did you have the Addendum 2
5 that we've talked about?

6 A. Yes, I did. That was with me. And I
7 referred to it during the search when I had a
8 question as to whether a particular item of
9 evidence could be seized.

10 MS. VAN KIRK: Your Honor, for the
11 record, I believe that the search warrant, the
12 affidavit and this Addendum are part of the
13 record of this case. I'd just like to make sure
14 that that's the case.

15 THE CLERK: Yes, Your Honor.

16 MS. VAN KIRK: Very well, Your
17 Honor. The Clerk advises that it is.

18 Q. (BY MS. VAN KIRK) I show you what has
19 been marked Government Exhibit 43 for
20 identification, and I ask you if you can
21 identify that?

22 (Handing)

23 MR. AVERY: Your Honor, could I
24 just request that -- perhaps Ms. Van Kirk
25 wouldn't mind -- at the time we originally show

1 these, if we could use the number that's been
2 given to these exhibits on the sequential list.
3 And then I'll know what I'm looking at here.

4 MS. VAN KIRK: I believe I can do
5 that, Your Honor. That's Government Exhibit
6 1030.

7 MR. AVERY: Thank you, Your Honor.
8 This is 43 -- we just --

9 THE CLERK: Yes.

10 Q. (BY MS. VAN KIRK) Agent, first of all,
11 do you recognize the exhibit?

12 A: Yes. This exhibit bears our
13 subinventory number L 18 A 2-22, which indicates
14 this was located in the living/dining room of the
15 defendant Farinacci's residence. This was
16 located in a telephone book that was seized off
17 of the counter that I referred to previously in
18 the living/dining room.

19 Q. All right.

20 MS. VAN KIRK: Your Honor, we offer
21 it as a full exhibit.

22 THE COURT: Without objection, full
23 exhibit.

24
25 (Government's Exhibit 43
offered and marked into

1 evidence)

2
3 Q. (BY MS. VAN KIRK) Why did you seize
4 this particular item?

5 A. Well, this item -- it's an Eastern Air
6 Lines boarding pass. And this would be a
7 document -- well, the document bears the name of
8 Farinacci on it. This would be a document
9 showing travel of a terrorist.

10 MR. AVERY: Your Honor, I'm going
11 to object to the word "Terrorist" being used
12 during the proceedings. I think it's vague,
13 imprecise, no apparent meaning. It's not used in
14 the addendum, it's not used in the warrant. And
15 I think it's inappropriate.

16 THE COURT: I don't know what he
17 means myself. What do you mean by --

18 THE WITNESS: Terrorist?

19 THE COURT: Oh, I misunderstood
20 you, I thought -- all right. Well, the word
21 "terrorist" at this point may go out because it's
22 not an integral part of the exhibit. The rest of
23 the statement may remain.

24 Proceed.

25 I may say, Counsellor, and for the

1 benefit of other counsel, since no jury is here,
2 nobody is going to be infected, shall I say, or
3 persuaded by the use of casual terminology. The
4 Judge, the Court won't be persuaded by words of
5 that kind.

6 MR. AVERY: I know that, Your
7 Honor. I just, anticipating the trial, thought
8 we might start training the witnesses early to be
9 careful in this regard because once we do get the
10 jury in here, that particular word will cause big
11 problems.

12 MS. VAN KIRK: Well, Your Honor, I
13 believe that that, given these agents'
14 experience, is more of a term of art than
15 anything. And they have a specific basis for
16 that term, which comes from the affidavit and all
17 of their information about this case. So there
18 is a basis for it. I don't really care about
19 that right now. But by my silence, I'm not
20 conceding anything in that respect.

21 THE COURT: I understand.

22 Q. (BY MS. VAN KIRK) Now, you stated that
23 you used Addendum 2, is that correct?

24 A. Yes, that's correct.

25 Q. That's a part of the record; and do you

1 recall every single item that's on Addendum 2?

2 A. No, I did not.

3 Q. If you saw Addendum 2, would that
4 refresh your recollection?

5 A. Yes, it would.

6 MS. VAN KIRK: Your Honor, since
7 it's already part of the record, I'm just going
8 to give the witness a copy of Addendum 2.

9 MR. AVERY: I think probably the
10 best thing is to put Exhibit 23 in front of him
11 which I think is the Addendum 2, if I'm not
12 mistaken.

13 MS. VAN KIRK: That's fine.

14 THE COURT: That's already an
15 exhibit?

16 MS. VAN KIRK: That was an exhibit,
17 Your Honor, with respect to the search of Elias
18 Castro-Ramos. So that's -- for the record then,
19 the numbering of the exhibits is running
20 consecutively from one hearing to the other.
21 Just so it's clear that we do have to refer to
22 prior exhibits from another hearing.

23 THE COURT: That was the
24 understanding.

25 MS. VAN KIRK: Very well.

1 Q. (BY MS. VAN KIRK) Now, once again
2 then, why did you seize this?

3 A. Well, this document would be evidence
4 of travel of a Machetero member. And it's
5 specifically in the addendum, in the addendum to
6 the warrant in paragraph 4. It was, "Records
7 pertaining to travel of Machetero members."

8 Q. I show you what has been marked
9 Government Exhibit 32 for identification --
10 excuse me, 42, Exhibit 1031, Government Exhibit
11 1031.

12 MR. AVERY: I beg your pardon.
13 This is 42?

14 THE CLERK: Yes. We had missed
15 one.

16 MR. AVERY: Okay, thank you.

17 Q. (BY MS. VAN KIRK) Do you have that
18 before you?

19 A. Yes.

20 Q. Can you identify that?

21 A. Yes. On my inventory this item is
22 A 12, which is a passport of the defendant, Jorge
23 Farinacci, which we located in the briefcase on
24 the sofa in the living/dining room of Mr.
25 Farinacci's house.

1 MS. VAN KIRK: Your Honor, we offer
2 it as a full exhibit.

3 THE COURT: Without objection, full
4 exhibit.

5
6 (Government's Exhibit 42
7 offered and marked into
8 evidence)

9 Q. (BY MS. VAN KIRK) Why did you seize
10 that particular item?

11 A. Well, there are two reasons. This is
12 -- a passport is an identification document. And
13 in addition, it's a document that would be
14 evidence of travel of a Machetero member.

15 Q. I show you what has been marked
16 Government Exhibit 44 for identification. I ask
17 you if you can identify that?

18 (Handing)

19 A. Yes. These bear our inventory number
20 L 18 A 13.

21 MS. VAN KIRK: Your Honor, for the
22 record that's Government Exhibit 1032.

23 THE WITNESS: I describe these as
24 airline tickets on my inventory. And these were
25 located in the briefcase on the sofa in the

1 living room/dining room of Mr. Farinacci's house.

2 MS. VAN KIRK: Your Honor, we offer
3 it as a full exhibit.

4 THE COURT: Without objection, full
5 exhibit.

6
7 (Government's Exhibit 44
8 offered and marked into
9 evidence)

10 Q. (BY MS. VAN KIRK: Why did you seize
11 Exhibit 44?

12 A: These would also be documents showing
13 travel of a Machetero member.

14 Q. I show you Government Exhibit 45 for
15 identification. I ask if you can identify that?

16 (Handing)

17 A. Yes. This is also part of L 18 A 13
18 which I also described as an airline ticket which
19 was located in the briefcase found on the sofa in
20 the living room/dining room.

21 MS. VAN KIRK: Your Honor, we offer
22 it as a full exhibit.

23 MR. AVERY: I'd like to see it
24 first, Your Honor, because I'm a little confused.
25 Are these the exhibits with the stickers on them?

1 MS. VAN KIRK: Yes.

2
3 (Off record discussion)

4
5 Your Honor, we're going to withdraw
6 Government Exhibit 45 because it has already been
7 reproduced on Government Exhibit 44.

8 Q. (BY MS. VAN KIRK) Agent Williamson, on
9 Government Exhibit 44, is there anything else
10 other than the boarding ticket or the ticket?

11 A. There are two items, an airline ticket
12 and a boarding pass.

13 Q. And your explanation applies to both?

14 A. Yes, that's correct.

15 Q. I show you what has been marked
16 Government Exhibit 45 for identification, and I
17 ask you if you can identify that?

18 (Handing)

19 A. Yes. This piece of paper bears our
20 inventory number L 18 A 23. This is a paper with
21 telephone numbers which was located in a wallet
22 contained in a red bag in the living room/dining
23 room of Mr. Farinacci's house.

24 Q. What kind of a bag was it?

25 A. As I recall, it was a woman's

1 pocketbook.

2 MS. VAN KIRK: Your Honor, we offer
3 it as a full exhibit. This is Government Exhibit
4 1033.

5 THE COURT: Without objection, full
6 exhibit.

7
8 (Government's Exhibit 45
9 offered and marked into
10 evidence)

11 Q. (BY MS. VAN KIRK: Why did you seize
12 this document?

13 A. Well, there are two reasons. First of
14 all, it contains telephone numbers which we were
15 specifically looking for and are specifically
16 listed on the addendum. In addition, this piece
17 of paper with these handwritten numbers -- there
18 were two other pieces of paper that we had seized
19 that appeared to me to be exactly like this piece
20 of paper in the residence of the defendant
21 Castro-Ramos earlier that day.

22 Q. Did you seize those from the residence
23 of Castro-Ramos?

24 A. Yes, I did.

25 Q. I show you what has been marked

1 Government Exhibit 46 A and 46 B. I ask you if
2 you can identify each of those?

3 (Handing)

4 A. Yes. They're our subinventory number
5 L 18 H 2 E 2, and I have described this as
6 Machetero literature on my inventory. This was
7 located on the dresser in the master bedroom of
8 the defendant Farinacci's residence.

9 Q. Go ahead. What's the B?

10 A. The B is an English translation of the
11 document.

12 MS. VAN KIRK: Your Honor, we offer
13 both as Government exhibits, and these correspond
14 to Government Exhibit 1034.

15 MR. AVERY: Your Honor, I'm not
16 going to object to the introduction. But I do
17 want to reserve our rights to challenge the
18 translation if, after we have a chance to have
19 our translators look at it, we have any problem
20 with the Government translation. With that
21 reservation, I have no objection.

22 THE COURT: All right.

23 MS. VAN KIRK: We have no objection
24 to that, Your Honor.

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(Government's Exhibit 46A
offered and marked into
evidence)

(Government's Exhibit 46B
offered and marked into
evidence)

THE COURT: Who is this guy
Alejandro Martinez-Vargas; do you know who he is?

THE WITNESS: Yes. He's a
Machetero, Your Honor.

MS. VAN KIRK: Your Honor, that was
my next question, why he seized that particular
document.

Q. (BY MS. VAN KIRK) Why did you seize
that particular document, Agent Williamson?

A. Well, this is a letter, handwritten
letter, from Alejandro Martinez-Vargas, a known
Machetero member. And it was dated July 13,
1985. It was -- and found in the possession of
other known Machetero members.

Q. I show you what has been marked
Government Exhibit 47 for identification. I ask
if you can identify that?

(Handing)

A. All right. Yes. This bears our

1 subinventory number L 18 H 25 B. And this was
2 located on the dresser in the master bedroom of
3 the defendant Farinacci's residence. It's a
4 photocopy of a certificate of deposit in a Banco
5 Cooperativo, C O O P E R A T I V O of Puerto
6 Rico, and it's in the amount of \$16,318. And
7 it's in the names of Pedro Varela, V A R E L A,
8 and/or Maria Fernos. And then the letters I T F
9 and Tanya Varela and Roxana Varela. This is
10 dated December 14, 1983.

11 MS. VAN KIRK: Your Honor, we offer
12 it as a full exhibit. This is Government Exhibit
13 1035.

14 THE COURT: Without objection, full
15 exhibit.

16
17 (Government's Exhibit 47
18 offered and marked into
19 evidence)

20 Q. (BY MS. VAN KIRK: Why did you seize
21 that?

22 A. Two things. This is a financial
23 record. In addition, I was aware that this is
24 shortly after the Wells Fargo robbery in
25 Hartford, Connecticut in which a large sum of

1 money, over seven million dollars, was missing
2 and unaccounted for.

3 Q. So on the day of the search, the F B I
4 had not found the seven million dollars?

5 A. That's correct.

6 Q. Now, did you know who Pedro Varela was
7 on August 30, 1985?

8 A. No, I did not.

9 Q. Did you know who Maria D. Fernos was?

10 A. Yes, I did.

11 Q. Was there -- who was that?

12 A. I knew that Maria Fernos was the
13 defendant, Jorge Farinacci's wife and also a
14 member of the Machetero group.

15 Q. How about Tanya Varela?

16 A. No. I did not know who she was.

17 Q. Roxana Varela?

18 A. No. I did not know who she was.

19 Q. I show you what has been marked as
20 Government Exhibit 48 for identification; and I
21 ask you if you can identify that?

22 (Handing)

23 A. Yes. This is a photocopy of a passport
24 that we seized on August 30, 1985 bearing the
25 subinventory number L 18 H 28. And this was

1 located on the dresser in the master bedroom of
2 Mr. Farinacci's house. This passport is in the
3 name of Maria Dolores Fernos Lopez Cepero, C E --

4 THE COURT: What's that last name
5 again?

6 THE WITNESS: It looks like Cepero,
7 C E P E R O.

8 MS. VAN KIRK: Your Honor, we offer
9 it as a full exhibit.

10 THE COURT: Without objection, full
11 exhibit.

12 MR. AVERY: I would just like to
13 see it, the sequential number on your list. I
14 would just like to look at the original for a
15 minute before we have this coming in, Your Honor.

16 MS. VAN KIRK: Your Honor, if the
17 witness might be excused to come down and search
18 for that. He knows better than we where it is.

19 THE COURT: Will you step down and
20 find that, please, the original?

21 MR. AVERY: Your Honor, I can
22 examine that at the break and save a little time
23 now as long as I reserve an opportunity to come
24 back to this if looking at the --

25 THE COURT: Certainly.

1 MR. AVERY: Thank you.

2 THE COURT: With that reservation,
3 it may be marked as a full exhibit.

4 MS. VAN KIRK: This is Government
5 Exhibit 1036.

6
7 (Government's Exhibit 48
8 offered and marked into
9 evidence)

10 Q. (BY MS. VAN KIRK) Agent Williamson,
11 why did you seize this particular passport?

12 A. The passport is an identification
13 document. And it's also evidence of travel of a
14 Machetero member.

15 Q. Was this pursuant to the addendum?

16 A. Yes. Both of those reasons are cited
17 in the addendum to the search warrant.

18 Q. So you stated it's also an
19 identification document?

20 A. Yes, that's correct.

21 Q. I show you what has been marked
22 Government Exhibit 49 A and 49 B for
23 identification, and I ask you if you can identify
24 that?

25 (Hanging)

1 What is 49 A?

2 A. Forty-nine A is an English translation
3 of a -- it's entitled "Battle Program". And this
4 is -- I would describe this as Machetero
5 literature.

6 Q. What about 49 B?

7 A. That's the Spanish document that we
8 actually seized on August 30, 1985.

9 Q. So 49 A is the English translation?

10 A. That's correct.

11 MS. VAN KIRK: Your Honor, we offer
12 both as exhibits.

13 MR. AVERY: Your Honor, I have no
14 objection but again reserving our right to object
15 to the translation. I think Your Honor knows
16 from a previous colloquy on the subject that we
17 do not agree with "Battle Program" as an
18 appropriate translation for "Programa de Lucha."

19 THE COURT: Struggle?

20 MR. AVERY: I think struggle is
21 considered more accurate.

22 MS. VAN KIRK: That's a matter of
23 opinion.

24 THE COURT: That can be corrected
25 if necessary after you've reviewed the

1 translation.

2 MR. AVERY: Thank you.

3
4 (Government's Exhibit 49A
5 offered and marked into
6 evidence)

7 (Government's Exhibit 49B
8 offered and marked into
9 evidence)

10 Q. (BY MS. VAN KIRK) Agent Williamson,
11 why did you seize 49 B?

12 A. Well, this -- it's a terrorist document
13 that would show the plans of the Macheteros for
14 past and future crimes.

15 Q. Specifically what?

16 THE COURT: If I looked over the
17 English translation, it would save a lot of
18 questions, it would seem to me.

19 MR. AVERY: I'd be curious as to an
20 answer to the question. Specifically what, not
21 modified by just generally, but specifically
22 what.

23 MS. VAN KIRK: I'll withdraw the
24 question. And in summary is a better way to put
25 it.

1 THE WITNESS: Well, it talks about
2 the different sectors within Puerto Rico that
3 their battle or struggle must be targeted
4 against, including the armed -- there is one
5 section, section 6 on page 12 which is the -- my
6 translation would be the "Armed action and the
7 struggle of the classes" or "battle of the
8 classes."

9 Q. (BY MS. VAN KIRK) Now, for clarity,
10 which are you looking at, the Spanish, 49 B?

11 A. Yes. I'm looking at the Spanish on
12 page 12. They're discussing armed action which
13 to me would indicate future terrorist actions

14 Q. You have before you, Agent Williamson,
15 Government Exhibit 50 for identification?

16 A. Yes.

17 Q. What is Government Exhibit 50?

18 A. These are instructions to operate
19 equipment and titled in Spanish. These
20 typewritten instructions were located in the
21 residence of the defendant, Jorge Farinacci,
22 inside a briefcase containing some electronic
23 equipment.

24 MS. VAN KIRK: Your Honor, we offer
25 it as a full exhibit.

1 THE COURT: Without objection, full
2 exhibit.

3 MR. AVERY: Is this 1038 on the --

4 MS. VAN KIRK: Yes, it is.

5
6 (Government's Exhibit 50
7 offered and marked into
8 evidence)

9 Q. (BY MS. VAN KIRK: Agent Williamson, I
10 ask you to look at Government Exhibit 51 for
11 identification, and would you tell us if you
12 recognize that?

13 (Handing)

14 A. Yes, I do. This is our subinventory
15 number L 18 H 26, which I described as an "Audio
16 sensor in briefcase (Bug detector)." And this
17 was located on the dresser in the master bedroom
18 of Mr. Jorge Farinacci's residence.

19 MS. VAN KIRK: Your Honor, we offer
20 it as a full exhibit.

21 Look inside it and make sure that's
22 what's there.

23 MR. AVERY: I would just inquire
24 whether this has a number on the sequential list
25 or not.

1 MS. VAN KIRK: No, it does not.

2 THE COURT: Why is it this doesn't
3 have a number? I thought everything had a
4 number.

5 MS. VAN KIRK: It's not on the
6 exhibit list, Your Honor.

7 THE COURT: In other words, you're
8 not going to use it in your principal case then.

9 MS. VAN KIRK: That's correct, Your
10 Honor, as of today.

11 THE COURT: Can I see it? I've
12 never seen one of those.

13

14 (Government's Exhibit 51
15 offered and marked into
16 evidence)

17 Q. (BY MS. VAN KIRK) Agent Williamson, is
18 there any document in there?

19 A. Yes. There is the translation of the
20 Spanish instructions.

21 Q. Is that Government Exhibit 50?

22 A. Yes.

23 MS. VAN KIRK: Your Honor, we're
24 going to offer this as a separate exhibit for
25 clarity's sake, perhaps marking it 51 A. And

1 we'll have to get a copy.

2 MR. AVERY: Your Honor, could I
3 just inquire for sake of clarification while
4 we're at this point, on the record, whether this
5 is a translation that's been prepared subsequent
6 to the seizure or whether it's claimed that this
7 was found in there on August 30th.

8 MS. VAN KIRK: The agent can answer
9 that.

10 THE WITNESS: May I look at the
11 document?

12 (Handing)

13 This is -- appears to be -- by the
14 notation at the top of this, this was prepared
15 subsequent to the search. It was a translation
16 prepared subsequently.

17 THE COURT: What is it a copy of?

18 THE WITNESS: Government's Exhibit
19 50 which are the instructions in Spanish for this
20 device.

21 THE COURT: Without objection, full
22 exhibit.

23 MS. VAN KIRK: That's marked
24 Government Exhibit 50 A.

25

1 (Government's Exhibit 50A
2 offered and marked into
3 evidence)

4 THE COURT: All right. It's now
5 11:30. We'll take our usual recess.

6 *****
7

8 (Recess)
9

10 MS. BACKIEL: Your Honor, if I
11 could take a moment to address a problem.
12 Earlier in Agent Williamson's testimony, he
13 described Government Exhibit 43, which is a
14 boarding pass, as a terrorist document or
15 evidence of terrorism. And there was some
16 colloquy about the lack of usefulness of that
17 term and its various possibilities for different
18 media interpretation.

19 My objection, at this point, Your
20 Honor, is not from the perspective of simply the
21 overbreadth of the search, my objection is with
22 regard to Agent Williamson's persistent use of
23 the term. Twice after that colloquy, he referred
24 to something as a terrorist document, terrorist
25 this or terrorist that. Although there is not a

1 jury present in the courtroom today with twelve
2 people, there is a jury in the community.

3 There are representatives of the press
4 present in the courtroom. There are
5 representatives of the public present in the
6 courtroom. And Agent Williamson's persistent
7 gratuitous use of the term "terrorist" is simply
8 part of a strategy that began at or before the
9 defendants' arrest to characterize them in the
10 eyes of the public, to stigmatize them and to
11 prejudice any further proceedings in this case.

12 Your Honor, we cannot have a fair trial
13 after the defendants have been convicted in the
14 minds of the F B I, in the mind of the Attorney
15 General and, by their deliberate actions, in the
16 press and in the minds of public as terrorists.

17 And Your Honor must exert this control
18 over this gratuitous use of the word because it's
19 deliberately designed to make it impossible for
20 the people who are on trial here to have any kind
21 of fair trial in this jurisdiction. And control
22 over that situation is Your Honor's
23 responsibility.

24 And I ask that you instruct Agent
25 Williamson not to persist in this. I don't think

1 that any instruction can cure the damage that's
2 already been done. But these gratuitous
3 references are deliberate. They're prejudicial
4 and they have no part in any kind of legal
5 proceedings here.

6 THE COURT: Thank you.

7 MS. VAN KIRK: Your Honor, the
8 issue here is what Agent Williamson was thinking
9 at the time that he seized a particular document.

10 THE COURT: Why don't we use the
11 word Los Macheteros instead terrorist for the
12 moment and serve everybody's purpose. And it
13 won't make one bit of difference one way or the
14 other.

15 MS. VAN KIRK: We have no objection
16 to that.

17 THE COURT: Proceed.

18 Q. (BY MS. VAN KIRK) I show you what has
19 been marked Government Exhibit 52 for
20 identification, and ask you if you can identify
21 that?

22 (Handing)

23 A. Yes. This is a copy of a handwritten
24 letter that bears our inventory number L 18
25 H 2 E.

1 MS. VAN KIRK: Your Honor, this is
2 part of Government Exhibit L 18 H 2 E 2-3.
3 However, we're taking it separately for this
4 hearing.

5 Q. (BY MS. VAN KIRK) So you --

6 MR. AVERY: Pardon me, Ms. Van
7 Kirk. The copy I have says L 18 H 2 E 1.

8 MS. VAN KIRK: You're right. I
9 stand corrected, Your Honor.

10 MR. AVERY: I think it's part of
11 number 1034.

12 MS. VAN KIRK: That's right.

13 Q. (BY MS. VAN KIRK: So you recognize
14 this as having been seized from the defendant's
15 residence?

16 A. Yes. I had described this as
17 Macheteros literature. That was located on the
18 dresser in the master bedroom of the defendant
19 Farinacci's residence.

20 MS. VAN KIRK: Your Honor, we offer
21 it as a full exhibit.

22 THE COURT: Without objection, full
23 exhibit.

24
25

1
2 (Government's Exhibit 52
3 offered and marked into
4 evidence)

5 Q. (BY MS. VAN KIRK) Now, why did you
6 seize this particular document?

7 A. This letter is signed by Alejandro
8 Martinez-Vargas who is a known Machetero. And
9 below his name, it says (Joe), J O E which is one
10 of his Machetero code names. And this is
11 addressed to Fari, F A R I, which is a code name,
12 Machetero code name for the defendant. Based
13 upon that, I seized this document.

14 Q. (BY MS. VAN KIRK) I show you what has
15 been marked Government Exhibit 53 for
16 identification, and I ask you if you can identify
17 that?

18 (Handing)

19 A. Yes. This is a photocopy of a document
20 that we seized, the inventory numbers L 18 H 2 D,
21 which is also -- I described as Macheteros
22 literature. This is a Macheteros communique.

23 MS. VAN KIRK: Your Honor, we offer
24 it as a full exhibit.

25 MR. AVERY: I'd like to see a copy

1 of it, Your Honor. I don't have that.

2 (Handing)

3 Could I just take a moment, Your Honor,
4 and I can find our copy of it.

5 THE COURT: So the Court may know
6 where we're going on this particular issue, do I
7 understand the Government has in this big box the
8 list of exhibits which are listed which they
9 propose to use in their affirmative case?

10 MS. VAN KIRK: Some of them, yes,
11 Your Honor. However, some of them are exhibits
12 that we will not introduce in our case in chief
13 but which are relevant to the inquiry before the
14 Court, overbreadth, reasonableness of the search.

15 THE COURT: All right. Just so I
16 know what the distinction was.

17 MS. VAN KIRK: I might add, Your
18 Honor, some of these are the defendants'
19 exhibits. But we want to keep them all together.

20 MR. AVERY: It's going to turn out,
21 if the Court has no objection, that there are
22 going to be two copies of some of these
23 introduced because over the weekend I had
24 prepared all of the ones we intend to offer. And
25 it turns out Ms. Van Kirk is going to offer some

1 of them, to which I have no objection. But I
2 don't want to renumber ours.

3 THE COURT: How many are yours,
4 Counsellor?

5 MR. AVERY: How many exhibits do I
6 have?

7 THE COURT: Yes.

8 MR. AVERY: I think I have over a
9 hundred.

10 THE COURT: How many does the
11 Government have?

12 MS. VAN KIRK: We only have a few
13 more, Your Honor.

14 THE COURT: Just so I get a picture
15 of it.

16 MR. AVERY: There will only be a
17 few that it's duplicative.

18 MS. VAN KIRK: So we're at the
19 point, Your Honor, you were -- where we're going
20 to offer this as a full exhibit, Government
21 Exhibit 53.

22 THE COURT: Without objection, full
23 exhibit.

24
25

1 (Government's Exhibit 53
2 offered and marked into
3 evidence)

4 Q. (BY MS. VAN KIRK) You stated you
5 received this because it was a Machetero
6 communique?

7 A. Yes, that's correct.

8 Q. Generally what is the subject?

9 A. It's a -- like an open invitation to
10 the youth of Puerto Rico and to the people in
11 general to participate in a -- it looks like some
12 sort of a march called -- I guess my translation
13 would be "Walkers for Peace." And it talks about
14 the importance of demonstrating militancy. It's
15 dated June 5 of 1985.

16 Q. (BY MS. VAN KIRK) I show you what has
17 been marked Government Exhibit 54 for
18 identification. And I ask if you can identify
19 that?

20 (Handing)

21 A. This roll of film bears our inventory
22 number L 18 F 1, which I described on my
23 inventory as a movie tape. This was found in a
24 box in the closet in room F, which is the study
25 in Mr. Farinacci's residence.

1 MS. VAN KIRK: Your Honor we offer
2 it as a full exhibit.

3 THE COURT: Without objection, full
4 exhibit.

5
6 (Government's Exhibit 54
7 offered and marked into
8 evidence)

9 Q. (BY MS. VAN KIRK) Why did you seize
10 that item?

11 A. There were two reasons. We were
12 looking for film and photographs, and this movie
13 has the label on the front of it. It says,
14 "Cuba, Number 1" as the subject. And the
15 defendant's wife at the time we were reviewing
16 this evidence, she made statements that this film
17 was of their trip to Cuba. And I was aware that
18 the Macheteros had a connection with training and
19 support in Cuba and information that some of the
20 Wells Fargo money was in Cuba.

21 Q. Now, I direct your attention back to
22 Government Exhibit 51, the bug detector?

23 A. Yes.

24 Q. Why did you seize that; that was at the
25 break, and I forgot to ask you that?

1 A. Well, there were several reasons for
2 that. Number one, it's a device that uses radio
3 frequencies. It's a type of receiver and
4 transmitter which we were looking for. That's
5 one of the items referred to in the addendum.

6 In addition, it's the type of security
7 device which was also referred to in the
8 addendum. And I was aware that the Macheteros
9 would sweep their safe houses and rooms where
10 they met and vehicles for electronic
11 eavesdropping devices.

12 In addition, when I first arrived at
13 the residence, Special Agent Miller advised me
14 that there had been a discussion concerning this
15 item of evidence, that Mrs. Fernos had stated
16 that the agents had planted this item in the
17 defendant's house, and that, in fact, when I made
18 the determination to seize it, she also made
19 comments that she had never seen this item in the
20 house before and that she didn't know where it
21 came from. So she seemed to think it was
22 extremely important.

23 THE COURT: Which item was this
24 now?

25 THE WITNESS: That's the bug

1 detector, Your Honor.

2 MS. VAN KIRK: Your Honor, I might
3 add, certain of these exhibits are bulky, like
4 for instance that briefcase with the bug detector
5 in it. I would request that the F B I maintain
6 custody of those particular exhibits because of
7 their bulk. It's something we couldn't reproduce
8 by photocopy so -- and I have a weapon also. And
9 we would request that all of these bulky exhibits
10 remain in the custody of the F B I.

11 THE COURT: Any objection to that,
12 Counsellor?

13 MR. AVERY: As long as they're
14 maintained here in this building, I have no
15 objection to it. I don't want them going down to
16 Puerto Rico or the F B I lab or out of the
17 building.

18 THE COURT: Maintained in this --

19 MS. VAN KIRK: They will be
20 maintained and marked for future reference just
21 as they are marked here.

22 Q. (BY MS. VAN KIRK) I show you
23 Government Exhibit 55 for identification, and I
24 ask you if you can identify that?

25 (Hanging)

1 A. Yes. This is L 18 H 1. This is a
2 Walther P P K. It's a type of automatic pistol,
3 7.65 millimeter pistol that we seized from the
4 defendant Farinacci's residence. This was
5 located in the master bedroom on the top shelf of
6 the closet.

7 MS. VAN KIRK: Your Honor, we offer
8 it as a full exhibit.

9 THE COURT: Without objection, full
10 exhibit.

11
12 (Government's Exhibit 55
13 offered and marked into
 evidence)

14
15 THE COURT: Let me see that.

16 (Handing)

17 Q. (BY MS. VAN KIRK) I show you what has
18 been marked Government Exhibit 56 for
19 identification, and I ask you if you can identify
20 that?

21 (Handing)

22 A. Yes, this is our subinventory number
23 L 18 H 9. This is a cassette tape that we seized
24 on the dresser and in the master bedroom of the
25 residence of Mr. Farinacci. And the --

1 Q. Excuse me.

2 MS. VAN KIRK: Your Honor, we offer
3 this as a full exhibit.

4 THE COURT: Without objection, full
5 exhibit.

6

7 (Government's Exhibit 56
8 offered and marked into
9 evidence)

10 Q. (BY MS. VAN KIRK) Why did you seize
11 that, Agent Williamson?

12 A. The tape bears the handwritten writing
13 on it "Programa Noti-uno Macheteros."

14 Q. Do you know what Noti-uno is?

15 A. That's a radio station in Puerto Rico.

16 THE COURT: Without objection, full
17 exhibit.

18 Q. (BY MS. VAN KIRK) I show you what has
19 been marked Government Exhibit 57 for
20 identification, and I ask you if you can identify
21 that?

22 (Handing)

23 A. Yes. This is our subinventory number
24 L 18 H 3. This is a clip for an automatic
25 pistol. This was on my inventory notes, this was

1 a box for the Walther P P K automatic pistol
2 containing one clip. This was found in the
3 closet in the master bedroom.

4 Q. I show you what has been marked
5 Government Exhibit 58 for identification, and I
6 ask you if you can identify that?

7 (Handing)

8 A. Yes. That's L 18 H 3 which is --
9 that's a box for a Walther P P listed -- and on
10 the end of the box it's listed Walther P P K S.
11 This is a box for the same type of weapon that we
12 seized.

13 MS. VAN KIRK: Your Honor, we offer
14 both as full exhibits, 57 and 58.

15 THE COURT: Without objection, full
16 exhibits.

17
18 (Government's Exhibit 57
19 offered and marked into
evidence)

20
21 (Government's Exhibit 58
22 offered and marked into
evidence)

23
24 Q. (BY MS. VAN KIRK) Now, with respect to
25 57 and 58, why did you seize those?

1 A. Are those the clip and the box?

2 Q. Yes.

3 A. We were looking for weapons as
4 specifically listed on the inventory in the
5 affidavit. And thought the clip and the box --
6 that that would be evidence that we could
7 identify a firearm from.

8 Q. All right. You have before you
9 Government Exhibit 59 for identification, and I
10 ask you if you could identify that.

11 A. Yes. This is L 18 H 4. This is a box
12 which we located in the closet at the master
13 bedroom. This is a box for a Smith and Wesson
14 Model 37. It's a 38 -- it's a box for a .38
15 caliber Chief Special pistol.

16 MS. VAN KIRK: Your Honor, we offer
17 it as a full exhibit.

18 THE COURT: Full exhibit.

19

20 (Government's Exhibit 59
21 offered and marked into
22 evidence)

22

23 Q. (BY MS. VAN KIRK) Why did you seize
24 that?

25 A. For the same reason, that we were

1 specifically looking for weapons. And this box
2 gives identifying serial numbers of a weapon.
3 This would be used as evidence to identify a
4 weapon.

5 Q. Did you seize any Smith and Wesson
6 firearms in the house?

7 A. No, we did not.

8 Q. Agent Williamson, I show you what is
9 marked Government Exhibit 60 for identification,
10 and ask you if you can identify that?

11 (Handing)

12 A. This is L 18 L 1-A. This was the clip
13 that was located with the Walther P P K S
14 automatic pistol in the closet of the defendant
15 Farinacci's master bedroom.

16 THE COURT: Was it two clips? You
17 mentioned one before.

18 THE WITNESS: This was the clip
19 that was in the pistol. The other clip was --

20 THE COURT: This is actually in the
21 pistol, is that it?

22 THE WITNESS: Yes, Your Honor.

23 THE COURT: I see. How many
24 bullets does it hold; ten?

25 THE WITNESS: I don't know exactly,

1 Your Honor.

2 THE COURT: You didn't count them.

3 All right.

4 MR. AVERY: That's number 60, Your
5 Honor in --

6 MS. VAN KIRK: Yes, 60.

7
8 (Government's Exhibit 60
9 offered and marked into
10 evidence)

11 Q. (BY MS. VAN KIRK) I show you what has
12 been marked Government Exhibit 61, and I ask you
13 if you can identify that?

14 (Handing)

15 A. This is L 18 H 5 A and B. These are
16 twenty rounds of 32 caliber automatic ammunition
17 that were located in this box. And the B are the
18 actual rounds that were subsequently removed from
19 the box.

20 Q. What caliber are those?

21 A. Thirty-two, .32 automatic.

22 MS. VAN KIRK: Your Honor, we offer
23 this as a full exhibit.

24 MR. AVERY: Could I just see that
25 for a moment, Your Honor?

1 (Handing)

2 MS. VAN KIRK: Your Honor, full
3 exhibit?

4 THE COURT: Full Exhibit.

5
6 (Government's Exhibit 61
7 offered and marked into
8 evidence)

9 Q. (BY MS. VAN KIRK) Did you find a .32
10 automatic weapon in the house?

11 A. No.

12 Q: I show you what has been marked
13 Government Exhibit 62 for identification, and I
14 ask you if you can identify that?

15 A. Yes. This is our inventory number L 18
16 H 13. These were thirty-five rounds of thirty
17 caliber carbine ammunition. These were located
18 in the closet of the master bedroom.

19 MS. VAN KIRK: Your Honor, we offer
20 this as a full exhibit.

21 MR. AVERY: May I have a look at
22 that, Your Honor?

23 (Handing)

1 (Government's Exhibit 62
2 offered and marked into
3 evidence)

4 THE COURT: What kind of
5 ammunition?

6 THE WITNESS: It's .30 caliber
7 carbine ammunition.

8 Q. (BY MS. VAN KIRK) Is that a rifle?

9 A. Yes.

10 Q. Did you find a thirty caliber rifle in
11 the house?

12 A. No, we didn't.

13 Q. Why did you seize these particular
14 items?

15 A. Once again, there were two reasons.
16 These also could be used to identify a firearm
17 used by the Macheteros. And I was aware that in
18 the search of one of their safe houses, a .30
19 caliber carbine was located.

20 Q. Is there anything special about the
21 actual bullets?

22 A. Well, the majority of the rounds are
23 jacketed.

24 Q. What does that mean, jacketed?

25 A. Well, over the lead projectile there is

1 a metal jacket; however, some of the rounds are
2 what we call semi-jacketed -- only a part of the
3 round is jacketed.

4 Q. What's the difference between the two?

5 A. Well, a jacketed round will penetrate
6 into an object farther; whereas, a round that has
7 less of a jacket on it, will mushroom out upon
8 impact.

9 THE COURT: Is it designed, if you
10 know, to penetrate bulletproof vests?

11 THE WITNESS: Well, Your Honor, it
12 would be depend on the vest. These would
13 penetrate some bulletproof vests. But there are
14 other vests that would be able to withstand being
15 shot by them.

16 Q. (BY MS. VAN KIRK) I show you what has
17 been marked Government Exhibit 63 for
18 identification, and I ask you if you can identify
19 that?

20 (Handing)

21 A. Yes. This is marked with our inventory
22 Number L 18 H 16. These are one through fifty.

23 MR. AVERY: I'm sorry, Your Honor.
24 Could I have that inventory number again?

25 THE WITNESS: Yes, it's L 18 H 16.

1 MR. AVERY: H 16?

2 THE WITNESS: H 16, one through
3 fifty.

4 MR. AVERY: Thank you.

5 THE WITNESS: These are fifty
6 rounds of 380 caliber automatic ammunition.
7 These were also located in the closet of the
8 master bedroom.

9 MS. VAN KIRK: Your Honor, we offer
10 these as full exhibits.

11 THE COURT: How can you tell if
12 they're designed for an automatic weapon?

13 THE WITNESS: Well, on the base of
14 each round, Your Honor, it will identify in small
15 writing what kind of ammunition it is.

16 THE COURT: Does it take a special
17 kind of ammunition for a certain rifle or gun for
18 automatic purposes?

19 THE WITNESS: Well, yes, Your
20 Honor. This would fit specifically -- a gun
21 designed for this type of ammunition could be a
22 semi-automatic pistol.

23 THE COURT: All right.
24
25

1 (Government's Exhibit 63
2 offered and marked into
3 evidence)

4 Q. (BY MS. VAN KIRK) Why did you seize
5 those?

6 A. For the same reason. This would
7 identify a firearm used by Macheteros.

8 Q. I show you what has been marked
9 Government Exhibit 64 for identification, and I
10 ask you if you can identify that?

11 (Handing)

12 A. Yes. This is L 18 H 7. This is an
13 empty box for .32 caliber automatic ammunition.
14 This was located in the closet of the master
15 bedroom.

16 MS. VAN KIRK: Your Honor, we offer
17 it as a full exhibit.

18 THE COURT: Without objection, full
19 exhibit.

20
21 (Government's Exhibit 64
22 offered and marked into
23 evidence)

24 Q. (BY MS. VAN KIRK) Did you find a .32
25 automatic weapon in the house?

1 A. No, we did not.

2 Q. I show you what has been marked
3 Government Exhibit 65 for identification, and I
4 ask you if you can identify that?

5 (Handing)

6 A. Yes. This is L 18 H 8, which is --
7 it's a holster for a gun. And we found this on
8 the dresser in the master bedroom.

9 MS. VAN KIRK: Your Honor, we offer
10 it as a full exhibit.

11 THE COURT: Full exhibit.

12
13 (Government's Exhibit 65
14 offered and marked into
15 evidence)

16 Q. (BY MS. VAN KIRK) Does that type of
17 holster have a name or type?

18 A. It's a concealment holster. This would
19 fit inside your pants with just the clip going
20 over your belt.

21 MR. AVERY: I'm going to object to
22 the characterization, Your Honor. I think it's
23 -- I'm going to object to the characterization.
24 First of all, I don't think it is a fair
25 characterization. But secondly, I think it's

1 beyond the scope of this witness' demonstrated
2 expertise. How that holster is worn depends on
3 the wearer to this extent.

4 MS. VAN KIRK: Your Honor, this
5 witness is a F B I agent trained in firearms.
6 And he knows what a concealment holster is.

7 THE COURT: The Court will allow
8 it.

9 THE WITNESS: By the nature of the
10 holster, the rough leather. It's kept rough so
11 that when it's placed inside your pants, it won't
12 slip out, and the clip goes over the belt

13 Q. (BY MS. VAN KIRK) I show what you has
14 been marked Government Exhibit 66 for
15 identification, and I ask you if you can identify
16 that?

17 (Handing)

18 A. This is an empty box for a Beretta
19 pistol. This is H 14. This was located in the
20 closet of the master bedroom.

21 MS. VAN KIRK: Your Honor, we offer
22 it as a full exhibit.

23 THE COURT: Without objection, full
24 exhibit.

25

1 (Government's Exhibit 66
2 offered and marked into
3 evidence)

4 Q. (BY MS. VAN KIRK) Did you find a
5 Beretta firearm in the residence?

6 A. No, we did not.

7 Q. I show you what has been marked
8 Government Exhibit 67 for identification, and I
9 ask you if you can identify that?

10 (Handing)

11 A. Yes. This is L 18 H 20. This is a gun
12 cleaning kit that we found in the closet. This
13 kit is for a .32 caliber pistol.

14 THE COURT: Without objection full
15 exhibit.

16
17 (Government's Exhibit 67
18 offered and marked into
19 evidence)

20 Q. (BY MS. VAN KIRK) Why did you seize
21 that?

22 A. Well, it was my opinion this could be
23 used to identify a weapon.

24 Q. What is inside there?

25 A. There are gun cleaning patches, gun

1 cleaning fluid, grease that could be used in a
2 weapon. This is a brush used to clean a gun.

3 (Indicating)

4 THE COURT: These are all designed
5 for a hand weapon, right?

6 THE WITNESS: Well, this kit is
7 specifically designed for a .32 caliber weapon.

8 THE COURT: But they're all hand
9 weapons. They're not carbines or rifles, right;
10 you'd have to have a longer cleaning tube for
11 that, wouldn't you?

12 THE WITNESS: That's correct, Your
13 Honor. Only the cleaner and the patches could be
14 used in a different weapon. But this is designed
15 for a handgun.

16 Q. (BY MS. VAN KIRK) I show you what has
17 been marked Government Exhibit 68 for
18 identification, and I ask you if I can identify
19 that?

20 (Handing)

21 A. Yes. This is L 18 H 23, which I
22 described on my inventory as a "General Services
23 Administration San Juan red visitor tag." This
24 was located on the dresser in the master bedroom.

25 MS. VAN KIRK: Your Honor, we offer

1 it as a full exhibit.

2 THE COURT: What's a red visitor
3 tag; what's the meaning of that? Is there a blue
4 one and yellow one; is there something unusual
5 about a red one?

6 THE WITNESS: Well, Your Honor,
7 since this was seized -- I know they use
8 different colors since the time that this was
9 seized.

10 THE COURT: What would that be used
11 for, so I can see the significance of it?

12 THE WITNESS: This was used to --
13 for visitors entering the courthouse in old San
14 Juan. It is the same courthouse that was
15 attacked by a bazooka by the Macheteros and
16 normally these -- the rule is these visitors
17 tags must be returned at the end of each day when
18 the person leaves the courthouse.

19 THE COURT: All right.

20 THE WITNESS: So you're not allowed
21 to keep those.

22 Q. (BY MS. VAN KIRK) Is there any
23 requirement to get one?

24 A. As each person enters the courthouse,
25 they must leave a form of identification with the

1 guard. And then they're given a visitor's badge.

2 Q. Then when they return it, they receive
3 their identification?

4 A. That's correct.

5 THE COURT: Without objection, full
6 exhibit.

7
8 (Government's Exhibit 68
9 offered and marked into
10 evidence)

11 MS. VAN KIRK: Your Honor, I have
12 nothing further. Perhaps if the agent could be
13 excused momentarily, so he can bring down the
14 exhibits -- well --

15 THE COURT: You may replace them.

16 All right. The witness will resume the
17 stand, and we will proceed.

18 MR. AVERY: Thank you, Your Honor.

19 MS. VAN KIRK: Excuse me,
20 Counsellor.

21 MR. AVERY: Your Honor, let me pass
22 up to the Court -- Ms. Onorato has one. But I
23 have an extra one for the Court which is a list
24 of exhibits that we'll be offering. And I might
25 also suggest -- I don't know if Your Honor has

1 our motion in front of you, but for the most part
2 that exhibit list is prepared in the same order
3 as the exhibits described in Exhibit C which is
4 Mr. Farinacci's affidavit in support of the
5 Motion to Suppress. So if the Court were to have
6 that Exhibit C in front of you as we proceed, it
7 might be a useful reference from time to time.

8 THE COURT: Very well.

9 MR. AVERY: I would begin, Your
10 Honor, by moving into evidence Exhibits 168
11 through 257, which have been shown to the
12 prosecutor previously and examined by the
13 Government.

14 THE COURT: Without objection.

15 MS. VAN KIRK: No objection, Your
16 Honor. I would just like to reserve the right,
17 if it's not in order or doesn't correspond with
18 mine, to object. But I believe they're in order
19 at this time.

20 THE COURT: Very well. They may be
21 made full exhibits, each of them.
22
23
24
25

1 (Defendant's Exhibit 168
2 - 257 offered and marked
3 for identification)

4 MR. AVERY: Thank you, Your Honor.
5 I would then start the hearing by showing the
6 Court 168 through 185 which constitute photos of
7 Mr. Farinacci's residence so that the Court might
8 be oriented to the physical area that we'll be
9 referring to in the examination.

10 THE COURT: Very good.

11 MR. AVERY: I think those are
12 self-explanatory, Your Honor. They're in an
13 order which takes you from the outside of the
14 premises through the various rooms and then
15 ultimately into the backyard area of the home.

16 THE COURT: Were those photographs
17 taken, Counsellor, as part of the search either
18 before or after; or were they separate
19 photographs taken at your direction?

20 MR. AVERY: No. Those were taken
21 by Mr. Reilly, Special Agent Reilly, during the
22 search. And I think he went over them with Ms.
23 Van Kirk the other day.

24 THE COURT: Very well. All right.
25 Thank you.

1 MR. AVERY: May I just have a word
2 with your clerk, Your Honor.

3 MS. VAN KIRK: What were those
4 numbers again? That's 168 through 185?

5 MR. AVERY: 168 through 257 and
6 photos run through 185.

7 Now, may I proceed, Your Honor?

8 THE COURT: Certainly.

9 MR. AVERY: Thank you.

10
11
12
13 CROSS EXAMINATION BY MR. AVERY

14
15 Q. Agent Williamson, after the search was
16 completed on August 30th, 1985 and up to the
17 present time, did you make or adopt any writings
18 concerning the activity of that day in connection
19 with the search of Mr. Farinacci's house?

20 A. Yes.

21 Q. Can you tell us, sir, what writings
22 you, yourself, made in connection with that
23 search?

24 A. I did an N D 302 which are our
25 investigative report forms. I did one on the

1 search. I did -- as I recall, I did one on the
2 -- specifically on the interference with the
3 search by Miss Fernos. And I did one other on an
4 incident that occurred with Ms. Fernos and myself
5 subsequently.

6 Q. But on August 30th of 1985 or on
7 another occasion?

8 A. On another occasion.

9 Q. You had an incident with Miss Fernos on
10 another day other than August 30th of 1985?

11 A. That's correct.

12 Q. On what day was that incident, sir?

13 A. I don't recall the exact date without
14 reviewing my 302. But it was in -- I believe it
15 was in October of 1985.

16 Q. Can you just tell us without going into
17 any detail at this time, where did that incident
18 occur?

19 A. It occurred outside of the Federal
20 Building in Hato Rey, Puerto Rico.

21 Q. All right. Now, other than the 302
22 describing the search and the 302 describing what
23 you characterize as Ms. Fernos' interference with
24 the search, did you make any other writings
25 yourself describing the search or the activities

1 of the agents on August 30th?

2 A. No.

3 Q. Did you adopt or sign any writings
4 prepared by anybody else concerning the August
5 30th search?

6 A. No.

7 Q. Who prepared the search log for the
8 search of Mr. Farinacci's house?

9 A. Special Agent David Miller.

10 Q. Did you have to approve that search
11 log?

12 A. No.

13 Q. Did you have to review it?

14 A. No.

15 Q. Did you review it?

16 A. I have subsequently.

17 Q. When did you review it?

18 A. I don't recall when the first time that
19 I reviewed it was.

20 Q. When was the last time?

21 A. Yesterday.

22 Q. Was that in order to refresh your
23 recollection to prepare you to testify here
24 today?

25 A. That's correct.

1 Q. And had you -- on how many occasions
2 had you reviewed it prior to that?

3 A. I don't recall.

4 Q. That was a search log that was prepared
5 initially at your direction on August 30th, isn't
6 that correct?

7 A. No, that's not correct.

8 Q. As the search team leader, didn't you
9 have the responsibility to designate someone to
10 prepare a log of the search?

11 A. Yes, that's correct.

12 Q. Didn't you designate Mr. Miller to
13 prepare such a log?

14 A. No, I did not.

15 Q. Did you fail to complete your
16 responsibility to designate someone to do a
17 search log?

18 A. No. Mr. Miller told me that he had
19 been keeping a log from the time that he arrived
20 at Mr. Farinacci's house throughout the day. And
21 that he offered to continue that log.

22 Q. And so you agreed then, did you, to
23 designate him to keep the search log since he had
24 already started it?

25 A. I agreed that he would continue the

1 log, yes.

2 Q. And to that extent, Mr. Miller kept the
3 search log which you were supposed to designate
4 someone to keep, right; I mean, without fencing
5 over words, he did the search log?

6 A. He did the search log.

7 THE COURT: Can we get a definition
8 of a log. It can mean a lot of things to a lot
9 of people. What do you mean by a search log?

10 THE WITNESS: Well, Your Honor, the
11 log was -- it was handwritten notations with
12 times and important events that happened. It can
13 be either for an arrest or a search or some other
14 event. In this case it was for Mr. -- Mr. Miller
15 had started a log noting certain events that were
16 significant throughout the day of August 30th,
17 1985 at Mr. Farinacci's residence.

18 THE COURT: So the word
19 "significant" -- in your training, what does that
20 mean for this purpose?

21 THE WITNESS: Well, for instance,
22 if I were keeping the log, I would note the time
23 that it -- we knocked and announced on the front
24 door of the residence, the time that we began
25 searching the residence, the time that the

1 inventory is left with the person at the
2 residence.

3 THE COURT: All right. That's
4 sufficient. Without defining it, I can draw my
5 own conclusions.

6 Q. (BY MR. AVERY) How many times had you
7 reviewed that search log before you reviewed it
8 yesterday?

9 A. I don't recall.

10 Q. Well, do you recall whether you looked
11 at it to refresh your recollection before you
12 testified in the hearings regarding the search of
13 Mr. Castro's house last week?

14 A. No, I did not.

15 Q. So after those hearings were conducted,
16 then in preparation for today you reviewed it to
17 refresh your recollection to testify today?

18 A. That's correct.

19 Q. Had you looked at it shortly after the
20 search on August 30th to see if it was consistent
21 with your own recollection of the events of that
22 day?

23 A. I don't recall.

24 Q. Well, did you interpret your
25 responsibility to -- as search team leader, not

1 only to make sure someone kept a log but to
2 review it afterwards to see that the log was
3 accurate?

4 A. The normal procedure would have been
5 for me to have reviewed it and signed the log.

6 Q. But you didn't sign this one?

7 A. No, I did not.

8 Q. But normal procedure would be for you
9 to have reviewed it, is that correct?

10 A. Yes.

11 Q. And you don't recall whether you
12 reviewed it in this instance or not?

13 A. No, I don't.

14 Q. All right. Now, in addition to that
15 item, did you make a special inventory of any
16 items seized under the so-called "plain view
17 doctrine" at Mr. Farinacci's house?

18 A. No, I did not.

19 Q. Your instructions for the searches on
20 August 30th required you to keep a separate
21 inventory list of any items seized under the
22 plain view doctrine, isn't that correct?

23 A. That's correct.

24 Q. May we take it then that your failure
25 to generate any such a list means that you didn't

1 seize any items under the plain view doctrine?

2 A. It means that at the time I did not
3 think that the items, any of the items I seized,
4 were seized for that reason.

5 Q. Yes. On August 30th, 1985 you thought
6 all the items you seized were being seized
7 because they were described in the warrant,
8 correct?

9 A. That's correct.

10 Q. Not because they were outside the
11 warrant but evidence to you of crime, correct; in
12 other words, items in plain view?

13 A. That's correct.

14 Q. Did you keep a list of any items which
15 you seized which were of immediate lead value in
16 your investigation?

17 A. No.

18 Q. Did you note any items of obvious
19 importance or lead value in any memorandum of any
20 kind?

21 A. There were certain notations I made on
22 the evidence inventory form under the remarks
23 column by certain items of evidence. But those
24 are the only specific notations about items of
25 evidence that I made.

1 Q. Were any of those notations you made in
2 the remarks column made for the purpose of
3 indicating that those particular items were of
4 immediate lead value in the investigation?

5 A. Yes.

6 Q. All right.

7 MR. AVERY: May I have a moment,
8 Your Honor?

9 (Pause)

10 Q. (BY MR. AVERY) You have an inventory
11 in front of you on the witness stand, do you,
12 sir?

13 A. Yes.

14 MR. AVERY: May I inquire of the
15 Clerk or perhaps of opposing counsel. I don't
16 know whether that's introduced in evidence.

17 THE COURT: Has it been marked?

18 MS. VAN KIRK: The first thing --
19 we inquired to see if it was. And we were
20 assured it was.

21 THE CLERK: It's from Mr.
22 Castro-Ramos' exhibits.

23 MR. AVERY: Do you know the number?

24 THE COURT: In other words, there
25 isn't a separate one for each location searched,

1 is that right?

2 THE CLERK: It's the subinventory,
3 Defendant's Exhibit 42.

4 MR. AVERY: Well, I think that
5 probably relates to the Castro-Ramos search. I
6 doubt if one from Mr. Farinacci's search has been
7 marked in evidence.

8 THE COURT: Maybe counsel for the
9 Government could advise us.

10 MS. VAN KIRK: Your Honor, it was
11 my understanding that the Government had filed a
12 copy of the search warrant, the affidavit and the
13 inventory and that was a part of the record
14 earlier. That was my understanding.

15 THE COURT: I think I have one here
16 attached to counsel's papers. Whether it's an
17 original or a copy, I don't know. I'll let you
18 advise me.

19 MR. AVERY: If it's part of our
20 papers, it's undoubtedly a copy.

21 THE COURT: They appear to be part
22 of your papers.

23 MR. AVERY: May I approach the
24 witness, Your Honor, just to see what he's
25 referring to?

1 THE COURT: Certainly.

2 MR. AVERY: Your Honor, by
3 agreement, we would offer this as the next
4 defense exhibit. And then I'll put it back in
5 front of the witness so that he can refer to it.
6 I might say, Your Honor, that there are some
7 little notations the agent has made on there
8 subsequent to the search which counsel agree are
9 inconsequential.

10 MS. VAN KIRK: What was the number?

11 THE CLERK: 258.

12

13 (Defendant's Exhibit 258
14 offered and marked into
evidence)

15

16 Q. (BY MR. AVERY) All right, Agent
17 Williamson, I'd like you to tell me which items
18 in the remarks column you say relate to items of
19 immediate lead value.

20 A. Any of the remarks. I would have
21 written something in the remarks column that I
22 thought was significant to recall at a later
23 time, that the first ones were marked on A 2,
24 that wife was allowed to copy certain phone
25 numbers. That would not have been for any type

1 of lead value.

2 Q. Would not have been?

3 A. That's correct.

4 Q. All right.

5 A. The -- on A 19 where we seized a maroon
6 leather briefcase, I made the notation that the
7 items seized above, that were marked "Briefcase
8 and a receipt for cash", that's where those items
9 were contained therein.

10 Q. What does that "Receipt for cash" refer
11 to?

12 A. There was -- there were some -- as I
13 recall there was some cash located in the leather
14 briefcase. And we left the cash at the residence
15 but made a receipt to put in the briefcase to
16 show how much cash had been located therein.

17 Q. Do you recall how much that was?

18 A. No, I don't.

19 Q. All right. Go ahead.

20 A. So the --

21 Q. That was not then for lead value, this
22 notation; that's just explaining your inventory?

23 A. Right. And that could be used for lead
24 value, depending on what the agents working on
25 the terrorism squad thought was relevant about

1 those items that I seized being contained
2 altogether in that briefcase.

3 And A 24 -- A 24 is an I D card, yellow
4 V I P is the way I described it. And the remarks
5 -- I noted Dorado Condo. That was placed there
6 for lead value to highlight that identification
7 card related to a condominium in Dorado, Puerto
8 Rico.

9 And on page 4 on B 1, the remarks --
10 there were checks and financial records. And
11 under the remarks I put "Noted payments to
12 Macheteros."

13 Q. Now, when you say, "Noted payments to
14 Macheteros", what do you mean by that, sir?

15 A. It means that the agent that reviewed
16 those documents noted from his own knowledge that
17 there were payments within those financial
18 records made to Macheteros, Machetero members.

19 Q. In other words, what you're telling us
20 is that there were some checks that were drawn in
21 favor of people that you believed were members of
22 the Macheteros, is that right?

23 A. As I recall, the agent that found these
24 records was Agent Miller. And when he looked
25 through the records, he told me that they showed

1 payments made to Macheteros members.

2 Q. Did you hear my question?

3 A. Can you repeat it, please.

4 Q. My question was, in other words, what
5 you're saying is that you found checks or he
6 wrote checks, that checks had been drawn to
7 people that you believed were members of the
8 Macheteros, is that right; now, you can answer
9 that with a simple yes, can't you?

10 A. I did not find them. That's why I
11 explained my answer.

12 Q. Because you've stated several times in
13 the last several days here that Agent Miller
14 didn't make the determination of what to seize,
15 did he; or did he in this instance?

16 A. I made the final determination.

17 Q. All right. And so what you're telling
18 us -- for example, you didn't find checks drawn
19 to the Macheteros as such, did you?

20 A. I don't know. I don't recall. I don't
21 recall.

22 Q. Wouldn't that stand out in your mind if
23 you saw a check actually drafted in favor of the
24 Macheteros; wouldn't that stand out in your mind?

25 A. Yes.

1 Q. Well, you didn't have anything like
2 that standing out in your mind, do you, sir?

3 A. No.

4 Q. All right. So all you're telling us
5 here is that you saw checks drawn to people that
6 you or Williams believed were members of the
7 Macheteros, correct?

8 A. I'm trying to tell you exactly what I
9 recall.

10 Q. I'm trying to get you to answer my
11 question. Can you answer that question?

12 A. No.

13 Q. All you saw were -- was evidence that
14 checks had been made -- drawn to a particular
15 named individual, isn't that correct?

16 A. I don't recall.

17 Q. What is it that you don't recall;
18 whether you saw checks drawn -- paid to
19 individuals?

20 A. That's correct.

21 Q. So you don't know who the checks were
22 drawn to, as you sit here today; is that right?

23 A. That's correct.

24 Q. All right. So in other words, you
25 really don't know what this notation means, as

1 you sit here today, is that right?

2 A. Yes. I do know what it means.

3 Q. What does it mean then?

4 A. I recall specific conversation with
5 Agent Miller. He had taken a considerable amount
6 of time reviewing these documents. And he told
7 me within those documents there was evidence of
8 payment to Machetero members.

9 Q. Did you ask him to whom those checks
10 were drawn?

11 A. No, I did not.

12 Q. So in other words, as far as the
13 determination of whether or not those checks were
14 payment to so-called Machetero members, you left
15 that to Agent -- who did you say?

16 A. Miller.

17 Q. Miller. Instead of making that
18 determination yourself, correct?

19 A. That's correct.

20 Q. All right. By the way, did he seize
21 just those checks or did he seize all the checks?

22 A. I don't know.

23 Q. We'll show you the checks in a minute.
24 Now go through the inventory and see if you can
25 find any other remarks that you say led to

1 so-called "lead value" of evidence?

2 A. The -- on page 8 of the inventory F 1.
3 There are also remarks there that -- that's the
4 movie tape that I testified to previously. And
5 under the remarks I put "Wife says trip to Cuba."

6 Q. You thought that was of lead value?

7 A. Yes.

8 Q. Didn't Ms. Fernos, in fact, tell you
9 that that was a movie that she and her former
10 husband, Mr. Varela -- a movie of a trip she and
11 her husband, Mr. Varela, had made to Cuba several
12 years before?

13 A. No.

14 Q. She just told you "That's our trip to
15 Cuba"; she didn't tell you when or with whom?

16 A. That's correct.

17 Q. That's your testimony?

18 A. Yes.

19 Q. This is the only notation you made of
20 that conversation?

21 A. That's correct.

22 Q. I think the next remarks you have in
23 the remarks section is on page 12, isn't that
24 right?

25 A. Yes. That's in the remarks section of

1 inventory number H 26, which I described as the
2 "Audio sensor and briefcase (Bug detector)." And
3 the remarks were "Separately photographed and
4 checked for explosives."

5 Q. Then there were no other remarks in the
6 remarks section of this inventory, isn't that
7 right?

8 A. That's correct.

9 Q. So those are the only notations -- is
10 it correct to say those are the only notations
11 you made with regard to evidence of any lead
12 value, immediate lead value?

13 A. That's correct.

14 Q. All right. You were required by your
15 instructions, were you not, to determine items of
16 importance and those of immediate lead value and
17 transport those items in a separate container to
18 the evidence control center, is that right?

19 A. Yes, as I recall.

20 Q. Did you transport any items from Mr.
21 Farinacci's house in a marked separate container
22 to the evidence control center because they were
23 of lead value?

24 A. No.

25 Q. Did you designate someone to have the

1 responsibility of maintaining a photograph log?

2 A. Yes.

3 Q. Who would that be; Mr. Reilly?

4 A. It would have been Mr. Reilly's log;
5 however, Mr. Caldwell assisted Mr. Reilly in
6 doing the log.

7 Q. Did you review that photograph log and
8 sign it?

9 A. Not that I recall.

10 Q. Have you reviewed it prior to
11 testifying here today?

12 A. No.

13 Q. Did you designate someone to make a
14 sketch of the area to be searched?

15 A. Yes.

16 Q. Who did you designate to make a sketch?

17 A. Agent Caldwell.

18 Q. Did he make a sketch?

19 A. Yes.

20 Q. Did he indicate on his sketch where
21 significant items of evidence were located?

22 A. I don't recall.

23 Q. Have you reviewed that sketch?

24 A. Yes; not recently.

25 Q. Did you sign it?

1 A. I don't recall. I'd have to look at
2 it.

3 Q. Do you recall any discussion with Mr.
4 Caldwell about any items, items of evidence which
5 you found significant in the sense that they
6 should be included on this sketch?

7 A. No.

8 Q. Do you know whether a 302 was prepared
9 indicating that a sketch was made?

10 A. I believe my 302 would have indicated
11 that.

12 MR. AVERY: If I could have just
13 one second.

14 THE COURT: This is probably a good
15 time to suspend. We can recess until two
16 o'clock.

17 MR. AVERY: Your Honor, before we
18 suspend, could I ask that the search log be
19 produced for me?

20 THE COURT: Can you produce that,
21 Counsellor?

22 MS. VAN KIRK: Yes. However, there
23 is -- I just want to correct something here.
24 There are only about three entries in the "log",
25 that was prepared by Agent Miller that pertained

1 to the testimony of this agent. And so it's not
2 a search log. The agent explained that it was a
3 log reflecting events that Mr. Miller observed
4 during the day.

5 So I didn't intend to call Agent Miller
6 to testify. But I will now since this has been
7 opened up so I will turn it all over. But with
8 the understanding that I'm going to call Agent
9 Miller to testify about all those events during
10 the day.

11 MR. AVERY: Well, I'm not conceding
12 the relevance of those. We'll take that up when
13 we get to it.

14 MS. VAN KIRK: If he's not
15 conceding the relevance and my ability to examine
16 the witness, I'll take them out until they become
17 relevant and give him what pertains to this
18 agent's testimony.

19 THE COURT: We'll wait until it
20 happens. We'll rule on it then.

21 *****

22
23
24 (Luncheon recess)
25

1 MR. AVERY: Your Honor, the Clerk
2 has brought into the courtroom the copy of the
3 so-called search plan that was filed by the
4 Government. And I would like it marked as an
5 exhibit at this hearing.

6 MS. VAN KIRK: No objection.

7 THE COURT: Do you have that, Madam
8 Clerk?

9 THE CLERK: Is that what you just
10 handed me?

11 Yes, Your Honor.

12 THE COURT: I haven't looked at it
13 yet. But I understand it to be advantageous and
14 explanatory.

15 MR. AVERY: I think it will be
16 useful to our proceedings.

17 THE COURT: It's marked by her as
18 Defendant's Exhibit 259.

19
20 (Defendant's Exhibit 259
21 offered and marked into
22 evidence)

23 THE COURT: Do you want the witness
24 to use this, Counsellor, or are you asking the
25 Court to use it?

1 MR. AVERY: I do want to ask the
2 witness a question about page 10, Your Honor.
3 And it maybe would be fairer to him if we put
4 that page in front of him.

5 Q. (BY MR. AVERY) Do you have page 10 in
6 front of you, Agent Williamson?

7 A. Yes.

8 Q. This search plan did you, I think as we
9 discussed this morning, as the team leader,
10 designate someone to do a search log; and page 10
11 describes what that search log should contain,
12 isn't that correct?

13 A. Yes.

14 Q. Now, sir, I want to show you a
15 document.

16 MR. AVERY: Could you mark this for
17 identification as the next one?

18 Q. (BY MR. AVERY) I want to show you,
19 sir, what's been marked as defense Exhibit 260
20 for identification which is the document that Ms.
21 Van Kirk just furnished to me after the luncheon
22 recess, and ask you if that is the search log for
23 this particular search?

24 (Handing)

25 A. Yes.

1 Q. All right.

2 MR. AVERY: Could that be marked as
3 a full exhibit, Your Honor.

4 THE COURT: Without objection a
5 full exhibit.

6 MS. VAN KIRK: Exhibit number on
7 that, please?

8 MR. AVERY: 260.

9

10 (Defendant's Exhibit 260
11 offered and marked into
12 evidence)

12

13 Q. (BY MR. AVERY) Now, Agent Williamson,
14 that document, 260, that we've just marked as an
15 exhibit which you've identified as the search
16 log, does not contain all the information listed
17 on page 10 of Exhibit 258, does it, sir?

18 A. No, it does not.

19 Q. Is there another document which
20 contains the rest of the information suggested on
21 page 10?

22 A. I believe the first part of this log
23 would contain some of that information.

24 Q. You're not sure?

25 A. I'm not sure.

1 Q. Other than the first part of that
2 document which this has been excerpted from, is
3 there any other document that you or anybody on
4 your team created to list the information which
5 would go in the search log according to page 10?

6 A. The 302 that I prepared on the search
7 would contain some of that information.

8 Q. Yes. Any other document?

9 A. The -- there was also a 302 prepared by
10 Agent Reilly on the search.

11 Q. There was?

12 A. Yes.

13 Q. And have you seen that 302?

14 A. Yes.

15 Q. When is the last time you saw that 302?

16 A. Last week.

17 Q. Did you review that last week to
18 refresh your recollection to testify in a hearing
19 in this case?

20 A. Yes.

21 Q. Would that be Mr. Castro's hearing or
22 this hearing?

23 A. It would have been for this hearing.

24 Q. All right.

25 MR. AVERY: Could I ask that that

1 be produced, Your Honor, inasmuch as the witness
2 used it to refresh his recollection.

3 THE COURT: Do you have that? Is
4 that going to be a Government exhibit or a
5 defense exhibit? I presume Agent Reilly will be
6 testifying.

7 MR. AVERY: I'm not sure we should
8 offer it as an exhibit.

9 THE COURT: It should be marked for
10 identification at least, shouldn't it?

11 MS. VAN KIRK: The Government will
12 introduce it when Agent Reilly testifies.

13 THE COURT: What number do you
14 suggest?

15 THE CLERK: Excuse me, Your Honor.

16 MS. VAN KIRK: It could have the
17 last Government exhibit or last defense.

18 THE CLERK: Government Exhibit 69.

19 THE COURT: Sixty-nine. It may be
20 marked for identification. Government Exhibit
21 69, Reilly, Agent Reilly.

22 Q. (BY MR. AVERY) Now, are there any
23 other documents that contain the information
24 suggested on page 10; you've identified your own
25 302, this search log that we've marked here in

1 evidence as Exhibit 260 and Agent Reilly's; are
2 there any others?

3 A. The search inventory would contain some
4 of the information.

5 Q. All right. Any others?

6 A. And the original warrant, when I
7 returned that to the Court in Puerto Rico.

8 Q. All right. Any other documents?

9 A. I believe that's all.

10 Q. All right. Now, according to page 10,
11 you are to indicate on the search log the time
12 any highly significant evidence is located on the
13 premises; is any such indication made on Exhibit
14 260?

15 A. No.

16 Q. May we take it then that you didn't
17 locate any evidence which was "Highly
18 significant" within the meaning of your
19 instructions on page 10?

20 A. Yes.

21 Q. Thank you. Now, you stated that you
22 went to a variety of briefings in San Juan before
23 these searches were conducted; and that one of
24 the these briefings was conducted by a Mr. Dwight
25 Dennett, is that correct?

1 A. Yes.

2 Q. Who was Dwight Dennett; I know he was
3 the search team coordinator, other than that who
4 was he?

5 A. He was an agent on the terrorist squad.

6 Q. How many briefings did you go to at
7 which Agent Dennett led the briefing?

8 A. I don't recall an exact number. There
9 were a few briefings.

10 Q. More than one?

11 A. Yes.

12 Q. Can you tell us what you do recall
13 about the instructions given by Agent Dennett at
14 those briefings?

15 A. I recall that we discussed various
16 items that were in this search package as well as
17 other questions that would arise about the nature
18 of the investigation, the timing of the searches
19 and the arrests. Also questions would come up,
20 logistical questions, about the agents that were
21 not from the San Juan division, legal questions.

22 Q. Let me interrupt you just to point you
23 directly to what I'm interested in. Do you
24 recall anything that Agent Dennett told you in
25 these briefings about what you could seize and

1 what you couldn't seize?

2 A. Not specific comments.

3 Q. You don't have any recollection of
4 that?

5 A. No.

6 Q. And you indicated that you went to at
7 least one briefing where the principal legal
8 advisor discussed the legal issues in connection
9 with these searches, is that correct?

10 A. Yes.

11 Q. Who was the principal legal advisor?

12 A. His name is Larry Likar, L I K A R.

13 Q. Would you spell that last name again?

14 A. L I K A R.

15 Q. He's an attorney, is he?

16 THE COURT: First name?

17 THE WITNESS: I believe it's
18 Lawrence. He goes by Larry.

19 Q. (BY MR. AVERY) Is he an attorney, sir?

20 A. Yes.

21 Q. With the Department of Justice, I take
22 it?

23 A. Yes.

24 Q. Do you know what his assignment was at
25 that time?

1 A. He's also a special agent of the F B I.

2 Q. I see. Do you recall anything that Mr.
3 **Likar** said to you in any briefing you were
4 present at where he spoke about what could be
5 seized and what couldn't be seized during the
6 searches?

7 A. I don't recall the specifics.

8 Q. Did he address that issue; or don't you
9 recall?

10 A. I don't recall.

11 Q. All right.

12 MR. AVERY: Your Honor, we can take
13 this up later if you wish. But I do want to
14 indicate as soon as possible so that we won't
15 waste time later in logistics that I would move
16 to have Mr. Dennett and Mr. Likar brought in for
17 the same reasons we were seeking Mr. Held. The
18 Government says Mr. Held didn't address these
19 **issues** but these two gentlemen apparently did.
20 **I'd appreciate it if the Government would begin**
21 **making arrangements to have them brought here.**

22 THE COURT: Are they available,
23 Counsellor?

24 MS. VAN KIRK: Well, they're in
25 Puerto Rico, I believe, Your Honor. But I'm not

1 really certain about what the significance of the
2 relevance is of that to the issues in this case.
3 Regardless of what anybody told the agent, the
4 issue is what, in fact, he did.

5 THE COURT: That point is true.
6 But you see you can't deprive your adversary of
7 such facts as may, and I repeat, may permit him
8 to argue. But to send agents out, even
9 intelligent well-trained agents, into a new area
10 for a specific search without more specific
11 directions, is illegal. I presume that's going
12 to be approached. And I don't think the Court
13 should deprive him of that opportunity.

14 MS. VAN KIRK: That's why we
15 introduced the plan. It's not going to get any
16 more specific than that. This is what was --

17 THE COURT: You may be right. But
18 until, at least, particularly -- maybe not
19 Dennett so much but this Lawrence Likar, the
20 legal advisor, I would think he would be the real
21 crucial one. You'd have to hear what he told
22 them.

23 MR. AVERY: I'd want to hear both.

24 MS. VAN KIRK: Then the defense
25 will prepare a subpoena, and we'll accept

1 service.

2 THE COURT: Very well.

3 MR. AVERY: Thank you, Your Honor.

4 Q. (BY MR. AVERY) Now, do you still have
5 in front of you what was marked as Exhibit 259,
6 the search plan?

7 A. Yes.

8 Q. All right. Would you bring your
9 attention to pages 16 and 17, please, which are
10 labeled "Attachment", Roman numeral one?

11 A. Yes.

12 Q. Let me at the same time call your
13 attention to page 1 of the document, Agent
14 Williamson -- no, not the front page, the one
15 that's numbered one. You have to turn the --
16 there is a little one at the bottom.

17 Do you see there on the top of that
18 page where it says, "The team leader and L A
19 **should** go over the pertinent points of bureau
20 **policy** on searches, et cetera, the policy can be
21 located in the Special Agent's Legal Handbook,
22 see Attachment one"; do you see that there, sir?

23 A. Yes.

24 Q. All right. And then looking at pages
25 16 and 17 -- what I want you to tell me are, to

1 the best of your knowledge, are pages 16 and 17
2 the only pages of the Special Agent's Legal
3 Handbook which were called to your attention in
4 preparing to execute these particular searches?

5 A. As I recall, yes.

6 Q. All right. Now, let me show you some
7 exhibits.

8 MR. AVERY: Your Honor, for the
9 record, I'm putting in front of the witness,
10 defense exhibits 191, 193, 195, 198 and 202.

11 (Handing)

12 Q. (BY MR. AVERY) And I want to ask you,
13 Agent Williamson, whether you seized any of these
14 exhibits for the reason that you felt they were
15 identification documents, as you've been using
16 that term in Mr. Castro's hearing and so far
17 today.

18 MS. VAN KIRK: Your Honor, I'm
19 going to have to object for this reason. This
20 Exhibit list -- excuse me -- oh, no, I take it
21 back. I thought you handed him the list.

22 MR. AVERY: No, the actual
23 exhibits.

24 MS. VAN KIRK: Your Honor, could we
25 have each one addressed separately so we can keep

1 tabs on them.

2 THE WITNESS: Would you like me to
3 go through each --

4 Q. (BY MR. AVERY) I'd like you to tell
5 me, first of all, whether you seized all of those
6 because they were identification documents or
7 whether there were some there that you didn't
8 seize because they were identification documents?

9 A. There are some here that I did not
10 seize because they were identification documents.

11 Q. All right. Take the ones that you
12 seized because they were identification
13 documents.

14 A. There is a birth certificate here.

15 Q. What's that exhibit?

16 A. That's Defendant's Exhibit 202. It
17 bears our subinventory number L 18 H 28 A.

18 Q. We can just refer to them by exhibit
19 numbers at this point.

20 MS. VAN KIRK: Your Honor, I would
21 request that we not do that since counsel gave me
22 copies of all the exhibits. And they have our
23 numbers on them, and they're not marked per this
24 sequence. So if it's possible, I would request
25 that we do get both numbers so that I can keep

1 track of them.

2 MR. AVERY: I'm just trying to
3 expedite things. We have a whole list of all the
4 exhibits. If it's not workable we can do it the
5 other way. It seems to me we can operate in the
6 ordinary course, refer to them by Exhibit Number.

7 THE COURT: Why can't we start with
8 the first one you named, Defendant's Exhibit 191,
9 193, 195. Then they will, why you took each one
10 of those. Simplify it.

11 MR. AVERY: All right. I was
12 trying to telescope but --

13 THE COURT: I'm afraid we might get
14 them in a web and not come up with the right
15 answer on each one.

16 MR. AVERY: Well, then let's go one
17 by one.

18 MS. VAN KIRK: Your Honor, we had
19 always agreed that the witness would refer to the
20 original exhibits which we have arranged in the
21 order that counsel told us he would consider
22 these things because some of the exhibits that
23 are photocopied are not the entire item.

24 THE COURT: The first one here is
25 191.

1 MR. AVERY: Your Honor, I --

2 THE COURT: That's what I've got.

3 MR. AVERY: Yes. And we're not --

4 I do not want to refer to the originals unless
5 there is anything illegible about the copies. I
6 don't -- I'm aware of the ones where we don't
7 have the entire document. When that arises we'll
8 get to it. But let's take 191 then.

9 Q. (BY MR. AVERY) Can you tell us why you
10 seized Exhibit 191?

11 A. Yes. There are telephone numbers
12 written down on the bottom.

13 Q. Is the fact that there are telephone
14 numbers written on the front of that envelope the
15 only reason you seized Exhibit 191?

16 A. As I recall, yes.

17 Q. All right. What about 193?

18 A. I believe this is an exhibit -- that
19 you don't have the entire exhibit. There is a
20 back side of this that was not photocopied.

21 MS. VAN KIRK: Could we have the
22 bureau identification number, please?

23 THE WITNESS: Yes. This is L 18
24 A 2-1.

25 MR. AVERY: Your Honor, I have to

1 object if there are exhibits of that sort, that I
2 don't have the entire exhibit of, because the
3 Government was supposed to furnish us with
4 photocopies of all these exhibits. And we have
5 prepared for this hearing on the strength of the
6 Government's representation that we have copies
7 of all the exhibits.

8 There is one letter I know that we
9 didn't get the first page that was called to my
10 attention. If we're going to have exhibit after
11 exhibit on which I don't have the full exhibit,
12 I'm going to have to request a continuance at
13 this point until the Government furnishes me
14 with --

15 THE COURT: Let's see how many
16 there are first. There may be only one. I don't
17 know.

18 MS. VAN KIRK: That's correct, Your
19 Honor. Another thing is I didn't look through
20 everything that was sent to Mr. Avery when it was
21 sent out. And it's my understanding that they
22 checked everything because we got several letters
23 from defense counsel saying, "We're missing this
24 and this and this." They checked it with the
25 original exhibits that have been in Hartford for

1 months.

2 THE COURT: Now we've got to the
3 moment of truth. Let's find out what they do
4 show. I don't know what they show.

5 MR. AVERY: All right. That's see
6 the original.

7 THE COURT: Let's be careful. Try
8 not to get them mixed up, now, taking them out of
9 the bag.

10 Q. (BY MR. AVERY) All right. Agent
11 Williamson, can we agree that what has previously
12 been marked as defense Exhibit 193 consists of
13 the front page of a health insurance form from
14 Crown Life Insurance, which is blank, and that
15 the back side of that blank health insurance
16 form, which is on the original, has not been
17 photocopied onto the back of the first page of
18 Exhibit 193?

19 A. Yes, that's correct.

20 Q. And that the second page of what has
21 been marked as Exhibit 193 consists of a
22 photocopy of a card which you have labeled L 13
23 A-2-2, which has nothing on the back of it other
24 than that writing?

25 A. That's correct.

1 Q. All right. The back of the Crown Life
2 form, which has not been photocopied, has no
3 evidentiary significance, does it?

4 A. Yes, it has a signature or -- this
5 document appears to be a photocopy of another
6 document containing an individual's signature.

7 Q. What signature do you see there, sir?

8 A. It's signed above the title, signature
9 and title of official representative. And it's
10 Pedro J -- I can't make out the middle name, the
11 last name looks like Flores, but I'm -- I'm
12 having a hard time reading that.

13 Q. You are now holding in your hand, are
14 you not, the original that was seized from the
15 home of Mr. Farinacci?

16 A. Yes, that's correct.

17 Q. That does not appear to be a signature
18 that was written on that piece of paper, does it?

19 A. No.

20 Q. This appears to be a photocopy of a
21 form with that signature on it, isn't that right?

22 A. Yes.

23 Q. In other words, there is -- this is a
24 bank insurance form that hasn't been filled out,
25 isn't that correct?

1 A. Yes.

2 Q. All right. Do you believe it has any
3 **evidentiary** significance in this investigation?

4 A. Yes.

5 Q. What significance do you think it has?

6 A. The identification of this individual
7 who would have signed a blank form without
8 reading it.

9 Q. You don't think that's the claims
10 **representative** from the company?

11 A. It could be, yes.

12 Q: Don't do a lot of insurance work, do
13 you, Agent Williamson?

14 A. No, I don't.

15 Q. But in any event, you as a Government
16 agent would want to go and investigate whoever
17 put their signature on the bottom of this form,
18 is that right?

19 A. You're asking me if I would want to do
20 **that?**

21 Q. That's the evidentiary significance you
22 think this has?

23 A. That's correct.

24 Q. Was insurance fraud one of the crimes
25 described in the affidavit that gave rise to this

1 search?

2 A. No.

3 Q. Was it one of the offenses listed at
4 the end of Addendum 2 where the various sections
5 of Title 18 are listed?

6 A. No.

7 Q. Now, the second part of this document,
8 page 2 of Exhibit 193 -- well, before we leave
9 this, Your Honor, I don't see any need to redo
10 this exhibit to include the second page. I don't
11 know if the Government is insisting on it.

12 MS. VAN KIRK: No.

13 Q. (BY MR. AVERY) The second page of your
14 Exhibit 193 consists of a photocopy of a card, is
15 that correct?

16 A. Yes.

17 Q. Why did you seize that card?

18 A. As an identification document. It
19 gives some identifying data regarding the
20 defendant Jorge Farinacci.

21 Q. It identifies him as a dependent of
22 Maria Fernos on her insurance policy, isn't that
23 correct?

24 A. I don't know the translation of the
25 Spanish word -- it's C O N Y U G E. If that's

1 the word for that, then that's true.

2 Q. Well, let me ask you this: This is
3 information regarding eligible dependents, is it
4 not?

5 A. Yes.

6 Q. And it lists the name of the employer
7 on the first line, doesn't it?

8 A. Yes.

9 Q. And it lists the name of the employee
10 on the second line, doesn't it?

11 A. That's correct.

12 Q. Then it lists the name of the spouse on
13 the next line, does it not?

14 A. That's correct.

15 Q. Then down beneath that it lists the
16 name of all the dependents, isn't that correct?

17 A. That's correct.

18 Q. And there are three, isn't that right?

19 A. Yes.

20 Q. One, two, three; and the first is Tanya
21 Varela Fernos, isn't that correct?

22 A. That's correct.

23 Q. And the second is Roxana Varela Fernos?

24 A. That's correct.

25 Q. And the third is Jorge Farinacci; then

1 they put Fernos, correct?

2 A. That's correct.

3 Q. Now, do you remember telling Ms. Van
4 Kirk this morning that you didn't know who Tanya
5 Varela was on August 30th of 1985?

6 A. That's correct.

7 Q. Do you remember telling her that you
8 didn't know who Roxana Varela was on August 30th
9 1985?

10 A. That's correct.

11 Q. You knew after you seized this card,
12 didn't you?

13 A. No, I did not.

14 Q. Well, didn't you tell us that you
15 seized this card because it was an identification
16 document identifying Jorge Farinacci?

17 A. Yes, I did.

18 Q. Isn't it also true that it's a document
19 identifying Tanya Varela and Roxana Varela as
20 dependants of Maria Fernos?

21 A. Yes.

22 Q. You looked at it before you approved
23 its being seized, did you not?

24 A. Yes.

25 Q. So after you looked at it, you at least

1 had some evidence that those were the names of
2 Maria Fernos' dependents, correct?

3 A. Yes. It appears to be from this card,
4 yes.

5 Q. All right. Is there any reason other
6 than that is an identification document that you
7 seized it?

8 A. I can't think of any other reason.

9 Q. Fine. You have 195 in front of you?

10 A. Yes.

11 Q. 195 has some school grades on it,
12 doesn't it?

13 A. Yes.

14 Q. Who's school grades?

15 A. The name on the left-hand corner says
16 Roxana.

17 Q. Why did you seize that document?

18 A. The only reason that I can think why I
19 would have seized this document is that all of
20 these papers in this bag were folded and placed
21 in what I described as a telephone book. And
22 if -- I assume that I did not locate this
23 document when I reviewed the others.

24 Q. Well, this was a telephone book; you
25 don't mean like a telephone book published by the

1 telephone company, do you?

2 A. No.

3 Q. This was someone's personal address and
4 telephone book, correct?

5 A. That's correct.

6 Q. And what happened was they had
7 apparently stuck a bunch of pieces of paper in
8 there as people commonly do, isn't that right?

9 A. That's correct.

10 Q. And are you telling us you seized that
11 whole telephone book just because all these
12 documents were in there?

13 A. No. The book itself contained numerous
14 telephone numbers, so the book itself I was going
15 to seize. And then I would have reviewed the
16 documents inside the book. But I don't know why
17 I would have seized this.

18 Q. Well, are you prepared to acknowledge
19 today that you had no legitimate reason to seize
20 Exhibit 195?

21 A. Yes.

22 Q. You have 198 in front of you?

23 MS. VAN KIRK: Could we have the
24 document number, please?

25 THE WITNESS: It's L 18 A-2-16. I

1 think this is an instance where the photocopy --
2 I don't have the second page or the bottom of the
3 first page.

4 MR. AVERY: Could I have a moment
5 to look at this, Your Honor?

6 Your Honor, I'd ask that the original
7 of this be marked as Exhibit 198, perhaps 198 A
8 or B. I don't know. We have a 198. If this can
9 be 198 A.

10 THE COURT: Is that agreed?

11 MS. VAN KIRK: Yes, Your Honor,
12 with the understanding that perhaps we can
13 substitute a good copy rather than have the
14 original.

15
16 (Defendant's Exhibit 198A
17 offered and marked into
evidence)

18
19 Q. (BY MR. AVERY) Now, Agent Williamson,
20 looking at that whole exhibit and take -- with
21 reference to 198 A, why did you seize it?

22 A. The only reason that I would seize it,
23 there is a telephone number, one telephone
24 number, written on the bottom of the document.

25 Q. Well, in general, this is a document

1 which appears to be a draft of a letter to
2 someone's classmates inviting them to a class
3 reunion, is it not?

4 MS. VAN KIRK: Your Honor, I
5 object. I don't see that it's a draft of a
6 letter. How do we know it's a draft of a letter?

7 MR. AVERY: I don't think that's an
8 objection. If he can't answer the question, she
9 can redirect examine later.

10 MS. VAN KIRK: We don't want a
11 mischaracterization of the evidence either.

12 THE COURT: Why don't you ask him
13 what is it?

14 MR. AVERY: Because this is cross
15 examination. I prefer to ask leading questions
16 insofar as possible. There is nothing wrong with
17 my question.

18 Q. (BY MR. AVERY) Isn't that a draft of a
19 letter that is going to be sent to someone's
20 classmates inviting them to a class reunion?

21 A. It appears to be.

22 Q. It's got blanks in it where information
23 is going to be filled in later, does it not?

24 A. Yes.

25 Q. And it tells them in essence, "Please

1 A. No, I did not.

2 Q. Had you ever seen that telephone number
3 before?

4 A. Not that I recall.

5 Q. Did you identify that number in any way
6 as a suspicious telephone number; let me put it
7 this way, did you suspect that this telephone
8 number was related to any particular premises
9 that you were interested in in this
10 investigation?

11 A. I suspected all telephone numbers.

12 Q. Apart from your suspicious of all
13 telephone numbers, I'm asking you, did you know
14 anything in particular about this telephone
15 number?

16 A. No.

17 Q. So you're telling us that you seized
18 this document, letter to classmates, because at
19 the bottom of the second page or the first page,
20 whatever it is, there was a little telephone
21 number written at the bottom?

22 A. Yes.

23 Q. Is that the only reason you seized it?

24 A. That's the only reason that I can think
25 of at this time.

1 Q. Do you have Exhibit 202 in front of
2 you?

3 THE COURT: Just for my
4 information, is that a high school reunion or a
5 college reunion; can you tell offhand without
6 having to read it all through?

7 THE WITNESS: It looks like law
8 school, Your Honor.

9 THE COURT: Law school?

10 THE WITNESS: Yes.

11 Q. (BY MR. AVERY) Can you tell from
12 looking at it that that's written by Ms. Fernos
13 to her classmates from law school?

14 A. I don't see her name appearing on it.
15 Her initials appear among a list of initials at
16 the bottom of the letter.

17 Q. All right. Now, do you have Exhibit
18 202 in front of you? Don't put that back in your
19 evidence bag because we've marked that as an
20 exhibit. Thank you.

21 Now, Exhibit 202 is Ms. Fernos' birth
22 certificate, isn't that correct?

23 A. Yes.

24 Q. Can you tell us why you seized Exhibit
25 202?

1 A. Yes. As an identification document.

2 Q. All right. Now, that's an
3 identification document which appears to be, as
4 far as you can see, an actual copy of Maria
5 Fernos' own birth certificate, isn't that right?

6 A. Yes.

7 Q. As far as you can see, that's not a
8 doctored or false birth certificate, is it?

9 A. I'm not qualified to examine for that.

10 Q. Well, but you don't, yourself, see any
11 evidence there that indicates anything other than
12 that's a real birth certificate for this woman,
13 isn't that right?

14 A. That's correct.

15 Q. It appears to give a date of birth, for
16 example, consistent with her apparent age as you
17 viewed her in the apartment that day, correct?

18 A. Yes.

19 Q. Now, did you understand the Addendum 2,
20 Government Exhibit Number 23, authorized you to
21 seize that item?

22 A. Yes.

23 Q. You also understood it to authorize you
24 to seize Exhibit 193, the Crown Life Insurance
25 form which you said was an identification

1 document to some extent?

2 A. Yes.

3 Q. Now, you read the affidavit in support
4 of the search warrant in this case, isn't that
5 right?

6 A. Yes.

7 Q. Do you have that in front of you, the
8 affidavit in support of the search warrant?

9 A. No.

10 MR. AVERY: Your Honor, could I
11 just take a moment to inquire of Ms. Polan.
12 Maybe she knows what -- she doesn't think it's an
13 exhibit. I don't know if we -- I only have a
14 partial one. I don't know if we have one. Do
15 you have one we can introduce, Ms. Van Kirk?

16 MS. VAN KIRK: Let me just see.

17 MR. AVERY: I'm sorry for the
18 delay, Your Honor. I thought this was previously
19 marked. But could we have it marked as the next
20 defense Exhibit, the affidavit of George B. Clow,
21 III, to search Mr. Farinacci's residence. And
22 this is a copy we just got from Ms. Van Kirk.
23 They removed the front pages consisting of the
24 warrant itself.

25 MS. VAN KIRK: What was the number,

1 please?

2 THE CLERK: 261.

3
4 (Defendant's Exhibit 261
5 offered and marked into
6 evidence)

7 Q. (BY MR. AVERY) All right. Agent
8 Williamson, that's a copy of the affidavit that
9 you reviewed to prepare you to make this search,
10 is it not?

11 A. Yes.

12 Q. Now, you didn't restrict your search
13 for identification documents to documents which
14 were part of apparent efforts to create false
15 identification, did you?

16 A. I don't know if I can answer it just
17 that way.

18 Q. Well, reminding you that you've told us
19 that you seized Exhibit 193 and Exhibit 202
20 because they were identification documents, I'm
21 simply asking you whether you limited your
22 seizure of identification documents to those
23 documents which were part of apparent efforts to
24 create false identification?

25 A. No.

1 Q. Calling your attention to page 46 and
2 the following pages in that warrant application
3 or in that affidavit in support of the warrant,
4 that is a discussion of efforts allegedly used by
5 the Macheteros to create false identification, is
6 that right?

7 A. Yes.

8 Q. And you -- but you didn't limit your
9 search to the kind of materials described in at
10 least those pages of the affidavit, did you?

11 A. No.

12 Q. Did anyone tell you that you should?

13 A. No.

14 Q. Did Special Agent -- what was it --
15 Dennett, ever tell you that you should read
16 Addendum 2 in light of those pages of the
17 affidavit?

18 A. I don't recall any specific discussions
19 to that effect.

20 Q. And Mr. Likar; you did not recall him
21 telling you that either, do you?

22 A. I don't recall that either, no.

23 Q. No. And there is nothing in the search
24 plan that tells you that either, is there?

25 A. Other than that we can only seize items

1 in the addendum.

2 Q. But the search plan itself, sir,
3 doesn't compare the addendum with the affidavit
4 for you, does it?

5 A. No.

6 Q. Now, when you seized Exhibit 202, did
7 you have any -- that is Maria Fernos' birth
8 certificate -- did you have any reason to believe
9 that that birth certificate constituted evidence
10 of violations of any of the sections of Title 18
11 described on the second page of the addendum?

12 A. Yes.

13 Q. Oh, what; what section, sir?

14 A. Well, this would be -- you mean the
15 specific section?

16 Q. Yes?

17 A. I don't know the specific section.

18 Q. You say that that birth certificate
19 might constitute evidence of some violation of
20 section 18, listed on page 2 of the affidavit, is
21 that correct; I mean of the addendum?

22 A. This could be a part of the evidence of
23 a violation.

24 Q. What violation could that go to prove,
25 sir?

1 A. I don't mean by --

2 Q. Just the crime; what crime do -- could
3 that birth certificate be evidence of?

4 A. I think almost any of the violations,
5 including bank robbery. As I recall, there was
6 -- interstate transportation of stolen property,
7 I recall is one of the violations.

8 Q. And how, in your thinking, sir, is that
9 birth certificate evidence of bank robbery?

10 A. Well, if this were used to obtain false
11 identification for one of the Macheteros, and
12 that person using that false identification were
13 one of the bank robbers, then that would be
14 important in the bank robbery case.

15 Q. But this is the birth certificate of
16 the person who lives in this house, isn't that
17 right?

18 A. It appears to be.

19 Q. Well, you didn't have any question
20 about that on August 30th, did you?

21 A. I didn't question any of the birth
22 certificates that I seized.

23 Q. No. So you're saying you could have
24 seized any birth certificate in the world because
25 it might potentially be evidence of a bank

1 robbery crime; is that what it boils down to?

2 A. In this house. I was aware that the
3 Macheteros used these documents to obtain other
4 forms of identification.

5 Q. Well, when you look at pages 46 and the
6 following of that affidavit, doesn't it suggest
7 that one is supposed to obtain a birth
8 certificate of someone other than oneself in
9 order to go about getting false identification?

10 A. As to what I can see on page 47, it
11 says, "The best identification is a real
12 (Legitimate) one obtained through official
13 channels."

14 Q. Of someone else, correct; you don't use
15 your own birth certificate; I mean, come on, you
16 don't use your own birth certificate to get false
17 I D, do you?

18 A. That's where you start.

19 Q. With your own birth certificate?

20 A. That's certainly one way that people
21 obtain false identification. They begin with
22 their own birth certificate. They put a
23 different name on it.

24 Q. So you're saying that you can seize
25 someone's own birth certificate because they

1 might put a different name on it; and therefore,
2 the fact that they have their own birth
3 certificate in their own house, without putting a
4 different name on it, might be evidence in a bank
5 robbery case?

6 A. It was -- that was my opinion on the
7 day that I seized this birth certificate, yes.

8 Q. And so that's your justification for
9 seizing this birth certificate?

10 A. It was an identification document, yes.

11 Q. All right. Let let me ask you about
12 Exhibit 186. You don't have that in front of
13 you. I'm sorry.

14 Let me just ask you this: Is there any
15 other way that you were thinking about on August
16 30, 1985 that Exhibit 202 was evidence of any of
17 the crimes identified on the second page of the
18 addendum other than the theory that you just
19 described for us; or was that it?

20 A. I believe at this stage in the search,
21 if I found a birth certificate, I would not have
22 inquired further. I would have seized it because
23 it was a birth certificate and --

24 Q. Fairly speaking, you didn't limit your
25 seizure of birth certificates in relation to the

1 crimes listed on the second page of the addendum,
2 did you; you just seized all birth certificates?

3 A. That's correct.

4 Q. All right. And you seized all
5 identification documents without developing a
6 theory for each one about how it might have
7 violated one of the crimes on the second page of
8 the addendum, correct?

9 A. Well, I knew the general theory that
10 the Macheteros used false identification so they
11 -- based on that, I seized any identification
12 documents.

13 Q. Because you thought the Macheteros used
14 false identification you thought you could seize
15 any document that related to any identification
16 of a person, correct?

17 A. Well, those that I've testified were
18 identification documents.

19 Q. Yes. And no one ever instructed you to
20 the contrary, is that right?

21 A. Not that I recall.

22 Q. All right.

23 THE COURT: Excuse me. Five minute
24 recess.

25 *****

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(Recess)

MR. AVERY: In case anybody is still interested in my own estimate of how much time this is going to take, I'd have to say that perhaps I underestimated it in my own mind. But I had thought we could take a category of items, but that doesn't seem to be workable so --

Q. (BY MR. AVERY) Agent, let me show you Exhibit 186.

(Handing)

Do I have less than the full exhibit there, Agent?

A. This was a note pad, and there is some writing on it. That was on the last page there is some writing.

MS. VAN KIRK: Could we have the identification number, please?

THE WITNESS: This is L 18 A 3.

Q. (BY MR. AVERY) Agent Williamson, I'm going to show you Exhibit 245 and ask you to look at that in connection with Exhibit 186 and tell us whether Exhibit 186 doesn't contain the first four pages of that note pad and Exhibit 245 the

1 last page?

2 A. Yes.

3 Q. All right. Now, calling your attention
4 to the first -- well, calling your attention to
5 the whole thing, that is 186 and 245 together,
6 can you tell us why you seized this particular
7 note pad?

8 A. Yes. On my inventory I described this
9 as a white note pad with telephone numbers. My
10 basic reason for seizing this would be the fact
11 that the note pad has telephone numbers written
12 on it.

13 Q. Now, were these telephone numbers
14 numbers that you recognized, sir?

15 A. No.

16 Q. They weren't numbers then that you had
17 any reason to believe were connected with any
18 specific illegal activity, were they?

19 A. Well, that's -- that's hard to answer
20 with a yes or no answer. I was aware that the
21 Macheteros used the telephones extensively. So,
22 you know, we were looking for telephone numbers.

23 Q. But these particular telephone numbers
24 were not known by you to have any connection with
25 any specific individuals or premises involved in

1 your investigation, were they?

2 A. Not that I recall.

3 Q. And the telephone number on the first
4 page of those notes is the telephone number of
5 Harry Anduze one of the telephone numbers, isn't
6 that correct?

7 A. A N D U Z E, yes.

8 Q. Did you know on August 30th of 1985
9 that he was Mr. Farinacci's attorney?

10 A. No, I did not.

11 Q. Isn't one of the telephone numbers
12 that's part of Exhibit 186 the telephone number
13 of the attorney, Peter Berkowitz?

14 A. There is the name Peter with two
15 telephone numbers below it.

16 Q. 758-8525 and 8440?

17 A. Yes.

18 Q. And isn't there a reference on that
19 exhibit to the date that the indictment came out
20 in this particular case?

21 A. Yes. There is a notation, "Seventeen
22 indictments, twenty-three A G O", which would be
23 the abbreviation for the Spanish for August.

24 Q. These were, in fact, notes that Ms.
25 Fernos made that day while you were in the house

1 while she was attempting to make phone calls
2 concerning the search you were conducting, isn't
3 that right?

4 A. Not while I was in the house.

5 Q. You didn't see her make those
6 notations?

7 A. No.

8 Q. Did anyone tell you that she made those
9 notations while they were in the house?

10 A. No.

11 Q. You had -- you still had the security
12 people there while you were conducting the
13 search, didn't you?

14 A. Yes.

15 Q. The people had been there all day?

16 A. Yes.

17 Q. And when you -- who seized that
18 particular item; let me ask you this, whose
19 initials are D A R?

20 A. That's Agent Reilly.

21 Q. So Agent Reilly seized that particular
22 item?

23 A. Yes.

24 Q. When Agent Reilly brought that item to
25 you, where were you sitting?

1 vantage point.

2 Q. All right. But anyway you were over
3 here in the right foreground. And this was
4 seized here from this counter?

5 (Indicating)

6 A. That's correct.

7 Q. When it was seized was there any
8 discussion about the fact that these were notes
9 which the defendant's wife was making in an
10 attempt to get him some legal assistance that
11 very day?

12 A. I don't recall any discussion like
13 that.

14 Q. You understood the warrant Addendum 2
15 to authorize you to seize any and all telephone
16 numbers, did you?

17 A. As I recall, yes.

18 Q. Without limitation?

19 A. That's correct.

20 Q. So that nothing in the affidavit in
21 support of this warrant limited the telephone
22 numbers you could seize in any way, is that
23 correct?

24 A. Not that I recall.

25 Q. No one ever told you that the affidavit

1 should be read to limited telephone numbers that
2 you could seize?

3 A. Other than my own understanding of what
4 I could seize, which was that the affidavit laid
5 out the facts of the --

6 Q. Yes?

7 A. And the fact of how the evidence listed
8 in the addendum was evidence of the crime but
9 the --

10 Q. But with specific reference to
11 telephone numbers, no one ever told you in a
12 briefing that there was any limitation on the
13 telephone numbers you could seize, is that
14 correct?

15 A. I don't recall any discussion
16 concerning the telephone numbers.

17 Q. Now, do you have Exhibit 23 in front of
18 you there, the addendum, Government's Exhibit 23?

19 A. Yes.

20 Q. Calling your attention to paragraph 4
21 of that addendum, do you see that?

22 A. Yes.

23 Q. You see the fourth paragraph?

24 A. Yes.

25 Q. You see where it says telephone numbers

1 in that paragraph; telephone is on the far
2 right-hand side of the column and numbers is on
3 the left?

4 A. Yes.

5 Q. And then do you see that that paragraph
6 concludes with the expression, "Which are
7 evidence of the crimes which facts recited in the
8 accompanying affidavit make out"?

9 A. Yes.

10 Q. Do you see that language; you didn't
11 read that language, "Which are evidence of the
12 crimes which facts recited in the accompanying
13 affidavit make out", to limit in any way the
14 telephone numbers you could seize, did they?

15 A. No.

16 Q. No one ever told you that it did, did
17 they?

18 A. I don't recall any discussion or a
19 briefing that would have limited it, no.

20 Q. The same with the crimes listed on page
21 2 of the addendum; you didn't read that list of
22 crimes to limit in any way the telephone numbers
23 you could seize, did you?

24 A. No.

25 Q. And no one ever told you that it should

1 be read to limit the telephone numbers you could
2 seize, did they?

3 A. I don't recall any such discussion.

4 Q. Did you have in your mind an
5 understanding of what the last phrase of the
6 fourth paragraph modified in the paragraph; in
7 other words, the phrase, "Which are evidence of
8 the crimes", et cetera; did you think that that
9 modified that paragraph in any way?

10 A. I read that to mean that the affidavit
11 that spells out how these items listed are
12 evidence of the crimes.

13 Q. So you don't read it -- in other words,
14 you read it, you read that paragraph to suggest
15 to you that you can take any examples you find of
16 any of the items listed in that paragraph without
17 limitation?

18 A. Specifically the telephone numbers.
19 I'll have to look at the --

20 Q. All right. Well, let's just stick with
21 telephone numbers and we'll come back to the
22 rest. But with regard to telephone numbers, it
23 was without limitation, correct?

24 A. Based on my reading of the affidavit
25 and warrant, yes.

1 Q. All right. Now, let me show you -- is
2 there any other reason why you seized 186 or just
3 because of the telephone numbers?

4 A. It does have that indication of the
5 indictments which was my understanding were
6 sealed on August 23rd.

7 Q. Well, this was something you seized
8 late in the day, isn't that correct?

9 A. Definitely after I arrived there,
10 because it would have been after 5:30.

11 Q. By that time the accused had already
12 been taken to the courthouse, isn't that correct?

13 A. I don't know.

14 Q. Isn't there a telephone number on that
15 document that you seized for one of the
16 magistrates at the Federal Courthouse in San
17 Juan?

18 A. There is the name that appears to be a
19 Magistrate Huzko, "A" period, with two telephone
20 numbers below that.

21 Q. Yes. And this was seized by you after
22 the time during which someone could have called
23 the Federal Courthouse to find out what her
24 husband had been indicted for, isn't that right?

25 A. Yes.

1 Q. Now, is there any other reason why you
2 seized that particular document?

3 A. Not that I recall.

4 MR. AVERY: I just wonder if I can
5 put a chair here so that I can --

6 THE COURT: Certainly.

7 MR. AVERY: Thank you.

8 Q. (BY MR. AVERY) Let me show you
9 document 187 and ask you why you seized that?

10 A. This is our inventory number L 18 A
11 20-23.

12 Q. Can you just pass it to the Judge for a
13 minute so he can see what we're talking about
14 here?

15 (Handing)

16 A. This was a small white piece of paper
17 that was located inside a checkbook. And this
18 was located in the red bag that was located on
19 the dining table in room A, the living
20 room/dining room.

21 Q. That appeared to you to be the
22 pocketbook of Maria Fernos, isn't that right?

23 A. That's correct.

24 Q. So you took her checkbook out of her
25 pocketbook; then you took this piece of paper out

1 of her checkbook or someone did on your team; why
2 did you seize it?

3 A. That is correct. This is a -- among
4 other things, it would be a financial record. It
5 indicates a number of what appear to be dollar
6 amounts with notations after them, and then some
7 addition over on the right-hand side.

8 Q. And this shows, doesn't it, how much --
9 and there are some abbreviations after the
10 numbers, correct?

11 A. Yes.

12 Q. And this shows an amount. And then it
13 indicates things like gas, Christmas, meals,
14 school, Visa, things of that sort, isn't that
15 right?

16 A. Well, they're abbreviations. I
17 didn't --

18 Q. You didn't know what they were for?

19 A. I didn't attempt to make any
20 **determination** of that, no.

21 Q. So you seized it without making any
22 attempt to determine what the abbreviations
23 meant, correct?

24 A. That's correct.

25 Q. And you seized it simply because it's a

1 financial record, correct?

2 A. That's -- and it was that. Plus I
3 found it particularly significant that it was in
4 a bag that appeared to be Miss Fernos' bag.

5 Q. What did you find particularly
6 significant about the idea that someone might
7 keep a little monthly budget in their checkbook?

8 A. Well, I knew from my preparation for
9 the search that she was a Macheteros member and
10 one of the leaders of the group, a member of the
11 Directive Committee.

12 Q. You knew from your preparation for the
13 search that Maria Fernos was a member of the
14 Directive Committee; who told you that?

15 A. The -- I knew that from my discussions
16 with the terrorist squad agents and by the --
17 seeing her photograph and name on a chart in our
18 office of the Macheteros.

19 Q. You had a chart in your office with
20 photographs and names which depicted Maria Fernos
21 as a member of the Directive Committee?

22 A. Yes.

23 Q. As of what date?

24 A. Prior to the August 30th search.

25 Q. And for what period of time prior to

1 the August 30th search; or did it say that?

2 A. I don't recall.

3 Q. How many members did this chart
4 indicate were on the Directive Committee at that
5 time?

6 A. I don't recall that either. To me it
7 was particularly significant because I would be
8 searching the residence where she was.

9 Q. Did that chart indicate to you that Mr.
10 Farinacci was on the Directive Committee as of
11 that date?

12 A. Yes.

13 Q. But you don't recall how many Directive
14 Committee members there were?

15 A. No, I don't.

16 Q. Now, there is nothing in the affidavit
17 in support of this search warrant that indicates
18 to you that Maria Fernos was a member of the
19 Directive Committee of the Macheteros, is there?

20 A. No.

21 Q. And I think you indicated this morning
22 that before you went out to make the search, you
23 were prepared by having a good deal of
24 information about Mr. Farinacci, is that right?

25 A. That's correct.

1 Q. And some of that information you
2 gathered from the affidavit, is that correct?

3 A. That's correct.

4 Q. And some of it you gathered from other
5 sources, is that right?

6 A. Yes.

7 Q. And that included the chart on the
8 wall?

9 A. Yes.

10 Q. And that included conversations you had
11 with members of the terrorist squad?

12 A. That's correct.

13 Q. And are you telling us that you used
14 that information in deciding what to seize and
15 what not to seize on August 30th?

16 A. That was part of the background that I
17 had, yes.

18 Q. And you used that background
19 information in making a decision about what to
20 take and what not to take, did you?

21 A. Among other things.

22 Q. Yes. Among other things.

23 So in interpreting the meaning of the
24 phrases in Addendum 2, you brought to bear, among
25 other things, that background information you

1 had, did you?

2 A. I had that information. When I made
3 the decisions, I can't tell you whether I
4 differentiated between the knowledge that I had
5 just from that affidavit or what I had from other
6 sources.

7 Q. By the time you made the search it
8 would be fair to say, wouldn't it, that these
9 things were not compartmentalized in your own
10 mind; you knew what you knew, you couldn't have
11 told us exactly where you knew it from?

12 A. That's correct.

13 Q. You didn't have a copy of the affidavit
14 with you, did you?

15 A. I don't recall whether I had the
16 affidavit with me or not.

17 Q. Well, you don't have any image in your
18 mind of sitting there, making this search,
19 referring to the affidavit as you made decisions
20 about whether to seize things, do you?

21 A. No. I did not refer to the affidavit.

22 Q. So if you had it with you, you didn't
23 use it as you sat there?

24 A. That's correct.

25 Q. All right. And you don't know whether

1 the magistrate who issued the warrant was ever
2 presented with any of the other information you
3 had in your mind that you got off the chart off
4 the wall or from talking to the other agents, do
5 you?

6 A. I have no knowledge of that.

7 Q. Did anyone ever tell you in any of your
8 briefings that in deciding what to seize you
9 should try to read this Addendum 2 in light of
10 the information you had from the affidavit?

11 A. I don't recall a specific discussion of
12 that.

13 Q. All right. So you found these
14 financial figures significant because you
15 believed that Maria Fernos was a member of the
16 Macheteros, right, and a member of the Directive
17 Committee?

18 A. Among other things, I would seize them
19 anyway because they're financial records.

20 Q. So even setting that aside, you would
21 have taken them because that's what you thought
22 the addendum authorized, correct?

23 A. That's correct.

24 Q. And no one ever told you that there
25 were any limits on the kind of financial records

1 you could seize, correct?

2 A. I don't recall any specific discussions
3 concerning financial records.

4 Q. So there didn't have to be anything
5 immediately apparent to you that was
6 incriminating about Exhibit 187 before you
7 decided to take it, did there?

8 A. You mean other than that they were
9 financial records?

10 Q. Right.

11 A. That's correct.

12 Q. All right. Let me show you Exhibit
13 188.

14 (Handing)

15

16 MR. AVERY: Let me show it to the
17 Court while youre doing that and --

18 Q. (BY MR. AVERY) Agent Williamson, I
19 don't want to stop you from saying anything you
20 want to say, so you tell me if this is an unfair
21 suggestion. But would it be fair to say that you
22 took 188 for the same reason you took 187; can we
23 just say that and go on to the next one or is
24 there something about 188 that is an additional
25 reason for taking it?

1 A. I would like to look at the original
2 to --

3 Q. Help yourself.

4 MS. VAN KIRK: Could we have the
5 identification number?

6 THE WITNESS: This is L 18 A 25.

7 Q. (BY MR. AVERY) Do I have less than the
8 entire document there?

9 A. It appears to be the entire document.

10 Q. All right. Is there any reason that
11 you took that other than the reasons you've
12 already told us about 187?

13 A. I believe the reasons I gave you before
14 would be the same reasons, to the best of my
15 knowledge, for this paper also.

16 Q. All right.

17 MR. AVERY: Your Honor, the next
18 one I have is a rather lengthy document. And I
19 want to make a couple general requests of the
20 Court before finishing today. So I don't know if
21 I should turn to that at this point or if I
22 should start in with this other document.

23 THE COURT: Why don't we go until
24 4:00 at least and do what you can.

25 Q. (BY MR. AVERY) All right. Let me show

1 you Exhibit 189 and ask you to have a look at
2 this. You might want to compare this with the
3 original.

4 (Handing)

5 MR. AVERY: Your Honor, I'm just
6 going to take these other documents away from the
7 witness and give them back to the Clerk because I
8 think we're done with them for the time being.

9 Q. (BY MR. AVERY) Do I have the entire
10 document there?

11 A. I'll have to check it. It looks like
12 you're missing part of it.

13 MR. AVERY: Let me make this
14 suggestion, Your Honor. If we're missing part of
15 it, why don't we pass 189 for now. If I could
16 request the agent overnight, though, to look at
17 the original. And maybe we can get this
18 started --

19 THE COURT: Make up two complete
20 copies so you'll have it.

21 Q. (BY MR. AVERY) Would you mind that,
22 Agent Williamson, overnight making a complete
23 copy from the original? Make two, if you don't
24 mind. Then I'll have one for my record.

25 And for now, I'll show you Exhibit 190.

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(Handing)

Can you tell us what Exhibit 190 is?

A. Yes. This is L 18 A 21 A, which is a small white piece of paper that I described as a paper with notes on it. It was found in the red bag on the tabletop in the living room/dining room.

Q. By the way, when you say it's found in the red bag, you're relying on your system of codes there made out by the other agents, correct?

A. Well, this --

Q. Or you're relying on your inventory?

A. Yes, on my inventory. That was the -- that's my own handwriting.

Q. You didn't find it in the red bag; someone told you that?

A. That's correct.

Q. All right. Do I have the entire document there?

A. Yes.

Q. Can you tell us what that is; isn't it a list of maps?

A. Yes, it appears to be.

Q. Well --

1 A. It's --

2 Q. Do you have any question about that?

3 A. The first four items use the word mapa,
4 M A P A, in Spanish.

5 Q. What do you understand that to mean?

6 A. Map. And then the number 5 is -- it
7 looks like F I C H E R, it looks like an A O and
8 O.

9 Q. Why did you take that, sir?

10 A. As I remember, at the time I thought
11 this document could be evidence of a future
12 terrorist -- target of future terrorist
13 violations, that this would be a document --

14 Q. What's the first map of?

15 A. It appears to read in English, "The
16 Continent --" then there is a word that I can't
17 make out because of the handwriting. Then the
18 next words would translate to, "Which include the
19 Antilles."

20 Q. Can I see that for a moment, sir?

21 Isn't number 1 a map of both American
22 continents including the Antilles; rather a large
23 scale attack that they had planned, wouldn't you
24 say, Agent Williamson?

25 A. That's your interpretation of what this

1 says.

2 Q. If I told you that this was a list of
3 **maps** that the girls in the house needed for their
4 school homework, would you say you weren't aware
5 of that at the time you seized it, I suppose?

6 A. That's correct.

7 MR. AVERY: I suggest we end at
8 this point, if that's all right with Your Honor.
9 Because I do want to make a couple specific
10 requests of the Court before 4:00 if I might.
11 And --

12 THE COURT: All right.

13 MR. AVERY: Your Honor, we had --
14 there has been some reference to a sketch and
15 photo log and a photo index. These are all
16 listed in the search plan. And the agent has
17 testified regarding some of these that others
18 made them. I'd like to have those produced
19 **before** -- by tomorrow morning.

20 THE COURT: Specifically what are
21 you referring to? I don't quite understand.

22 MR. AVERY: There was a sketch that
23 was supposed to be made by one of the searching
24 agents which was supposed to put on it where
25 certain things were found. And I'd like to see

1 that before I conclude the examination of this
2 witness. And also --

3 THE COURT: Is there such a sketch,
4 Counsellor?

5 MS. VAN KIRK: I believe there is,
6 Your Honor. However I don't think -- it's a
7 sketch that's made when they entered the house to
8 identify the rooms, A B C and D, not where a
9 particular item was found.

10 THE COURT: If you have it, make a
11 Xerox copy for counsel.

12 MR. AVERY: And the photo log and
13 the photo index as well, Your Honor.

14 MS. VAN KIRK: That I'm not sure
15 about.

16 THE COURT: What's the photo log,
17 Counsellor; do you know?

18 MS. VAN KIRK: No, I don't know
19 what that is. I imagine it's -- they write down
20 when they take a photograph what it is.

21 THE COURT: Of the interior.

22 MS. VAN KIRK: Yes. But I'll
23 inquire of the agents.

24 THE COURT: All right.

25 MR. AVERY: That was all. If we

1 could have those by tomorrow morning. I don't
2 want to, you know, waste time tomorrow while we
3 wait for them or have this witness recalled.

4 THE COURT: Are there any counsel
5 that would volunteer to participate in the
6 suppression motions being heard by individual
7 magistrates, either Magistrate Eagan or
8 Magistrate Smith?

9 How about yourself, Mr. Weinglass?
10 You're one of the leaders of the outstanding
11 counsel here. Would you be willing -- you have
12 someone who doesn't need a translator. Would you
13 be willing to go before either Magistrate Eagan
14 or Magistrate Smith and have a suppression
15 motion? I don't know what you've got to offer,
16 or what they've got to offer. But whatever it --

17 MR. WEINGLASS: Well, I don't think
18 the Government has much to offer. However, I've
19 discussed this with Mr. Segarra and, of course,
20 the Court has received a memo from Mr. Williams
21 this morning. Our position is that we have a
22 right to be here present at this hearing because
23 the testimony being given and evidence being
24 examined at this hearing is relevant to our
25 defense in this case. And I would not want to

1 pass up my presence at this hearing, neither
2 would Mr. Segarra.

3 And it's my understanding that that's
4 the feeling of all counsel in this case, that we
5 all feel, as the Court has indicated, that there
6 is a necessity for our presence.

7 And Your Honor has gone through the
8 trouble of getting waivers of persons who were
9 absent. We've been sure that the record is
10 protected if an attorney is absent. So I think
11 we all recognize the imperative need for there to
12 be representation at each of these hearings. I
13 would not want to absent myself in any way. And
14 I've been instructed by my client not to. It's
15 my understanding that all counsel in this case
16 are in the same position.

17 THE COURT: I'll take the matter
18 under advisement. I thought you might be willing
19 to participate.

20 MR. WEINGLASS: Sorry.

21 THE COURT: Very well. Anything
22 else from any other counsel?

23 MR. WEINGLASS: Your Honor, the
24 other thing that was pointed out, I think, by Mr.
25 Williams, is that in an attempt to save some

1 time, the way we calculate it, we will actually
2 be incurring a whole other level of argument
3 before this Court. If the magistrate were to
4 make findings, those findings would be subject to
5 contest. The matters before the magistrate would
6 be relitigated in this Court.

7 And we would find ourselves not
8 decreasing an expenditure of time but increasing
9 the time that we'd each be spending. So we feel
10 that from an actual point of view of judicial
11 economy, it would be best if we all stayed
12 together in one room.

13 THE COURT: It's a matter of
14 argument. Thank you.

15 Anything else? Do I understand you
16 wish a meeting now at 4:00?

17 MR. AVERY: Yes. Thank you, Your
18 Honor.

19 THE COURT: I might mention, and
20 there are other cases in the district where
21 courts have ordered suppression motions before a
22 magistrate and not before the Court. None of
23 them have ever been upset because of it, even
24 where there is a conspiracy of the nature alleged
25 here.

1 MR. WILLIAMS: But no case, to my
2 knowledge, Your Honor, in which the Court
3 conducted --

4 THE COURT: Just a moment. You're
5 not speaking from there. If you want to address
6 this Court, come down and stand in front of the
7 microphone.

8 MR. WILLIAMS: Yes, Your Honor.

9 THE COURT: You know the rule. You
10 know that's required so let's not breach it.

11 MR. WILLIAMS: I'm sorry, Your
12 Honor. I hadn't intended to breach a rule. I
13 noticed that both Attorney Avery and Attorney
14 Weinglass and also Government counsel were
15 permitted to address Your Honor moments ago from
16 their chairs. And I thought perhaps my treatment
17 would be the same. But I am more than happy to
18 speak in the microphone.

19 And I, in response to what Your Honor
20 said, would like to state for the record that I
21 tried to research all of that over the weekend,
22 as I promised your Honor on Friday I would do.
23 And to my knowledge, there has never been a case
24 in this district or anywhere else in which the
25 Court has, over objection of a defendant in a

1 criminal case, been allowed to conduct
2 simultaneous suppression hearings in separate
3 courtrooms, thereby excluding both the defendant
4 and the defendant's attorney from one or more of
5 such suppression hearings, which we feel would be
6 clearly a violation of two separate Sixth
7 Amendment rights.

8 As I pointed out in my memorandum, Your
9 Honor, I think it's fair to say that we all share
10 the Court's concern about expediting these
11 proceedings. I know we've often said to Your
12 Honor privately and on the record that the trial
13 of this case is taking a terrible toll on the
14 private practices of many of us who have
15 associates and partners who they're trying to
16 support. But we feel we have a sworn obligation
17 to our clients and to the Court which we cannot
18 properly discharge in any way other than by
19 proceeding as we are doing at this time.

20 THE COURT: Very well. Anything
21 further?

22 Adjourned until tomorrow morning,
23 Bailiff.

24 (Proceedings suspended at 4:00 p.m.)
25

1
2 February 24, 1987

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4 C E R T I F I C A T I O N

5
6 I, CHERYL A. BLATCHFORD, hereby certify
7 that the foregoing pages were reported by me in
8 stenotype and thereafter reduced to typewritten
9 form by computer-assisted transcription under my
10 supervision and represent a true, complete and
11 accurate transcript of the above proceedings, to
12 the best of my ability.

13
14 I further certify that I am in no way
15 related to any of the parties hereto or their
16 counsel and that I am in no way interested in the
17 outcome of said cause.

18
19 IN WITNESS THEREOF, I have hereunto set
20 my hand this 2nd day of March 1987.

21
22
23 _____
24 CHERYL A. BLATCHFORD
25