

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

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Docket No. 6:13-cv-1426

JOAN JARA, in her individual	:	
capacity and in her capacity	:	
as the personal representative	:	
of the Estate of Victor Jara,	:	
et al.	:	
	:	Orlando, Florida
Plaintiffs	:	June 20, 2016
	:	9:04 a.m.
v.	:	
	:	
PEDRO PABLO BARRIENTOS NUNEZ	:	
	:	
Defendant	:	
	:	

TRANSCRIPT OF JURY TRIAL, VOLUME VI
BEFORE THE HONORABLE ROY B. DALTON, JR.
UNITED STATES DISTRICT JUDGE

Court Reporter: Amie R. First, RDR, CRR, CRC, CPE
AmieFirst.CourtReporter@gmail.com

Proceedings recorded by mechanical stenography.

Transcript produced by Computer-Aided Transcription.

1 APPEARANCES:

2

3 For the Plaintiffs: Mark D. Beckett

4 Richard S. Dellinger

5 L. Kathleen Roberts

6 Daniel McLaughlin

7 Christian Urrutia

8 Amy Belsher

9

10 For the Defendant: Sean W. Landers

11 Luis F. Calderon

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

P R O C E E D I N G S

THE COURT: Good morning. We're back on the record in Jara versus Barrientos Nunez, 6:13-civil-1426.

Court notes all counsel and parties are present. I hope you all had an enjoyable weekend. Welcome back.

Is plaintiff ready to proceed?

MR. BECKETT: We are, sir.

THE COURT: Is defense ready to proceed?

MR. CALDERON: Yes, Your Honor.

THE COURT: Is the jury available, Mr. Carter?

COURT SECURITY OFFICER: Yes, sir.

THE COURT: All right. Let's bring them in, please.

Is the interpreter going to need to be sworn this morning?

MR. BECKETT: Not at the present time. But we'll have an interpreter for the second witness.

THE COURT: Okay.

(Jury entered the courtroom at 9:05 a.m.)

THE COURT: Welcome back, ladies, Mr. Codner. I hope you all had a pleasant weekend. I hope you all celebrated your fathers.

Mr. Codner, I hope you were celebrated appropriately over the weekend.

1 Were all of you able to follow my instructions not
2 to discuss the case amongst yourselves or with anyone else,
3 or to avoid any media exposure?

4 JURY: Yes.

5 THE COURT: Is the plaintiff ready to proceed?

6 MR. BECKETT: Yes, sir.

7 THE COURT: Call your next witness.

8 MR. BECKETT: Plaintiffs call Professor Steve
9 Stern to the stand.

10 THE COURT: Professor, if you'll come forward,
11 please. Right over here, please. And raise your right
12 hand to be sworn.

13 (Witness sworn.)

14 THE WITNESS: Yes, I do.

15 THE DEPUTY CLERK: Please take the witness stand.

16 THE INTERPRETER: We're having a problem.

17 THE COURT: Let Miss Flick take a look and perhaps
18 she can sort it out.

19 Professor, if you would adjust your chair and
20 adjust that microphone so that you're speaking directly
21 into it, please, sir.

22 THE WITNESS: About here?

23 THE COURT: That's perfect.

24 Would you tell us your full name and spell your
25 last name for the court reporter, please.

1 THE WITNESS: Steve. Plain old Steve, not Steven.
2 J. Stern, S-T-E-R-N.

3 THE COURT: Thank you.

4 You may inquire, Mr. Beckett.

5 MR. BECKETT: Thank you, Your Honor.

6 **DIRECT EXAMINATION ON VOIR DIRE**

7 BY MR. BECKETT:

8 Q Good morning.

9 A Good morning.

10 Q Are you presently employed?

11 A Yes. I'm a professor at the University of Wisconsin
12 in Madison, in the history department.

13 Q And what's your full title?

14 A The Alberto Flores Galindo and Hilldale Professor of
15 History.

16 Q Okay.

17 Okay if I call you Professor Stern?

18 A You can call me whatever you'd like.

19 Q How long have you been a professor?

20 A I have taught there since January of 1979, so it's
21 been 38 years. I've gone away from time to time for
22 research projects and for some teaching, but it's been the
23 home base for 38 years.

24 Q Have you been at the University of Wisconsin for that
25 entire time?

1 A Yes.

2 Q Okay. What is your field of study, Professor?

3 A I study Latin American history.

4 Q And do you have a particular area of expertise within
5 that subject?

6 A Since 1996, most of my work has been on the history of
7 modern Chile, specifically the period from the coup of
8 1973, the Pinochet dictatorship, and the legacies or
9 aftermath of that dictatorship during the democratic
10 transition beginning in 1990.

11 Q Okay. And have you written any books on Chile?

12 A I've written a few books.

13 Q Tell us a little bit about the books you've written on
14 Chile.

15 A Well, the ones that I'm most known for are a trilogy
16 or trio of books that look very closely at, at the topic
17 that I've just mentioned, the nature of the coup, the life
18 under Pinochet, and life under the democratic transition.

19 Q And when you write these books, could you tell us
20 about the research that you conduct?

21 A Sure. I'm an historian, so I -- I visit archives. So
22 state archives, including the Truth Commission archive;
23 church archives, particularly the Catholic Church; archives
24 of nongovernmental organizations; media archives, as well
25 as reading the media itself. Lots of interviews and focus

1 groups. So I go after a lot of different kinds of sources,
2 which is how historians work.

3 Q Have your books received, the books about Chile, the
4 trilogy that you referred to, has that received any awards?

5 A It's received four awards.

6 Q Have you received any honors from any learned
7 societies?

8 A Yes. In 2012, I was elected to the American Academy
9 of Arts and Sciences.

10 Q And what is the American Academy of Arts and Sciences,
11 for those who may not know?

12 A Well, I describe it as like being elected to a hall of
13 fame no one's heard of.

14 But seriously, it goes back to the era of the Founding
15 Fathers as the oldest learned society in the United States,
16 going back to 1780. And it honors people who are
17 considered -- you can't apply for it or nominate yourself
18 for it; it just happens.

19 And it's intended to honor people who are considered
20 distinguished leaders in business, philanthropy, academia,
21 public policy, and the arts.

22 Q And what year were you elected to that body?

23 A 2012.

24 MR. BECKETT: Okay. Your Honor, at this time I
25 would like to proffer this witness as an expert. He's

1 already been, I think, accepted as an expert. At least
2 there have been no objections.

3 The specific areas on which we would like to
4 proffer him as an expert are: The role of misinformation
5 and suppression of evidence during and after military rule
6 in Chile; the rule of the military base of Tejas Verdes and
7 the violence and misinformation; and the violence and
8 misinformation under military rule and the origins and
9 leadership of the secret police, and Chilean history and
10 politics around the time of the coup from 1970 to 1973.

11 THE COURT: Mr. Calderon, do you wish to voir dire
12 the witness?

13 MR. CALDERON: No, Your Honor. We have no
14 objection.

15 THE COURT: All right. Ladies and gentleman,
16 Professor Stern is going to be permitted under our rules to
17 offer opinion testimony.

18 As I think I have mentioned to you previously,
19 occasionally, as permitted under the rules, it allows the
20 witness to be examined and to offer opinion testimony in
21 areas which follow within his or her area of expertise.

22 As I've mentioned to you also previously, you're
23 to give that testimony the same consideration that you
24 would with respect to any other testimony. In other words,
25 you're required to listen to the evidence, but you're not

1 necessarily required to accept it. Just as with any other
2 witness, you may believe it in whole, in part.

3 And I'll give you some more instructions about
4 that at the time the case is concluded.

5 You may continue, Mr. Beckett.

6 MR. BECKETT: Thank you, Your Honor.

7 **DIRECT EXAMINATION**

8 BY MR. BECKETT:

9 Q So Professor Stern, let me turn you back to Chile
10 around the time of 1970 to 1973. What parties or
11 coalitions were contending for election in the 1970 Chilean
12 presidential election?

13 A The easiest way to understand it -- and I'll be
14 brief -- is to think of three thirds. It's a multiparty
15 competitive electoral system on the Right and Center-Right.
16 That group was led by the, what was called the National
17 Party for the 1970 elections.

18 In the Center, the Christian Democrats were the major
19 force there.

20 And on the Left there was a coalition of parties
21 called the Popular Unity led by -- the candidate was
22 Salvador Allende.

23 In the Chilean system, as it worked at that time, if
24 you think of it as three thirds, the group that wins the
25 biggest third wins the presidential election.

1 Q So in 1970, what percentage of the electorate was on
2 the Center or the Left?

3 A About two-thirds.

4 Q And I think you mentioned Salvador Allende and the
5 Popular Unity government. Was the Communist Party part of
6 the Popular Unity coalition?

7 A Yes, absolutely.

8 Q Briefly, what was the platform of the Chilean
9 Communist Party in 1970?

10 A The Communist Party aligned with the Popular Unity
11 platform, and so they focused on the same issues as Allende
12 himself.

13 The three most important issues were:

14 Agrarian reform in the countryside to increase equity
15 and modernize the countryside.

16 Social assistance to migrants from the countryside to
17 the city. It was an era in Latin America of great
18 migrations to the cities, leading to shantytown
19 communities.

20 And the third area of focus was workers, increasing --
21 bettering their working conditions and increasing their
22 wages.

23 Q Just tell us a little bit about agrarian reform. What
24 was the system of farming at that time and what was the
25 reform plan?

1 A Well, actually the leaders, in kicking off, if you
2 will, a major agrarian reform were the Christian Democrats
3 when they were elected to lead to the presidency in 1964.

4 The agrarian scene in Chile was a scene in many areas
5 of extremely large landed estates in which the peasants or
6 rural neighbors were tenants. The Chilean term was
7 *inquilinos* often.

8 And the tenants would have access to some land on
9 which to produce their food. And they would work for the
10 landowner of the great estate, not for wage, but for a
11 daily quota of bread, and for the good graces of the
12 landlord in case they needed help with, let's say, a sick
13 child or something like that.

14 Q Did the Communist Party of Chile believe in the use of
15 violence or in armed revolution?

16 A No. They had been historically since the 1930s part
17 of an electoral system. So they got politically socialized
18 into that kind of a system.

19 Q And did the Communist Party participate and support
20 democratic elections for the country?

21 A Yes, they did. One of the things that was important
22 in Allende's platform, aside from the specific issues I
23 mentioned, was the idea of major social reform, and what
24 Allende conceptualized as a transition to socialism through
25 constitutional legal means within the competitive

1 multiparty system of Chile. And they subscribed to that
2 vision.

3 Q Can you briefly describe for us the country conditions
4 in Chile around 1973?

5 A Well, you had the convergence of two issues really.
6 On the one hand, there were economic problems. The Allende
7 government increased purchasing power in the lower sectors
8 of society in 1971. The economy was not running at
9 100 percent, so it was able to absorb that increased
10 purchasing power pretty easily.

11 But by 1972, that strategy began to run into problems
12 because the economy was not growing fast enough, was not --
13 productivity growth was not that strong. So you start to
14 get sharpening economic difficulties.

15 At the same time, by 1973, the political conflicts of
16 the era have also sharpened. And in March of 1973
17 important congressional elections, which many Chileans had
18 hoped would resolve some of the difficulties and chart a
19 path forward with a wide enough base, led to a mixed result
20 without a clear resolution.

21 So by 1973, you get very significant economic problems
22 alongside very significant political problems and without a
23 clear path forward.

24 Q Let me take you to a time around September of 1973.
25 Were there any democratic alternatives, alternatives within

1 the democratic system to a forcible overthrow of the
2 government by the military?

3 A There were two that major political leaders considered
4 seriously.

5 The first was the idea of achieving an accord or a
6 political agreement on future direction of policy between
7 the Center and the Left, bearing in mind that they
8 accounted for two out of three votes in the presidential
9 elections.

10 So Allende pushed very hard in collaboration with
11 people in his own coalition and people in the Center to try
12 to see whether a Center-Left accord could be achieved.

13 The second idea for a democratic exit to the problems
14 was the idea of what Chileans called the plebiscite, what
15 we would call here a referendum, in which the president
16 would put forth a proposal for the future direction of the
17 country. The citizenry would vote on it up or down.

18 Allende expected to lose, but it would enable him to
19 step down democratically while preserving an electoral
20 system because new elections would be called.

21 Q Do you know if a plebiscite had been planned by the
22 Allende government around the time of September 1973?

23 A Yes, I do. In fact, I, among my interviews, I spoke
24 with the last Minister of Justice of the Allende government
25 who was the person charged with drafting the proposal and

1 getting it ready.

2 Q And do you know when that was to be announced to the,
3 to the public?

4 A They worked on that proposal in the week of
5 September 4th to 8th, ran into difficulties in
6 getting the language tight and making sure that all of the
7 political bases were touched.

8 So it got delayed. Allende had hoped to announce it
9 on the 10th. It got delayed a little bit more. And
10 then the announcement date was set for the 11th.

11 Q And how does that date relate to the date of the coup?

12 A It's the same day.

13 Q In your expert opinion, Professor, were there large
14 numbers of armed Cubans in Chile around the time of the
15 coup in September of 1973?

16 A No.

17 Q In your expert opinion, were there large weapons
18 caches or stockpiles that had been hidden around the
19 country for use in some sort of armed conflict or
20 insurrection around September of 1973?

21 A No. Now, the one exception that I would add is that
22 in the Cuban Embassy there were armed Cubans and there were
23 arms.

24 Q About how many armed Cubans were there, if you know,
25 about that time?

1 A It would not be more than a dozen.

2 Q Okay. I'm going to turn you now to a different topic.
3 I'm going to talk to you about Tejas Verdes.

4 Are you familiar with the Tejas Verdes regiment?

5 A Yes.

6 Q And physically where is that regiment located or where
7 was it located in 1973?

8 A It is in the community of San Antonio, which is on the
9 central coast of Chile, and very close to Santiago.
10 Because Chile is a long, thin country. And Valparaiso and
11 San Antonio were the two important cities on the coast.

12 San Antonio was the port. It was an important
13 lifeline to the central valleys where Santiago was located
14 and where two-thirds of the national population live. So
15 it was a pretty strategic area.

16 Q Give us a sense of the size of that union, if you
17 could. About how many troops -- and by that, I mean troops
18 at all levels, soldiers and officers -- were in Tejas
19 Verdes in 1973?

20 A It was a small military community, about 500.

21 Q Who was the commanding officer of Tejas Verdes in
22 1973?

23 A That would be Lieutenant Colonel Manuel Contreras.

24 Q And when did Lieutenant Colonel Contreras assume that
25 position?

1 A At the beginning of 1973, in January.

2 Q I want you to step back just one moment. Who was the
3 commander of the military junta at the time of the coup?

4 A That would be General Augusto Pinochet.

5 Q And what was General Pinochet's position just prior to
6 the coup?

7 A He was, he was a high general. But the general who
8 proceeded him is the commander of the Army. The general of
9 the Army was a person named Carlos Prats who was pushed out
10 in late August.

11 Q What, if any, was Lieutenant Colonel Contreras'
12 relationship to General Pinochet?

13 A It was a protegee relationship. They had met at the
14 War Academy around 1962 where Pinochet taught. The War
15 Academy was an area of high-level instruction on command
16 and strategy for officers.

17 Pinochet was impressed with him. They developed a
18 relationship that was close personally as well as
19 professionally. Pinochet was the godfather of his child.

20 And it was Pinochet who requested that Manuel
21 Contreras be transferred from a post in the far south of
22 Chile to San Antonio, much closer to Santiago. And that
23 request was made in 1972.

24 Q Focusing on the period from 1970 to 1973, was
25 Contreras known within the military for having a philosophy

1 or theories about national security and intelligence?

2 A Yes. He first put forth such a theory to the Army in
3 1970, then put it forth again in midyear of 1973 and then
4 again around the time of the coup.

5 That theory said that you needed to think about
6 national security in the way that cut across all the
7 different military divisions and branches, a kind of
8 supreme intelligence authority that would take care of
9 intelligence and security issues.

10 And it defined the most important security issue as
11 the internal enemy, subversion, troublemakers, who would
12 bring disorder to the society rather than the traditional
13 military definition of focusing on external conflicts,
14 border problems of that sort.

15 So it was a kind of supreme authority that cut across
16 the divisions. And he proposed himself to lead it.

17 Q Did Contreras have any views about the use of violence
18 by the state?

19 A In his view, the portion of the enemy -- excuse me --
20 the citizenry defined as an internal enemy required an
21 underground war, a different kind of war where the normal
22 rules of operation, normal expectations of citizens would
23 not apply.

24 So they would set the rules and not feel themselves to
25 be constrained by normal expectations of liberties and

1 rights.

2 Q You talk about the normal expectations of citizens and
3 how Contreras believed they wouldn't apply.

4 Can you describe what you mean by the normal
5 expectations of citizens at the time?

6 A Well, that means that in his view, the people who are
7 defined as the enemy were part of a war in which even
8 prisoners of war rules did not apply. And that meant that
9 if you had to interrogate them in ways that were very rough
10 and ways that we would define as torture, that was okay.

11 It was an irregular war, in his perspective, in which
12 the supreme agency would set its own rules and do whatever
13 it would take.

14 Q So let's go to January 1973 when you've told us that
15 Lieutenant Colonel Contreras was assigned to Tejas Verdes.

16 At that point in time just as he's arriving, what is
17 the function of Tejas Verdes?

18 A It's a school of military engineers focused on issues
19 such as construction, ammunitions, explosives, that sort of
20 thing.

21 Q Can you tell us in your expert opinion why an
22 individual so focused on security and intelligence would
23 then be assigned to an engineering, an engineering
24 regiment?

25 A Well, if you look at the command structure of the

1 Army, which is the most important force in the country, the
2 various divisions of the Army are geographically anchored.
3 And actually, it's schools that enabled you to cut across
4 the various divisions, to meet people from the various
5 divisions.

6 And schooling is something that military officers who
7 sought promotions to step up would need to go through.

8 So the support commands, rather than the traditional
9 commands, were the only ones that cut across all the
10 divisions, let's say, medical, medical command,
11 telecommunications, engineering, the War Academy in
12 strategic training.

13 So schools would be the logical place actually for
14 that vision.

15 Q Did Lieutenant Colonel Contreras hold any other
16 positions around the time of the coup in September of 1973?

17 A He was the, an instructor in the Academia de Guerra,
18 War Academy that I referred to earlier in Santiago. So he
19 had a foot in that school as well and would later be
20 promoted to head that school in January of 1974.

21 Q Was torture practiced by soldiers at Tejas Verdes in
22 San Antonio around the time of the coup?

23 A Yes.

24 Q What kind of torture was practiced at Tejas Verdes in
25 San Antonio around the time of the coup in 1973?

1 A Well, there are a lot of different -- let me just
2 focus on some of the most important. One kind of torture
3 that was important was what you might think of as
4 low tech/high pain. For example, something that was called
5 telephone, which was a very hard clap, double clap on the
6 ears to break eardrums.

7 Probably the most important in the realm of
8 low tech/high pain would be using the force of gravity to
9 generate acute pain by tying prisoners by the wrist or by
10 the ankles or both and then just waiting for the force of
11 gravity to produce acute pain.

12 Q Excuse me. Let me just ask you a question for
13 clarification purposes.

14 A I'm sorry.

15 Q When you say they are tied by the wrists or their
16 ankles, are they lying on the floor?

17 A No, no, they're hanging. They're hanging, so that's
18 why the force of gravity is producing that effect.

19 Q Hanging from the ceiling?

20 A Or rafters.

21 Q I'm sorry. Continue. You were talking --

22 A Oh, yes. Well, in addition to that sort of thing, you
23 did have electric shock that was used with the electricity
24 applied to sensitive areas of the body, sometimes with the
25 use of metal cuffs. And there was also sexual violence and

1 rape.

2 Q Are you aware of any steps that were taken by the
3 leadership of Tejas Verdes in San Antonio in September of
4 1973 or around that time that were in anticipation or --
5 anticipation of or in preparation for the coup?

6 A Yes. There are two steps that were important.

7 Q Please tell us what those steps are.

8 A The first occurred in July of 1973 where Tejas Verdes,
9 under Contreras' leadership, organized a show of force.
10 They didn't declare martial law but produced conditions of
11 a kind of local temporary state of martial law by which I
12 mean they took over the City of San Antonio.

13 They raided the, and arrested the committees that were
14 charged with distributing rationed goods to the civilian
15 population, requisitioning goods for Tejas Verdes.

16 They shut down radio stations and radio programs.
17 They paralyzed traffic leading indirectly to the death of a
18 child in an ambulance who couldn't get to the hospital.

19 And it offered them an opportunity both to get used to
20 the idea of setting aside rules and setting aside civilian
21 authorities but equally important to assess the degree to
22 which that kind of show of force would produce either
23 resistance or submission in the civilian populations. So
24 that was a first major step.

25 Q You talked about a second major step that was done in

1 preparation of the coup. Can you tell us about that?

2 A Sure. A little closer to the coup, in the days in the
3 runup to the coup, the Tejas Verdes also organized what was
4 called prisoners camp number two along the north shore of
5 the Rio Maipo, which spills into the Pacific Ocean right
6 there, and set up prisoner barracks or camps and began
7 arresting people possibly as early as September 7th,
8 certainly September 10th, and with notable uptick from
9 the 11th on.

10 I should add that they also established a close
11 liaison with the jail in San Antonio for overflow, because
12 the prisoner barracks at Tejas Verdes itself were not
13 sufficient to handle all of the prisoners and used
14 refrigerated trucks to transport prisoners from the camp or
15 the jail to the underground chambers for interrogation at
16 the -- there were underground chambers at the casino, the
17 dining hall of officers in Tejas Verdes just a couple of
18 kilometers away.

19 Q Let me stop you because I'm not sure that's entirely
20 clear. So you were describing a chamber beneath the
21 casino.

22 What was that chamber used for?

23 A That was where torture took place.

24 Q And was torture taking place around the time that
25 you're describing just before the coup?

1 A Yes.

2 Q And you mentioned some refrigerated trucks. What role
3 did they play, and where did they come from?

4 A Well, you're on the coast. So you have the fishing
5 industry. So those trucks were refrigerated trucks that
6 were requisitioned from the fishing industry.

7 Q And you've heard the term DINA before, correct?

8 A Yes.

9 Q Could you describe for the jury what DINA is?

10 A Sure. DINA is an acronym, D-I-N-A, stands for
11 Direccion de Inteligencia Nacional, the National
12 Intelligence Directorate.

13 And it was the secret police force that came to embody
14 or realize the vision that Contreras had been promoting all
15 the time of a supreme secret police service that could set
16 its own rules.

17 Q Let's talk a little bit about the chronology of DINA.
18 And I want to focus you on the period specifically from the
19 date of the coup on September 11th, 1973, through
20 September 15th, 1973.

21 Did DINA exist at that time?

22 A No. What existed was Tejas Verdes, which was the
23 embryo of DINA, a kind of small-scale prototype that could
24 grow into a much larger national scale force.

25 So that's what you had in those early days of

1 September.

2 Q You've told us that Lieutenant Colonel Contreras was
3 head of Tejas Verdes at the time. Did Contreras play a
4 role in the creation and operation of DINA?

5 A Absolutely. It was his idea.

6 And in November of 1973, Pinochet brought him in for a
7 secret session of the junta to propose the idea of a
8 commission to establish the DINA or DINA director.

9 And what that meant in the establishment of DINA was
10 that, specifically was that that session authorized
11 Contreras to ramp up the operation and to borrow troops
12 across all the branches of the military in the Carabineros,
13 from the Army, the Air Force, the Navy, and the militarized
14 national police known as the Carabineros.

15 So that was the launching point for being able to
16 transition from an embryonic kind of emerging DINA to a
17 truly emerging DINA as a national scale operation.

18 Q Did DINA practice torture?

19 A Yes.

20 Q Did DINA practice what we would refer to as
21 extrajudicial killing, killing without process of law?

22 A Yes. And they also, if I may add, because it's
23 related, they also practiced what came to be called
24 disappearances.

25 Q Tell us what you mean by disappearances. We've heard

1 that term. Perhaps the jury would benefit from your
2 explanation.

3 A Disappearances referred to the idea that the state
4 would detain someone or abduct someone or a person in hire
5 of the state and that then would lose track of that person
6 as if the person had disappeared, had vanished, almost as
7 if they had never existed.

8 And so it became a new vocabulary to describe people
9 whose fate one had a very, very hard time tracing. They
10 were permanently gone.

11 Q Let me turn you to the coup now itself. Did the
12 military arrest, detain, and interrogate and torture
13 civilians in the days following the coup?

14 A Yes, thousands.

15 Q And if you could tell us briefly, who did the military
16 target?

17 A Well, I'm mindful of briefly. There were a lot of
18 people who were targeted, but let me try just a few
19 priorities, let's say.

20 The leadership of the Popular Unity government as well
21 as its midlevel leadership were obvious priorities for
22 them.

23 They also targeted the leadership of the political
24 parties that were part of the Popular Unity and who they
25 viewed as troublemakers or subversives.

1 They targeted people they considered troublemakers
2 because they were activists, let's say, in labor unions, or
3 in agrarian reform mobilizations.

4 They also targeted sites that they thought
5 concentrated people who would be very sympathetic to some
6 of the social reform ideals of the era or to that Allende
7 government itself.

8 Universities were important, some universities in that
9 regard, including the Technical State University in
10 downtown Santiago.

11 And then, finally, they certainly wanted to monitor
12 people who might have had a pastoral or guiding role for
13 young people, such as priests and teachers.

14 Q You mentioned, I think, the State Technical
15 University. Is this the university also known by the
16 Spanish acronym as UTE?

17 A Yes.

18 Q And why were the students and faculty at UTE a target
19 for the military?

20 A Well, that was an area where the students, as part of
21 the idealism, social reform climate of the era, there were
22 many students who were drawn to those issues and many
23 students who sympathized with Allende and participated in
24 the social movements of the era.

25 So from the point of view of the military regime, that

1 was a natural target of the kinds of citizens who were
2 already or could become the internal enemy that would
3 undermine order in Chile.

4 Q Let me turn you to Chile Stadium during the period of
5 September 11th to September 15th, 1973.

6 Did torture occur at Chile Stadium during that period?

7 A Yes.

8 Q Did, what I referred to previously as extrajudicial
9 killing, killing without process of law, occur at Chile
10 Stadium during that period?

11 A Yes.

12 Q Was Victor Jara tortured and killed at Chile Stadium?

13 A Yes.

14 Q And what's the basis for your conclusion as to Victor
15 Jara?

16 A Well, I've researched the Truth Commission that was
17 set up at the outset of the democratic transition in 1990
18 to 1991. Its mandate was to rigorously document and
19 certify those cases of extrajudicial execution or permanent
20 disappearances in which the commissioners could reach a
21 conclusion beyond doubt that the state had been responsible
22 for the events.

23 They were very meticulous. I've researched their
24 archives as well. And they looked into the case of Victor
25 Jara and certified, certified him as one of the victims.

1 Q Tell us a little bit about the Truth Commission
2 briefly. Who sat on the Truth Commission, and what was its
3 process?

4 A There were eight members of the Truth Commission,
5 equally distributed between the Center-Right and the
6 Center-Left, people known to have a high civic integrity so
7 they could put aside political issues.

8 Their internal rules were rules in which they required
9 unanimity to certify a case. If someone had a doubt on the
10 case, then they would put it in the group of cases that
11 they, that they would not certify.

12 They noted that some of those cases might prove to be
13 real cases, but they weren't going to certify them as
14 beyond a doubt for the commissioners.

15 And so it's a very careful process. And they had a
16 staff of lawyers and social workers. And the lawyers were
17 extremely careful to note those aspects that were relevant
18 for certification or lack of certification.

19 Q Were there soldiers from Tejas Verdes, the Tejas
20 Verdes regiment that you've been telling us about, at Chile
21 Stadium from September 12th to September 15th,
22 1973?

23 A Yes.

24 Q And in your expert opinion, who would have been
25 responsible for selecting which soldiers or Tejas Verdes

1 sections or companies went to Chile Stadium?

2 A It's a small military community. And Manuel Contreras
3 would have been responsible for selecting the groups that
4 were sent up, and particularly for selecting frontline
5 officers who could -- who could wield authority properly
6 over those troops.

7 Q In your opinion, your expert opinion, what types of
8 officers would Lieutenant Contreras had sent to Chile
9 Stadium during that time?

10 A It would be at the lieutenant level and captain level.

11 Q And would these people have to meet any set of
12 criteria before being sent to Chile Stadium?

13 A There would have to be great trust that they
14 subscribe, not only subscribe to the vision of Contreras,
15 of a secret police kind of set of methods against people
16 considered the internal enemy but that they also could
17 wield the kind of control and authority over, over those --
18 over conscripts and soldiers who reported to them so that
19 they could maintain control of the situation.

20 They were people with whom he had to have great trust.

21 Q Are you familiar with the term -- and I'm going to say
22 it in Spanish -- Academia de Guerra, as used in connection
23 with the coup in Chile in 1973?

24 A Yes. That was the War Academy. I am familiar with
25 it.

1 Q So in English it would be War Academy?

2 A Excuse me?

3 Q In English it would be War Academy?

4 A Yes.

5 Q What was the Academia de Guerra in September of 1973?

6 A Well, it was, on the one hand, the school I referred
7 to earlier for high-level instruction on strategy and
8 command.

9 But it was also the nerve center of operations for the
10 actual decision-making to deploy troops, to monitor what
11 was going on, to take next steps, or to receive reports,
12 et cetera. It was very, very important.

13 Q Where was it located physically in September of 1973?

14 A It would be in the Ministry of Defense building that
15 is kitty-corner from La Moneda palace, the Presidential
16 Palace or seat of government, on the other side of a major
17 thoroughfare running east and west called La Alameda. Not
18 very far. Really, just depending on how you count, whether
19 you count plazas or not, just a couple of blocks away.

20 Q I think you referred to it as a nerve center. What
21 type of personnel would have been in the Academia de Guerra
22 in September of 1973, around the time of the coup?

23 A There would be the generals in charge of overall
24 Santiago operations. They would confer there and be -- in
25 this same building would confer the joint command of the

1 junta, so it was pretty strategic.

2 Colonels who met sometimes as well at a different
3 military school called Escuela Militar would also confer
4 with them.

5 Q In September of 1973, would Lieutenant Contreras have
6 been at the Academia de Guerra?

7 A I think you meant lieutenant colonel.

8 Q Lieutenant Colonel Contreras. I'm sorry.

9 A Sure.

10 Yes, he was very close, closely involved with the
11 Academia de Guerra. He was an instructor there. And as I
12 mentioned earlier, in January of 1974 he actually directed
13 it.

14 Q I think you mentioned Escuela Militar. Could you tell
15 us where that was again?

16 A That's in Santiago, but a little farther away.

17 Q Okay. And did it have a function during the coup?

18 A Yes, there were colonels, the other layer beside the
19 general of operational officers, who were very, very
20 important who would confer as colleagues on, on how things
21 were going and what needed to be done. So it was another
22 center of importance.

23 Q Have you ever heard of a military organization called
24 Regimiento Tacna, especially around the time of September
25 of 1973?

1 A Yes.

2 Q And can you tell us what role, if any, Regimiento
3 Tacna or its facilities played in the coup around September
4 of 1973?

5 A Sure. It's in downtown Santiago. I would say 12, 15,
6 18 blocks southwest of the La Moneda Presidential Palace.
7 So it has a prime location for the group of prisoners who
8 were taken there.

9 The advisors of President Allende and the bodyguards
10 of President Allende who survived the military clashes
11 there and left La Moneda palace who were arrested were
12 brought over to Regimiento Tacna. So it had important
13 people there.

14 Q Was torture practiced at Regimiento Tacna in September
15 of 1973?

16 A Yes.

17 Q I want to take you now to another stadium that has
18 come up from time to time. And that's Estadio Nacional in
19 Spanish, or National Stadium.

20 Just so we're entirely clear on this, can you tell us
21 the difference between Chile Stadium and National Stadium
22 and their proximity to each other?

23 A Sure. The easiest way to think about it is Chile
24 Stadium, or Estadio Chile in Spanish, think of it as an
25 indoor sports complex.

1 If you think of, let's say, a large high school or
2 college with a basketball arena, that's the kind of arena
3 you're looking at with Chile Stadium. It can hold a few
4 thousand people. That sort of thing.

5 And it's right downtown. So it's a prime location in
6 terms of where some of the, some of the people arrested
7 were in downtown Santiago.

8 The National Stadium, think of a soccer complex. You
9 can fit 40, 50,000 people in there. It's a much more giant
10 facility. It may have auxiliary facilities such as a
11 bicycle track. It's a whole other order of magnitude. But
12 it's not something you can jam into downtown. It's a
13 little bit farther south.

14 Q What role, if any, did National Stadium play around
15 the time of the coup in September of 1973?

16 A It was important. There were so many people being
17 taken prisoner that it was an important facility because it
18 could absorb prisoners from elsewhere as well as prisoners
19 originally sent to National Stadium. So it was very, very
20 important.

21 Q Was torture practiced at National Stadium?

22 A Yes.

23 Q And was extrajudicial killing as I've described it
24 before practiced at National Stadium in September of 1973?

25 A Yes.

1 Q Do you know a man named Manriquez Bravo? Of a man
2 named Manriquez Bravo?

3 A Yes. Bravo would have been the major in command at
4 the Chile Stadium. He later, in October, became the
5 director of interrogation at Tejas Verdes in a place called
6 Rosas de Santo Domingo, which was on the south shore of the
7 Maipo River in the area that I had described.

8 He had a background in military intelligence in
9 Santiago.

10 Q So as of October 1973, to whom did Manriquez Bravo
11 report?

12 A He was reporting to Manuel Contreras at that time. He
13 had been integrated into the Tejas Verdes operation.

14 Q And do you know what his role in Tejas Verdes was
15 after he was detailed there in or about October 1973?

16 A He gave instruction on interrogation, which meant in
17 the Tejas Verdes context torture; as well as gathering
18 information by using any means necessary to gather
19 information.

20 Q I think this was highlighted by your last answer but I
21 want to ask you. Were torture and extrajudicial killing
22 practiced at Tejas Verdes in San Antonio following the days
23 of the coup around September of 1973?

24 A Yes. Tejas Verdes was operational as a prisoner camp
25 and torture center through April of 1974, in terms of

1 accepting new prisoners.

2 By that point, it had developed a very close
3 relationship with a torture house in Santiago called
4 Londres 38. So prisoners would be shuffled from Santiago
5 to Tejas Verdes in some cases.

6 It was a -- it continued to operate with prisoners
7 that had already been detained there until about midyear
8 1974.

9 By the time you get to the second half of 1974, the
10 DINA has really expanded and ramped up into a national
11 operation, has much larger torture centers in Santiago, and
12 Tejas Verdes falls out of the kind of role that it had
13 played earlier as a vanguard or embryonic force.

14 Q Do you know a place called Arsenales de Guerra?

15 A Yes. I'm aware of it.

16 Q And where is Arsenales de Guerra?

17 A It would be close to where the Regimiento Tacna is,
18 about 12, 15, 18 blocks southwest of La Moneda palace. I
19 can't specifically say that I know if they are exactly next
20 to each other or not, but it's very close.

21 Q As a matter of historical record, were any Catholic
22 priests the focus of the dictatorship in the days following
23 the coup?

24 A Yes. There was an interest in monitoring Catholic
25 priests. I'm only aware, however, of one who was killed.

1 Q Why was there an interest in monitoring Catholic
2 priests by the dictatorship?

3 A Well, the Catholic Church, like all institutions and
4 social organizations in Chile, was partially swept up in
5 the values of the era, including values of social reform
6 and trying to construct a different kind of society.

7 In that context, there were some priests who believed
8 that their duty was not simply, for example, to visit
9 working-class parishes or shantytown parishes, but to live
10 in them.

11 There were some priests who believed that -- there was
12 a movement called the worker-priest movement. Some priests
13 believed they needed to actually work as workers to
14 understand the lives of their parishioners.

15 And so there would have been an interest in tracking
16 and monitoring such people. And there would have been a
17 view that some of those people were part of the internal
18 enemy problem.

19 Q Have you ever heard of the name Juan Alcina?

20 A Yes. He was a Spanish priest.

21 Q And was he -- do you know if he was the subject of
22 interrogation by the military?

23 A He was the priest --

24 MR. CALDERON: Your Honor, I'm going to object as
25 to relevance.

1 THE COURT: Objection is overruled.

2 You can answer the question.

3 THE WITNESS: He was the priest who had been
4 killed. He worked in an area of Santiago called San
5 Bernardo.

6 He worked in a hospital, was a director of
7 personnel who worked with hospital workers. He was killed
8 on September 19th.

9 There had been searches for him before
10 September 19th that had failed. I'm not quite certain
11 when the first search would have been, maybe the 13th,
12 the 15th, something like that.

13 By the evening of the 18th, he had come to the
14 religious conclusion that he would be found and that he had
15 to accept his fate. So he went to his workplace the next
16 day and when they came for him -- he had been advised by
17 parishioners that people were searching for him. So he
18 knew that there was a problem.

19 So the next day he went to work. And when a party
20 came for him, he gave himself up and pardoned the person
21 who eventually executed him on a bridge called the Bulnes
22 over the Rio Mapocho River. And his body was thrown into
23 the river.

24 Q I want to refer you back to Chile Stadium and National
25 Stadium around the time in 1973 and beyond. When Chile

1 Stadium was functioning as a detention center, a
2 concentration camp, about how many detainees were
3 restrained there?

4 A At Chile Stadium?

5 Q At Chile Stadium first.

6 A Altogether about 5,000, 6,000. That would be the
7 order of magnitude.

8 Q Okay. And now, turning to National Stadium, do you
9 know about how many detainees were kept at various times at
10 National Stadium?

11 A There were reports in late September, I believe
12 September 22nd, the Red Cross would have made an
13 estimate of about 7,500.

14 Since there were people being shuffled in and out of
15 National Stadium, any snapshot estimate would be a lowball
16 estimate. There would have been tens of thousands of
17 people who shuffled through at one point or another.

18 Q Okay. So in September of 1973 and the weeks and
19 months following, there are thousands of people that are
20 detained at these two centers.

21 Does information about what's occurring in Chile
22 Stadium and National Stadium percolate out to the public in
23 Chile at some point?

24 A Well, especially National Stadium. It would have been
25 difficult not to have some knowledge that people were being

1 detained. There were so many people detained.

2 And family members were interested in the fate of
3 their relatives, so they would go to National Stadium.
4 It's a big soccer complex.

5 And they would go to the fence, they would ask if they
6 could find out about their relatives. If their relatives
7 could be brought to them, they would pass them cigarettes.
8 And then the family members would talk to one another.

9 And the regime had a certain interest as well in
10 letting the population know that, that it intended to
11 search for people who were defined as troublemakers or an
12 enemy of Chile and to detain them.

13 So the regime, the regime did acknowledge that there
14 were a lot of arrests there and did try to manage the
15 information about what was going on in National Stadium.

16 Q You tell us that the regime acknowledged people were
17 being detained there. Did the regime take public
18 accountability for the torture and the extrajudicial
19 killing that you told us that occurred at those places at
20 that time?

21 A No. The regime would try to manage information about
22 National Stadium sought to put forth the idea that it was
23 an orderly detention process designed to find out who
24 deserved further punishment. And so there was an idea that
25 there were investigations. They were properly done. Those

1 who were not at fault, was the idea, would be released.

2 And so it was a very different story from a story of
3 accountability. We have some problems. We've not done
4 things.

5 Now, the regime did not pretend that they were
6 treating prisoners -- that it was a hotel, you know. They
7 acknowledged that rations were tight and austere and that
8 sort of thing; but accountability, no.

9 Q And in terms of accountability, I just want to be
10 clear on this. By accountability, what do you mean? Do
11 you mean that the regime did not take responsibility for
12 the torture and killing?

13 A Correct, did not even acknowledge that that was
14 happening.

15 Q Did the military dictatorship take any steps to avoid
16 accountability for torture and killing around the time of
17 the coup in the years following?

18 A Well, yes. That was very important to them. So they
19 used various methods to deal with some of the concerns that
20 arose around that.

21 Q What are some of the methods the regime used to avoid
22 accountability for torture and extrajudicial killing?

23 A Well, when specific events could no longer be denied
24 because they had drawn attention and had raised concerns,
25 one method would be to create cover stories that would

1 deflect the responsibility away from the state in other
2 directions.

3 Q I just want to make sure we understand the terms
4 you're using. You used the term cover story.

5 Can you explain what you mean by that?

6 A Sure. A cover story is when events that have raised
7 concern are acknowledged, but a plausible explanation of
8 them is given that transfers the responsibility elsewhere
9 and says, this is not what the state did; this is something
10 that has a different kind of explanation where the
11 responsibility lies elsewhere.

12 Q And did the regime use this tactic of cover stories in
13 connection with torture and killing?

14 A Yes. One of the most important in the early period
15 organized by the DINA secret police, which had a department
16 of psychological operations and considered it very
17 important to manage information as well as to get
18 information and to repress people, they organized a cover
19 story called Operation Colombo.

20 And the reason was that there were 119 people,
21 remember, that disappeared that I had mentioned before, who
22 had generated great concern, legal petitions. And it had
23 become a headache for the regime.

24 Many people of religious conscience got involved in
25 trying to find out what had happened to these 119

1 disappeared people from the point of view the relatives
2 presumed disappeared from the point of view of the regime.

3 So Operation Colombo was a cover story, a news story
4 that said that the state had not detained these people at
5 all. They were not disappeared by the state.

6 They had run away to Argentina. And they were such
7 fanatics, Leftists, that they had died in firefights. On
8 the one hand, about half of them in firefights among
9 themselves. Because they were such purists, they would get
10 in fights amongst themselves and kill themselves. And on
11 the other hand, the other half -- 119 is not an even
12 number. It was 60 and 59. I don't remember which is
13 which.

14 The other half were killed by Argentine security
15 forces going after fanatic Leftists. So that was the story
16 was that this is not disappearance. The state is not
17 responsible. There's another plausible explanation.
18 Somebody else's responsibility.

19 Q Just briefly, was that story, the cover story in
20 connection to what you referred to as Operation Colombo
21 ultimately successful? Did that tactic work?

22 A No. It unraveled within a month because concerned
23 people in Chile, including relatives and religious people
24 of conscience, that sort of thing, they checked it out.

25 And it turned out that the, the initial reports on

1 which the Chile news media relied came from two newspapers.
2 One was a Brazilian newspaper that turned out not to exist,
3 and the other was an Argentine newspaper who's home address
4 was the office of a government ministry in Argentina. So
5 the cover story actually unraveled.

6 Q Based on your review of the historical record and your
7 expertise, are you aware of any cover stories that the
8 military dictatorship used in connection with the torture
9 and killing of Victor Jara?

10 A Yes.

11 Q And what was the cover story that the military
12 concocted in connection with Victor Jara's death?

13 A That's the story documented in the Truth Commission
14 report I mentioned earlier. Foreign ministry issued a
15 communique saying that Victor Jara had died from sniper
16 fire.

17 Q Was there absolutely any truth to that cover story as
18 the historical record shows?

19 A No.

20 Q Were there, you've told us about cover stories. Were
21 there other techniques that the military used to avoid
22 accountability for torture and extrajudicial killing around
23 the time and in the years following the coup?

24 A There were. The most important would be fear itself,
25 the fear of reprisal if someone came forward with

1 information that was damaging to the legitimacy or
2 credibility of the government.

3 The repression created a culture of fear. And many
4 people assumed that if they got involved in some way or
5 told what they knew that they might suffer very severe
6 consequences.

7 Q How did the regime create this culture of fear and use
8 intimidation to prevent accountability for torture and
9 killing?

10 A Well, they did from time to time go after people who
11 were viewed as too soft or having done something that was
12 damaging to the regime. And people knew it.

13 In addition, in Chile, there were many survivors of,
14 people who were imprisoned and tortured were not all of
15 them killed or disappeared. People saw the effects of
16 people coming out.

17 Probably the most important example of how culture
18 fear operated might have been what you would see inside the
19 military, particularly in the archives of the Vicariate of
20 Solidarity of the Catholic Church and the Truth Commission
21 archives.

22 Q Tell us just briefly what these archives were and what
23 it is that was discovered in these archives that would
24 support this culture of fear as you've described it.

25 A Well, what's notable in the archives is that a few

1 conscripts did come forward -- not a lot; very, very few --
2 because they had such pangs of conscience or were so
3 traumatized by atrocities that they were either witness to
4 or a party of that they felt that somebody should do
5 something about them.

6 So they wanted to go to authorities who might be able
7 to do something about it but expressed great fear and
8 required anonymity for protection because they feared that
9 if word got out what they had done that it would be very
10 dangerous.

11 Q When did the dictatorship formally end?

12 A That would be in March of 1990 when a newly elected
13 civilian president took office as president.

14 There had been a plebiscite or referendum in 1988 that
15 backfired against the regime. It lost. And so there was a
16 period of about a year and a half. There was a fuzzy
17 interim period to call new elections and to get a new
18 president installed.

19 Q Following 1990, in your expert opinion, was there a
20 return to full democracy?

21 A You had a return to what you might think of as a
22 restricted, restricted democracy in which in the interim
23 period the military had taken steps to assure it would have
24 a high level of prerogative during the period of democratic
25 transition and that there would be strong constraints on at

1 least some issues on civilian authority.

2 The most important was that under the rules of General
3 Pinochet's Constitution, a new Constitution developed in
4 1980. And as reaffirmed in the interim transition period,
5 he continued as Commander of the Army, and the elected
6 civilian president did not have the power to fire him.

7 Q Did the military continue to exercise significant
8 influence in Chilean politics and society following the
9 year 1990?

10 A Yes.

11 MR. BECKETT: Your Honor, could I just have one
12 moment to confer with my colleagues?

13 THE COURT: Yes.

14 MR. BECKETT: Thank you.

15 I have no further questions, Judge.

16 THE COURT: Thank you, Mr. Beckett.

17 Cross-examination?

18 MR. CALDERON: Thank you, Your Honor.

19 **CROSS EXAMINATION**

20 BY MR. CALDERON:

21 Q Good morning, Professor Stern.

22 A Good morning.

23 Q Now, you spoke a little bit about how you kind of had
24 been studying Chilean history. And are you familiar with
25 the term field immersion?

1 A Field immersion is a term that's commonly used for
2 description of the anthropologists at work. In my world in
3 academia, that's what we use it for.

4 Q And is that something that you employed in kind of
5 arriving at your conclusions today? Is that one of
6 techniques you employed?

7 A Well, I'm not an anthropologist, but I do field
8 visits.

9 Q Okay. So in formalizing your expert opinion in this
10 case, you did not employ field immersion or the technique
11 of field immersion?

12 A I wonder if you could explain to me what you think
13 field immersion is. I don't think I'm quite tracking --
14 what I understand field immersion to be is the classic
15 field immersion of an anthropologist would be, for example,
16 if he or she goes to the field, lives in the local
17 community for a year, often a small-scale, rural community,
18 and on that basis collects ethnography and writes up an
19 ethnography.

20 Q Is that what you did as part of your kind of gaining
21 expertise in this area?

22 A Well, I worked as an historian. So I used some of the
23 techniques of field immersion but did not limit myself to
24 them. So I think an anthropologist would say I didn't do
25 full scale the way they would do it.

1 In other words, I was responsible for trying to
2 understand the whole society, not one small community in
3 the society; to try to understand the various sectors of
4 the society in relation to the period of Pinochet's rule
5 and some of the conflicts around human rights issues.

6 So I think from a strict anthropological point of
7 view, I did field visits but not the kind of field
8 immersion that is the classic term.

9 From an historian's point of view, compared to most
10 historians, they would probably say he did field immersion
11 because he lived in Chile for a long, long time.

12 Q And was the purpose of that to, as you described
13 earlier, also to gain access to some of these archives and
14 some of these documents?

15 A Absolutely. Archives are one of the classic places we
16 go to as historians.

17 Q And in doing your research, did you ever meet or track
18 down any of the sources that were described or mentioned in
19 the archives or the Truth Commission report?

20 A Yes.

21 Q Have you ever reviewed any documents produced by the
22 courts in Chile since 2008 in preparing for your testimony
23 today?

24 A Yes.

25 Q And are these documents that you reviewed, are they

1 referred to as Tomos?

2 A I'm sorry. Someone sneezed. I didn't quite catch
3 your --

4 Q Okay. Did some of these documents that you refute
5 post-2008, did they include what's referred to as Tomos?

6 A Tomos is a term that's used all over the place for
7 various volumes of things. The Truth Commission reports
8 were Tomos. I'm not quite sure what you have in mind since
9 it's such a generic term.

10 Q And with respect to specifically cases that have
11 involved Victor Jara, I guess inquests or investigations in
12 Chile by the judicial branch, did you review any Tomos with
13 respect to that?

14 A No. Well, I should make one exception. The answer is
15 still no.

16 From a technical point of view it's not a judicial
17 case. The Truth Commission was a fact-finding body. It
18 was not a tribunal. And so the Truth Commission that I
19 referred to did rigorously investigate Victor Jara and many
20 other people's cases.

21 However, there was a connection to courts insofar as
22 in the cases especially of disappeared people, the Truth
23 Commission turned over evidence to tribunals in the hopes
24 that judges would make use of that information in the
25 judicial process.

1 So there's an indirect connection. But it's pretty
2 indirect.

3 Q And the Truth Commission report, is this referred to
4 as the Rettig Commission?

5 A Yes. There were actually four Truth Commissions in
6 Chile over time. But this was the one that we've been
7 talking about, was the first one at the outset of the
8 democratic transition.

9 And it was nicknamed the Rettig report after the name
10 of Raul Rettig who was the chair of the Truth Commission.

11 Q And the other commission reports that came out after
12 the first one, the one that's referred to as the Rettig
13 report, did they disclose any information or further
14 investigate the death of Victor Jara specifically?

15 A No -- well, with one exception. I should remember to
16 pause and ransack my --

17 Q Sure.

18 A -- my archives.

19 Okay. The one exception would be that there was a
20 major Truth Commission on the problem of political prison
21 and torture named after its chair, Valech, Sergio Valech.

22 The Valech Commission released its report in 2004.
23 And it reviewed comprehensively the problem of political
24 imprisonment and torture and included Estadio Chile among
25 the 1100 cases of camps in various places in Chile

1 throughout the period of the dictatorship.

2 I don't recall, however, that they mentioned Victor
3 Jara himself specifically.

4 Q Now, in addition with Victor Jara and the Rettig
5 Commission, there's another individual who is also
6 mentioned by name, an individual named Litre Quiroga; is
7 that correct?

8 A In the Truth Commission, yes.

9 Q And where --

10 A Or excuse me, the Rettig Commission, the first
11 foundational Truth Commission, yes. Thank you for --

12 Q And in the report, did it state that these bodies were
13 found together? Do you recall?

14 MR. BECKETT: Judge, I'm going to object. This is
15 beyond the scope of the witness' testimony. He's not being
16 offered as a witness about the manner of death of Victor
17 Jara or the scene of Victor Jara's death. He's being
18 offered for the three specific things he's qualified for.

19 THE COURT: Well, I'm going to overrule your
20 objection at this point with the understanding,
21 Mr. Calderon, that you're to confine your questioning to
22 matters that were addressed on direct.

23 MR. CALDERON: Understood, Judge.

24 THE WITNESS: Could you repeat the question?
25 Because I wall that out and just listen to you.

1 BY MR. CALDERON:

2 Q Sure. With respect to Litre Quiroga, did the Truth
3 Commission report also include or include the fact that
4 Victor Jara's body was found along with Litre Quiroga?

5 A I believe that's right.

6 Q And you also reviewed media archives as well?

7 A Yes.

8 Q Now, you mentioned earlier with respect to agrarian
9 reform, what -- isn't it true that agrarian reform in 1972
10 and 1973 included the taking of lands from private
11 landowners and redistributing that land to others or people
12 who worked the land?

13 A Yes. The idea was that there would be an orderly
14 process managed from above that would involve compensation
15 of the lands that were taken.

16 It is also true, however, as you say, that some
17 peasants didn't want to wait. And so they invaded lands.
18 And then the state would have to negotiate some sort of
19 solution which did lead to some redistribution of property
20 with the bottom-up initiative. That's true.

21 Q And that was part of the Leftist platform that you
22 described earlier, correct?

23 A No. The platform of the Popular Unity did not push
24 for bottom-up invasions. It pushed for a top-down process
25 of orderly agrarian reform.

1 Q Did it also include, in '72 and leading into '73, the
2 taking of private industry and making them government
3 entities? For example, with respect to Chile exploration?
4 Is that correct?

5 A Chile exploration?

6 Q Yes.

7 A You mean expropriation?

8 Q No. I'll ask you with respect to Chile exploration.
9 It was an industry in Chile during that time?

10 A Okay. There were a lot of industries. So I apologize
11 for misunderstanding you.

12 Q Sure.

13 A The vision of the Popular Unity was that, yes, there
14 would be some state owned sectors of the economy. That was
15 also the vision of the Christian Democrats.

16 The disputes that occurred were disputes about how far
17 to go, how many industries. So, for example, in 1971, what
18 was originally just a few years before extremely
19 controversial, the nationalization of copper, which was a
20 lifeline industry for the economy, that nationalization
21 received a 100 percent unanimous vote in Congress.

22 There was a provision in law that if disputes arose in
23 some industries, the state -- and it blocked production in
24 the economy, the state could intervene and manage those,
25 manage those companies for a while, and provide -- and the

1 workers could get involved in the management of those
2 companies.

3 But to place those companies in a fuzzy legal category
4 in which the state didn't necessarily own them forever, nor
5 did the owners, they would have to work out some kind of
6 solution.

7 Q Now, with respect to Chile exploration, are you
8 familiar with the takeover of that industry specifically?

9 A No.

10 Q Okay. Now, with respect to President Allende, are you
11 familiar with the term GAP, referring to his presidential
12 guard?

13 A Yes.

14 Q And do you recall what that presidential guard was
15 made up of?

16 A They were his presidential bodyguards.

17 Q And do you know whether some of these presidential
18 guards were from Cuba or Cuba-born bodyguards?

19 A That's a really good question. I don't believe any of
20 them were, but I might be wrong on a case or two. I don't
21 believe that any of them were, however.

22 Q Now, with regards to Tejas Verdes, isn't it true that
23 Tejas Verdes was an officer training school as well as a
24 regiment of soldiers?

25 A Yes.

1 Q And you spoke about the strategic positioning, about
2 Tejas Verdes. Isn't it true that the takeover of DINA by
3 Manuel Contreras didn't occur until after the coup?

4 A I think you have your chronology wrong and you don't
5 understand the evidence.

6 There wasn't a DINA to take over right away. What you
7 had was Tejas Verdes, as the anchor from which Manuel
8 Contreras could develop his vision, get buy-in. He was not
9 actually taken to the junta for approval to create a formal
10 DINA.

11 What you had at that time when he was brought into the
12 junta in November was an emerging DINA group, if you will,
13 or a DINA commission.

14 I think the chronology is backwards. First, you have
15 Tejas Verdes, and then you get DINA.

16 Q And your source with regards to when DINA was formed,
17 is that from the Truth Commission?

18 A Well, I'm an historian, so I look at a lot of sources.
19 And our method is to compare different sources.

20 But a fundamental source was the secret session of the
21 junta in November. I forget the exact date. It's easy to
22 look up. And that was the starting point.

23 The Truth Commission came to the same conclusion, but
24 I had already researched it. But it's important to
25 acknowledge that the creation of the DINA was not fully

1 publicly announced until mid-1974.

2 So you had, on the one hand, its authorization in
3 secret; and then a process by which eventually it became
4 formally recognized, public knowledge.

5 Q And are you familiar with DINE? D-I-N-E?

6 A Yes.

7 Q And what is that?

8 A If I remember correctly, that would be the Direccion
9 de Inteligencia Nacional del Ejercito. But I might be off.

10 Q Okay. And did that exist prior to the coup in 1973?

11 A I'm sorry?

12 Q Did that organization or group exist prior to the coup
13 in 1973?

14 A Well, all the military branches had intelligence
15 agencies of their own. One of the difficulties in the
16 session when the DINE was authorized in November of 1973 --

17 This is relevant to your question.

18 Q I understand that.

19 A Okay.

20 Q I understand that. But I'm just going to ask you to
21 respond to the question. If I need follow-up, I'll ask
22 you.

23 A Okay. Sure.

24 Q So did the DINA exist prior to the coup in 1973?

25 A I believe so.

1 Q And was this the military's organization or group for
2 collecting intelligence prior to the coup?

3 A For all the military?

4 Q Or for certain parts of the military?

5 A Certain parts of the military, yes.

6 THE COURT: Can I get a clarification,
7 Mr. Calderon? You asked the witness whether or not DINA
8 existed prior to 1973. Did you mean D-I-N-E or D-I-N-A?

9 MR. CALDERON: I apologize, Your Honor. D-I-N-E.
10 And I'll just spell it out so that we're not
11 confusing --

12 THE COURT: I want to make sure the record is
13 clear.

14 MR. CALDERON: Thank you, Your Honor.

15 BY MR. CALDERON:

16 Q And D-I-N-E, what particular parts of the military did
17 they report to? Or did they provide intelligence for?

18 A You know, so much of this history is in secret and I
19 did not research them in depth, so I wouldn't be candid
20 with you if I could say I know the answer to that
21 completely.

22 Q And that's fine if you don't. And I appreciate that.

23 Now, with respect to -- are you familiar with the
24 acronym PDI?

25 A No.

1 Q Are you familiar with the investigative police of
2 Chile?

3 A Yes.

4 Q Did that organization exist prior to the coup in 1973?

5 A Yes.

6 Q And was their role to also collect intelligence from,
7 I guess what we'd refer to as a civilian perspective?

8 A The role of Regimiento de Blindados was to collect
9 intelligence. The best way to describe them would be
10 something like our FBI.

11 Q And did you ever hear them referred to as PDI, under
12 that acronym?

13 MR. BECKETT: Objection, asked and answered.

14 THE WITNESS: Well, first --

15 THE COURT: Hang on a second, Professor Stern.

16 I'm going to overrule the objection in light of
17 the intervening question. If that jogs the witness'
18 memory, he can respond.

19 THE WITNESS: Could you repeat it, please?

20 BY MR. CALDERON:

21 Q Yes. PDI, with reference to the previous questions,
22 PDI, have you heard that acronym before?

23 A I don't recall that acronym.

24 Q But you have heard of the investigative police?

25 A Sure.

1 Q Okay. And you said that they are similar to the FBI?

2 A Sure.

3 MR. BECKETT: Judge, I'm going to object. This is
4 beyond the scope of the witness' testimony. He hasn't
5 investigated -- he hasn't talked about the investigative
6 police or local police in his testimony.

7 THE COURT: Well, objection is overruled.

8 The witness has testified about a number of
9 different investigative organizations. I think it's fair
10 game for cross-examination.

11 MR. BECKETT: Thank you, Judge.

12 BY MR. CALDERON:

13 Q And you stated that they were active prior to the coup
14 in 1973 based on your research?

15 A Sure.

16 And I want to clarify something, which is that my
17 research has focused primarily from the time of the coup
18 onward. So I do not claim to be as systematic or intensive
19 in my research on the 1950s or the 1960s as it might be in
20 the 1970s, '80s, and '90s. So, sure.

21 Q And I understand. And what I'll do is I'll actually
22 just kind of bring it back to 1970, prior to the coup. So
23 we'll go back about a little over two years.

24 Was the investigative police --

25 A But I hope you -- sorry. Go ahead.

1 Q Was the investigative police active between 1970 and
2 the time of the coup?

3 A Sure.

4 Q Now, you just said that you focused your research on
5 1973 going forward. But you've testified to several pieces
6 of information regarding the formation of Tejas Verdes.

7 Was that part of your research, specifically --

8 A Yes.

9 Q -- just Tejas Verdes?

10 A If you mean was it specifically Tejas Verdes, was that
11 all of my research?

12 Q Yes.

13 A Sure, Tejas Verdes was included.

14 THE COURT: Mr. Calderon, is this a good time for
15 us to take our break?

16 MR. CALDERON: Yes, Your Honor. That's fine.

17 THE COURT: All right. Ladies and gentleman,
18 you've been at it about 90 minutes. Let's take our
19 mid-morning break and come back at 10:45. We'll resume
20 with the cross-examination of Professor Stern.

21 (Jury exited the courtroom at 10:29 a.m.)

22 THE COURT: We'll be in recess until 10:45.

23 Professor Stern, you're in the midst of your
24 testimony, so it's not appropriate for you to discuss the
25 substance of your testimony with any of the lawyers or

1 their representatives.

2 If we could have you back in your seat at 10:45 so
3 we could proceed, I would be appreciative.

4 THE WITNESS: Thank you.

5 (Recess at 10:29 a.m. to 10:48 a.m.)

6 THE COURT: Ready to proceed, Mr. Calderon?

7 MR. CALDERON: I am, Your Honor.

8 (Jury entered the courtroom at 10:49 a.m.)

9 THE COURT: Welcome back, ladies and gentleman.

10 I'll get back to you on your question when I have
11 a chance to talk with the lawyers about it at our lunch
12 break.

13 Mr. Calderon, you may inquire.

14 MR. CALDERON: Thank you, Your Honor.

15 BY MR. CALDERON:

16 Q Professor Stern, during -- and, I guess, the formation
17 of DINA after the coup, is it true that DINA was made up of
18 not only military intelligence but also civilian
19 intelligence?

20 A The DINA was able to recruit across the military
21 branches and the police, the Carabineros, and claimed to
22 include in its network claims that are very difficult to
23 definitively prove that it had secured a network of many
24 collaborators, including civilians.

25 Q Now, you described that during the coup, there were

1 two nerve centers. One was at Arsenales de Guerra, and one
2 was at the Ministry of Defense; is that correct?

3 A They are not the only nerve centers. It's a long
4 country. But in the Santiago area, sure.

5 Q Okay. And in Santiago, those were the two nerve
6 centers?

7 A Sure.

8 Q Okay. What kind of information was handled at
9 Arsenales de Guerra and not at the Ministry of Defense?
10 What was germane to Arsenales and what was germane to the
11 Ministry of Defense?

12 A I think the premise of the question is off in two
13 respects, if you don't mind my elaborating on that.

14 Q If you could, please.

15 A I think it's off because I don't claim to be an inside
16 history researcher of all of the elements of the
17 deliberations on September 11th.

18 But, more importantly, I think it's important to
19 understand that the events were extremely fluid, and a
20 flowchart approach to how authority was wielded and
21 commanded does not really capture what was going on.

22 After all, the heads of two of the military branches
23 were heads who had been promoted after people had been
24 pushed out.

25 So chain of command and flowcharts are of somewhat

1 limited value because they could sometimes be set aside.

2 Q Was there -- and I'll phrase the question this way:

3 It seems that, is this correct to say, that information

4 kind of flowed freely between those two locations?

5 A I'm sure that information occurred between those two

6 locations. There were some of the same people going back

7 and forth and communicating.

8 Q Okay. And did one location, for example, did the

9 Ministry of Defense have higher-ranking officials than the

10 officials that were at the Arsenales de Guerra?

11 A You know, I'm not an expert of the Arsenales

12 de Guerra. But the Ministry of Defense would have had very

13 high officials taking leadership.

14 Q Was Tejas Verdes the only regiment that, I guess,

15 engaged in torture and extrajudicial killing?

16 A No.

17 Q And the sources that -- I guess you talked about the

18 sources that came forward were, consisted of conscripts; is

19 that correct?

20 A Are you referring to the sources that I reviewed in

21 the Vicariate of Solidarity archives and the Truth

22 Commission archives?

23 Q Yes, sir.

24 A Some of the sources that I've looked at were

25 conscripts. They are not only conscripts.

1 Q Were there higher-ranking officials that also gave
2 information regarding their experiences during the coup?

3 A That's a really good question. I believe there were,
4 but that wasn't the focus of my research.

5 Q And if you can, in your expert opinion through
6 research, why did it seem that conscripts were the primary
7 source from the military side?

8 A I don't think the premise of your question is correct,
9 because there were officers who also provided information
10 about what was going on in one venue or another.

11 Q Okay. So with regards to this, with the conscripts,
12 are they considered reliable sources?

13 A I'm a historian, so I have to weigh and assess
14 evidence wherever it leads. So I don't appropriate decide
15 that one source is credible or not. One has to weigh and
16 assess.

17 Q Okay. So with regards to the Truth Commission, was
18 there any commentary as to the validity or the truthfulness
19 of the conscripts? Was any of that information discussed
20 in the Rettig Commission report or the Truth Commission
21 report?

22 A The, I think the question misconstrues the evidence.
23 The purpose of the Rettig Commission was not to give a
24 global description of the reliability of conscript
25 witnesses.

1 The purpose was individual case by individual case to
2 look into every allegation that came to its attention of
3 people who would have been subjected to extrajudicial
4 killing or permanent disappearance to see if those cases
5 were true or not.

6 And if you are in the archives of the Rettig
7 Commission, you will see that, you will see lawyer notes
8 trying to evaluate the credibility of evidence on an
9 individual basis per the case, not on a global basis
10 saying, do -- conscripts, in general, are they reliable?

11 That wasn't the focus. The focus was case by case by
12 case. So I cannot answer that question because they didn't
13 think in those terms in the first place.

14 Q Okay. Let me ask it this way: With respect to the
15 conscripts, you said that you had said that some of the
16 sources had witnessed it, the torture. And some of them
17 even engaged in it, is that correct, in your review of the
18 archives?

19 A I don't think I said that.

20 Q No?

21 So when reviewing the archives, the conscripts, you
22 testified, did not witness the things that they retold or
23 engaged in the torture themselves?

24 A It depends what you mean. And let me explain so that
25 I'm not being evasive but can share with you what happened.

1 So, for example, in one case, what we're talking about
2 were conscripts who had been given the duty -- there had
3 been people who had been disappeared and had been clumsily
4 buried in a desert area.

5 And their officers told them that they needed to move
6 the bodies and dig much, much deeper places to dispose of
7 secret bodies.

8 So they did not witness -- some of these bodies were
9 in pretty bad shape. They did not witness in that case,
10 for example, of the actual live mutilation and hacking to
11 death of the bodies. But they witnessed its aftermath and
12 then moved the bodies and were pretty shocked.

13 So, you know, some of the information that conscripts
14 had was based on the ways in which when a crime or a
15 terrible deed is committed, it leaves, it leaves a legacy
16 and a wake of evidence that the conscripts were not foolish
17 or stupid.

18 You know, like you and me, they understood that
19 something had happened; and it was pretty shocking to them.

20 Q They could put the pieces together?

21 A Sure.

22 Q So when you reviewed the archives, and in your
23 research, you didn't come across any conscripts who either
24 engaged in the torture or extrajudicial killing of
25 detainees or witnessed the torture and extrajudicial

1 killing of detainees?

2 MR. BECKETT: I'm going to object, Judge. Can we
3 approach?

4 THE COURT: Yes.

5 (Discussion at sidebar on the record.)

6 MR. BECKETT: Judge, I objected to Mr. Calderon's
7 questions in this vain, and I waited for a while to see
8 where it was going.

9 This witness is not being brought here to testify
10 about the credibility of the conscripts. And I fear that
11 Mr. Calderon is trying to use him to impeach the
12 credibility of a broad class of people such as all
13 conscripts as a way of impeaching our evidence.

14 Each individual witness was impeached or asked
15 questions by the defense during those depositions. And
16 this man has not been asked about them to bolster their
17 credibility.

18 And I think a question formulated such that he's
19 asked to give a broad opinion about conscripts is
20 necessarily prejudicial.

21 And the prejudicial effect of that outweighs the
22 probative value. He had a chance to do this through each
23 individual conscript.

24 THE COURT: Well, I'll hear from Mr. Calderon in a
25 moment.

1 But the witness was asked on direct examination
2 whether or not any of these conscripts, the witness
3 testified on direct examination that some of these
4 conscripts as a result of pangs of conscience had come
5 forward.

6 And that in the archives this witness found and
7 accessed information from those conscripts which gave
8 evidence supportive of the atrocities that are being
9 alleged by the plaintiff in this case.

10 So I think the cross-examination is intended to
11 identify that this witness obtained this information
12 secondhand and that he did not talk to any conscripts who
13 admitted or conceded or acknowledged that they had been
14 personally involved in the commission of atrocities or had
15 personally witnessed the commission of the atrocities.

16 MR. BECKETT: I have no objection to that, Judge.
17 I think the question seemed to be eliciting broad testimony
18 about the reliability of conscripts generally. And I don't
19 think that should be --

20 THE COURT: I didn't understand the question that
21 way. Perhaps I misunderstood it.

22 MR. CALDERON: No. Well, initially, prior to that
23 last question, I was asking as to why did they go to
24 conscripts? Was it because they talked about the code of
25 silence? Was it that or was it that they were the least

1 culpable, I guess, in the chain?

2 That was one of the questions. And now I've moved
3 on to basically asking him about the sources.

4 And as the Court indicated whether or not he and
5 his research or any of that was able -- because he said
6 that prior he had gotten information from the conscripts
7 and their testimony about the atrocities.

8 And I want to know whether they actually saw it or
9 witnessed it or whether that information was just based on
10 what he testified to, which is they are burying a body,
11 they assume that certain things happened.

12 MR. BECKETT: Goes to credibility.

13 THE COURT: The question that's pending is whether
14 or not any of these conscripts, the information from these
15 conscripts was a result of their personal observation or
16 personal involvement in the commission of the offense.
17 That's the question that's pending.

18 MR. CALDERON: Right.

19 THE COURT: That question is not objectionable.
20 I'm going to overrule your objection.

21 I can't anticipate where he's going from here, but
22 I guess he has some ideas to what your concerns are.

23 MR. CALDERON: Right. And I've already moved on
24 from what he's concerned about.

25 MR. BECKETT: Thank you, Judge.

1 (End of discussion at sidebar.)

2 THE COURT: Give me just a minute, Mr. Calderon.

3 MR. CALDERON: Sure.

4 THE COURT: So, ladies and gentleman, the question
5 that's pending to the witness is, so when you reviewed the
6 archives, and in your research, you did not come across any
7 conscript who either engaged in the torture or
8 extrajudicial killing of detainees or witnessed the torture
9 or extrajudicial killing of the detainees?

10 I've overruled the objection.

11 The witness can answer the question.

12 THE WITNESS: The question is, yes, I do remember
13 at least one case when a conscript witnessed an
14 extrajudicial killing and was pretty torn up about it.

15 BY MR. CALDERON:

16 Q And was that in the Estadio Chile?

17 A No.

18 Q You spoke about an officer named Manriquez Bravo.

19 A Yes. I believe someone asked me about him. At this
20 point, it's been a long morning.

21 Q Understood. How did you know, and is it correct that
22 he was, basically had command of the Estadio Chile, the
23 Chile Stadium?

24 A He was the lead officer there, yes.

25 Q And how did you know, how did you come across that

1 information?

2 A That's a really good question, because I consult so
3 many sources over the years. I may have first come across
4 it either in a media report related to a proceeding of some
5 sort or of an investigative journalism account.

6 Q And do you know through your research if members from
7 any other regiment were at the Chile Stadium?

8 A Yes, there were others.

9 Q Do you know what other regiments were present?

10 A Well, I don't remember all of them. But I am aware
11 that, for example, the armored tank regiment -- two
12 officers who had been imprisoned in the aftermath of a
13 failed early coup attempt in late June of 1973 were
14 released on the day of the coup and participated in events
15 at Estadio Chile.

16 Q Now, in your research, I guess, regarding the coup and
17 the events at the Chile Stadium, were there officers that
18 were named by name in those reports as being involved?

19 A I think there's a mistaken premise in the question,
20 which is that although I have researched the history of
21 human rights issues under the Pinochet dictatorship and how
22 various Chileans in different sides understood those issues
23 and thought about them and thought about their importance,
24 I have never claimed to be a specialist on the history of
25 Estadio Chile as such.

1 I've researched the history of the country. So
2 there's a premise there that I think is a little bit off.

3 Q And I'm not trying to mischaracterize what your
4 research is.

5 A Sure.

6 Q I'm saying, within the subset of your research in
7 which you studied the events that took place at the Chile
8 Stadium, did you come across reports that named officers by
9 name?

10 A Sure. But, again, I did not research Chile Stadium as
11 such. I looked at -- there were 1100 prisoner camps in
12 Chile. And it was not the focus of my research.

13 MR. CALDERON: If I could have a moment,
14 Your Honor.

15 THE COURT: Yes.

16 MR. CALDERON: Nothing further, Your Honor.

17 THE COURT: Redirect, Mr. Beckett.

18 MR. BECKETT: Just a few questions, Judge.

19 Thank you.

20 **REDIRECT EXAMINATION**

21 BY MR. BECKETT:

22 Q You were asked questions, Professor, about agrarian
23 reform.

24 Was agrarian reform a policy that originated with the
25 Allende government in Chile?

1 A No. It originated with the Christian Democrats who
2 were supported by the United States and the Alliance for
3 Progress idea in agrarian reform.

4 Q And just tell us again where the Christian Democrats
5 are in the political spectrum in Chile in the 1960s and
6 '70s?

7 A They were in the center of the political spectrum.

8 Q And I want to be clear, by agrarian reform, I mean
9 redistribution of less-developed lands, as I think you've
10 described it.

11 A That's correct.

12 Q And you mentioned that the United States supported it
13 through the Alliance for Progress. Can you just briefly
14 tell us what the Alliance for Progress was and how and why
15 it supported agrarian reform along the lines as you
16 described it in Chile?

17 A The Alliance for Progress was an initiative of the
18 Kennedy Administration that was announced, as I recall, in
19 1961, quite early in the Kennedy Administration.

20 And the idea was that the social inequalities and
21 inequities of Latin America at the time in the countryside
22 -- well, other inequities as well, but we're talking about
23 the countryside -- were so huge that it would enhance the
24 modernization of the society and the social peace of the
25 society to engage in moderate agrarian reform of some

1 compensation.

2 So it was an idea that was attractive to the Kennedy
3 Administration which also argued that such social reforms
4 would be important to prevent more radical revolutionary
5 kinds of uprisings in Latin America.

6 Q You were asked questions by Mr. Calderon about other
7 groups at the Stadium. And I think you've said there were
8 other units, other groups at the Stadium.

9 Do you know how the various units at Chile Stadium in
10 September 1973 related or interacted with each other during
11 the period that Chile Stadium was acting as a concentration
12 camp?

13 A They all subscribed at the officer level. I can't
14 speak about conscripts.

15 They all subscribed at the officer level to the idea
16 that the chief problem of Chile was an internal enemy, that
17 what the coup needed to launch was a war against internal
18 enemy, and that that meant they needed to create a war
19 climate in the Chile Stadium which included treatment of
20 prisoners that would not be bound by customary notions of
21 the rights of Chilean citizens.

22 Q And when you say treatment of prisoners in a manner
23 that was not consistent with the customary rights of
24 Chilean citizens, can you be more specific about what you
25 mean in terms of conduct?

1 MR. CALDERON: Your Honor, I'm going to object as
2 to the scope of the question.

3 THE COURT: Objection is overruled.

4 THE WITNESS: What that meant was, for example,
5 that it would be okay to beat prisoners on their way into
6 Chile Stadium, not treat them as people detained with
7 citizen rights, but to simply beat them up, make them
8 exhausted, hit them with rifle stocks, not go through
9 protocols of due process or a legal process when deciding
10 what to do with prisoners.

11 When prisoners were taken for interrogations
12 underground, there was no legal process or sense of rights
13 as inherited by or understood in Chile law at the time, a
14 suspension of rights.

15 BY MR. BECKETT:

16 Q And would that include torture and killing of
17 civilians?

18 A Correct.

19 Q And did -- I'm turning your attention back to
20 September of 1973 at Chile Stadium.

21 Did the various military units and other groups
22 working at Chile Stadium have a common objective they were
23 working toward?

24 A Yes. They were part of an idea of establishing
25 long-term, hard-line rule by the military which meant that

1 there would not be a short interim of rule and that the
2 military would gain a free hand, as it understood it, to
3 remake the society from top to bottom and stay in power
4 long enough so that new generations would arise who had
5 been, had learned to submit to a different kind of social
6 order and an eventual transition very far out into the
7 future to a restrictive democracy. That was the larger
8 vision.

9 MR. BECKETT: If I could just have a moment to
10 consult?

11 THE COURT: Yes.

12 MR. BECKETT: Thank you.

13 No further questions, Judge.

14 THE COURT: Thank you.

15 May this witness be excused?

16 MR. BECKETT: Yes, he may.

17 MR. CALDERON: Yes, Your Honor.

18 THE COURT: Thank you, Professor Stern. You're
19 excused. If you were here under a subpoena, you're
20 released from it. You're free to go about your business.

21 THE WITNESS: You're welcome.

22 THE COURT: Call your next witness.

23 MR. BECKETT: The next witness will be handled by
24 my colleague, Mr. McLaughlin. It will be Hector Herrera.

25 THE COURT: Mr. Icaza, will you be assisting us

1 with this witness?

2 THE INTERPRETER: Yes, Your Honor.

3 THE COURT: Will you ask him to come forward,
4 please, and be sworn?

5 THE DEPUTY CLERK: Please raise your right hand.

6 (Witness sworn.)

7 THE WITNESS: Yes, I do swear.

8 THE DEPUTY CLERK: Please take the witness stand.

9 THE COURT: Mr. Icaza, because there's been a
10 little bit of a delay, I just want to remind you that you
11 were previously sworn to truly and accurately transcribe
12 the witness' testimony from Spanish into English.

13 Understood?

14 THE INTERPRETER: Yes, sir.

15 THE COURT: All right. Could you confirm with the
16 witness that he's able to understand your translations for
17 us?

18 THE INTERPRETER: Yes. Yes, yes.

19 THE COURT: Thank you.

20 THE DEPUTY CLERK: Would you please state your
21 name and spell your last name?

22 THE WITNESS: Hector Herrera Olguin.

23 THE COURT: Could we get a spelling of the
24 surname, please.

25 THE WITNESS: H-E-R-R-E-R-A.

1 THE COURT: You may inquire, Mr. McLaughlin.

2 MR. McLAUGHLIN: Thank you, Your Honor.

3 **DIRECT EXAMINATION**

4 BY MR. McLAUGHLIN:

5 Q Good morning.

6 A Good morning.

7 Q Could you please tell us where you were born?

8 A I was born in Santiago, Chile.

9 Q And where did you live in September 1973?

10 A At my parents' house in Santiago, Chile.

11 Q And were you employed at the time?

12 A Yes.

13 Q And where were you employed?

14 A I was an employee at the Civil Registry and
15 Identification Office in Santiago, Chile.

16 Q And what were your primary responsibilities in this
17 position in September 1973?

18 A To create identity cards and passports for young
19 people, taking their fingerprints.

20 Q If you could please look at your screen, I'd like to
21 publish what is marked as Joint Exhibit 55.

22 THE COURT: All right. You may proceed to publish
23 Joint 55.

24 MR. McLAUGHLIN: Thank you, Your Honor.

25 BY MR. McLAUGHLIN:

1 Q Mr. Herrera, could you identify the person in this
2 photo?

3 A It is I, Hector Herrera.

4 THE COURT: Hold on just a second. Let's get our
5 overhead projector turned on.

6 All right. You may proceed, Mr. McLaughlin.

7 MR. McLAUGHLIN: Thank you, Your Honor.

8 BY MR. McLAUGHLIN:

9 Q And how old were you in September of 1973?

10 A Twenty-three years old.

11 Q And can you identify for us what this document is?

12 A It is a credential issued by the Ministry of Justice
13 under which the Civil Registry and Identification Office
14 holds. It shows the number of my national identity card.

15 Q Thank you.

16 Where were you on the morning of September 11th,
17 1973?

18 A In the morning, I went to work to the Civil Registry
19 and Identification Office.

20 Q And did you find out about the coup that day?

21 A That very same day. Because the head, indicating a
22 female, of the sector where I worked had a battery-operated
23 radio.

24 Q Okay. And did you return to work the next day?

25 A On the 11th, no -- on the 11th, yes. On the

1 12th, no, because there was a general state of siege or
2 curfew.

3 Q And do you know who this curfew was imposed by?

4 A As a result of the military communique, it was the
5 military that were now taking over power.

6 Q Okay. And when did you return to work at the service?

7 A September 15th of 1973.

8 Q Okay. Could you please tell us what happened when you
9 returned to work that morning on the 15th of September,
10 1973?

11 A We were given an order to convene in a very large
12 room, all of the personnel.

13 Q And who was there in addition to the personnel?

14 A Other than all the personnel, the employees, there
15 were military personnel with a certain rank who climbed up
16 on a chair and then onto a table and then onto a piece of
17 furniture.

18 He addressed us saying, word for word: Ladies and
19 gentlemen, the politics are now over. Nothing but work,
20 work, work.

21 And he repeated it three times.

22 Q And did he say anything else?

23 A And he added that they were facing problems with one
24 of the civil servants or employees and he required a
25 volunteers.

1 And he pointed with his hand: You, you, you.

2 And amongst them, me.

3 Q And when he pointed you out, did you feel as if you
4 had a choice whether or not to comply with his
5 instructions?

6 A No, no. It was a very clear order because of the tone
7 of his voice.

8 Q And then what happened?

9 A We were separated. We were taken in a vehicle.

10 Q I'm sorry. What type of military -- what type of
11 vehicle? My apologies.

12 A A military vehicle. And we were taken to the northern
13 part of Santiago down La Paz Avenue.

14 Q And at that time did you know where you were going?

15 A No. No doubt, no.

16 Q And where were you brought?

17 A We were taken to the legal medical institute, the
18 morgue of Santiago, Chile.

19 Q Okay. Was there anyone outside the morgue when you
20 arrived?

21 A There were soldiers with machine guns at the main
22 entrance. And on the inside, there was a large banner
23 which had a military order written on it.

24 Q And what did that military order say?

25 A It was a number. The number I don't remember.

1 It said, forbidden to transfer bodies to homes,
2 churches, or temples. Directly to the General Cemetery of
3 Santiago, Chile.

4 Signed, signed general -- and I don't remember the
5 name of the general.

6 Q Okay. Once you were inside the morgue, did you
7 receive any instructions?

8 A Yes. We were given some cards upon which we should
9 take fingerprints, to write down height, skin color, and
10 sex.

11 Q And where did you go after you received these
12 instructions?

13 A To the inside, to a parking area.

14 Q And approximately, if you can remember, what were the
15 dimensions of this room?

16 A Seven by eight meters. A room that I felt was very,
17 very large.

18 Q Okay. And how was the lighting in this room?

19 A It was based on fluorescent lamps, not all of them
20 turned on. They were on, and towards the back they were
21 not.

22 Q Okay. But could you still see what was in this room?

23 A Yes, of course, I could see.

24 Q And what, if anything, did you see in this room?

25 A Many bodies. Many, many bodies. Men, women,

1 children.

2 Q Approximately how many bodies would you estimate were
3 in this room on September 15th, 1973?

4 A I did not count them.

5 Q Could you approximate?

6 A Yes. More than 100 to a 150, or maybe even 200.

7 Q And what were you tasked to do with these bodies?

8 A With those bodies, we had to begin to calculate the
9 height, the sex, skin color, and take the fingerprints.

10 Q And did you do so?

11 A That is what I did, yes.

12 Q And in doing so, were you able to see the bodies up
13 close?

14 A Yes, because I had to take their fingerprints.

15 Q And were any of these bodies dressed in combat gear?

16 THE INTERPRETER: Repeat.

17 MR. McLAUGHLIN: Yes.

18 BY MR. McLAUGHLIN:

19 Q Were any of these bodies dressed in combat gear?

20 A No. Everyone was civilian.

21 Q Did you see any guns on the bodies?

22 A No. All of the bodies, all of the people that I had
23 to identify wore none of the sort.

24 Q And did any of the bodies have any identification
25 papers on them?

1 A No. Neither rings, nor jewelry in the case of the
2 women, no documentation of any sort.

3 Q And despite the lack of identification, could you
4 determine any of the occupations of these individuals?

5 A Very little. In the case of some workers, wearing the
6 uniform of a worker.

7 Q Did these workers have anything else with them?

8 A In the case of the workers, in the case of the
9 workers, they had placed their hard hats on their chests.
10 In the case of construction workers.

11 Q Okay. Did any of the bodies that you saw on
12 September 15th have any bullet wounds?

13 A All of them. All of them.

14 Q Was there any dirt on the bodies?

15 A Yes. Some, the vast majority had lots and lots of
16 dirt.

17 Q And could you tell if the dirt had covered their
18 bodies before or after their death?

19 MR. CALDERON: Objection, Your Honor. This calls
20 for an expert opinion. Object to the response.

21 THE COURT: Objection is overruled.

22 THE WITNESS: They had it there before they died.
23 And it was dry, because it was very matted, pressed down.

24 BY MR. McLAUGHLIN:

25 Q I'm sorry. Did you say it was there before or after

1 they died? I just didn't catch the translation.

2 A Before. Before. Yes.

3 Q Were any additional bodies brought to this room on
4 September 15th?

5 A Yes. In the morning especially.

6 Q And how were the bodies brought into this room?

7 A To my right, and all the way in the back, there was
8 this large door that would open, making a lot of noise.

9 And military trucks would back in. Two soldiers would
10 get down. They would open the tailgate. And they would
11 throw the bodies onto the floor. One on top of the other,
12 they would fall.

13 Q And approximately how many new bodies were off-loaded
14 each time these trucks, these military trucks came?

15 A It must have been from 30 -- well, no more than 40
16 persons.

17 Q And approximately how many times did these military
18 trucks come with new bodies on September 15th?

19 A Just in the morning, not in the afternoon. And in the
20 morning, it must have been three to four.

21 Q And to your knowledge, were all of these additional
22 bodies also all civilians?

23 A All of them. I didn't see a single one that wasn't a
24 civilian.

25 Q Okay. I'd like to play for you here what's been

1 marked as Joint Exhibit 65. It's a short two-minute
2 extract of a documentary you participated in.

3 Do you recall participating in this documentary?

4 A Yes, of course.

5 Q And before we start playing it, could you tell us,
6 either on the screen or looking up here, could you tell us
7 where are you standing here in this video?

8 MR. McLAUGHLIN: Could I publish it to the jury,
9 Your Honor?

10 THE COURT: Yes. Joint Exhibit 65. You may
11 proceed.

12 MR. McLAUGHLIN: My apologies, Your Honor. Thank
13 you.

14 BY MR. McLAUGHLIN:

15 Q I'm sorry, Mr. Herrera. I was asking you where are
16 you standing in this video?

17 A At the parking area of the morgue of Santiago, Chile.

18 Q And is this the same room we were just discussing?

19 A Exactly the same.

20 Q And could you tell us what you were doing in this
21 video?

22 A After 36 years, I returned to that place. And I'm
23 imagining I am telling about the bodies that I saw in 1973
24 in that very same place.

25 Q And it seems like you're stepping around. What

1 exactly are you doing on the video there?

2 A I am doing what I was doing back in 1973, sort of
3 skipping over the bodies, jumping over the bodies. There
4 was lots of blood. There was a lot of brain matter.

5 Q And you're pointing down a hallway. What was down
6 this hallway?

7 A Down that corridor, there were other bodies. Close to
8 the edge, leaving a small space. I'm counting, one, two,
9 three.

10 MR. McLAUGHLIN: And if we could just pause it
11 right here, please.

12 BY MR. McLAUGHLIN:

13 Q Is this the door you were referencing earlier?

14 A That is exactly the door where the trucks would back
15 up to this sector here.

16 MR. McLAUGHLIN: Thank you.

17 And if we could take down the exhibit. Thank you.

18 BY MR. McLAUGHLIN:

19 Q To your knowledge, what was the purpose of
20 fingerprinting these bodies?

21 A The purpose was the administration, the bureaucracy,
22 to know who those persons were, their personal information.

23 Q And to your knowledge, were the families of these dead
24 individuals then informed of their death?

25 A No. Nobody knew.

1 Q Okay. On September 15th, was there any
2 distinctive group of individuals that you were told not to
3 fingerprint?

4 A It was one of the directives. He introduced himself
5 as a directive of the morgue service.

6 He pointed out to our right-hand side a group of about
7 15 people and he said, verbatim, these ones, do not take
8 their fingerprints. They are all foreign nationals.

9 The bodies were naked and their heads were shaven
10 completely down.

11 Q And can you describe this group?

12 A I don't understand the question.

13 Q Could you tell where they were from?

14 A I couldn't tell you where they came from because --
15 well, he says they were foreigners. And their skin was
16 white, with light-colored eyes.

17 Q Okay. What time did you leave the morgue that day?

18 A Around 4:30, because there was a curfew.

19 Q And were you ordered to return the following day?

20 A Yes. On the 16th of September.

21 Q And on the morning of the 16th, did you return to
22 the morgue?

23 A Yes. I went back to work at the morgue.

24 Q And when you arrived were there still soldiers
25 outside?

1 A Yes. Yes, yes.

2 Q Were you allowed to go in?

3 A Immediately, with my credential, I have no problem
4 going inside.

5 Q And were you ordered back to the same room that you
6 were previously in?

7 A Yes, exactly. At the same parking lot, to work.

8 Q Okay. When you entered the room on the 16th of
9 September, were the same bodies that you had seen the
10 previous day still there?

11 A No, no, no. Movement of bodies to another sector
12 inside the morgue.

13 Q Without going into details, approximately how many new
14 bodies were now in the morgue?

15 A More than 100.

16 Q And did you arrive at any conclusions as to when these
17 bodies arrived at the morgue?

18 A Personally, they must have arrived in the early hours
19 of the morning, very early, because we started working at
20 9:00 in the morning.

21 Q So sometime between the 15th and the 16th of
22 September?

23 A Sure.

24 Q And to your knowledge, were these also all civilians?

25 A All of them, absolutely. All of them were civilians.

1 Q Did you recognize any of the bodies that you saw on
2 September 16th?

3 A Another civil servant employee -- I was in the middle
4 of the room working -- came over to advise me, to advise me
5 that he had found the body of Victor Jara.

6 Q And what did you first think when he told you this?

7 A I not only thought it, I said it to him. So loved, so
8 respected, and so recognized here, recognized in Chile,
9 here in the morgue?

10 Q And did you go over and examine the body?

11 A Yes.

12 Q And whose body was it?

13 A It was, in fact, the cadaver was Victor Jara.

14 Q And how were you able to recognize the body as that of
15 Victor Jara?

16 A Because I have seen his image on television and in
17 newspapers and magazines.

18 Q And in your opinion, how well known was Victor Jara as
19 a public figure in Chile at the time?

20 A Very, very well known.

21 Q Okay. When you saw Victor Jara's body on
22 September 16th at the morgue, how was he dressed?

23 A He had his shoes, trousers, a jacket, a sweater.

24 Q Did he have any dirt on his body?

25 A Yes. It was one of the bodies that had a lot, a lot

1 of dirt.

2 Q And could you tell if that dirt was placed on his body
3 before or after he died?

4 A It was before, because it was very dried out with the
5 blood, especially on his head, stuck as if the body had
6 fallen from a very considerable height. The dirt was very
7 flattened out.

8 Q So when you're saying before, are you saying he died
9 before and then the dirt was placed on his body?

10 A No. The dirt after he died.

11 Q Okay. Thank you.

12 And in what condition was his face?

13 THE INTERPRETER: The witness would request some
14 permission to drink some water.

15 THE COURT: Surely.

16 BY MR. McLAUGHLIN:

17 Q Okay. And in what condition was Victor Jara's face?

18 A As I said, a lot of dirt, large wounds. His hair was
19 stuck to his face because of the blood. Very swollen, the
20 cheekbones.

21 Q And could you describe what, if anything, you saw on
22 Victor Jara's sweater?

23 A There were kind of like burn marks, many burn marks
24 and dirt as well.

25 Q And in what condition were his hands?

1 A The hands, we saw those very well because I had to
2 take his fingerprints. The backs, the back, both backs of
3 his hands had large wounds.

4 Q I'm sorry. Could you show so the jury can see where
5 you are indicating?

6 A (Indicating.)

7 Q Thank you.

8 A This part here and this part over here.

9 Q And in what condition were those parts?

10 A With these wounds, that would cover the entire back of
11 the hand and dirt as well.

12 Q And given the condition of his hands, were you still
13 able to fingerprint him?

14 A He had his fists tightly closed. I had to resist
15 movement and open his hands to be able to take his
16 fingerprints, to apply the ink.

17 Q And were you able to do so?

18 A Fortunately, the man had large hands. It is easier to
19 take the fingerprint.

20 Q And did you find any weapons on Victor Jara's body?

21 A No. He didn't have even rings, nothing, nothing, not
22 even documents.

23 Q And what did you do with the fingerprint card?

24 A That is when I decided to not turn it in amongst
25 the general group. I hide it inside my shirt.

1 Q And why did you do that?

2 A Because I thought that he being so well known and
3 loved in Chile that it should be known, that what was
4 happening in that morgue should be known.

5 Q And the next day, so now September 17th, 1973, did
6 you return to the morgue?

7 A I did not.

8 Q And where did you go instead?

9 A To the Office of Civil Registration and
10 Identification.

11 Q And that's where you usually worked, correct?

12 A Yes, exactly.

13 Q And why did you go there?

14 A Because I had that fingerprint card and turned it into
15 one of the technicians at the fingerprint section for him
16 to tell me officially all of the official information of
17 that body.

18 Q And whose name did the fingerprints correspond to?

19 A That is when I memorized and I discovered that the
20 name is Victor Lidio Jara Martinez.

21 Q So this was confirmation that it was Victor Jara?

22 A That is the official confirmation that that body that
23 I had seen the previous day was Victor Jara.

24 Q And what other information, if any, did you obtain at
25 the service, at the Civil Registry?

1 A All of his civilian information, address, married to
2 an English woman, whose name I memorized, Joan Alison
3 Turner Roberts.

4 Q Okay. My few remaining questions concern the events
5 of the following day, so September 18th, 1973.

6 Where, if anywhere, did you go that morning?

7 A I went to the address that I had memorized.

8 Q And if you could please look at the screen, I'd like
9 to publish Joint Exhibit 56.

10 THE COURT: You may proceed.

11 MR. McLAUGHLIN: Thank you, Your Honor.

12 BY MR. McLAUGHLIN:

13 Q Do you recognize this place?

14 A Yes. It's the little house I found that morning,
15 18 September of '73.

16 Q And what did you do when you arrived at that house?

17 A I rang a bell. In a small window upstairs appeared a
18 woman with a worried face, blond, who made a sign
19 indicating she was coming.

20 Q And did she come down?

21 A She came down. I showed her my credential, my
22 identity card. I told her I was a civil servant at Civil
23 Registration and Identification.

24 Q And did she invite you inside?

25 A Yes, exactly, to the interior.

1 Q And who was there inside the house?

2 A There was a friend of hers and two little girls.

3 Q And what were they doing?

4 A The little girls were kind of like at a table taking
5 clippings out of newspapers and magazines. They had a pair
6 of scissors. First image I got.

7 Q Okay. Did they say anything to you?

8 A The two little girls came immediately over to me as if
9 they knew me. The smallest shows me a clipping, black and
10 white. And she says, do you know my daddy?

11 Q And who was that?

12 A It was her father, Victor Jara.

13 Q And what happened next?

14 A I asked if the little girl was a friend. Then they go
15 up to the second floor.

16 Q And did you then speak to Joan Jara?

17 A Yes. She had me sit upon a sofa. And I immediately
18 announced that at the morgue of Santiago, Chile, was the
19 body of her husband, Victor Jara.

20 Q And do you know what her reaction was?

21 A She took my hands and cried into them.

22 Q And did you say anything else to her?

23 A A few minutes later, I told her that I was going to
24 accompany her to do all of the necessary errands.

25 And I gave her a description of the place that she was

1 going to enter, the bodies, the blood, the brain matter,
2 and amongst all of them was her husband. I asked her that
3 she should not cry, scream, and least of all faint.

4 Q And did you accompany Joan Jara to the morgue that
5 day?

6 A Yes. She drove me in her vehicle to the Santiago
7 morgue.

8 Q And were you able to enter -- and were you able to
9 enter the morgue?

10 A Yes.

11 Q How did you do so?

12 A By presenting my credential and telling them that she
13 was an employee who was going to work with me.

14 Q Okay. You had mentioned that you had told Joan Jara
15 that when she went to the morgue she could not faint, she
16 could not cry. Why did you tell her that?

17 A Because the place was -- well, it was very tense.
18 There were soldiers. And she, as a civilian, did not have
19 the right to enter there.

20 Q And when you entered the morgue with Joan Jara, where
21 do you go?

22 A Directly to the parking area where I, where I had left
23 the body the day before.

24 Q And was the body still there?

25 A No.

1 Q Were you able to find the body?

2 A Yes. It was on the second story.

3 Q And did you walk up there with Joan Jara?

4 A Yes, yes.

5 Q And when you found the body, did Joan Jara have any
6 difficulty identifying the body?

7 A No; immediately as she saw him.

8 Q And what was her reaction?

9 A She kneeled down. She was crying quietly. And with
10 her own tears, she tried to clean off the dirt. She kissed
11 him. She caressed him. For me, it was an eternity.

12 Q And were you then immediately able to claim the body?

13 A Immediately, we carried out the administrative
14 business.

15 Q Okay. Without going into the detail of all of the
16 administrative tasks, did you have to provide information
17 to obtain a death certificate for Victor Jara?

18 A Yes.

19 Q And who provided the information for this death
20 certificate?

21 A I did with the family booklet, the Jara Turner family
22 booklet.

23 MR. McLAUGHLIN: Your Honor, at this stage, I'd
24 like to publish Joint Exhibit 1.

25 THE COURT: You may proceed.

1 MR. McLAUGHLIN: Thank you, Your Honor.

2 BY MR. McLAUGHLIN:

3 Q Mr. Herrera, if you could look at your screen, I don't
4 know if you can read that. It's a little hard to see
5 there.

6 A Yes, yes, yes. I can read it very well.

7 Q And do you recognize this document?

8 A This document I dictated to a civil servant who would
9 copy it down. I didn't see this document. She was copying
10 what I said.

11 Q Okay. I'd like for you to read the following line.
12 And I'm going to mark it on my screen which should appear
13 on yours as well.

14 Sorry. I may have -- did you see where I indicated
15 with the --

16 A Yes.

17 Q Could you read that line, please?

18 A Date of death, day 14; month, September; year, 1973.

19 Q And why did you provide that date as the date of
20 death?

21 A She was demanding that I should provide a date of
22 death.

23 Q And at that time, did you know the exact date and time
24 of Victor Jara's death?

25 A No. Impossible. Impossible.

1 Q So was this date and time an approximation based on
2 the information you had on the time?

3 A Absolutely, yes, of course.

4 Q Thank you.

5 And in addition to the death certificate, did you
6 provide information for other documents that day to claim
7 the body?

8 A She had to give me an interment order.

9 Q And was the information you provided for these other
10 documents also an approximation based on the information
11 you had at the time?

12 A Of course. Of course.

13 Q Okay. Did you eventually obtain all the paperwork
14 necessary to be able to claim Victor Jara's body?

15 A Yes, yes, of course.

16 Q Okay. Did you obtain a coffin that day?

17 A We had to go and get a friend because we didn't have
18 any money. A family friend who came, and he paid for the
19 coffin, the niche at the cemetery.

20 Q Do you remember this friend's name?

21 A His name is Hector, like me.

22 Q Okay. And did you place the body in the coffin,
23 Victor Jara's body?

24 A A few hours later, at the time for interment at the
25 cemetery, I went down with the gravedigger and his friend

1 Hector to the morgue, to the parking lot; and the body was
2 brought to me from inside. The body was naked.

3 Q And given that the body was naked, could you see
4 Victor Jara's torso?

5 A Of course, yes.

6 Q And could you describe what you saw?

7 A Torso with many, many perforations. On the right-hand
8 side, a very large wound about this size, burned, black.

9 Q Did you then close the coffin?

10 A We placed it inside the coffin. I was very nervous.
11 And I decided not to dress him. I placed his shoes, and I
12 covered him with the clothing. I closed the coffin myself.

13 Q And where did you then take the coffin?

14 A Along with the gravedigger, we loaded him onto a
15 trolley. We went to collect Mrs. Joan Turner Jara who was
16 outside, and we left towards the General Cemetery of
17 Santiago.

18 Q Once at the cemetery, where did you place the coffin?

19 A At the farthest back end of the cemetery. He was
20 assigned a niche. We three, the men, it was very difficult
21 in the niche space to lift that coffin and to push him into
22 that niche to the back.

23 Q And would you describe it as a proper funeral?

24 A No, no. It was just a gravedigger who brought from
25 over there a wreath of flowers, dried wreath of flowers,

1 and he hung it at the coffin.

2 That was the only moment that I broke down. His wife
3 embraced me and said into my ear, Hector, we're not going
4 to remember Victor as he is today at this burial, but we
5 will remember him singing.

6 We spoke no more. We withdrew from that place. And
7 they insisted in accompanying me to my home, which wasn't
8 very far away, in their car.

9 And we bid farewell with a very big embrace. That was
10 the funeral.

11 MR. McLAUGHLIN: Your Honor, I have no further
12 questions at this time.

13 THE COURT: Thank you, Mr. McLaughlin.
14 Cross-examination, Mr. Calderon?

15 MR. CALDERON: Thank you, Your Honor.

16 **CROSS EXAMINATION**

17 BY MR. CALDERON:

18 Q Good morning, Mr. Herrera.

19 A Good morning, Mister.

20 Q When you arrived at the morgue on September 16th,
21 you did not see who brought in the body of Victor Jara,
22 correct?

23 A No. He had already, way in the back, he had already
24 been placed very orderly, lined up. He had already been
25 put there by the employees.

1 Q And you didn't know where he came from either, did
2 you?

3 A No. No idea.

4 Q Did you do these same steps for any of the other
5 people who were deceased in that morgue?

6 A No.

7 MR. CALDERON: Nothing further.

8 THE COURT: Any redirect?

9 MR. McLAUGHLIN: No, Your Honor.

10 THE COURT: Thank you.

11 May this witness be excused?

12 MR. McLAUGHLIN: Yes, Your Honor.

13 MR. CALDERON: Yes, Your Honor.

14 THE COURT: All right. Thank you, sir.

15 Mr. Herrera, you are free to go. If you're here
16 pursuant to a subpoena, you're released from your subpoena.
17 You can go on about your business.

18 Thank you, sir.

19 THE WITNESS: Thank you.

20 THE COURT: Ladies and gentleman, let's take our
21 lunch recess.

22 I have a brief matter I need to take up with the
23 lawyers. So if I could ask you to be back, ready to go,
24 let's say at 20 minutes after 1:00, 1:20, and we'll resume
25 with the presentation of the plaintiffs' case in chief.

1 Remember, this is not the time to discuss the case
2 either amongst yourselves or with anyone else.

3 Hope you have a pleasant lunch. See you back at
4 1:20.

5 (Jury exited the courtroom at 12:03 p.m.)

6 THE COURT: For the lawyers, let me give you this
7 information to mull over the lunch hour and tell me when
8 you come back if you have a view on it.

9 After the morning break, the jurors submitted a
10 question to me that says, will we -- will we receive
11 transcripts from all video testimonies? And they've all
12 signed it.

13 I explained to them at the outset of the case that
14 transcripts are not ordinarily available for them to
15 review. I do know that the video transcripts, that those
16 transcripts are available because you all have provided
17 them. I don't know if you have a view on whether they
18 should be provided or not.

19 I'll give you the lunch hour to think that over.
20 And you can let me know when you come back if you have a
21 position on it.

22 And would you make this part of the record as
23 court's exhibit, next number, please.

24 And I'll be giving it some additional thought
25 myself. And we'll see where everybody is, so when we come

1 back after the lunch hour.

2 MR. BECKETT: Thank you, Judge.

3 MR. CALDERON: Thank you, Your Honor.

4 THE COURT: All right. We'll be in recess until
5 1:20.

6 (Luncheon recess at 12:04 p.m. to 1:22 p.m.)

7 THE COURT: Back on the record, then, in Jara
8 versus Barrientos Nunez, 6:13-civil-1426.

9 Court notes counsel and parties are present.

10 Have the lawyers had an opportunity to give some
11 thought to my mention of the jurors' questions regarding
12 the transcript of the video testimony?

13 MR. BECKETT: Judge, to argue that the jurors were
14 here, they heard the videotapes, saw the videotapes as they
15 were played, in lieu of what would otherwise have been live
16 witnesses. And that they took notes, I think, and
17 understood what was going on.

18 And it's the plaintiffs' view that the best
19 approach would be to allow them to rely on their memory and
20 their observations and their perceptions throughout the
21 course of the trial. We see no particular need to give
22 them the videotapes themselves.

23 As to the transcripts, the issue with the
24 transcripts is, although we have highlighted them for the
25 Court, by highlighting the stipulated parts, we would then

1 have to redact the unagreed parts. That creates a
2 technical issue.

3 It can be done, but it would take some time. And
4 it would also take coordination to make sure we had done it
5 properly.

6 And then I don't think that's a very good
7 impression that that could raise with the jury. Juries
8 often feel, as I'm sure Your Honor knows far greater than
9 I, that things are being left out or they are not being
10 told things.

11 And I'm afraid that if they don't know this was by
12 agreement, they will see literally pages and pages of black
13 ink, things that are covered up.

14 So that's our view, Judge.

15 THE COURT: Okay. Mr. Calderon?

16 MR. CALDERON: Judge, and I would agree, just
17 based on the fact that if they wanted to see a transcript
18 of the live witnesses, then it would probably put us in the
19 same position because this is being entered in lieu of live
20 testimony.

21 So just as we wouldn't -- if they asked for a
22 readback of specific live testimony, I don't think -- I
23 would agree with counsel to say that I don't think it's
24 appropriate for them to have a transcript or the video of
25 the designations.

1 THE COURT: Okay. I'm not inclined to give it to
2 them, but I wanted to give you all an opportunity to give
3 me your positions on the record. So it sounds like we are
4 all agreed.

5 Let's bring our jury back, Mr. Carter.

6 COURT SECURITY OFFICER: Yes, sir.

7 MR. BECKETT: Judge, just before the jury comes
8 in, I think Your Honor is just going to describe to the
9 jury at this time or a future time what the response to
10 their inquiry was?

11 THE COURT: I'm going to answer their question and
12 just tell them for lots of reasons, the answer is no.

13 Okay.

14 MR. BECKETT: Okay. That suffices, Judge. Thank
15 you.

16 (Jury entered the courtroom at 1:26 p.m.)

17 THE COURT: Welcome back, ladies and Mr. Codner.

18 Were all of you able to follow my instructions not
19 to discuss the case amongst yourselves or with anyone else?

20 JURY: Yes.

21 THE COURT: Before we resume the testimony, I did
22 over the lunch hour have an opportunity to look into your,
23 the question that you put to me with respect to transcripts
24 of the video testimony.

25 And I'll remind you what I told you at the outset,

1 is that you're to rely upon your own independent
2 recollection of the testimony.

3 And for multiple reasons, which are not really
4 particularly helpful to go into in detail here, the short
5 answer to your question is no.

6 So the transcripts will not be available.

7 Mr. Beckett, call your next witness.

8 MR. BECKETT: Thank you.

9 The next witness will be led by my colleague
10 Miss Roberts.

11 THE COURT: All right. Miss Roberts?

12 MS. ROBERTS: The plaintiffs call Amanda Jara.

13 THE COURT: Miss Jara, if you'll come forward and
14 be sworn, please, ma'am.

15 THE DEPUTY CLERK: Please raise your right hand.

16 (Witness sworn.)

17 THE WITNESS: I do.

18 THE DEPUTY CLERK: Please take the witness stand.

19 THE COURT: Miss Jara, as I'm sure you heard me
20 tell some of the other witnesses, if you'll adjust that
21 microphone so you're speaking directly into it, please,
22 ma'am.

23 Tell us your name and spell your last name for the
24 record.

25 THE WITNESS: Amanda Jara. Last name J-A-R-A.

1 THE COURT: Thank you, ma'am.

2 You may inquire, Miss Roberts.

3 **DIRECT EXAMINATION**

4 BY MS. ROBERTS:

5 Q Good afternoon, Miss Jara.

6 When were you born?

7 A On the 9th of October, 1964.

8 Q And where was that?

9 A In Santiago, Chile.

10 Q And where do you live now?

11 A Small village by the coast very near Santiago, Quinta.

12 Q And what is your relationship to this case?

13 A I'm a plaintiff.

14 Q I want to turn you to your early childhood in Chile.

15 How would you characterize your early childhood?

16 A Joyful, happy, normal.

17 Q What kind of father was Victor Jara?

18 A Oh, happy man. Laughed a lot. Very active. Very
19 busy. But very much present with us.

20 Q What kinds of things do you remember doing together as
21 a family?

22 A Oh, normal family things like Sunday lunches. As they
23 always would have a very busy week, both my parents,
24 Sundays was an important day.

25 And cooking. We like cooking together, yeah.

1 Holidays. Normal things.

2 Q And, generally speaking, what -- how would you
3 characterize your memories of your father?

4 A Well, it was a very active house. Rehearsals. People
5 coming in and music playing a lot of the time.

6 And then our personal time, just the four of us.

7 Holidays were very important.

8 Q So I'd like to show you and the jury what's been
9 entered as Joint Exhibit Number 29, which is a photograph.

10 THE COURT: You may publish.

11 BY MS. ROBERTS:

12 Q Miss Jara, what can you tell us about this photo?

13 Oh, I'm sorry. Just one moment. I think we're still
14 waiting on the big screen.

15 A That's taken in our house, in the garden. It must
16 have been around 1972. And what's very particular about
17 that photo is that we're all very happy. And that's
18 because the photographer who took it was a good friend of
19 my dad and our family.

20 Q How old were you in that photo?

21 A Oh, seven, seven and a half. Maybe eight, but I don't
22 think so. More like seven.

23 Q Okay. I'd like to show you and the jury what's been
24 entered as Joint Exhibit 49, which is another photograph.

25 What can you tell us about this picture?

1 A Well, I saw that photograph when I was a lot older. I
2 don't really remember that day. But there we are, the four
3 of us. That was probably a day trip to Valparaiso.

4 And it must have been taken very near 1973 because of
5 the sunglasses that they were wearing. My dad there has
6 long hair. But I don't remember that day in particular.

7 Q What song of your father's would you most want the
8 jury to hear?

9 A Angelita Huenuman.

10 Q And why that song?

11 A Well, for two reasons: First, because I think the
12 guitar playing is beautiful. And also because it reflects
13 my father's, the way my father worked and what things
14 interested my father. Yeah.

15 Q Who was Angelita Huenuman?

16 A She was a Mapuche woman who my father met in -- while
17 hiking, while on holidays in the south of Chile.

18 Q Were there any particular details about Angelita
19 Huenuman that you'd like to point out?

20 A Well, my father met her. I could just imagine him
21 just walking by her house and seeing the garden, the
22 chickens, the dogs, just walking up the garden path,
23 knocking on the door.

24 But you see, it shows how my father felt about things.
25 Because through this small world of her house and her

1 family, he wrote a song about a bigger picture of
2 community, identity, and our roots.

3 Q Who are the Mapuche?

4 A The Mapuche are the original inhabitants of the
5 central to southern part of Chile.

6 Mapuche means people of the earth.

7 Q And what connection, if any, did your father have to
8 the Mapuche?

9 A Well, his mother was part Mapuche. And so, so was he.
10 Therefore, so am I.

11 Q And how did this identity impact your father's work?

12 A Well, very much. It wasn't just my father. In the
13 whole of Latin America at that time, musicians and artists
14 were going back to their own identity using the original,
15 the indigenous instruments of Latin America, of Chile in
16 particular. A lot of those instruments were used by the
17 musicians at that time.

18 Q Could you give us some examples of those native
19 instruments?

20 A There's a charangos, which is made of an Andean
21 armadillo, I think you call. It's a string instrument.
22 High-pitched string instrument.

23 The wooden reed pipes, quenas. Or the panpipes that
24 are made of smaller reeds woven together.

25 Q Are there any of these type of instruments that are

1 used in the song Angelita Huenuman?

2 A Yes. From the south. From -- yeah, the cultrun,
3 which is a ritual drum. And the seed rattle.

4 MS. ROBERTS: Your Honor, we'd like to play what's
5 been admitted as Joint Exhibit Number 53, which is a
6 recording of Victor Jara playing the song Angelita
7 Huenuman.

8 And we'd also like to simultaneously display an
9 English translation of the lyrics.

10 THE COURT: Are you going to play the entire song?

11 MS. ROBERTS: Yes, Your Honor.

12 THE COURT: How long is it?

13 MS. ROBERTS: It's almost four minutes.

14 THE COURT: All right.

15 MS. ROBERTS: Thank you.

16 (Playing audio exhibit.)

17 BY MS. ROBERTS:

18 Q What does your father's music mean to you on a
19 personal level?

20 A Well, it was actually -- I didn't listen to him for
21 quite a while after he was killed. It was too sad. I
22 heard his songs interpreted by others when we went with my
23 mother to different countries.

24 But to listen to him for real was difficult until I
25 was about, I don't know, 16 maybe. Yeah.

1 Now, I listen to him all the time. And I like
2 painting. It keeps me company, yes.

3 Q So I want to direct your attention now to 1973. What
4 do you remember, if anything, from the day of the coup?

5 A Well, that it was very frightening because of the
6 helicopters, planes, soaring planes. I remember hiding
7 under a table and understanding that something really bad
8 was happening but not quite sure what.

9 Q What do you remember of your dad leaving that day?

10 A Nothing. I don't remember. Sorry.

11 Q That's all right. A few days ago, we heard your
12 mother and your sister testify about the days waiting for
13 your father to come home.

14 What do you remember about that time?

15 A Well, something was obviously very wrong. I remember
16 the anxiety, the faces of the people that were in my house,
17 people I knew, yeah. But it was this terrible silence.
18 Nobody was saying anything.

19 I remember seeing my sister looking at the family
20 photos. And then seeing me come into the room, she would
21 shut the album and pretended she hadn't, wasn't seeing
22 anything.

23 So I distinctly remember that after a few days I shut
24 myself in a bathroom downstairs. I prayed.

25 The thing is that it was very confusing, you see,

1 because we were always taught in school that the armed
2 forces were there to protect us.

3 So I was sure nothing was going to happen, but I
4 prayed just to make sure. Hopefully my father would come
5 back home.

6 Q What do you remember about your mom during those days?

7 A Oh, very quiet, very taut, her head down. And then
8 when she would see me or Manuela, she would try and smile
9 and -- she was trying to hide her fear, yeah.

10 Q How did you find out about your father's death?

11 A Well, my mother told me. She took me upstairs, and
12 she said -- I think she went down, not on her knees, but
13 she sort of bent to see me, to see me, to see my eyes, held
14 my hands, and said Papi nova a volver, Daddy's not coming
15 back home.

16 Q Do you remember screaming?

17 A No. I don't remember that.

18 Q What do you remember about the day you left Chile?

19 A Well, I was a sort of -- I was carted. It was -- we
20 went to the airport. The airport was empty. Soldiers,
21 just soldiers lining everywhere, outside on the tarmac.
22 And we just went straight through following a gentleman who
23 took us right to the door of the plane.

24 Q What was your understanding of what was happening?

25 A Oh, well, that my world was destroyed.

1 Q How old were you when you learned the details of your
2 father's death?

3 A I must have been, it must have been quite soon after,
4 maybe ten, nine and a half or ten.

5 Q And what impact did that have to learn those details
6 at that age?

7 A You imagine that you see -- had nightmares.

8 Q What do you remember about the first few months you
9 were living outside of Chile?

10 A Well, everything was new. And as I was small, you
11 know, I quickly tried to adapt to an unknown environment,
12 make friends, and found good friends.

13 It was just very different, but we had to make, you
14 know, the best of it and get used to this new environment.

15 Q And how would you characterize your mother during
16 those first few years that you lived away from Chile?

17 A Well, she -- sad, very sad. And she also had to talk
18 of this a lot, so that wasn't easy. But she felt she had
19 to. And, well, tried to make a new home for us.

20 Q When did you finally move back to Chile?

21 A I didn't think it was finally moving back. But it was
22 in 1983.

23 Q And how did you decide to go to Chile at that time if
24 you weren't fully moving back?

25 A Well, I -- I got out of, I went through exams at

1 school. Then got into university. Did all of the
2 interviews. And I just -- I decided I would take a year
3 off because you could take years off then, unlike Chile.

4 And I thought, I better go back and see what this
5 country is, yeah, before going to university. Because I
6 thought I would lose my Chileanness if I went straight to
7 university.

8 Q And how did you find Chile when you got there?

9 A Well, surprising, very surprising. I've been with
10 Chilean communities in all of the countries we visited.
11 But this was a country full of Chileans, and that was
12 really surprising, yeah.

13 Q What is the Victor Jara Foundation?

14 A That's an organization that was created by my mom and
15 my sister and me after democracy returned to Chile. 1983
16 it was legally founded.

17 And it was because -- well, my mother had been so
18 many years talking about the tragedy and the death that she
19 wanted to focus on the life, the work, the values of my
20 dad.

21 Q How well known do you think your father is in Chile
22 today?

23 A He's well known, yeah.

24 Q And in the world?

25 A Well, I don't know if it's for me to say. But working

1 in the Foundation, you realize that in other countries -- I
2 mean, just a few -- it was a month ago, a Chinese band,
3 young people, it was a young ska band, playing one of my
4 father's songs, The Right to Live in Peace in Japanese.

5 So, yes, he's -- I don't know if he's well known. But
6 certainly he's known in lots of places.

7 Q And just to be clear, was that a Japanese band or a
8 Chinese band?

9 A A Japanese. Did I say Chinese? Sorry. I'm sorry.

10 Q You did.

11 A Oh, that was bad. Sorry. I meant Japanese.

12 Q When were you father's remains exhumed?

13 A That was in 2009.

14 Q And what did you expect to get from the exhumation?

15 A I'm not sure I expected anything, to tell you the
16 truth.

17 Q Were you there when they opened the coffin?

18 A Yes.

19 Q What did you see?

20 A My dad's bones. I could recognize him.

21 Q How did you recognize him?

22 A His teeth. He had a very broad smile, very perfect
23 teeth.

24 Q Anything else?

25 A Well, his frame. He wasn't a very large man. But I

1 saw what had happened to him also, just looking at those
2 bones.

3 Q What went through your mind when you saw his remains,
4 his bones?

5 A Well, the pain he must have gone through because you
6 could see the cracks. You could see the holes in the skull
7 and cracks all over.

8 Q What do you remember about the funeral?

9 A That it was massive and also joyful.

10 Q Was it the kind of funeral he wanted?

11 A Well, I suppose I was selfish thinking that it would
12 be possible to have a private funeral, you see. It wasn't
13 to be so. I think Chilean people also needed to say
14 good-bye to him.

15 Q Could you please describe for the jury what efforts
16 you and your family have gone to in the search for justice
17 for your father?

18 A Well, many efforts. But legally, the first criminal
19 complaint was filed in 1978. And the second one was filed
20 after Pinochet, Pinochet's arrest in London in 1999.

21 Q And just to be clear, you didn't believe -- do you
22 believe that Pinochet was at Chile Stadium?

23 A No. But he was head of the armed forces.

24 Q All right. And were, was your case that you filed in
25 1978 closed very many times, or is it still opened?

1 A It was closed many times. I think around five or six
2 times it was closed. Just now, it was, the investigation
3 is over.

4 Q How many people have been convicted so far?

5 A Convictions, none.

6 Q What's it been like for you and your family to pursue
7 justice for so many years without any resolution?

8 A Well, it's very hard to live with impunity. It's like
9 a gaping hole. You live with the pain, you see. You can't
10 get rid of the pain unless something happens.

11 Q So I believe I failed to ask you when the funeral was.
12 Was it after or before the exhumation?

13 A It was after the exhumation.

14 Q Right.

15 A Because my dad was buried, as you have heard, 1973.
16 The exhumation took place June of 2009, and the funeral
17 took place at the end of 2009.

18 Q How has your father's death and its surrounding
19 circumstances impacted you?

20 A Well, it's, it's a dark, painful experience that you
21 never forget. And it is very difficult to live when
22 justice isn't done.

23 Q What do you miss most about your father?

24 A I suppose his joyfulness, his happiness.

25 Q And if you could tell your father anything right now,

1 what would you say to him?

2 A That I love him very much and that I forgive him for
3 having gone to the university that morning. Now I
4 understand why he went. Because he was true to himself and
5 to his convictions, that he wasn't just one individual,
6 that he was part of something bigger than him.

7 MS. ROBERTS: I have no further questions.

8 THE COURT: Thank you, Miss Roberts.

9 Cross-examination?

10 MR. CALDERON: Thank you, Your Honor.

11 **CROSS EXAMINATION**

12 BY MR. CALDERON:

13 Q Good afternoon, Miss Turner.

14 A Good afternoon. Miss Jara.

15 Q Miss Jara. I apologize.

16 You said earlier when you referred to the efforts you
17 had made in the case in pursuit of justice for your father
18 that there were zero convictions, correct?

19 A Correct.

20 Q And those were pertaining specifically to your father,
21 your father's case, or the Estadio Chile and the events
22 that took place there?

23 A It's in relation to -- two cases of the Chile Stadium
24 have been joined together. That is my father's case and
25 the case of Litre Quiroga Carvajal.

1 Q And my question being, so are you saying there were
2 zero convictions with respect to the events that took place
3 in the Estadio Chile during the coup of 1973?

4 A No. I'm saying there have been no convictions in
5 relation to the case of Victor Jara and the case of Litre
6 Quiroga.

7 Q And you're saying those cases were combined into one?

8 A Into one, yeah.

9 MR. CALDERON: No further questions. Thank you.

10 THE COURT: Any redirect?

11 MS. ROBERTS: No, Your Honor.

12 THE COURT: Thank you, ma'am. You can step down,
13 Miss Jara.

14 Call your next witness.

15 MR. BECKETT: Judge, that was our last witness. I
16 wonder if we could approach.

17 THE COURT: All right.

18 Ladies and gentleman, we've reached a point in the
19 proceedings where it looks like the plaintiff is resting or
20 preparing to rest after I find out what they have on their
21 mind.

22 But this is probably a good time for me to ask you
23 to step out for just a moment. There are some procedural
24 things I need to talk to the lawyers about.

25 And I'll send Mr. Carter back for you in just a

1 few minutes.

2 (Jury exited the courtroom at 1:59 p.m.)

3 THE COURT: Yes, Mr. Beckett?

4 MR. BECKETT: Judge, we are about to rest.

5 Before we do, we have a matter of the
6 stipulations. I don't want to read the stipulations again
7 to the jury. I will if it makes sense.

8 We have proposed that these stipulations form part
9 of the instructions that the Judge give the jury before
10 they begin their deliberations. Obviously, those are draft
11 instructions. They haven't been accepted, and we haven't
12 had our charging conference.

13 But if the Judge were minded to do that or better
14 still, from our perspective, to allow those stipulations,
15 which are agreed facts for this case, to be provided on a
16 document for the jury, we wouldn't have to do that.

17 But that's one thing I want to rise to talk about
18 and to see what the Court's perspective is on that.

19 THE COURT: Do you have a position on that,
20 Mr. Calderon?

21 As I understand Mr. Beckett's proposal, it sounds
22 like they're proposing that either they introduce the
23 entirety of the stipulations as a piece of evidence in the
24 case; or, alternatively, they ask me to give the
25 stipulations as part of the Court's instructions to the

1 jury at the close of the case.

2 What's your view?

3 MR. CALDERON: Judge, I think it would actually be
4 appropriate for counsel to just read the stipulations prior
5 to resting. I think that would suffice if the Court wants
6 to do this prior to instructions.

7 THE COURT: I'm having a hard time hearing you.

8 MR. CALDERON: I apologize.

9 I said I think it would be totally appropriate for
10 counsel to read the stipulations prior to resting. Or if
11 the Court wants to read it as part of the instructions, I
12 wouldn't have an issue with that either.

13 I would not want them to have a physical copy of
14 the stipulations, though.

15 MR. BECKETT: Judge, if I could just follow-up on
16 that?

17 THE COURT: Yes.

18 MR. BECKETT: I'm not sure what the Court's
19 practice is with respect to the instructions, but we were
20 hoping that a written copy of the instructions would go to
21 the jury.

22 And if the Court read the stipulations as part of
23 the instructions as we proposed, then that would be part of
24 it and that would go to the jury. We think that's
25 appropriate.

1 We think, given the number of stipulations and the
2 specificity of the stipulations, it makes sense -- the jury
3 is just going to take notes for a long period of time.

4 It makes sense, I think, in this case to make them
5 either part of the instructions or to provide them as a
6 separate document.

7 THE COURT: Well, it is my practice to send
8 written copies of the instructions back to the jury with
9 the verdict form as part of their deliberations.

10 So do you have any objection to that,
11 Mr. Calderon?

12 MR. CALDERON: No, Judge. I just wouldn't want it
13 as a separate -- as a separate piece of evidence. If it's
14 part of the instructions, that's fine.

15 If the Court wants to read them or if counsel
16 wants to read them, that's fine, too.

17 I just don't want them to be a separate document.

18 THE COURT: Okay. With the absence of any
19 objection, then what I'll do, Mr. Beckett, is I'll
20 incorporate the factual stipulations into my instructions
21 to the jury. And they'll be included in the package that
22 the jury gets, along with the rest of the instructions.

23 MR. BECKETT: Thank you.

24 THE COURT: How many are there?

25 MR. BECKETT: It's three single-spaced pages of

1 instructions. There are 71 -- sorry -- stipulations.

2 There are 71 stipulations.

3 THE COURT: Okay. Anything else before you rest?

4 MR. BECKETT: No, Judge.

5 Plaintiffs rest at this point.

6 THE COURT: Okay. Does the defense have motions?

7 MR. CALDERON: Not at this time, Your Honor.

8 THE COURT: All right. Are you ready to proceed

9 with your case, Mr. Calderon?

10 MR. CALDERON: I am, Judge.

11 THE COURT: All right.

12 Let's bring our jury back, please, Mr. Carter.

13 MR. BECKETT: Judge, for the purposes of the jury,
14 is there any objection to us just stating that plaintiffs
15 rest?

16 THE COURT: No. I'm going to give you an
17 opportunity to rest in front of the jury.

18 MR. BECKETT: Thank you.

19 MR. CALDERON: Your Honor, can we have our witness
20 enter the courtroom?

21 THE COURT: Surely.

22 MR. CALDERON: Thank you.

23 And, Judge, this witness will require the services
24 of the interpreter.

25 THE COURT: All right.

1 THE INTERPRETER: Good afternoon, Your Honor.

2 THE COURT: Good afternoon. I'll have you sworn
3 in a few moments when our jury comes back.

4 (Jury entered the courtroom at 2:03 p.m.)

5 THE COURT: All right. Welcome back, ladies and
6 gentleman. Thank you for your patience.

7 Mr. Beckett, does the plaintiff have any
8 additional witnesses?

9 MR. BECKETT: Judge, at this time the plaintiffs
10 rest their case.

11 THE COURT: All right.

12 Ladies and gentleman, the plaintiffs have
13 announced that they've rested their case.

14 I mentioned to you at the outset of the
15 proceedings that the way the process unfolds is that the
16 plaintiff goes first.

17 After they have presented everything that they
18 care to present, then the defense has an opportunity to
19 call witnesses and will continue the same general format
20 that we followed previously except that the witnesses will
21 be called by the defense.

22 Mr. Calderon, does the defense wish to call its
23 first witness?

24 MR. CALDERON: Yes, Your Honor. At this time the
25 defense will call Maria Teresa Castro Barrientos.

1 THE COURT: All right.

2 Ladies and gentleman, we have a different
3 translator. This is Mr. de la Mora, as I understand it.

4 Mr. de la Mora, could you raise your right hand
5 and be sworn, please.

6 THE INTERPRETER: Yes, Your Honor.

7 (Interpreter sworn.)

8 THE INTERPRETER: I do so swear.

9 My name is Agustin de la Mora, D-E, L-A, M-O-R-A.
10 Federally certified court interpreter of Spanish.

11 THE COURT: Thank you, Mr. de la Mora.

12 Would you ask the witness please to step forward
13 and raise her right hand and be sworn.

14 (Witness sworn.)

15 THE WITNESS: I do so swear.

16 THE DEPUTY CLERK: Please take the witness stand.

17 THE COURT: Mr. de la Mora, once the witness is
18 seated, if you could pull up your chair next to her. I'm
19 going to give you a handheld microphone to use so we can
20 hear your translation.

21 THE INTERPRETER: Yes, Your Honor.

22 THE COURT: All right. Mr. De la Mora, would you
23 ask the witness to state her full name and spell her
24 surname, please.

25 THE WITNESS: Maria Teresa Castro Barrientos,

1 C-A-S-T-R-O.

2 THE COURT: Thank you, ma'am.

3 You may inquire.

4 MR. CALDERON: Thank you, Your Honor.

5 **DIRECT EXAMINATION**

6 BY MR. CALDERON:

7 Q Good afternoon, Miss Castro.

8 A Good afternoon.

9 Q What is your current occupation?

10 A I'm retired.

11 Q And prior to being retired, what was your occupation?

12 A I work for 43 years in the state bank in Chile.

13 Q What year did you begin working there?

14 A May the 1st, 1969.

15 Q In what capacity did you work at the state bank?

16 A When I started, I was in customer service.

17 Q And in 1973, where were you working?

18 A I work in a branch in San Antonio, in the customer
19 service in different capacities. Savings, credit,
20 checking, et cetera.

21 Q And how old were you in September of 1973?

22 A Twenty-one.

23 Q And where did you live in September of 1973?

24 A I lived in a town of a military school for officers,
25 in Tejas Verdes. I lived in a housing for a -- housing for

1 officers at the rank of lieutenant.

2 Q And where is Tejas Verdes in the country of Chile?

3 A Tejas Verdes is very close to San Antonio. It's a
4 place that is called like that because it's at the river
5 end. And during the months of rain, the roofs of the house
6 turn green because of the musty.

7 Q So is this a specific area in San Antonio?

8 A Yes. It's called Tejas Verdes. It's at the
9 riverside.

10 Q And is the military installation, is that named after
11 the region?

12 A Yes. It is called military school for engineering of
13 Tejas Verdes.

14 Q And is your house -- or was your house in 1973, in
15 September of 1973, in Tejas Verdes?

16 A Inside the complex of Tejas Verdes.

17 Q And just real quickly, Tejas Verdes, that refers to
18 the color of the tiles of the roofs in that area?

19 A Yes. And that's the name of the region.

20 Q Who did you live with in Tejas Verdes in September of
21 1973?

22 A With my husband, Lieutenant Barrientos, and my baby
23 who at the time in September was 15 months of age.

24 Q Now, in the months leading up to September, did you
25 leave the military complex?

1 A No.

2 Q Did you ever leave the premises for a short period of
3 time to run errands?

4 A I don't understand.

5 MR. BECKETT: Object to the question. It's a
6 leading question, Judge. Also object on the grounds of
7 relevance.

8 THE COURT: Well, it is leading. I don't know if
9 it's relevant or not.

10 Let's restate the question, and I'll give you an
11 opportunity to address the relevance.

12 MR. CALDERON: Sure. And, Your Honor, if we could
13 just briefly approach. Very quickly.

14 THE COURT: Okay.

15 (Discussion at sidebar on the record.)

16 THE COURT: While I have you up here, it's, of
17 course, always important not to lead your witness,
18 especially an important witness. It's particularly
19 important when we have translation issues. I want you to
20 be mindful to ask short, direct questions that are capable
21 of a succinct response.

22 Anticipating, tell me where you're going with
23 this.

24 MR. CALDERON: Judge, we're going to talk about
25 some of the things that were discussed by the expert.

1 But what I wanted to bring to the Court's
2 attention is that sometimes, with the translation, it's not
3 exactly the question that I'm asking.

4 So in this situation, I said if she ever left the
5 compound, and the question that was interpreted was did she
6 ever abandon the compound.

7 So my follow-up question was not to lead but to
8 just explain to the interpreter that I didn't mean abandon,
9 that I meant to leave for a short while, as in to do
10 errands.

11 I don't know if there's a -- and this may happen
12 from time to time where I'm kind of following up on a
13 question because it's not being interpreted with the
14 connotation that it's being asked.

15 MR. BECKETT: Well, I think there should be a
16 separate way of addressing if there's an interpretation
17 problem. Perhaps we can flag it.

18 As to relevance, Judge, we had an expert talk
19 about that. This woman isn't an expert. She's a
20 layperson.

21 She can certainly talk about what she observed at
22 the time at the particular locale. I fail to see how that
23 is relevant to this particular case, however.

24 THE COURT: Well, why is it relevant? Why is her
25 perception of what was happening in the countryside

1 germane?

2 MR. CALDERON: Judge, first of all, it's
3 establishing whether or not she was there when the troops
4 departed from the base. She was actually there.

5 In addition, what Professor Stern's testimony was
6 about, it came back it was actually based on sources of
7 information that were living there at the time, I assume
8 were living there at the time they gave the accounting of
9 what happened.

10 We actually have the person who was there who gave
11 a firsthand account of the situation in the country as she
12 experienced it.

13 THE COURT: Are you talking about numbers of
14 troops? I'm --

15 MR. CALDERON: Just basically what she witnessed
16 as the troops were going, the things that she saw, the
17 information that she was aware of at the time the events
18 were going on. It goes to the state of Mr. Barrientos when
19 he left Tejas Verdes and what his mission was.

20 MR. BECKETT: Judge, sorry.

21 THE COURT: I don't find any of that particularly
22 relevant. I'll give you a little bit of leeway to
23 establish a little bit about her living circumstances, the
24 area in which she lived.

25 But I think Mr. -- I think the plaintiffs'

1 argument is well taken with respect to the more
2 comprehensive description of what was transpiring.

3 I just -- I confess I don't see how it connects up
4 with the issues the jury is going to be asked to resolve in
5 this case.

6 So I'll give you a little bit of leeway on it.
7 But then let's move on to something that is substantively
8 on point.

9 MR. CALDERON: Thank you, Judge.

10 (End of discussion at sidebar.)

11 THE COURT: All right. The objection is overruled
12 with my comments to you at sidebar.

13 Mr. Calderon, you can proceed.

14 MR. CALDERON: Thank you, Your Honor.

15 BY MR. CALDERON:

16 Q How far was your house from where the troops were
17 located?

18 A We're close to each other because it was a small town.
19 There was a main street and three other side streets. And
20 the patio for the regiment was about ten meters from my
21 house.

22 Q Could you see where the regiment would get into
23 formation from your house?

24 A Yes, correct. It was less than ten meters.

25 Q Do you recall September 10th of 1973?

1 A Perfectly. Just as if it were today.

2 Q And why does that date resonate with you?

3 A Because it marked all the Chilean people from both
4 sides, civilians and military.

5 Q Did anything particular occur that day that sticks out
6 in your memory?

7 A The end of the day.

8 Q Now, can I ask you, how did that day begin?

9 A Like any other normal day.

10 Q And was Mr. Barrientos with you when you woke up that
11 morning?

12 A Yes.

13 Q And what time did he leave the house?

14 A 7:30, like every other day.

15 Q And can you describe how he was dressed?

16 A With normal combat fatigues like every other day.

17 Q Can you please describe with a little more specificity
18 exactly what the uniform comprised of?

19 A Hat, cap. Boots, black. Pants and a shirt that were
20 green, olive green. Undershirt, a white one under the
21 green shirt. And a belt.

22 On the right-hand side, the pistol. On the left-hand
23 side, the knife, Corvo. And a military hat.

24 Q Now, was this a regular hat or was it a different kind
25 of hat?

1 A It was a normal one, just green with a shade in the
2 front.

3 Q And how is it that you were so familiar with this
4 uniform?

5 A Because it was my husband, and I used to wash the
6 uniform.

7 Q Now, after he left the house at 7:30, when was the
8 next time you saw him?

9 A About 2:30 or 1:00 to have lunch.

10 Q Did anything happen between the time he left and when
11 he returned for lunch?

12 A Yes.

13 Q What happened?

14 A A helicopter from the Navy got there. I saw it
15 because it came to the patio, and it said Chile's Navy.
16 And it was dark.

17 Q And upon him arriving home, did you ask him what was
18 going on?

19 MR. BECKETT: Objection. Hearsay.

20 THE COURT: Do you want to be heard?

21 MR. CALDERON: Yes, Your Honor. I'm not asking
22 her to repeat anything that's being asked of Mr. Barrientos
23 back in 1973. I just asked her if he informed her.

24 THE COURT: Well, I understand what you're asking.

25 But do you want to be heard on the hearsay

1 objection?

2 MR. CALDERON: Yes, Judge. I don't think it's
3 hearsay.

4 THE COURT: Why not?

5 MR. CALDERON: Because I'm not asking for -- it's
6 not for the truth of the matter asserted.

7 First, it goes to her state of mind. But I'm not
8 asking him whether or not -- or, I'm sorry, I'm not asking
9 her what he said but merely whether she asked him.

10 THE COURT: Objection is overruled.

11 THE WITNESS: About the helicopter?

12 BY MR. CALDERON:

13 Q Yes. Did he tell you what was going on?

14 A Well, when he came back to lunch, I asked him what was
15 going on, what was the helicopter there?

16 Q And at that time, did you know what was happening?

17 A No.

18 Q When was the next time you saw -- oh, I apologize.

19 Did Mr. Barrientos leave the home after lunch?

20 A Yeah. He went back to the regiment.

21 Q And when was the next time you saw him?

22 A 1830 hours, more or less.

23 Q And is that, that's military time?

24 A That's correct.

25 Q Did anything happen in between lunchtime and 6:30?

1 A Yes.

2 Q And upon his return that evening, did you -- at that
3 point, were you informed of what was going on?

4 A Yes. The helicopter came back two or three times
5 during the whole afternoon.

6 MR. BECKETT: Judge, I'm going to renew my
7 objection on relevance grounds at this time.

8 THE COURT: Objection is overruled.

9 You can proceed.

10 MR. CALDERON: Okay.

11 BY MR. CALDERON:

12 Q And what was your understanding of what was going on
13 at that time?

14 A Something unusual, strange.

15 Q And why was it strange?

16 A Because I live there for four years and never in that
17 time had a helicopter been there, not even a military one.

18 Q And after dinner, did Mr. Barrientos leave the home
19 again?

20 A Yes.

21 Q Was that normal?

22 A No, that was not normal.

23 Q When did you see him again?

24 A 2300 hours.

25 Q And what did you see him do when he came back?

1 A First, he got there. He had a fiber helmet, a steel
2 helmet, and a SIG rifle.

3 Q Just to be clear, he no longer had his original hat,
4 the one that you saw him --

5 MR. BECKETT: Objection. Objection. Objection to
6 leading questions.

7 THE COURT: Objection is leading?

8 MR. BECKETT: Yes, Judge.

9 THE COURT: Sustained.

10 BY MR. CALDERON:

11 Q Okay. Was he wearing a different hat than what he had
12 left the house with?

13 A Yes.

14 Q And what was he doing when he returned?

15 A He tells me he has to leave. He doesn't know where
16 to. And he asked me to help him put together a sleeping
17 bag.

18 Q And did he tell you where he was going?

19 A He didn't know himself.

20 Q When was the next time you saw Mr. Barrientos?

21 A The first weekend after September 11th.

22 Q And did you know that September -- or did you know
23 what happened on September 11th?

24 A Because of the news on the radio the next morning.

25 Q Now, where did you see Mr. Barrientos after the

1 10th? Where was it that you saw him?

2 A That weekend that -- I don't remember if it was a
3 Saturday or Sunday. At my parents' house in Santiago.

4 Q And do you recall what time it was when you saw him?

5 A He got there around 10:00, 10:30 at night.

6 Q Did he arrive alone?

7 A No, in a patrol car with soldiers.

8 Q And what was the reason for him going to your parents'
9 house on that day?

10 A Because he was in a terrible need of taking a shower
11 and shaving because he was wearing the same clothing that
12 he had worn since the 10th of September.

13 And he found me there. To his surprise, I was there.

14 Q And how was he dressed?

15 A He had different, he had something different here.
16 Over here he had something that was orange, and he had a
17 bracelet on his left arm.

18 Q Now, with respect to your prior response, was there
19 anything besides his uniform and his neck scarf that was
20 different about his uniform?

21 MR. BECKETT: Judge, I'm going to object to that
22 question before the answer is given. I think that is a
23 leading question.

24 THE COURT: Objection is overruled.

25 Under the circumstances, I think it's necessary in

1 order to understand the witness' response. So I'm going to
2 allow the question to stand.

3 You can answer.

4 THE WITNESS: No. It was the same.

5 BY MR. CALDERON:

6 Q Okay. Earlier when you were giving your response, you
7 pointed to the collar. What were you referring to?

8 A Excuse me?

9 Q Earlier in your prior response, you were pointing to
10 the collar as if to indicate something on the neck.

11 A He didn't have his rank on.

12 Q And could you describe what those markings looked
13 like?

14 A The different rankings: sublieutenant, lieutenant,
15 captain, colonel, general.

16 Q And which were -- with respect to his uniform, which
17 ones was he missing?

18 A What happened is that normally when he left Tejas
19 Verdes he had on him the markings of a lieutenant.

20 Q And are those, could you describe the shape and color
21 of those markings?

22 A It's metallic, two stars of lieutenant.

23 Q And after that first encounter at your parents' house,
24 did he return?

25 A It was always around 10:00 at night when he would be

1 sometimes two days in between or sometimes all night; and
2 sometimes he couldn't, he wouldn't come back in a couple of
3 days.

4 THE INTERPRETER: Two days. Correction by the
5 interpreter.

6 BY MR. CALDERON:

7 Q And were you familiar with the music or the New Song
8 movement in 1973 in Chile?

9 A Yes. That was called neo-folklore. I used to play
10 the guitar. And I liked it myself.

11 Q And with respect to that music, was that, with respect
12 to that music, was there any difference among the artists?

13 A Yeah. There was some difference.

14 Q Could you explain?

15 A Well, the differences were politics. There was
16 neo-folklore from the Right and neo-folklore from the Left.

17 Q And did you listen to music from both sides?

18 A From both sides.

19 Q And in 1973, were you aware of who Victor Jara was?

20 A No.

21 Q Had you ever seen him on television or his music on
22 the radio?

23 A At that time, no.

24 Q Okay. When did you and Mr. Barrientos first meet?

25 A When I was in school, he was a cadet at the military

1 school, around 1965, more or less.

2 Q Okay. And what school did he attend?

3 A Military School Bernardo O'Higgins.

4 Q And where did you live when you met Mr. Barrientos?

5 A In Las Condes. The community of Las Condes in
6 Santiago.

7 Q And how long did you live in Santiago?

8 A From 1964 to '71 when I got married.

9 Q And after meeting Mr. Barrientos in approximately
10 1965, was he with you in Santiago until you got married?

11 A No. He was there until he graduated as an officer.
12 And then he was assigned to Copiapo.

13 Q Now, during your courtship, did you ever go to the
14 O'Higgins Academy?

15 MR. BECKETT: Judge, I'm going to object again on
16 grounds of relevance. I don't see how this is relevant to
17 the case.

18 THE COURT: Let me see the lawyers briefly at
19 sidebar.

20 (Discussion at sidebar on the record.)

21 THE COURT: I called you up here just so you have
22 some guidance on my assessment of the testimony.

23 I gather that Mr. Calderon is trying to develop
24 some information about Mr. Barrientos' lifestyle, a little
25 window into the individual since he's on trial here for

1 having either directed or participated directly in the
2 murder of Mr. Jara.

3 I think the jury is entitled to a little bit of a
4 window into Mr. Barrientos to make an assessment as to
5 whether or not that type of conduct is consistent with the
6 individual.

7 I don't know that that's where Mr. Calderon is
8 going. But that's why I wanted to get you up here and see
9 if that's --

10 MR. CALDERON: Judge, I think to some extent
11 that's true. But this specifically is with regards to him
12 being in Santiago.

13 One of the questions or one of the designations
14 that was played for the jury, he was kind of questioned
15 with regards to having lived in Santiago and not having
16 known or been to the Estadio Chile.

17 And I think this not only gives us a little window
18 into Mr. Barrientos but why he would not have been familiar
19 with the Estadio Chile.

20 THE COURT: Okay. All right. That seems
21 reasonable to me.

22 I'm going to overrule your objection.

23 MR. BECKETT: Thank you, Judge.

24 (End of discussion at sidebar.)

25 THE COURT: All right. Thanks for your patience,

1 ladies and gentleman.

2 Objection is overruled.

3 You can proceed, Mr. Calderon.

4 BY MR. CALDERON:

5 Q And Miss Castro, did you ever go to the Bernardo
6 O'Higgins Academy with Mr. Barrientos?

7 A Many times.

8 Q And is there a reason why?

9 A Because he was a student there. And I was his
10 girlfriend. And as he was going up in rank and there was
11 parties there from the time he was a cadet all the way to
12 going up in rank, I would go to the parties with him.

13 I also used to go watch him because he would compete
14 in swimming.

15 Q And where is the O'Higgins Academy in relation to the
16 center of the city?

17 A Far away from him.

18 Q And would you ever go -- in that time, would you ever
19 go with Mr. Barrientos to the center of Santiago?

20 A No, we never went there. We never got out of the
21 community where my parents lived.

22 Q Is the Estadio Chile located near the city center?

23 A Yeah, from the city center, some blocks to the south.

24 Q And did you ever go with Mr. Barrientos to the Estadio
25 Chile?

1 A Neither one of us knew that place.

2 MR. BECKETT: Objection as to the defendant's
3 state of mind, Judge.

4 THE COURT: Objection is overruled.

5 BY MR. CALDERON:

6 Q And what area did you live in?

7 A Las Condes.

8 Q And what was -- was there anything of note in
9 Las Condes?

10 A Well, Las Condes, being like a small city, you had
11 everything. You had cinemas, theater, stores. You had
12 everything.

13 Q And when you went with Mr. Barrientos, did you ever go
14 to Santiago or the center of the city?

15 A No. Never.

16 Q Do you recall where you lived in 1978?

17 A Yes. I lived in the city of Arica, which is a border
18 town between Chile and Peru.

19 Q And who did you live there with?

20 A With my husband and two babies.

21 Q Where in Arica did you live?

22 A I lived in two different houses.

23 Q In 1978, where in Arica did you live?

24 A We lived in a military installation in a town, a
25 military town of the Sector El Quidray (phonetic.) It's

1 called Fort Azapa.

2 Q And did you live in housing provided by the military?

3 A Yes. It was inside the Fort. The regiment was. The
4 houses were in the regiment, inside the Fort.

5 Q And did you belong to a casino?

6 A Yes.

7 Q Which casino?

8 A Yeah, the one that belonged to that regiment number
9 six. It was in Arica. It was called Pynas (phonetic) with
10 a Y.

11 Q Was there more than one casino in Arica?

12 A Yes. The casino called El Morro, that belonged to two
13 sectors --

14 THE INTERPRETER: May the interpreter inquire the
15 names again, Your Honor?

16 THE COURT: Okay.

17 THE WITNESS: It belonged to two regiments.
18 First, the Rancagua and then the regiment Huamancucho with
19 an H.

20 BY MR. CALDERON:

21 Q What did you do at the casino?

22 A Which one?

23 Q In 1978.

24 A Latinos, on the weekends, on Saturdays and Sundays, we
25 would go there to have lunch with the children, just like

1 all the officers did. The ones that were married.

2 Q And was this a social club?

3 A Yes. There was even a swimming pool there.

4 Q And was entry into the casino limited in any fashion?

5 A Yes. There was a main entrance that had at the
6 entrance two military police.

7 Q And was there any limit on who could attend or who
8 could go to the casino?

9 A It was exclusively, exclusively for the officers on
10 regiment number six, and were able to attend there, whether
11 they were single; or if they were married, they could bring
12 their families.

13 Q Did you ever meet an official or an officer named
14 Jorge Smith Gumucio?

15 A Yes, of course. In Tejas Verdes.

16 Q And what year was that?

17 A I arrived at Tejas Verdes in the summer of 1972.

18 Q And when was the last time you saw Jorge Smith
19 Gumucio?

20 A Physically, near me, it was the day that we found out
21 that Rodrigo Rodriguez Fuschloger had died.

22 Q And do you recall what year that was?

23 A Yes. That had to be the last quarter of 1974.

24 Q And do you know where Jorge Smith Gumucio was in 1978?

25 A Yes.

1 Q Where was he?

2 A He was an officer, a staff officer on the school of
3 paratroopers in from the Army in Santiago.

4 Q And how did you know that?

5 A The group of engineers from the Army is very, very
6 small. (Speaking.)

7 MR. BECKETT: Judge --

8 THE WITNESS: And --

9 THE COURT: Hang on.

10 MR. BECKETT: Judge, object. The basis for the
11 answer is hearsay. She's reporting what other people have
12 told her.

13 THE COURT: Can you help me understand where this
14 is going, Mr. Calderon?

15 MR. BECKETT: Can we do this outside the presence
16 of the jury, Judge?

17 THE COURT: Okay. Well, let me see the lawyers at
18 sidebar. It's too early for a break.

19 (Discussion at sidebar on the record.)

20 THE COURT: Where is this going? I'm trying to
21 get some context.

22 MR. CALDERON: Sure. There's a conscript by the
23 name of Jose Navarrete who claims that Mr. Barrientos
24 confessed to killing Victor Jara in 1978 or 1979 at a
25 social club in the region that we're discussing right now.

1 He claims that he was accompanied by the individual that
2 I'm asking about.

3 And so we're just getting information regarding
4 that individual and where they lived, where they were, and
5 who else might have been there.

6 MR. BECKETT: The basis for the response was that
7 she had heard from other people about this. That's how she
8 knew. It's based on hearsay. She said it herself.

9 She began to say that. When it will be
10 translated, that's what she said.

11 THE COURT: So what do you say to the hearsay
12 objection, Mr. Calderon?

13 MR. CALDERON: Judge, I think it goes to the state
14 of mind. I can ask it a different way. But it goes to her
15 state of mind as to whether she knew of him being in the
16 city during 1978.

17 MR. BECKETT: She has no independent personal
18 knowledge of this opinion. It's based on rank hearsay and
19 rumors from other people.

20 THE COURT: I'm going to sustain the objection.

21 (End of discussion at sidebar.)

22 THE COURT: Again, I apologize for the
23 interruptions, ladies and gentleman.

24 The objection is sustained.

25 MR. CALDERON: May I inquire?

1 THE COURT: Yes, sir. You may inquire.

2 BY MR. CALDERON:

3 Q Did you ever see Mr. Jorge Smith Gumucio in Arica in
4 1978?

5 A Negative. No, never.

6 Q The housing in which you lived in, did all the
7 officers and their wives who are assigned to that location,
8 did they reside there?

9 A In '78?

10 Q Yes.

11 A Everybody. Everyone.

12 Q And did you ever see Jorge Smith Gumucio in that
13 housing complex?

14 A He was single and he didn't live in Arica.

15 Q Now, did you move in 1979?

16 A Yes.

17 Q Where?

18 A We moved to a private residence in the civilian area
19 because my husband was transferred to a division in Matia
20 (phonetic), Number 24 in Huamachuco.

21 Q And where was this house located?

22 A It was right around the corner of the Garcia North,
23 the North University. It was on a corner. It was a very
24 beautiful house.

25 Q And did you belong to a casino at that point in time,

1 in 1979?

2 A Well, we were assigned there to the casino El Morro,
3 which had -- was assigned to Rancagua and Huamachuco.

4 Q And this was different than the casino that you
5 attended in 1978?

6 A Different.

7 Q Did you ever go back to the casino named Tinos?

8 A You couldn't do it because it belonged to a different
9 regiment.

10 Q Now, when you did attend the casino in Tinos, who
11 would serve the officers?

12 A The cook was a lady. There was some lady waitresses.
13 And the only man there was Don Mario who tended the bar and
14 gave drinks to the children.

15 Q In 1978, did you ever see any soldiers serving the
16 officers at Tinos?

17 A No. That didn't exist. It wasn't like that.

18 Q Now, was Tinos referred to as anything else?

19 A Hotel Tinos until the Army bought it. And then it
20 became Casino Tinos.

21 Q Was any of the other casinos referred to as a hotel?

22 A No.

23 Q In 1979, you stated that Mr. Barrientos had been
24 reassigned. Was he living in the home with you?

25 A He would come down every 15 days.

1 Q And where was he coming from?

2 A Can I explain?

3 Q Sure. Please explain where he was or where he was
4 coming from.

5 A The Huamachuco regiment was super big. He had
6 different headquarters on all the lowlands -- highlands of
7 Chile, almost all the way to Bolivia.

8 Q And about how far was it where he was stationed?

9 A Headquarters Buitre (phonetic) was the one that
10 corresponded to my ex-husband was about 150 kilometers.

11 But at an altitude of 4,380 meters. And it was a dirt
12 road with gravel and very deep, steep cliffs.

13 Q Did you ever visit him when he was stationed there?

14 A I was there -- I went there three times. I was the
15 only woman who dared to drive all the way over there.

16 Q How long did it take you to drive there?

17 A Three and a half hours. May I explain?

18 Q Sure.

19 MR. BECKETT: Objection, Judge. This calls for a
20 narrative answer.

21 THE COURT: Let's do it by Q-and-A, Mr. Calderon.

22 MR. CALDERON: Sure, Your Honor.

23 BY MR. CALDERON:

24 Q Can you explain -- well, let me ask it this way.

25 How long did it take to get back?

1 A Well, the same time, the same amount of time because
2 it's as difficult to go up than to come down from those
3 cliffs.

4 Q Now, in 1980, did you move?

5 MR. BECKETT: Objection. Leading.

6 THE COURT: Objection is overruled.

7 THE WITNESS: Yes. Because my husband was
8 transferred from the regiment of Tacna (phonetic) because
9 my husband had been transferred.

10 BY MR. CALDERON:

11 Q And where is that? I won't try to repeat it.

12 A The second region of our country.

13 Q And about how far is that from Arica?

14 A Well, more than ten hours.

15 Q And were you, did you have to or did you attend a
16 casino when you were living there?

17 A Okay. That casino was so small, the officers' casino
18 was so small. The only ones that were allowed to sleep
19 there were the single people and some single and the
20 married ones.

21 And we used to go to Chile. It was a casino that was
22 left there by the company, Chile Exploration Company, that
23 was after -- while they were -- after they were working
24 there in Chile.

25 Q Now, in 1978, did you ever see Mr. Barrientos

1 accompanied by bodyguards?

2 A May I explain?

3 Q I'm going to ask you just to answer the question.

4 A At that time, there were no bodyguards for anybody,
5 the whole country.

6 MR. BECKETT: Objection, Judge, on the basis of
7 lack of personal knowledge. The question --

8 THE COURT: Objection is sustained.

9 The jury will disregard the witness' response to
10 the last question.

11 You can recast the question, Mr. Calderon.

12 BY MR. CALDERON:

13 Q With respect to Mr. Barrientos and only
14 Mr. Barrientos, did you ever see him accompanied by
15 bodyguards in 1978?

16 A No, never. They didn't exist.

17 Q Did you ever see him with bodyguards, and with respect
18 to Mr. Barrientos and only Mr. Barrientos, any bodyguards
19 in 1979?

20 A No.

21 Q Now, with respect to 1980, did you ever see
22 Mr. Barrientos with any bodyguards?

23 A They didn't exist.

24 THE COURT: Again, ladies and gentleman, disregard
25 the witness' response to the last question.

1 Mr. De la Mora.

2 THE INTERPRETER: Your Honor.

3 THE COURT: Ask the witness, please, to be
4 responsive only to the question. The question was as to
5 Mr. Barrientos, not to anyone else.

6 THE WITNESS: No.

7 BY MR. CALDERON:

8 Q When was the last time that you personally saw
9 Mr. Barrientos accompanied by bodyguards?

10 A When the thing in September finished, when he got back
11 to Tejas Verdes in November, that's where the bodyguards
12 ended, in November.

13 Q When you lived in Arica, did you meet all the
14 commanders of the regiment?

15 A Of course, the regiment we belonged to?

16 Q With respect to the Tejas Verdes regiment.

17 A '73, '72.

18 Q In 19 -- in all of the years that you lived there, so
19 1973 through 1979.

20 A (Speaking.)

21 MR. BECKETT: Judge, objection. The objection is
22 whether she knew the officers, yes or no. It calls for a
23 yes-or-no question. It's nonresponsive.

24 THE COURT: Well, you have me at a disadvantage,
25 Mr. Beckett, because you understood the response. I did

1 not understand the response.

2 So, Mr. de la Mora, ask the witness if she can
3 confine her answer to the question that was asked, did you
4 meet all the commanders of the regiment during the years
5 that you lived in Tejas Verdes?

6 THE WITNESS: Well, the thing is that I lived in
7 Tejas Verdes from '75. After that I was -- '75. After
8 that, I lived in Arica.

9 THE COURT: I was confused by the question as
10 well. So let's see if we can clear that up, Mr. Calderon.

11 MR. CALDERON: I apologize, Your Honor.

12 BY MR. CALDERON:

13 Q Did you meet the commanders of the regiment when you
14 lived in Arica?

15 A Yes.

16 Q And what commanders did you meet?

17 A Eugerio Albornoz (phonetic.) Eugerio Albornoz and his
18 wife, Lulu. And Jorge Nunez Magallanes (phonetic) and his
19 wife, Silvia.

20 Q Did you ever meet someone named Jorge Barra Lama?

21 A He was not a commander in the regiment when I was
22 there, and I didn't meet him.

23 Q In 1979, did you ever see Jorge Smith Gumucio?

24 A No.

25 Q During the years of 1978 to 1980, did you ever see

1 Mr. Barrientos drink alcohol?

2 A Yes.

3 Q Did you ever see him get intoxicated?

4 A Yes.

5 Q And at any point during the years 1970 through 1980,
6 did he ever confess or admit to having any involvement in
7 the death of Victor Jara?

8 A No.

9 Q When did you divorce Mr. Barrientos?

10 A In 1985, over 30 years ago, a little bit over 30 years
11 ago.

12 Q When did you first hear about the atrocities that took
13 place in 1973 in Chile?

14 A First time, it was the year 1987.

15 Q And how did you find out?

16 A (Speaking.)

17 Q And how did that impact you?

18 THE INTERPRETER: May I ask for the interpreter to
19 answer?

20 MR. CALDERON: Sorry.

21 THE INTERPRETER: Sorry.

22 THE WITNESS: Because of a book called "Los
23 Zarpazos del Puma," the clawing of the puma, from a
24 newspaper lady by the name of Verdugo, a very serious
25 newspaper lady.

1 BY MR. CALDERON:

2 Q And how did that impact you?

3 A A lot. Should I explain?

4 Q Please explain how it impacted you.

5 MR. BECKETT: Judge, I object on grounds of
6 relevance, the impact on this witness.

7 THE COURT: Objection is overruled.

8 BY MR. CALDERON:

9 Q Please explain how this book impacted you.

10 A I started reading it at my lunch hour at the bank.
11 And it was so much that I have to ask permission from my
12 boss at the bank to leave right away because I had to
13 leave.

14 Q Did the book describe graphic accounts of atrocities
15 that took place in 1973?

16 A No. '80, '86, different years.

17 Q Did you doubt the accuracy of the book?

18 A No, not that book. I was sure it was true.

19 Q Why?

20 A Because that female newspaper reporter is a very
21 serious one. And the names would come out and the police
22 reports, and the names on them would come out.

23 Q And did you recognize those names?

24 A He was not in the book. But I did -- for many names
25 that were in the book, I did know three of the officers

1 that were mentioned in the book.

2 Q So what did you do when you finished the book?

3 A I took a deep breath. I picked up the phone. And I
4 called him immediately to Antofagasta, which is where he
5 lived with his new wife.

6 Q And did you confront him with what you had read in the
7 book?

8 A Can I explain?

9 Q Just if you could please just answer the question.

10 A I confronted him very seriously.

11 Q And what was his reaction?

12 A Can I tell you what I asked him?

13 Q I prefer if you just describe what his reaction was.

14 A He told me to be cool about it, to rest assured that
15 his hands were clean because he had been in the regiment
16 with the soldiers only.

17 THE COURT: Mr. Calderon, let's take our break
18 here.

19 Ladies and gentleman, it's a little past our
20 90 minute mark. If I could ask you to be back at 3:30,
21 we'll resume with the examination of this witness.

22 (Jury exited the courtroom at 3:14 p.m.)

23 THE COURT: Please be seated.

24 Mr. de la Mora, if you would instruct the witness
25 while she's in the midst of her testimony it's not

1 appropriate for her to discuss it with any of the lawyers
2 or any of their representatives.

3 We'll be in recess until 3:30.

4 (Recess at 3:15 p.m. to 3:31 p.m.)

5 MR. BECKETT: Judge, before the jury comes in, if
6 it pleases the Court, we just have a question.

7 THE COURT: Back on the record in Jara versus
8 Barrientos Nunez, 6:13-civil-1426.

9 Waiting for Mr. Calderon. There he is. Standing
10 at the podium.

11 MR. CALDERON: I'm short, but I'm not that short.

12 THE COURT: My bad.

13 All the parties and counsel are present.

14 Yes, sir, you have something you wanted to raise?

15 MR. BECKETT: Judge, yes. We would like to change
16 interpreters. No disrespect at all to the present
17 interpreter. But for cross-examination, I just wanted to
18 flag that for the Court and counsel at this point.

19 THE COURT: Okay. Do you want to use Mr. Icaza?

20 MR. BECKETT: Yes. Francis, yes.

21 MR. CALDERON: Judge, if we want to do that now
22 since we did take a break. I know Mr. de la Mora has been
23 at it for a little bit. If you want to do it now, make it
24 seem like a casual transition.

25 THE COURT: That's fine. It might give Mr. de la

1 Mora a little bit of a rest.

2 Mr. Icaza, why don't you come forward and take
3 over.

4 Ready to proceed? Let's bring them in, please.

5 MR. CALDERON: Do you want the witness to be
6 seated?

7 THE COURT: Yes, please.

8 (Jury entered the courtroom at 3:33 p.m.)

9 THE COURT: Welcome back, ladies and gentleman.
10 Mr. Calderon, you may inquire.

11 MR. CALDERON: Thank you, Your Honor.

12 BY MR. CALDERON:

13 Q Miss Castro, after you confronted Mr. Barrientos in
14 1987, did you communicate with him after that?

15 A Yes.

16 Q Was that communication pretty regular?

17 A Very regular.

18 Q What did you communicate with regards to --

19 THE INTERPRETER: Interpreter requests the
20 attorney repeat the question.

21 BY MR. CALDERON:

22 Q What did you communicate -- with regards to what did
23 you communicate?

24 A The children.

25 Q When did you first learn about this suit?

1 A The one in the United States, at the beginning of
2 2013.

3 Q And when did you first learn about the death of Victor
4 Jara?

5 A I believe it was in 2008 through the "La Nacion"
6 newspaper.

7 Q And since 2003, have you yourself been involved in
8 investigating on his behalf?

9 A 2003 or 2013?

10 Q 2013.

11 A Investigating?

12 Q Yes.

13 A Yes.

14 Q How?

15 A First, I located Lieutenant Smith Gumucio. And then I
16 located the attorney for Colonel Sanchez.

17 Q And did the attorney for Colonel Sanchez give you any
18 information?

19 A All of it.

20 Q What information did he give you?

21 A Twenty-two volumes had existed at that time of the
22 case of Victor Jara.

23 Q And did you review them all?

24 A Page by page from Volume One until the last page of
25 Volume Twenty-Two.

1 Q And what steps did you take after reading those
2 documents?

3 A I selected everything that had to do with Tejas
4 Verdes.

5 Q And in doing that, what did you do with that
6 information?

7 MR. BECKETT: Judge, I'm going to object at this
8 point. May we approach?

9 THE COURT: Yes.

10 (Discussion at sidebar on the record.)

11 MR. BECKETT: I'm sorry to make this objection.
12 But this witness is now testifying about volumes.

13 THE COURT: She can't hear you.

14 MR. BECKETT: This witness is now testifying about
15 volumes and volumes of materials that are in the criminal
16 case file in Chile.

17 And she's now being asked questions, well, what
18 did you do with this information?

19 While they may be artfully avoiding the hearsay of
20 personal knowledge objection, what they are, in fact, doing
21 is putting this record that is not in this case before this
22 jury.

23 And a lot of materials she may talk about are not
24 exhibits here. There are very few exhibits. We want the
25 case tried on the evidence.

1 THE COURT: You're asking me to anticipate what
2 the witness is going to say. I don't know what she's going
3 to say.

4 The question is, what did you do with this
5 information?

6 There's nothing objectionable about that, at least
7 at this point in time.

8 MR. CALDERON: Judge, she was asked to basically
9 take the declarations of several soldiers, one of his is
10 Duarte. I want to establish for the jury she didn't pick
11 these names out of thin air.

12 MR. BECKETT: These declarations aren't in the
13 case.

14 MR. CALDERON: Well, that's not true. I mean, in
15 Gustavo Baez's deposition, there was some testimony from
16 one she was confronted with. There's that and many of the
17 soldiers gave declarations during this time with respect to
18 the Tomos they were provided in discovery.

19 MR. BECKETT: They're not part of the case.

20 MR. CALDERON: We're seeking to admit them.

21 THE COURT: I'm not going to let her testify with
22 respect to hearsay information. And that's obvious, I
23 hope.

24 If this witness, I think, would be permitted to
25 testify with respect to, you know, where did you get the

1 information that led you to engage in your investigation?
2 If that came from the -- I don't know if that's where it
3 came from or not.

4 But if that's where it came from, Mr. Beckett's
5 concern I think is well founded to the extent that this
6 witness that you're going to either ask her or she's going
7 to go of her own volition into offering information that
8 comes out of these files.

9 That's not appropriate.

10 MR. CALDERON: And, Judge, I've explained --

11 THE COURT: Let me finish.

12 MR. CALDERON: I'm sorry.

13 THE COURT: My difficulty, of course, is that with
14 the interpretation lag, it's difficult for me to intervene
15 in time for me to stop her because I don't speak Spanish.
16 So I can't understand her response until it's interpreted.

17 MR. CALDERON: And, Judge, I've explained to the
18 witness the hearsay rules. And I hope that she understands
19 at this point that what was actually read in the Tomos is
20 not fair game in her testimony. I've explained that to
21 her. We're trying to establish where these names came
22 from.

23 THE COURT: Why don't you ask her that?

24 MR. CALDERON: Sure.

25 THE COURT: Why don't you ask where did you get

1 the information that led you to speak to whoever it is she
2 spoke to.

3 MR. BECKETT: She's already given that
4 information. She's already said she got it from Tomos. I
5 don't see what you need to ask.

6 MR. CALDERON: Where she got the information.
7 I'll ask it like that.

8 THE COURT: That's fine. You can ask that
9 question.

10 (End of discussion at sidebar.)

11 THE COURT: Excuse the interruption, ladies and
12 gentleman.

13 You may inquire, Mr. Calderon.

14 MR. CALDERON: Thank you, Your Honor.

15 BY MR. CALDERON:

16 Q Miss Castro, was it through this information that you
17 were able to single out the names of individuals that you
18 wanted to interview?

19 THE COURT: That's not what I asked you to ask
20 her. I'm going to ask the question myself.

21 Ma'am, where did you obtain the information that
22 provided you with individuals that you believed you wanted
23 to talk to in connection with this incident?

24 THE WITNESS: From the police statements of the
25 personnel of Tejas Verdes.

1 THE COURT: Let me stop you and ask you a new
2 question.

3 Did you get this information from the materials
4 that were provided to you by the lawyer that you mentioned?

5 THE WITNESS: Yes. Okay.

6 THE COURT: All right. Thank you.

7 New question.

8 BY MR. CALDERON:

9 Q And how many individuals were you able to identify?

10 A Many.

11 Q And you believe that all of the individuals you
12 identified -- or did you believe that all of the
13 individuals that you identified would be helpful to your
14 investigation?

15 MR. BECKETT: Judge, I'm terribly sorry, but I
16 need to object. This is not consistent with the
17 stipulation in this case and the pretrial order that was
18 signed by Your Honor.

19 THE COURT: Well, I'm going to sustain the
20 objection.

21 Mr. Calderon, you can ask the witness what she did
22 and why she did it. I mean, let's see if we can proceed.

23 I'm a little bit concerned as well about our time
24 constraints. But we'll take as long as is necessary,
25 obviously, in order to get the case resolved.

1 But if you just ask the witness direct questions
2 about what did she do and why did she do it, I think we can
3 move along in a way that's not going to run afoul of
4 Mr. Beckett's concerns.

5 So the objection is sustained.

6 BY MR. CALDERON:

7 Q Miss Castro, the names that you identified, did you
8 have an occasion to meet with any of the, of those
9 individuals?

10 A Yes, with Quiroz firstly.

11 Q And did you believe that Mr. Quiroz was willing to
12 help you based on your contact with him?

13 A Because he told me so.

14 MR. BECKETT: Judge, objection. That was not
15 responsive.

16 Move to strike as nonresponsive and as hearsay.

17 THE COURT: Objection is overruled.

18 BY MR. CALDERON:

19 Q Did you meet with Mr. Quiroz?

20 A Yes.

21 Q Can you describe how that initial meeting took place?

22 A I located him by phone. I called him to an
23 appointment. We were at my apartment.

24 And I asked him if he would help me.

25 He told me yes.

1 And that's how we, over the weekends, located some of
2 the names that I had selected to consult with them once I
3 had located them to see if they could serve as witnesses
4 for open cases.

5 Q Regarding, open cases regarding who?

6 A To see if he could help.

7 THE COURT: Now, the question was, open cases
8 regarding whom?

9 THE WITNESS: With Mr. Barrientos.

10 BY MR. CALDERON:

11 Q Thank you.

12 Now, did Mr. Quiroz offer to give a declaration?

13 MR. BECKETT: Objection, Judge. Calls for a
14 hearsay response.

15 THE COURT: Objection is overruled.

16 THE INTERPRETER: Interpreter requests to repeat
17 the question.

18 BY MR. CALDERON:

19 Q Did Mr. Quiroz offer to give a declaration?

20 A I asked him for it, and he said yes.

21 Q Now, can you please describe the way that the
22 declaration was formatted?

23 MR. BECKETT: Judge, I'm sorry.

24 THE COURT: Ladies and gentleman, let me ask you
25 to step out for just a minute. This is going to take a

1 little bit more conversation than we can do at sidebar.

2 (Jury exited the courtroom at 3:46 p.m.)

3 THE COURT: All right. Mr. Calderon, why don't
4 you walk me through how you intend to elicit this testimony
5 so that I can try to stay on top of it.

6 MR. CALDERON: Absolutely, Judge.

7 So basically what I'm asking -- and I'm trying not
8 to lead -- is that the way the declaration was set up was
9 in a question-and-answer format.

10 If I can lead the witness a little bit, I can kind
11 of narrow the scope of what the response will be.

12 But it's mainly to show a pattern, because when we
13 get to Gustavo Baez's declaration, we want to show that
14 it's consistent with all the way the declarations were
15 done. Nothing was different. The same pattern was
16 followed.

17 We're not trying to elicit what was actually the
18 information that was in these declarations because both of
19 these witnesses will testify as to what their testimony is.

20 However, we want to show and demonstrate to the
21 jury that what Mr. Baez Duarte claims that things were
22 changed that we have a format that was followed
23 consistently among all the witnesses who met with
24 Mr. Barrientos and Miss Castro.

25 THE COURT: Yes, sir, Mr. Beckett?

1 MR. BECKETT: The declaration about which the
2 witness is speaking is not in evidence. Mr. Quiroz will be
3 a witness here. He's going to be called as the next
4 witness. So we're having a lot of testimony about a
5 statement that isn't in evidence and that won't be in
6 evidence.

7 And I think that the prejudicial effect of this is
8 the idea that there are these other statements out there
9 and her talking about them. And, frankly, she's giving a
10 lot of narrative responses that aren't responses to the
11 answer.

12 The contents of that is going to come in or it's
13 going to be implied. So under 403, I don't see the
14 relevance of this.

15 He's called it pattern evidence as if it's almost
16 404(b) evidence.

17 THE COURT: Well, what is the -- I have a lot of
18 concerns about the way the questioning is going which I'll
19 get to in just a minute.

20 What is the evidentiary objection to asking the
21 witness as to whether or not a declaration was obtained
22 from Mr. Quiroz; and if it was, having her describe the
23 format? What is the evidentiary objection to that?

24 MR. BECKETT: That declaration is not in evidence.
25 It's not relevant to this proceeding.

1 THE COURT: What rule of evidence?

2 MR. BECKETT: Rule 404.

3 THE COURT: What rule of evidence would preclude
4 this witness from answering a direct question, did you meet
5 with this witness; did he provide you with a declaration;
6 what was the format of the declaration?

7 MR. BECKETT: It's extrinsic evidence of an
8 out-of-court statement, Judge.

9 THE COURT: Okay. That's overruled.

10 Now, let me tell you what my concern is about the
11 way the questions are being asked, Mr. Calderon.

12 MR. CALDERON: Yes, sir.

13 THE COURT: Ask the witness direct questions that
14 are not leading in nature. It's particularly important
15 because of the translation required here.

16 So ask the witness specific questions: Did you
17 meet with Mr. Quiroz? Did Mr. Quiroz provide a
18 declaration? Can you describe the format of the
19 declaration? What was the format of the declaration?

20 Because I do not want this witness volunteering
21 information from the declaration or that constitutes
22 hearsay or that otherwise communicates to the jury what
23 Mr. Quiroz told her because that's not permissible.

24 Understood?

25 MR. CALDERON: Understood, Your Honor.

1 THE COURT: All right. Let's bring our jury back,
2 please, Mr. Carter.

3 (Jury entered the courtroom at 3:50 p.m.)

4 THE COURT: Pardon the interruption, ladies and
5 gentleman. Welcome back.

6 You may inquire, Mr. Calderon.

7 BY MR. CALDERON:

8 Q Did Mr. Quiroz give you a declaration?

9 A Yes.

10 Q What format was the declaration in?

11 A It was a format of questions and answers.

12 Q Who formulated the question?

13 A It was sent to me by Mr. Kubicz from the Baez Law Firm
14 who is doing the defense here in the United States.

15 Q And did you read the questions to Mr. Quiroz?

16 A Yes.

17 Q And did he give a verbal response?

18 A Verbal.

19 Q And did you record or write down those responses?

20 A I would repeat them --

21 THE INTERPRETER: Interpreter requests a moment to
22 ask the witness to explain.

23 THE COURT: Yes.

24 THE WITNESS: I would repeat them. He would
25 respond. And then I would write them down.

1 BY MR. CALDERON:

2 Q And did you do that for each and every question?

3 A With all of them, with all 18.

4 Q Did you do that with respect to the responses?

5 A What they would answer me?

6 Q Yes.

7 A Yes.

8 Q And did you formulate those questions and answers into
9 a document?

10 A I wrote them down in a notebook.

11 Q And did you then transfer that information to a
12 document?

13 A To the computer, and I printed it.

14 Q And with that document, did you have it notarized?

15 A I went with them to the notary.

16 Q Again, we're talking with respect to Mr. Quiroz.

17 A Oh, I'm sorry. I'm sorry. Yes. Yes.

18 Q What is a notary?

19 A In Chile, a notary is an attorney with many years as
20 an attorney, and he's appointed by the judicial branch much
21 like the judges.

22 Q Did you go there with Mr. Quiroz?

23 A Yes, but I went the day before as well.

24 Q Why did you go there the day before?

25 A Because I went to tell him that I was the ex-wife to

1 Mr. -- Lieutenant Barrientos. And the attorneys for
2 Mr. Barrientos from the United States asked me for
3 assistance, and I was doing that.

4 And I needed a sworn statement before a notary.

5 Q Was that the first time that you met with that notary?

6 A That's the first time I saw the notary.

7 Q And was the second time when you were with Mr. Quiroz?

8 A In fact.

9 Q And can you please describe what the notary did with
10 the document?

11 A He made us go upstairs and wait in his office. He had
12 us come into his office, Quiroz and myself. He greeted us.
13 He read the document. He asked him whether or not he was
14 aware what was written there. He remarked upon that. And
15 he said, okay, go down to one of the employees.

16 He asked for the Chilean national identity card. He
17 had him sign and place his fingerprint there.

18 Q Did the notary stamp each page of that document?

19 A A rubber stamp, the watermark stamp, and his
20 signature.

21 Q Who is the next person you met with?

22 A Hinojosa.

23 Q And did you take his declaration?

24 A Yes.

25 Q And did he do that -- or did he offer to do that, to

1 do that declaration?

2 A Of course.

3 Q Were the same questions asked of him?

4 A Exactly the same.

5 Q And where was the declaration done?

6 A At my apartment again, but it was written down by his
7 wife, Mrs. Hinojosa.

8 Q Did you read every question to him out loud?

9 A Of course.

10 Q Did he respond to every question out loud?

11 A All of the questions were answered by him.

12 Q Was it Mr. Hinojosa's wife who recorded the responses?

13 A Yes. All of them.

14 Q Were the responses then read back to Mr. Hinojosa?

15 A Of course.

16 Q Was this done for every question?

17 A With all of the questions, all 18.

18 Q Was this done with each response?

19 A With all of the answers.

20 Q And upon finishing the declaration, did you put all of
21 this information into a document?

22 A I transcribed it just as I did with the previous one,
23 which would come out to four pages or five pages, depending
24 on what their statement was.

25 Q Did you then go with Mr. Hinojosa to the notary?

1 THE COURT: Mr. Calderon, don't --

2 THE WITNESS: (Speaking.)

3 THE COURT: Hang on just a moment.

4 Don't lead your witness. What did you do next?

5 What did you do with the information you accumulated?

6 Direct questions.

7 BY MR. CALDERON:

8 Q What did you do with the document?

9 A I went on the Monday morning with Hinojosa to the
10 notary public.

11 Q And what did you do when you got there?

12 A We went up the stairs. We waited for the notary. He
13 had us come in. He greeted us. And the same thing that
14 happened with Quiroz happened again.

15 Q Was this the same notary?

16 A The same notary.

17 Q And could you describe -- you said it was the same
18 way. Could you just describe what that means?

19 A With the wait, was for waiting for his personnel to
20 sign things, five minutes.

21 Q Who was the next person that you met with?

22 A Baez.

23 Q And did that person give you a declaration?

24 A Yes. Okay.

25 Q Where was that declaration made?

1 A Exactly all the same, in the dining room of my
2 apartment in Las Condes.

3 Q Was anyone present?

4 A Quiroz.

5 Q Did Mr. Quiroz say anything -- or strike that.

6 Were the questions asked -- was the declaration -- in
7 what format was the declaration?

8 A Exactly the same, questions and answers.

9 Q And was the question read to Mr. Baez?

10 A The same as all of them. It was read to him. He
11 responded. It was read to him. He responded. It was
12 written.

13 Q And was this done with the responses as well?

14 A With the responses as well.

15 Q If there were any errors in the document, did you
16 correct them?

17 A No.

18 Q What did you do with that information?

19 A Just as it had been dictated, I transcribed it to the
20 computer. And I made four copies.

21 Q What did you do with those documents?

22 A We went with Baez to the notary, along with Quiroz as
23 well.

24 Q And what did you do at the notary?

25 A The same thing. We went up the stairs. We waited for

1 the notary. The notary greeted us. We spoke to him. He
2 gave us a sheet.

3 Q And were all the documents notarized?

4 A All of them.

5 Q Did you give Mr. Baez a copy?

6 A To all of them, a copy.

7 Q Oh, but specifically with Mr. Baez, did you give him a
8 copy?

9 A Yes.

10 Q And would you recognize that document if you saw it
11 today?

12 A Of course.

13 MR. CALDERON: Your Honor, may I approach the
14 witness?

15 THE COURT: Yes.

16 THE WITNESS: In fact, this is the very same
17 statement.

18 BY MR. CALDERON:

19 Q And has anything been altered or changed in that
20 document?

21 A No, nothing.

22 MR. CALDERON: Your Honor, at this time I would
23 ask to move Defense Exhibit 1 into evidence.

24 THE COURT: Any objection, Mr. Beckett?

25 MR. BECKETT: We object to this for the reasons

1 previously stated. Just renew our objection.

2 THE COURT: Objection is overruled.

3 It will be admitted over the defense objections
4 previously articulated.

5 (Defendant's Exhibit 1 was received
6 in evidence.)

7 MR. CALDERON: Your Honor, could we briefly
8 approach on this exhibit before I publish it?

9 THE COURT: Yes, I guess.

10 (Discussion at sidebar on the record.)

11 THE COURT: Yes, sir.

12 MR. CALDERON: I apologize, Your Honor. It was
13 brought to my attention in reviewing our translations that
14 I believe that the document, translated document runs afoul
15 of our agreement with regards to Mr. Paredes.

16 I've prepared a redacted version. I'm asking to
17 publish to the jury, which removes the responses in which
18 Paredes' name is mentioned. I just didn't want to run
19 afoul.

20 I realize that part is not redacted. I can
21 publish the document as a whole, but I think this --

22 MR. BECKETT: I'm not sure which is better, Judge.
23 But that is consistent with our -- it is consistent with
24 our case. That's consistent with our order.

25 THE COURT: Well, you all refresh my recollection

1 about the Paredes stipulation.

2 MR. BECKETT: There was a stipulation signed as an
3 order that there wasn't to be reference to witnesses and
4 what they might say, potential witnesses. And Paredes
5 would be one such person.

6 THE COURT: Well, I'm at a disadvantage in terms
7 of you all's discussions with respect to how the documents
8 are going to be marked.

9 If Mr. Beckett is in agreement that what you want
10 to publish in redacted form is acceptable, then I won't get
11 in the middle of that.

12 MR. BECKETT: Having just looked at this, can I
13 have one second with co-counsel?

14 THE COURT: Sure you can.

15 (End of discussion at sidebar.)

16 THE COURT: Mr. Beckett, have you had a chance to
17 review the document?

18 MR. BECKETT: No objection to the form of the
19 document, Judge.

20 THE COURT: All right. You may publish the
21 document, Mr. Calderon.

22 MR. CALDERON: Thank you, Your Honor.

23 If I could just have the ELMO.

24 THE COURT: Lest it slip my mind, please let me
25 remind the lawyers to be sure that the documents that are

1 in evidence are consistent with what's been displayed. So
2 if you need to swap any of those out to use the correct
3 ones, then please make sure you remember to do that.

4 I'll try to remind you, but I may forget as well.

5 MR. CALDERON: Thanks, Judge.

6 BY MR. CALDERON:

7 Q Now, Miss Castro, you have before you the Spanish
8 version of this document.

9 A Okay.

10 Q I'm going to ask you to turn your attention to
11 question number one.

12 And if you'd like, you can read the question to
13 yourself, as well as the response.

14 With regards to that first question and that first
15 response, is that your recollection of the question you
16 asked and his response?

17 MR. BECKETT: Judge, objection. This is now
18 another out-of-court statement that's being introduced
19 under 613. If that is, indeed, what it is. We have the
20 statement before us.

21 THE COURT: The objection is sustained. The
22 document speaks for itself.

23 BY MR. CALDERON:

24 Q Have you altered the question or the response in any
25 way?

1 A Never.

2 Q Please turn your attention to question number two and
3 response number two.

4 Please feel free to read the question and the answer.

5 A (Complying.)

6 Q And can you do the same for number three?

7 A (Complying.)

8 Q And I'm going to ask you to do the same thing with
9 number four.

10 A (Complying.)

11 Q Now, if you could read 5, 6, and 7, and those
12 responses.

13 A (Complying.)

14 Q Now, finally, if you could read question 8.

15 A (Complying.)

16 Q And I'm going to direct your attention to the final
17 page of the document.

18 When was this document executed?

19 A June 11.

20 Q Of what year?

21 A 2015.

22 Q And have any of the responses that you read, number
23 two through number eight, have they been altered in any way
24 since that date?

25 MR. BECKETT: Objection, Judge. Asked and

1 answered.

2 THE COURT: Objection is overruled.

3 THE WITNESS: No.

4 BY MR. CALDERON:

5 Q At any point during your time with your meeting with
6 Mr. Baez, did he ever indicate to you that he could not
7 read?

8 A No. He never said that.

9 Q Did he ever indicate to you that one of his answers
10 was incorrect?

11 A No. Never.

12 Q When you went with Mr. Baez to the notary, how many
13 times had you been there prior to that?

14 A Hinojosa, with him, it would have been the fourth
15 time.

16 Q Do you know Mr. Barrientos' family?

17 A Yes, of course.

18 Q Are they a military family?

19 A No. The only military man is him. His father died.
20 He was a retired military man, but he's dead. I didn't
21 meet him. He was already dead.

22 MR. CALDERON: Nothing further, Your Honor.

23 THE COURT: Cross-examination, Mr. Beckett?

24 **CROSS EXAMINATION**

25 BY MR. BECKETT:

1 Q Good afternoon, Mrs. Barrientos.

2 A Good afternoon, sir.

3 Q I can call you Mrs. Barrientos, right?

4 A It's all the same to me.

5 Q You worked at Chile Bank for about 40 years, the Bank
6 of Chile, correct?

7 A No. The Bank of the State of Chile.

8 Q And the Bank of the State of Chile is owned by Chile;
9 is that right?

10 A It is a state bank.

11 Q And at the time of your retirement in 2009, you were a
12 manager at that bank, right?

13 A I retired in 2011, not 2009.

14 Q And at the time of your retirement, you were a manager
15 of the bank, correct?

16 A No. I was an agent.

17 Q Tell us briefly what an agent is.

18 A It is a number one boss of a branch office, which in
19 my case I had five department chiefs under me and
20 20-something other employees.

21 Q So you were a pretty important person at that bank at
22 the time of your retirement, correct?

23 A I don't know if it was important. Hard working.

24 Q Uh-huh. And if I called the bank and asked to speak
25 to Mrs. Barrientos, they would connect me to you, correct?

1 A Obvious, yes.

2 Q That's how you identified yourself, as
3 Mrs. Barrientos, right?

4 A No. In Santiago, Maria Teresa Castro.

5 Q You're presenting herself here today as Maria Teresa
6 Castro Barrientos. Was that introduction by your
7 ex-husband's lawyer incorrect?

8 A No. When they asked me, I said I am Maria Teresa
9 Castro Barrientos, what they made me say when I came here.

10 Q Oh. So the lawyers for your husband made you say that
11 you were Maria Teresa Castro Barrientos?

12 MR. CALDERON: I'm going to object as to
13 argumentative.

14 THE COURT: Objection is overruled.

15 You can answer.

16 THE WITNESS: I am a Barrientos because my mother
17 held the name Barrientos. My mother, Juana Cunte
18 (phonetic.) I am Castro Barrientos from my mother. He is
19 Castro -- he is Barrientos Nunez.

20 BY MR. BECKETT:

21 Q You and Mr. Barrientos had four children together,
22 correct?

23 A No.

24 Q How many children do you have with Mr. Barrientos?

25 A Three.

1 Q And they have grandchildren -- you have grandchildren
2 through those children?

3 A Yes.

4 Q And you keep Mr. Barrientos updated about the
5 activities of his children and grandchildren in Santiago,
6 in South America generally, correct?

7 A Always.

8 Q And you frequently text him, correct?

9 A Photos, videos.

10 Q You use WhatsApp?

11 A Yes.

12 Q And sometimes when you're texting him on WhatsApp, you
13 use the term yoohoo, right?

14 MR. CALDERON: I'm going to object as to hearsay.

15 THE WITNESS: When he doesn't answer.

16 THE COURT: Can you stop for just a second?

17 I didn't hear the objection.

18 MR. CALDERON: Hearsay.

19 THE COURT: Objection is overruled.

20 THE WITNESS: When he doesn't answer me.

21 BY MR. BECKETT:

22 Q So when you became impatient with his failure to
23 answer, you WhatsApp him yoohoo, right?

24 A Yes.

25 Q Because you want to hear from him quickly, right?

1 A I'm like that.

2 Q I can see. Now, you update him, I take it, about
3 family events like soccer games and the achievements of
4 your children and grandchildren, correct?

5 A Football? No.

6 Q Okay. Other sporting events, though?

7 A None. I'm not a sports person.

8 Q No. I mean the sporting events of the grandchildren,
9 the achievements of the grandchildren. That's what you
10 update him on?

11 A They're babies.

12 Q They're babies. Okay. So they're still little. You
13 send him pictures of the babies, right?

14 A Yes.

15 Q And although you're formally divorced, you have taken
16 family vacations together with Mr. Barrientos, correct?

17 A Yes, of course.

18 Q And you've gone with him to places like the Bahamas,
19 correct?

20 A Yes, of course.

21 Q Okay. You and Mr. Barrientos have a shared history,
22 right?

23 A Of course.

24 Q And, of course, you have a shared family?

25 A Children, grandchildren.

1 Q Right. He is and he will always be the father of your
2 children, the grandfather of your grandchildren?

3 A Even after he's dead.

4 Q Exactly. You still care about him?

5 A I believe so.

6 Q Well, you have a close relationship with him through
7 your shared family, right?

8 A Correct.

9 Q Now, you love your children as every mother does,
10 right?

11 A Yes.

12 Q You wouldn't want any bad thing to happen to your
13 children, correct?

14 A Of course.

15 Q You wouldn't want them to be held up to any form of
16 public ridicule, would you?

17 A Of course. It would not be -- it would be untoward.
18 They haven't done anything.

19 Q Yeah. And that's just the case, isn't it, where a
20 father -- or strike that.

21 Children of a father who has done something wrong can
22 inherit a negative reputation through no fault of their
23 own, correct?

24 A No. In Chile it's individual.

25 Q Okay. So in Chile, in Chile, there is no concept of

1 family reputation. Is that what you are telling the jury?

2 A No. It is individual.

3 Q So no one in Chile says, Oh, his father was a great
4 man? Or his father was a criminal?

5 No one says anything like that?

6 MR. CALDERON: Objection, Your Honor.

7 Argumentive.

8 THE COURT: Overruled.

9 THE WITNESS: No.

10 BY MR. BECKETT:

11 Q You would do anything you could to prevent your
12 children and your grandchildren from being known as the
13 descendants of the man who tortured and killed Victor Jara,
14 correct?

15 A No, I would not because that is not right.

16 Q Do you agree with me that if Mr. Barrientos were,
17 indeed, the man who tortured and killed Victor Jara, that
18 you would be ashamed for the reputation that would create
19 for your family?

20 A That isn't going to happen because that's not right.

21 Q You say that's not right. Let's talk about that.

22 You told us in response to questions from Mr. Calderon
23 that you read a certain book. And I'm searching for the
24 name. I think it's called -- it has to do with a puma,
25 the --

1 A It's Zarpazos del Puma.

2 Q And zarpazos means, I think, clawing of the puma,
3 correct?

4 A Yes. Of course.

5 Q And you told us you had read this book in 1987,
6 correct?

7 A Yes. Okay.

8 Q And this book was about some of the atrocities that
9 had been committed during the military dictatorship in
10 Chile, correct?

11 A Yes, of course.

12 Q You were horrified about what you read?

13 A It impacted me greatly.

14 Q In fact, you told us you were so horrified, you were
15 sick to your stomach. You had to leave work, right?

16 A Not sick to my stomach. I became very upset.

17 Q You became emotionally distraught, correct?

18 A Yes, of course.

19 Q So upset that you had to leave work that day, correct?

20 A I asked for permission to leave.

21 Q Did you get permission to leave?

22 A Obviously.

23 Q Well, I'm not sure it would be obvious. But okay.

24 Then you went and you made a phone call. But before
25 we get to the phone call, you were emotionally distraught

1 because you thought, having read this book, that it was
2 very possible that your husband had been involved in
3 similar atrocities, correct?

4 A No. I can explain.

5 Q In fact, what you did is you, you went home and you
6 called him on the phone, correct?

7 A Yes, of course.

8 Q And you told us you had a very serious confrontation
9 with him, correct?

10 A Yes, of course.

11 Q And the confrontation was serious because you wanted
12 to hear from him, from his lips, that he wasn't involved in
13 these atrocities, correct?

14 A Of course.

15 Q Because up to that moment, before you made that phone
16 call, you thought it was possible that he was involved in
17 the types of things that were described in that book,
18 correct?

19 A No.

20 Q So you called him up and you wanted to hear his words
21 telling you he had nothing to do with anything like this,
22 correct?

23 A Exactly. Exactly.

24 Q And it was at that point that you accepted what he
25 told you, correct?

1 A Of course. Right.

2 Q From that moment right then, as you say, onward, you
3 knew that your husband could not have been involved with
4 anything like what was described in that terrible book that
5 you read, correct?

6 A Of course.

7 Q You took him at his word, correct?

8 A Of course.

9 Q Now, you have been very involved in assisting
10 Mr. Barrientos in his defense, correct?

11 A No. To assist the Baez firm.

12 Q You've been involved in obtaining information in Chile
13 that you believe would be helpful to the defense of your
14 ex-husband's case here in the United States, correct?

15 A Of course, yes.

16 Q And you were in touch with people as you describe.
17 And one of the people that you were in touch with was
18 Lieutenant Smith -- I'm going to murder his last name --
19 Gumucio, correct?

20 A Smith Gumucio, yes.

21 Q Now, you have been in touch with Mr. Smith Gumucio in
22 the past several years, correct?

23 A Not over the last several years. I've seen him twice
24 lately.

25 Q You have been in touch with him by means other than

1 seeing him personally in the last several years, correct?

2 A No. Over the last several years, no.

3 Q You described in response to questions from
4 Mr. Calderon the criminal file that you have obtained. In
5 fact, you had obtained elements from that file through
6 Lieutenant Smith, correct?

7 A No. It was through the attorney of Colonel Sanchez.

8 Q Could you give me Colonel Sanchez's full name, please?

9 A I have no idea. Colonel Sanchez. I don't know.

10 Q So you wrote -- how did you find the name of Colonel
11 Sanchez's lawyer?

12 A Because over the phone, Lieutenant Smith gave me the
13 telephone number for his attorney.

14 Q Okay. And when did Lieutenant Smith give you that
15 telephone number over the phone?

16 A It must have been at the beginning of 2013.

17 Q So you were in touch with Lieutenant Smith in 2013,
18 correct?

19 A Yes, of course.

20 Q You told us a moment ago you hadn't been in touch with
21 him for the last several years, correct?

22 A No. I was asked if I, was it the last time that I saw
23 him before '78.

24 Q You told Mr. Calderon that you hadn't seen him since
25 1978. But you're telling us now that you have been in

1 touch with him in 2013, correct?

2 A No. That's not the way it was.

3 Q You had a phone -- I just want to be clear about this,
4 Mrs. Barrientos. You had a phone call with Lieutenant
5 Smith in 2013, correct?

6 A Yes.

7 Q How many phone calls did you have with Lieutenant
8 Smith in 2013?

9 A Several.

10 Q Okay. How many phone calls did you have with
11 Lieutenant Smith in 2014?

12 A I don't know how many calls in 2014.

13 Q Well, you had a series of phone calls within 2013 and
14 2014, correct?

15 A Of course.

16 Q And you were coordinating legal positions with
17 Lieutenant Smith in those phone calls, correct?

18 A No. If you want, I can explain.

19 Q Isn't it true that Lieutenant Smith and Mr. Barrientos
20 were very good friends?

21 A No. They were superior and subordinate.

22 Q Well, that wasn't really an answer to my question. I
23 asked you, isn't it true that they were very good friends?

24 A No. No. Cordial just as any other officer or all
25 officers.

1 Q So you weren't aware that they had nicknames for each
2 other?

3 A (Speaking.)

4 Q You weren't aware that they had nicknames for each
5 other?

6 A No. It's not to each other.

7 Q You never heard that Lieutenant Smith called
8 Mr. Barrientos El Negro?

9 MR. CALDERON: Objection, Your Honor. Hearsay.
10 That's not in evidence.

11 THE COURT: Objection is overruled. I'm sorry.
12 Objection is overruled.

13 You may answer.

14 THE WITNESS: To him directly he calls him Major.
15 He calls me El Negro. He calls him Major even though he
16 went as far as colonel.

17 BY MR. BECKETT:

18 Q I think we're missing who's calling whom what.

19 So it may be that Mr. Barrientos in a formal command
20 situation would refer to Mr. Smith in a formal way. But
21 you're very well aware that after hours sharing a drink
22 that Smith would call Barrientos El Negro, correct?

23 A Not in front of him, no.

24 Q Not in front of him.

25 A No. He would call him El Negro in front of me.

1 Q You don't really know --

2 A (Speaking.)

3 Q Who are you looking at over here?

4 A And he would call the other guy El Choche.

5 Q Who would call who El Choche?

6 A He would. Pedro Pablo would call Choche, Choche Smith
7 because he is older.

8 Q He would call Smith Choche, I think, is what you said,
9 correct?

10 A And everybody else.

11 Q What does Choche mean?

12 A Jorge, Choche.

13 Q So it's a nickname for Jorge; is that correct?

14 A In his case.

15 Q Is Choche a common nickname for Jorge, or is it a
16 special nickname for Lieutenant Smith?

17 A No. No, just for him.

18 Q It was a term of endearment for him. A term that
19 friends use, right?

20 A Yes, of course.

21 Q You have been so committed to the defense of this
22 case, although you're not a lawyer, that you have viewed
23 yourself as the lawyer for Mr. Barrientos, correct?

24 THE INTERPRETER: Interpreter requests repeat the
25 question.

1 BY MR. BECKETT:

2 Q You have viewed yourself as the lawyer for
3 Mr. Barrientos in this case because you're so committed to
4 the cause, correct?

5 A I don't know.

6 Q You don't know? You never recall referring to
7 yourself -- sorry?

8 A I'm not an attorney.

9 Q I agree you're not an attorney. But my question is,
10 you feel so committed to his case that you're acting as an
11 attorney with a zealousness and ferocity of an attorney,
12 correct?

13 A I am like that. That's my character. I am passionate.

14 Q And you have referred to yourself in text messages
15 with Mr. Barrientos as the attorney, correct?

16 MR. CALDERON: Objection, Your Honor. Hearsay.

17 THE COURT: Overruled.

18 THE WITNESS: No. What I said is that what I'm
19 trying to do -- since we don't have the money to pay the
20 attorney in Chile, I have tried to find what an attorney
21 would have done.

22 BY MR. BECKETT:

23 Q Yes. I appreciate what you're saying. My question is
24 a specific one.

25 You have referred in your discussions with

1 Mr. Barrientos to yourself as the attorney for him,
2 correct?

3 A I don't recall.

4 Q Okay. Let's -- let me show you a document.

5 MR. BECKETT: Unfortunately, there are various
6 translations of this.

7 Is there any way in which we can show the document
8 without publishing it to the jury just to this screen?
9 Just to this screen?

10 THE COURT: Yes, if you turn the projector off.
11 Can you turn the big projector off?

12 Ladies and gentleman, are your screens fine?

13 JURY: Yes.

14 THE COURT: Put some other piece of paper up there
15 that's in evidence so that I can see whether the displays
16 are working. Something that is in evidence. Put something
17 that's in evidence on the computer so we can test it.

18 Mr. Icaza, can you see the witness' screen?

19 THE INTERPRETER: I can, Your Honor.

20 THE COURT: Is there something displayed on it?

21 THE INTERPRETER: It appears to be a Word
22 document, Your Honor.

23 THE COURT: Ladies and gentleman, is your screen
24 blank?

25 JURY: Yes.

1 THE COURT: Okay. I think we have it set.

2 You can proceed, Mr. Beckett.

3 BY MR. BECKETT:

4 Q Let me refer you to the text message that should be on
5 your screen that's dated 11/25/2015 at 10:00 p.m.

6 THE COURT: Can I stop you a second, Mr. Beckett.

7 Mr. Calderon, do you not have it on your screen?

8 MR. CALDERON: I don't, Your Honor.

9 THE COURT: How about now?

10 MR. BECKETT: We can take the computer up there.

11 THE COURT: Do you have it in paper form?

12 MR. BECKETT: We have it in English translation
13 paper form. We can show the computer to the witness. I
14 think that's acceptable under the rules. It's the same
15 document, just digital.

16 THE COURT: I can get it up on the screen. I was
17 trying to accommodate Mr. Calderon so he can see it while
18 the examination is taking place, which I know we can do.

19 So I'm going to ask my courtroom deputy to see if
20 she can figure it out because I know we can do it.

21 Do you have it now, Mr. Calderon?

22 MR. CALDERON: I do, Your Honor.

23 THE COURT: Do you have it, Mr. Icaza, on the
24 witness' screen?

25 THE WITNESS: I have a blank Word document.

1 THE COURT: That's fine.

2 Ladies and gentleman, your screen is blank?

3 JURY: Yes.

4 THE COURT: Okay. Thank you.

5 MR. BECKETT: Thank you, Your Honor.

6 BY MR. BECKETT:

7 Q And we refer to a text message from 11/25 at
8 10:00 p.m.

9 A Okay. November 25, yes?

10 Q Yes. At 10:00 p.m.

11 I can, I can indicate.

12 Yes, that's the one.

13 Are you at that message, Mrs. Barrientos?

14 A Yes.

15 Q So Marite, that's you, Maria Teresa, correct?

16 A It is my nickname.

17 Q Your nickname. And it's the name by which
18 Mr. Barrientos refers to you, correct?

19 A No. Pedro Pablo calls me Maria Teresa.

20 Q Okay. Well, in the WhatsApp, you're coming up as
21 Marite, correct?

22 THE INTERPRETER: Interpreter requests repeat the
23 question.

24 BY MR. BECKETT:

25 Q In the WhatsApp application, you're being shown here

1 as Marite. That's you?

2 A Yeah. Maybe that's who comes up in WhatsApp. But I
3 am called Maria Teresa.

4 Q Well, you're aware that WhatsApp allows you to
5 determine -- not to go into a description of WhatsApp. But
6 it allows you to determine what your name is.

7 So you chose to be called Marite, correct?

8 A Regularly, I haven't really -- I don't know. I
9 haven't checked. But yes, I am called by that nickname.

10 MR. BECKETT: And then, Mr. Interpreter, could you
11 just read -- so there's no dispute about the
12 interpretation, could you read the entry for that time?

13 MR. CALDERON: I'm going to object, Your Honor.
14 This document is not in evidence.

15 THE COURT: Lay a predicate for it, Mr. Beckett.

16 BY MR. BECKETT:

17 Q Let me ask you, isn't it true that you referred to
18 Lieutenant Smith Gumucio as Choche, by his nickname,
19 correct?

20 A Yes. For me he is El Choche.

21 Q Okay. And that's the name that Mr. Barrientos
22 referred to him as well, correct?

23 A For him, yes, yes.

24 Q Okay. And then if you just go down to look at entry
25 for 11/26 at 12:00 p.m., could you just read that to

1 yourself in Spanish?

2 So does this refresh your recollection as to the
3 fact that you --

4 THE COURT: Hold on. Time-out.

5 Mr. Icaza, ask the witness to please not speak
6 until Mr. Beckett finishes his question and you've
7 translated it.

8 She's apparently understanding enough of the
9 question to begin her answer before it's finished.

10 And, Mr. Beckett, you wait until the witness'
11 translation has been provided before you ask the next
12 question.

13 MR. BECKETT: Yes, Judge. Thank you.

14 THE COURT: All right. Let's try a new question.

15 BY MR. BECKETT:

16 Q So does this refresh your recollection as to the fact
17 that you would refer to yourself in discussions with
18 Mr. Barrientos as the lawyer, I am the lawyer?

19 A Yes.

20 Q Because as I was saying a moment ago, you were very
21 committed to his cause, correct?

22 A Okay.

23 Q By okay, do you mean yes, you agree; or not?

24 A Yes.

25 Q Now, you told us that in 1973 that you liked folk -- I

1 think you referred to it as folkloric music.

2 MR. BECKETT: We can take this down now.

3 THE WITNESS: Neo-folkloric, yes.

4 BY MR. BECKETT:

5 Q And you said that in your view, there is music in the
6 neo-folkloric movement that was on the Right and the Left
7 of the political spectrum, correct?

8 A Yes.

9 Q And you said that you listened to a lot of this music,
10 correct?

11 A Yes.

12 Q And that you listened to all types of it, both on the
13 Right and on the Left, correct?

14 A Yes.

15 Q And you would have listened to this music -- well,
16 strike that.

17 So you were an aficionado of this music and knew all
18 different types of this music and yet your testimony is
19 that you never heard of Victor Jara in 1973, correct?

20 A Yes.

21 Q Are you aware of the fact that Victor Jara was a
22 prominent artist within what you are referring to as the
23 neo-folkloric movement?

24 A I did not know of him.

25 Q Tell us again when the first time, the first time that

1 you became aware of the existence of Victor Jara?

2 A 2008 through "La Nacion" newspaper.

3 Q So you did not hear about Victor Jara -- my math isn't
4 real good -- but 35 years after his death; is that right?

5 A Correct.

6 Q You talked about the fact that you were dating your
7 soon-to-be husband or your future husband, let's put it
8 that way, in Santiago when he was at the O'Higgins School;
9 is that correct?

10 A Yes.

11 Q And the O'Higgins School is a military school, right?

12 A Correct.

13 Q Okay. And you said that you, on weekends you went to
14 go see him at the school, correct?

15 A That is not correct.

16 Q So I got it wrong then. I thought you mentioned there
17 were dances. You went to dances with him on the weekends,
18 correct?

19 A Sometimes it could be, but maybe once or twice a year.

20 Q Really? Did he ever take you on dates?

21 A My father would not allow me.

22 Q Oh, okay. So perhaps I misunderstood, but I thought
23 on your direct testimony you said that you went to visit
24 him in -- you went to visit him in -- at the O'Higgins
25 Military School, correct?

1 A Correct, yes.

2 Q Now, your father didn't go with you when you went to
3 visit him at the military school, did he?

4 A He would drop me off and pick me up.

5 Q Oh, okay. But he'd let you go up and see
6 Mr. Barrientos in the school. He wouldn't chaperone you
7 there?

8 A It depends. If it was a swim meet, then the entire,
9 the pool would be full of people watching the swim meet.

10 And at the dances, he would drop me off and he would
11 pick me up right there.

12 Q Okay. Can I get a sense of how old Mr. Barrientos was
13 at this time?

14 A Eighteen, nineteen, twenty.

15 Q Okay. And how old were you?

16 A Fifteen, sixteen, seventeen.

17 Q Uh-huh. And so you and Mr. Barrientos never went on
18 what I would call a date into downtown Santiago?

19 A Never.

20 Q Never?

21 A No. He would come to my house. And it was my mom, my
22 dad, my grandma, my brothers and sisters. And that's the
23 way it went.

24 Q Okay. And your house was in Santiago, wasn't it?

25 A Santiago, in Las Condes. My parents' house.

1 Q Your parents' house. And it's the house that you
2 lived at, correct?

3 A Where I lived.

4 Q And you mentioned Las Condes, C-O-N-D-E-S. Las Condes
5 is a neighborhood in Santiago, correct?

6 A Yes. It's a large housing development, yes.

7 Q Yeah. So Mr. Barrientos would come to visit you at
8 your family house in Santiago while he was at the O'Higgins
9 Military School, correct?

10 A Yes. Okay.

11 Q I must have misunderstood because I thought you said
12 in response to questions from Mr. Calderon that he never
13 went to Santiago. But he did, right?

14 MR. CALDERON: Objection, Your Honor.
15 Mischaracterizes testimony.

16 THE COURT: Objection is overruled.

17 THE WITNESS: I don't understand.

18 BY MR. BECKETT:

19 Q We'll move on.

20 Where did you live -- in 2004, you lived in Santiago,
21 correct?

22 A 2004, yes, in Santiago.

23 Q Okay. And you mentioned some newspapers. You're a
24 regular reader of newspapers, correct?

25 A Yeah. Sometimes.

1 Q So you must have been aware of the fact that as a
2 resident of Santiago then, in 2004, Chile Stadium was
3 renamed Victor Jara Stadium. It was named after Victor
4 Jara.

5 Do you remember that?

6 A Yes, of course. I know that it was renamed Victor
7 Jara, yes.

8 Q And you knew that it was renamed in 2004, correct?

9 A I don't remember if it was 2004.

10 Q Well, when the stadium was renamed after Victor Jara,
11 this was a news event. It was covered in the news.

12 Correct?

13 MR. CALDERON: Objection, Your Honor. Counsel is
14 testifying.

15 I'm sorry.

16 THE COURT: The objection is sustained.

17 Ask a new question, please, Mr. Beckett.

18 BY MR. BECKETT:

19 Q It was covered in the media, wasn't it?

20 A Yes, of course.

21 Q Okay. But you told us that you only learned about the
22 existence of Victor Jara four years after this stadium was
23 renamed after him and this renaming was covered in the
24 media, correct?

25 A Correct.

1 Q I think you told us earlier that you had read -- well,
2 let me go back to the book. You read the book, the puma
3 book?

4 A Yes, of course.

5 Q A puma was the type of helicopter that was used?

6 MR. CALDERON: Objection, Your Honor. Counsel is
7 testifying.

8 THE COURT: It's on cross-examination,
9 Mr. Calderon. So he's entitled to pose the questions in a
10 nondirect way.

11 I can't -- when you object in the middle of the
12 question, it's hard for me to assess where it's going to.

13 So I'm going to overrule your objection.

14 Let me ask you this, Mr. Beckett. We're a little
15 bit after 5:00. Is this a good stopping point?

16 And actually, whether it's good or not, I think
17 we're going to stop.

18 MR. BECKETT: Very well, Judge. Good idea.

19 THE COURT: Well, I'll take that up with you after
20 we let our jury go.

21 Ladies and gentleman, I'm going to excuse you for
22 the evening with my thanks for your attention and patience.
23 I'll see you back here in the morning at 9:00, and we'll
24 resume with the examination of this witness.

25 Ladies and gentleman, just to let you know on your

1 way out, I have a criminal proceeding, a sentencing in the
2 morning at 8:30, which I should be finished with by 9:00.
3 But if we're a little bit late, just know it's my fault and
4 I'll get finished with it just as quickly as I can.

5 But if I can count on you to be here ready to go
6 at 9:00, I'll try to get finished on time and resume in a
7 timely way. But I'll just ask your forbearance if I'm a
8 few minutes late.

9 Remember not to discuss the case amongst
10 yourselves or with anyone else. I'll see you back in the
11 morning.

12 MR. BECKETT: Judge, before the witness is
13 released, may I ask that she be instructed?

14 THE COURT: Mr. Icaza, would you mention to the
15 witness that it is not appropriate for her to discuss her
16 testimony. So that means no conversations with any of the
17 lawyers or their representatives or anyone else about the
18 substance of your testimony.

19 THE WITNESS: Okay.

20 THE COURT: I'm going to ask you in the morning
21 whether or not you've been able to abide by that
22 instruction. It's very important.

23 Understood?

24 THE WITNESS: Yes, I understand.

25 THE COURT: All right. Thank you. We'll need you

1 back here in the morning at 9:00.

2 THE WITNESS: Of course.

3 THE COURT: Anything else that we need to take up
4 before we adjourn for the evening?

5 MR. BECKETT: I don't think so, sir.

6 THE COURT: I am -- I checked with my clerk
7 earlier this afternoon about where we are on the jury
8 instructions. I'll hopefully have those for you sometime
9 in the morning. Hopefully maybe by the break, if not
10 before.

11 And you all take a look at those at your first
12 opportunity, because I'm going to want to be able to make
13 sure we get our charge conference in.

14 Because as I said, I'm a little concerned about
15 our time constraints. So I want to make sure we get
16 everything out of the way that we can get out of the way
17 outside the jury's presence.

18 I had hoped to get them to you tonight. But,
19 obviously, I don't have them.

20 MR. BECKETT: We'll be busy with other things
21 tonight, Judge.

22 Can I raise another issue? And I haven't -- we
23 haven't recently talked about the timing. I think we were
24 envisioning still that the case would get to the jury on
25 Wednesday.

1 And has Your Honor given any thought, then, to the
2 mechanics, given the long weekend?

3 Are you thinking, Judge, of giving them a four-day
4 weekend, or as less desirable as it might be, allow another
5 judge to potentially take the verdict?

6 THE COURT: The answer is yes, I've given it
7 thought, but I've not decided what I'm going to do. I've
8 put my colleagues on alert that I may require one of them
9 to assist me in taking the verdict. It's not my first
10 choice. I'd like to try to handle the case myself through
11 its completion.

12 But a lot of that is going to depend on what time
13 we get the case to them on Wednesday.

14 And so the answer to your question is I haven't
15 decided, but I have begun working on some various plans to
16 account for my absence.

17 So my preference would be obviously to get it done
18 and get the jury -- get it to the jury and to be able to
19 stay here myself until the verdict is received.

20 So we'll just have to see where we are, what time
21 it is when we get to closing.

22 MR. BECKETT: Very good, Judge.

23 THE COURT: All right. If there's nothing else,
24 then we'll be in recess until 9:00 tomorrow morning.

25 Did you have something, Mr. Calderon?

1 MR. CALDERON: No, Your Honor.

2 THE COURT: Okay.

3 (Proceedings adjourned at 5:05 p.m. until

4 Tuesday, June 21, 2016, at 9:00 a.m.)

5 *****

6

7 C E R T I F I C A T E

8

9 I certify that the foregoing is a correct
10 transcript from the record of proceedings in the
11 above-entitled matter.

12

13 s\Amie R. First, RDR, CRR, CRC, CPE

14

15

16

17

18

19

20

21

22

23

24

25

INDEXPLAINTIFF WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
STEVE STERN	5	46	72	
STEVE STERN	9			
HECTOR HERRERA OLGUIN	78	101		
AMANDA JARA	108	120		

DEFENDANT WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
MARIA TERESA CASTRO BARRIENTOS	128	184		

EXHIBITS

	<u>ADMITTED</u>
Defendant's Exhibit 1	180