

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ANA PATRICIA CHAVEZ, CECILIA)
SANTOS, JOSE FRANCISCO)
CALDERON, ERLINDA FRANCO, AND)
DANIEL ALVARADO,)
Plaintiffs,)
VS.)
NICOLAS CARRANZA,)
Defendant.)

NO. 03-2932-MI /P

TRIAL PROCEEDINGS
BEFORE THE HONORABLE JON PHIPPS MCCALLA, JUDGE
NOVEMBER 1, 2005
VOLUME II

BRENDA PARKER
OFFICIAL REPORTER
SUITE 942 FEDERAL BUILDING
167 NORTH MAIN STREET
MEMPHIS, TENNESSEE 38103

A P P E A R A N C E S

Appearing on behalf of the Plaintiffs:

BASS BERRY & SIMS PLC
315 DEADERICK STREET, SUITE 2700
NASHVILLE, TENNESSEE 37238-3001
By: DAVID R. ESQUIVEL, ESQ.

CAROLYN PATTY BLUM, ESQ.
CENTER FOR JUSTICE & ACCOUNTABILITY
291 WEST 12TH STREET
NEW YORK, NEW YORK 10014

MATTHEW J. EISENBRANDT, ESQ.
CENTER FOR JUSTICE & ACCOUNTABILITY
870 MARKET STREET, SUITE 684
SAN FRANCISCO, CALIFORNIA 94102

Appearing on behalf of the Defendant:

FARGARSON & BROOKE
65 UNION AVENUE
9TH FLOOR
MEMPHIS, TENNESSEE 38103
By: ROBERT M. FARGARSON, ESQ.
BRUCE BROOKE, ESQ.

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1 TUESDAY MORNING & AFTERNOON
2 NOVEMBER 1, 2005

3 The jury trial in this case resumed on this
4 date, Tuesday, November 1, 2005, at 9:00 o'clock a.m.,
5 when and where evidence was introduced and proceedings
6 were had as follows:

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10 THE COURT: Counsel, let me speak to counsel
11 very briefly at side bar on one point.

12 (The following proceedings had at side-bar
13 bench.)

14 THE COURT: What is the intention of both sides
15 in terms of dealing with the issues that have been
16 resolved on summary judgment? I -- we did this in the --
17 we have done this in other cases, and I -- but I kept
18 waiting for it to come up naturally, that is by one of
19 you, and it didn't, and I need to understand how you
20 intend to utilize the findings.

21 MR. ESQUIVEL: Well, we will explain to the
22 jury in the opening. I didn't intend to refer to the
23 summary judgment.

24 THE COURT: You don't have to.

25 MR. ESQUIVEL: So I actually didn't think that

1 it would come up at this point, Your Honor, I thought it
2 would be something at the instruction phase and in closing
3 argument that we would refer to.

4 THE COURT: Okay, that's fine. In the
5 Medtronic case, the way that we dealt with it, which is
6 the only case where we had many, many issues
7 preliminarily, those findings were allowed to be presented
8 by either side through -- but they showed me the portions
9 of the findings that they wanted to present. Does that
10 make sense to you, so that it would not be -- so -- does
11 that make any sense at all?

12 MS. BLUM: Yeah.

13 THE COURT: They actually put them on the
14 screen, not the whole order, that would be confusing and
15 unnecessary, but some certain specific findings.

16 It can also be dealt with in the context of
17 some type of agreement that this is what these things say
18 because sometimes people want particular wording. It
19 doesn't matter to the judge, as long as the finding is the
20 same. You have told me what I needed to know
21 preliminarily, which is that issue has not been addressed
22 between the two sides, and that you're not planning to put
23 it on the screen, which really is a public document, so
24 the issue in that case can't be placed on the screen.

25 We're waiting on one juror.

1 THE CLERK: One juror, Ms. Hebron.

2 THE COURT: Well, we may lose one right away.
3 Have we made contact?

4 THE CLERK: She hasn't called me and left me a
5 message.

6 THE COURT: I thought we may as well try to use
7 our time a little beneficially.

8 MR. ESQUIVEL: There was one more matter, and
9 that is that we have two expert witnesses that would like
10 to sit in and listen to the testimony.

11 THE COURT: It's certainly normal in the
12 process, but usually you announce them on the record so
13 that the other side -- so it is on this record. Who do
14 you want to sit in?

15 MR. ESQUIVEL: Colonel Jose Luis Garcia would
16 be listening to today's testimony and the testimony until
17 the point that he testifies.

18 MS. BLUM: And Professor Karl will be here, I
19 don't know if she is here yet, but she should be here any
20 minute.

21 THE COURT: Any side can have an expert sit in
22 unless there's some peculiar reason that they should not
23 sit in. It is done routinely in state court and federal
24 court here. I think that we would allow an expert to sit
25 in. It is not a problem.

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1 MR. FARGARSON: Sometimes the state courts do
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2 and sometimes they don't.

3 THE COURT: Exactly. That's why we need to
4 make sure we're on the same page. I suppose it could
5 matter in some situations, but I think in this case, it
6 would be fine.

7 Now, going back to the summary judgment
8 question, Ms. Blum has clearly got some thoughts about it.

9 MS. BLUM: No, I believe that, you know, it is
10 probably not going to be raised by us until closing
11 statements or -- in the context of the jury instructions
12 and we haven't really hammered out exactly how we're going
13 to define the jury instructions.

14 THE COURT: Although we can -- there's some
15 additional material to be included in the instructions
16 which has not gotten there, you're right.

17 MS. BLUM: I meant the instruction that relates
18 to the findings for the motion for summary judgment.

19 THE COURT: Absolutely. Absolutely. That's
20 what I have been -- one of those things that I have been
21 waiting on without putting pressure on you and saying --
22 because a lot of times it simply comes up when somebody
23 submits it, but we're to the stage where it usually would
24 have come up.

25 MS. BLUM: Okay. We will frame an instruction.

1 THE COURT: I think it is useful, and I think

2 also sometimes the jury needs to be told these things in
3 some context. I'm concerned about it being
4 non-contextual, that is coming up at the end when they
5 wondered why it didn't come up earlier. It normally is
6 the type of thing that you wonder about. Do you think in
7 this case it will make any difference, I'm truly asking?

8 MS. BLUM: It doesn't affect proof in the sense
9 of it doesn't impact the way in which we're going to
10 conduct examination of our witnesses. I'm trying to
11 figure out what is the best context in which to raise it,
12 but --

13 THE COURT: How did they do it in the other
14 case that you tried?

15 MS. BLUM: We didn't prevail on a motion for
16 summary judgment. No, I shouldn't put it that way, he
17 didn't file a motion for summary judgment in the predicate
18 acts on the other case, so there wasn't a question about
19 whether the judge had granted it, so that was not -- no,
20 it did not come up.

21 THE COURT: It didn't come up that way.

22 MS. BLUM: No, no. I'm just trying to think.

23 MR. EISENBRANDT: We have never had that
24 experience before.

25 THE COURT: I have raised the issue. All of

1 you may want to consult with many attorneys involved in
2 the other case, 50, 60, so there are lots of people who
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3 know what occurred, and it seemed to work well. It seemed
4 to eliminate -- it also was helpful in the -- as to the
5 examination of a couple of witnesses. It may not matter
6 so much here, but I was thinking you needed it in
7 connection with the examination of Mr. Carranza, but I
8 don't know.

9 MS. BLUM: Oh, in terms of the cross
10 examination of the defendant, yes, it may come up in that
11 context, but I meant the direct examination of the
12 plaintiffs who --

13 THE COURT: I'm -- it came up in that context.

14 MS. BLUM: Uh-huh, uh-huh.

15 THE COURT: And I -- well, now, that I have
16 raised the issue -- Joe, what is our situation?

17 THE CLERK: Not good, Judge. Ms. Hebron just
18 called Mrs. Dote and said that she had overslept, that her
19 uncle had passed away, and that she is getting ready and
20 on her way now, and I just looked up her address, she
21 lives like out in Whitehaven.

22 THE COURT: She overslept and her uncle passed
23 away. We would normally let somebody whose uncle passed
24 away be excused.

25 MS. BLUM: She is probably going to have to be

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1 attending a funeral.

2 THE COURT: I am assuming she hasn't thought

3 that she needs to go to a funeral.

4 MR. ESQUIVEL: Maybe a Saturday funeral.

5 THE COURT: Still it is a difficult time to ask
6 somebody to sit on the panel because if they have got the
7 preliminary matters relative to the funeral in the
8 south --

9 MS. BLUM: How far is Whitehaven?

10 MR. BROOKE: 15 miles.

11 THE COURT: Traffic, she won't get here for an
12 hour, if she is now getting dressed. Well, we have our
13 first -- now, I'm beginning to wish I had seated 12.

14 MR. EISENBRANDT: Well, the good thing is
15 nobody one else said they had time issues.

16 THE COURT: That's true, and we didn't really
17 lose people in the other case until the third week where
18 it became a serious problem, and everybody is apparently
19 free through Thanksgiving. We're probably in good shape.
20 So she said apparently an uncle recently has just passed
21 away, she is trying to deal with all the --

22 THE CLERK: I can get more information from
23 Mary Ann. She overslept and that her uncle passed away, I
24 don't know when, if he passed away last night.

25 THE COURT: She didn't mention anything

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1 yesterday. It sounds like it is recent. See if you can
2 get Mrs. Dote on the phone, we need to resolve this
3 matter.

4 MR. BROOKE: Your Honor, on the subject matter,
5 the defendant wasn't capable of responding affirmatively
6 to the acts of --

7 THE COURT: Right.

8 MR. BROOKE: For instance, he had no knowledge.

9 THE COURT: I understand fully. And in the
10 court's ruling, in part, it accepted the UN Truth
11 Commission Report in evidence as part of its
12 consideration. Under 803 --

13 MR. BROOKE: And in the court's ruling, it
14 identified the four criterion for a public study or public
15 report. Two of the points that the court addressed are
16 identified. One was -- one, that there would be a public
17 hearing.

18 THE COURT: I discussed that. I discussed the
19 fact that there was not one, but there was extensive
20 interviews.

21 MR. BROOKE: And then, two, that it would be
22 timely.

23 THE COURT: Correct.

24 MR. BROOKE: And, of course, the Truth
25 Commission Report was approximately 10 to 12 years after

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1 the fact of most of these acts.

2 THE COURT: What did the juror say?

3 THE CLERK: She didn't say. Mrs. Dote just

4 told her to get dressed and get down here.

5 MS. BLUM: She called her after the alarm clock
6 went off.

7 THE COURT: What we need to do if it is a
8 recent death in the family and there's an impending
9 funeral in which she can reasonably be expected to be
10 attending, we would always excuse somebody under those
11 circumstances.

12 MR. FARGARSON: Is she on the way?

13 THE COURT: Just call one more time and see if
14 she is still at home and find out, you know, when her
15 uncle just passed away. If her uncle just passed away
16 last night, we're obviously not going to -- we would feel
17 actually bad about making her come in.

18 MR. FARGARSON: He died last night, is that
19 what they're saying?

20 THE COURT: I'm not sure, but my -- we have
21 imprecision in connection with these communications. The
22 data is -- but --

23 MR. BROOKE: Based on both of those two points,
24 we would challenge or except to the court's ruling. The
25 other point is the court referenced that if, in fact, such

1 evidence is to be allowed, the burden of proof shifts to
2 those in opposition of the public ruling. And so I think
3 that would be sort of akin to like the court taking
4 judicial notice of a fact, in which case if the court is

5 going to consider taking judicial notice, then the
6 opposition to that judicial notice is given an opportunity
7 to try to challenge the -- you have a burden of proof
8 itself to try to rebut.

9 THE COURT: Okay. Well, let's hear from --

10 MR. ESQUIVEL: I'm not sure on the last point
11 what Mr. Brooke is saying. I think the operation of Rule
12 803(8)(c) is that once the elements of the rule are met,
13 then the burden shifts to the party opposing introduction
14 to demonstrate some reason why there would be lack of
15 trustworthiness about the document, is that what you're
16 talking about?

17 MR. BROOKE: Right. Can we speak to her so we
18 can let her be dismissed appropriately?

19 MR. ESQUIVEL: We have no objection to
20 dismissing her on that basis.

21 THE COURT: Her uncle passed away yesterday
22 afternoon.

23 MR. FARGARSON: Okay.

24 MR. BROOKE: We have no objection to dismissing
25 her.

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1 (Ms. Hebron was called on the speakerphone,
2 and the following proceedings were had:)

3 THE CLERK: Ms. Hebron, this is Joe Warren in
4 federal court. I'm going to put you on speaker phone for

5 the judge, okay?
6 BY THE COURT:
7 Q. Ms. Hebron, how are you this morning?
8 A. I'm doing okay.
9 Q. Well, I'm very sad to hear that your uncle died
10 yesterday afternoon, and I wanted -- I know Mrs. Dote had
11 spoken to you and asked you to get dressed and come on, but
12 all of us understand that under those circumstances, it would
13 be very, very difficult, I would imagine, for you to proceed
14 as a juror, is that correct?
15 A. I will be okay. I'm trying to make it. I was over
16 there with them last night, and that is what made me fall
17 behind, and due to the fact that I was trying to leave there
18 and go to work, and I been working ten hours, I will be okay.
19 Q. Let me ask a couple of questions. Do you think the
20 funeral will be in the next several days?
21 A. They're trying to make it where it will be Saturday.
22 Q. Obviously, you will have been with the family last
23 night, is that correct?
24 A. Yes.
25 Q. Now, normally what we do in a circumstance involving a

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1 tragedy like that in the family is we recognize that it is
2 extremely difficult even though you would, I understand, want
3 to come in, that it is very, very difficult for you to focus
4 on the evidence during a difficult situation like that. So
5 that normal procedure is to allow that individual to be

6 excused. It's out of respect for the situation in which you
7 find yourself; is that okay with you?

8 A. That's fine.

9 Q. Okay. And you sound like it has been a tough, tough
10 time period. Was everybody doing okay last night?

11 A. Yeah, I just had to be there for my father because him
12 and his brothers is real close.

13 Q. And the funeral will be here in Memphis some time
14 either Friday or Saturday?

15 A. They're trying to make it where it will be Saturday,
16 but we don't definitely know, because he just passed yesterday
17 about 5:15. So she don't know, but they want to push it for
18 Saturday.

19 THE COURT: Is there any objection by any of
20 the counsel for allowing Ms. Hebron to be excused under
21 these circumstances?

22 MR. ESQUIVEL: No objection.

23 MS. BLUM: No objection.

24 MR. BROOKE: No objection.

25 MR. FARGARSON: No.

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1 Q. We appreciate it. I wanted to get you before you get
2 all the way down here under these circumstances, but thanks
3 very much for being able available, and we're all thinking
4 about you. Thanks very much.

5 A. Okay. Thank you.

6 (The phone call was ended.)

7 THE COURT: Thank you. I have had people
8 before say that they thought they could do it and then
9 they arrive in midday, they realize I can't do this, this
10 is just too much for me, and my experience is that people
11 think they can do more than they can do under those
12 circumstances.

13 Well, I'm going to bring the panel in, we will
14 explain that Ms. Hebron had a death in the family and that
15 we fortunately have the ability to let her be excused, and
16 we will proceed with opening statement.

17 On the other issues, we have time to talk about
18 them. On the 803(8)(c) question, the court did give a lot
19 of consideration to that at the time. It was a very
20 serious issue for me at the time. If there is new
21 information to consider in that regard, I can consider it.
22 Certainly, I started out from the point of view that we
23 needed to be skeptical of allowing this type of material
24 to be received without meeting the criteria -- we had to
25 be careful to make sure it met the criteria. After

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1 reviewing the material and seeing the list of three
2 individuals involved in the Truth Commission and the
3 methodology that they used, I became frankly surprisingly
4 comfortable that this was appropriate to receive, but we
5 can talk about it some more. It is not being introduced
6 today, as I understand it, we can discuss it some more.

7 On the summary judgment question, it does
8 appear that we do need to give a little more thought about
9 how that is going to come up, because I have to always be
10 concerned that it will look like the court has given its
11 imprimatur to something, and the jury may not understand
12 in the summary judgment section, there are certain rules
13 that if it is not opposed, it is, in essence conceded, and
14 yet that would not sound -- we have to be careful about
15 how that is presented to the panel.

16 MS. BLUM: Absolutely, we appreciate that.

17 THE COURT: Okay. Thanks very much.

18 (The following proceedings were had in open
19 court.)

20 THE COURT: Mr. Tuggle, we will have the panel
21 come in.

22 (Jury in at 9:15 a.m.)

23 THE COURT: You may be seated. They're
24 standing because you're judges of the facts. You may be
25 seated as you come in, and they will stand. Of course,

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1 you may be seated, ladies and gentlemen.

2 I need to advise the jury that Ms. Hebron spoke
3 with me this morning, her uncle died last night and,
4 obviously, under those circumstances, she was with the
5 family late last night, and this is not an appropriate
6 time for her to try to be away and serve on jury duty. So

7 fortunately we do have the ability to allow an individual
8 under those extreme circumstances to be excused from the
9 panel, and so I did so and, of course, I expressed our
10 appreciation for her being available. Under those
11 circumstances, Mr. Roby, you will move over to seat number
12 10 and, Ms. Minor, you will move over to seat number 11,
13 over one seat, and we do have enough jurors that we can
14 actually -- we have the ability to do that, so that is not
15 a problem. But I know you wondered what had happened, and
16 I wanted to so advise you.

17 We're ready now to proceed with opening
18 statements in the case. Mr. Esquivel, are you ready to
19 proceed with opening statements on behalf of the
20 plaintiffs?

21 MR. ESQUIVEL: The plaintiffs are ready to
22 proceed, Your Honor.

23 THE COURT: You may proceed.
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OPENING STATEMENT BY MR. ESQUIVEL

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1 MR. ESQUIVEL: May it please the court, it's
2 1980.

3 THE COURT: We need to make sure your
4 microphone is on. Just need to be sure, and Mr. Warren
5 will come help you.

6 MR. ESQUIVEL: Thank you, Your Honor. Good
7 morning. It's 1980 in the City of San Salvador, the

8 capitol of the country of El Salvador, a young woman goes
9 to a shopping mall to buy a birthday present. She is a
10 college student, and she works full-time to put herself
11 through school and to help support her parents and her
12 brothers and sisters. When she goes to the shopping mall,
13 she needs to go to the bathroom, and while she is in the
14 bathroom, she hears a loud bang outside. It sounds like a
15 tire blowing out in the road. As she is coming out of the
16 bathroom, two security guards come to her and ask her what
17 she knows about the loud explosion. She says she doesn't
18 know anything about it. Nonetheless, they take her to a
19 back room in the shopping mall and there a man at a desk
20 picks up a telephone and makes a phone call. A few
21 minutes later, two plain clothes people arrive at the
22 office and take the young woman and put her in a taxi, and
23 the taxi drives and goes to the headquarters of the
24 national police, and there one of the men in plain clothes
25 takes the young woman's arm, walks her up the steps and

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OPENING STATEMENT BY MR. ESQUIVEL

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1 goes to the front of the national police headquarters.
2 There is a man at a desk, he's wearing a uniform, and he
3 tells them to go up to the second floor. When the young
4 woman gets to the second floor, she is put in a chair and
5 a bandanna is tied around her neck -- around her eyes.
6 She is led by a different man down a hallway, and as
7 they're walking down the hallway, she hears the sounds of

8 people moaning and groaning, and the sounds are coming
9 from the floor. She eventually is led to a room where she
10 is put in a school desk and made to sit in a school desk
11 and now there are four men around her. She can hear the
12 sounds of four men standing around her, and they begin to
13 interrogate her. Who are you? Who is your family? Who
14 are your friends at school? Who do you work with? While
15 they're doing this, some of the men begin to put their
16 hands under her blouse. They begin to put their hands
17 under her skirt, they're groping her and questioning her.
18 Another man takes a bottle of acid, sticks a cue tip in it
19 and puts the cue tip in her nose to burn her nose. They
20 take the acid and they drip it on to the skin between her
21 fingers which causes a blister to form immediately. She
22 screams and she cries. After a little bit of time, they
23 bring out a machine and force her hand into the machine,
24 and this is a machine that runs electric current through
25 her body. All during this time, they are interrogating

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OPENING STATEMENT BY MR. ESQUIVEL

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1 her, asking her questions about who she knows, about who
2 her friends are, about who she works with. After some
3 time, other men come in, they take off the bandanna, and
4 the young woman sees that they are wearing plain clothes
5 and ski masks and they take her picture. This torture
6 goes on for hours and hours until finally the young woman
7 faints, and when she comes to, there's a man standing in
8 front of her. He has a pen and a blank piece of paper and

9 he says you need to sign this blank piece of paper. She
10 is not physically able to sign the paper because of the
11 electric current that had run through her body and because
12 of the blister on her hand, and she says I can't sign it.
13 He says that's okay, he puts the pen in her hand between
14 her fingers, grabs her hand with his and signs her name
15 while holding her hand. That woman spent the next three
16 years in a prison in El Salvador. She was finally able to
17 leave the prison. She came to the United States, and she
18 is here in the courtroom this morning. Her name is
19 Cecilia Santos, and she is one of the plaintiffs in this
20 case.

21 Ladies and gentlemen, this is a case about
22 courage and justice. It will take courage for Cecilia
23 Santos and the other plaintiffs to sit in that witness
24 stand and tell you about the worst thing that ever
25 happened to them in their lives. Stories of torture,

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OPENING STATEMENT BY MR. ESQUIVEL

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1 stories of murder and stories of lies and families that
2 were ripped apart. It will also take courage for them to
3 seek justice against the man who had the ability to
4 prevent what happened to them, who had the ability to
5 investigate and punish those who were responsible, but not
6 only the ability to investigate and punish and prevent
7 what happened to the five of them, the ability to prevent
8 the torture and murder of thousands and thousands of

9 innocent civilians in El Salvador in the early 1980s.
10 That man is in the courtroom. He is Nicolas Carranza, the
11 defendant in this case.

12 In 1980, Nicolas Carranza was a member of the
13 Salvadoran military. He was a member of the high command
14 of the military. That is the four leading military
15 officers at the time. He occupied the post of the
16 vice-minister of defense, and in that position he was the
17 operational commander of the security forces of El
18 Salvador. He was also one of only two men who had the
19 ability under Salvadoran law to take officers who were
20 committing abuses and immediately remove them from power,
21 one of two people. He never exercised that power. We'll
22 talk more about Nicolas Carranza in a few minutes, but let
23 me tell you about the other four plaintiffs and what
24 brings them into court today.

25 The second plaintiff is Erlinda Franco. Today

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OPENING STATEMENT BY MR. ESQUIVEL

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1 Ms. Franco lives in El Salvador. She is a teacher at a
2 rural school. In 1980, Erlinda Franco was married and she
3 had four young children. Her husband's name was Manuel
4 Franco. Manuel Franco was a professor at the university.
5 That's a picture of Manuel Franco. He was also one of the
6 leaders of a political party which was known in El
7 Salvador as the FDR, and the FDR was a coalition of groups
8 that advocated for democracy in El Salvador. They were
9 opposed to the military dictatorship at the time.

10 On November 27, 1980, Manuel Franco kissed his
11 wife Erlinda good-bye and went to a meeting of the
12 leadership of the FDR party. They were meeting at a
13 Catholic high school in San Salvador. While the meeting
14 was going on, uniform members of the Salvadoran military
15 established a perimeter around the school, and they
16 allowed plain clothes men driving pickup trucks to go to
17 the entrance of the school and abduct the six leaders of
18 the FDR, including Manuel Franco, put them in the pickup
19 trucks and take them away. The body of Manuel Franco and
20 the other five leaders of the FDR were found the next day
21 on the side of the road outside San Salvador. Erlinda
22 Franco went to the funeral home to identify her husband's
23 body. When she got there, she saw his body and the bodies
24 of the five other leaders on the floor. Manuel Franco had
25 been shot in the neck and in the face. And all around his

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OPENING STATEMENT BY MR. ESQUIVEL

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1 neck was a burn mark as if some sort of a hot collar,
2 metal collar had been placed around his neck. All six
3 leaders of the FDR had the same marks on their neck. No
4 one was ever tried or punished for the torture and murder
5 of Manuel Franco.

6 The third plaintiff is Francisco Calderon.
7 Today Mr. Calderon is a United States citizen. He lives
8 in California and works as a security guard. In 1980,
9 Mr. Calderon lived in San Salvador. He worked as a -- he

10 worked in a factory. On September 11th, 1980,
11 Mr. Calderon was getting ready for bed. It was about 10
12 o'clock at night. His father and his little sister were
13 in the living room watching television when all of a
14 sudden there were loud bangs at the door like boots
15 kicking the door. Mr. Calderon went to the window and
16 looked outside and there he saw uniformed members of the
17 national police wearing bulletproof vests. They demanded
18 to be let inside. So Mr. Calderon went to the door, he
19 opened the door; and when he did that, the uniform members
20 of the national police stepped back and let plain clothes
21 men wearing ski masks and carrying G3 rifles, the rifle
22 that was the military issued rifle in El Salvador at the
23 time. They came into the house, put Mr. Calderon on the
24 floor and pointed a G3 rifle at his back. Mr. Calderon's
25 father and little sister tried to get out of the back of

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OPENING STATEMENT BY MR. ESQUIVEL

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1 the house, and when they got to the back door, they found
2 other men already guarding it, and they heard even more
3 men on the roof. So the father and the sister came back
4 into the living room to find Mr. Calderon on the floor.
5 But the father knew that the people were not there for his
6 son. Because Mr. Calderon's father was a teacher and a
7 member of the Teachers Union known as ANDES, A-N-D-E-S,
8 and because the members of ANDES were educated, because
9 they were organized, they were a threat to the military
10 dictatorship that ruled at the time. So the father came

11 into the room and said, no, he is not the one that you
12 want, you are coming for me. The men came and tried to
13 get the father and take him out of the house, but he
14 wouldn't go. So instead, they put him on the floor of the
15 living room next to his son, they put a rifle in his back
16 and fired several shots into his body. No one has ever
17 been tried or punished for the murder of Francisco
18 Calderon's father.

19 The fourth plaintiff is Ana Patricia Chavez.
20 Today Ms. Chavez lives in Van Nuys, California. She is a
21 housekeeper at a hospital. In 1980, Ms. Chavez lived in
22 San Salvador. She was studying to be a secretary. She
23 and her husband had a small infant baby girl. Ms. Chavez'
24 parents, like Mr. Calderon's father, were members of the
25 ANDES Teachers Union. Every weekend, Ms. Chavez, her

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1 husband and their baby went to visit Ms. Chavez' parents
2 who lived in a town called Ahuachapan, which is in the
3 western part of El Salvador.

4 On July 26th, 1980, while Ms. Chavez and her
5 family were visiting her parents, she woke up in the
6 morning, was doing some chores around the house when
7 suddenly she saw a man standing in their home carrying a
8 rifle. When Ms. Chavez's mother came out of the bathroom,
9 the man took both women, put them on the bed in
10 Ms. Chavez's mother's room and they asked for something

11 they called propaganda. Ms. Chavez's mother said we don't
12 have any propaganda, so they began to beat her, and they
13 beat her viciously while she was laying next to her
14 daughter.

15 After some amount of time and more beating, the
16 men -- the man who put them in the room and other men who
17 had come in put Ms. Chavez into a separate room and put
18 her in the room with her daughter. And while she was
19 there, she heard the sounds that would change her life
20 forever, the sounds of gunshots that took her mother's
21 life. The baby screamed, and Ms. Chavez prayed that the
22 men would not come for her. She sat and waited, and after
23 some time went to her mother's bedroom and saw her there
24 where she had been shot. Frantically, she went outside to
25 find out what happened to the rest of her family, and a

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1 neighbor told her that she ought to go up the road because
2 a young man had been killed by these same men and was
3 lying in the road. She went up the road and found that
4 that young man was, in fact, her husband Omar who had been
5 shot and killed. She walked back to the house, and to her
6 horror found that her father, also a teacher, also a
7 member of the Teachers Union had been shot and killed in
8 his home. No one was ever tried or punished for the
9 murder of Ana Patricia Chavez's parents.

10 The fifth plaintiff is Daniel Alvarado. Today
11 Mr. Alvarado lives in Sweden, and he works in a factory.

12 In 1983, Mr. Alvarado was an engineering student and part
13 of a student movement that opposed the military
14 dictatorship in El Salvador. In 1983, Mr. Alvarado was at
15 a soccer game with his friends when two men in civilian
16 clothes and carrying G3 rifles took him and abducted him,
17 they tied his hands behind his back and they put him in a
18 car, and they drove Mr. Alvarado to the headquarters of
19 the treasury police, and there in the treasury police,
20 Mr. Alvarado was placed in a torture cell with 20 other
21 people. For days and days, he endured horrific, horrible
22 torture. In his torture cell, there were two rooms, one
23 where most of the people were held, another room where you
24 were actually tortured. When it was your time to be
25 tortured, your name was called, and you would go into the

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1 other room. The people who committed this torture in the
2 treasury police headquarters were so sadistic that they
3 gave the torture names. One of the methods of torture
4 that Daniel Alvarado was subjected to was called the
5 little airplane with a pilot. In the little airplane with
6 a pilot, Mr. Alvarado's hands were tied behind his back.
7 His feet were bound together, and he was placed face down
8 on the floor. Wires were attached to his feet, an
9 electric current was run through his body; and while he
10 was lying down and his hands were tied and his feet were
11 bound, a man stood on top of his back, and while electric

12 current was sent through his body, the man took a hood and
13 placed it over his head and pulled back on the hood. He
14 did that until Mr. Alvarado couldn't breathe any more, and
15 when Mr. Alvarado lost consciousness, he would release
16 him, take the hood off and allow him to regain
17 consciousness.

18 Mr. Alvarado endured this type of torture and
19 other torture for days and days until finally when he
20 could endure no more, the treasury police members made him
21 sign a false confession, and they asked him to sign a
22 confession for a particularly heinous crime, the murder of
23 an American military advisor in San Salvador, Lieutenant
24 Albert Schaufelberger who had been killed in San Salvador
25 earlier that year. Mr. Alvarado had nothing to do with

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1 that crime whatsoever, but that didn't matter to the
2 people who tortured him into giving his false confession.

3 After signing a false confession, Mr. Alvarado
4 was presented to the media at a press conference, and he
5 was presented to the media by Colonel Nicolas Carranza.

6 Now, the United States government had an
7 interest in finding out who the real killer of Lieutenant
8 Schaufelberger was, and they knew what really happened in
9 treasury police headquarters, so they managed to get
10 Mr. Alvarado out of the headquarters, take him to a secure
11 location and interview him, ask him to compare what he
12 might know about the murder, with the true facts of the

13 murder, the crime scene, what actually took place.
14 Representatives of the United States government came to
15 two conclusions. One, that Daniel Alvarado had nothing to
16 do with the murder of Lieutenant Commander Schaufelberger
17 and, number two, that Daniel Alvarado was tortured into
18 giving a false confession. News of Daniel Alvarado's
19 torture became known in El Salvador. But beyond El
20 Salvador, news that Daniel Alvarado had been tortured by
21 the treasury police was headlines in the United States, in
22 El Salvador and elsewhere; and despite all of that notice
23 and all of that knowledge, no one was ever tried or
24 punished for the torture of Daniel Alvarado.

25 Now, ladies and gentlemen, you have heard what

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1 brings the plaintiffs to court here today, and these are
2 different stories that occur at different times. What
3 unites these stories? What unites these stories is
4 Nicolas Carranza. Today Nicolas Carranza lives in
5 Memphis. He's a retired employee of the Brooks Museum of
6 Art. But in 1980 Nicolas Carranza led a very different
7 life. In 1980, Nicolas Carranza was a member of the High
8 Command of the Salvadoran military. The High Command
9 consisted of the four leading officers of the Salvadoran
10 military, the group that established military policy in El
11 Salvador. The specific post that Colonel Carranza held
12 was called the vice-minister of defense, and in this case,

13 you will hear that referred to in different ways. Some
14 people in documents called it the vice-minister of
15 defense, some call it the subsecretary of defense. Other
16 times, it is called the undersecretary of defense. All
17 those terms mean the same thing, the vice-minister of
18 defense. And as the vice-minister of defense, Colonel
19 Carranza had operational control of the security forces in
20 El Salvador, the forces that are responsible for the
21 torture and the murder that were endured by the plaintiffs
22 and their families.

23 In 1980, while Colonel Carranza served as the
24 operational commander of the security forces, at least
25 10,000 civilians were killed. The vast majority of them

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1 by the Salvadoran military. These are not military
2 casualties, this is at least 10,000 civilian deaths.

3 Now, in 1983, Colonel Carranza assumes a
4 different position, and that is the position of director
5 of treasury police. It is in 1983 in treasury police
6 headquarters that Daniel Alvarado was tortured. In 1983,
7 there were torture cells being operated at the
8 headquarters of the treasury police, and they were
9 operated by a man named Ricardo Pozo. Ricardo Pozo was a
10 major in the Salvadoran military and the direct
11 subordinate of Colonel Nicolas Carranza.

12 Now, there's a very important concept in this
13 case, which is the law of command responsibility, and

14 Judge McCalla told you about that law yesterday. He read
15 you the elements of what the law requires. The law of
16 command responsibility is essentially this: It is the
17 job, it is the duty of every military commander to ensure
18 that his subordinates are not committing the kind of
19 violence against civilians that happened to these
20 plaintiffs. Specifically, the law of command
21 responsibility requires three things: In this case, to
22 show that the defendant is a commander. That means that
23 the defendant was the superior, and his subordinates
24 committed the acts against the plaintiffs.

25 Second, the law of command responsibility

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1 requires that the defendant knew or that he should have
2 known that abuses were being committed by subordinates
3 under his command.

4 And, third, the law of command responsibility
5 requires that the commander has failed to prevent or
6 failed to prevent what happened, what -- failed to prevent
7 the abuses that occurred or failed to investigate and
8 punish them after the fact. When a commander fails to do
9 these things, he fails in his duty.

10 Now, let's take a step back and talk about the
11 background of this case. This case is going to be about
12 El Salvador. Where is El Salvador? This is a map of
13 North America. You can see Memphis there right below the

14 word states to the right. That's Memphis. El Salvador is
15 a country all the way at the bottom of this map. El
16 Salvador is just south of Mexico. It is the smallest
17 country in Central America. The State of Tennessee is
18 approximately 40,000 square miles. The country of El
19 Salvador is approximately 8000 square miles. That means
20 that El Salvador is one-fifth the size of Tennessee. You
21 could fit five El Salvadors within the State of Tennessee,
22 so this is a very small country.

23 In the 20th century, El Salvador was governed
24 by a series of military dictatorships. From the mid 1930s
25 until the mid 1980s, the governments of El Salvador were

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1 controlled by either military officers or civilians who
2 worked -- who were and picked by the military to lead the
3 country.

4 Mr. Warren, if I could have an easel. This
5 chart shows you the military chain of command as provided
6 in Salvadoran law, and you will see here that this is the
7 commander in chief of the armed forces. The next in the
8 chain of command is the ministry of defense, which is
9 composed of the minister of defense and the vice-minister
10 of defense. This is the post that Colonel Carranza held
11 in 1980. Below that is the general staff of the armed
12 forces. This is the entity that issues commands to the
13 six branches of the Salvadoran military. Those branches
14 are the army, the air force, the navy, the national guard,

15 the national police and the treasury police.

16 Now, three of these branches we're familiar
17 with in the United States as being traditional military
18 branches. The army, the air force and the navy. Now,
19 what is different about El Salvador is that these police
20 organizations, these three organizations are also part of
21 the military chain of command. These are military
22 soldiers that operate in these posts, and they are led and
23 directed by military officers, and they operate in the
24 military chain of command. So in this country we have a
25 difference between the police and military, and they

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1 operate separately. And what you need to know about El
2 Salvador is that it is different. When we are talking
3 about these police agencies, these three agencies, we're
4 talking about people who operate in the military chain of
5 command. And these three agencies, the national guard,
6 the national police and the treasury police together are
7 known as the security forces. So when we talk in this
8 trial about the security forces, we're talking about these
9 three police organizations.

10 By the 1970s in El Salvador, there was
11 opposition and resistance growing to decades and decades
12 of military dictatorship. And so by the 1970s, groups
13 like the FDR and the Teachers Union and other groups began
14 to advocate for some democratic reform, for some stop to

15 the control of the government and society by the military.
16 And so these groups emerged in the 1970s, and at the same
17 time, there emerged a split within the military. One
18 group in the military wanted reform. These were the
19 younger officers who believed in greater civilian control
20 and wanted an end to the military dominance, like the
21 groups who advocated that reform.

22 There was another branch within the military,
23 another group in the military that were the hardliners,
24 and those are the people who wanted to conduct business as
25 usual, they wanted to maintain military control. And what

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1 happened in 1980 was that these two groups within the
2 military were struggling for control, and by the end, the
3 hardliners prevailed, and what they did in 1980 to try to
4 stop the opposition, to try to stop democratic reform was
5 to institute a wave of violence against the civilians, and
6 Colonel Carranza was one of the hardliners, one of those
7 who advocated a strong response, a violent response to the
8 democratic groups that had formed.

9 So in 1980, you have a time of extraordinary
10 violence. As I said, state violence in El Salvador in
11 1980 reached at least 10,000 civilian deaths. State
12 violence also took the form of the systemic use of
13 torture. Torture that were given names, torture that was
14 uniform throughout the country, not random acts,
15 systematic policy of the use of torture for intimidation.

16 The state violence also selected specific targets of
17 repression. We have talked about some of those targets,
18 students, teachers, members of unions, political parties,
19 even elements of the Catholic church, all who were
20 organized and who wanted democratic reform were the
21 targets of violence on the part of the military.

22 One of the methods used to carry out this
23 violence was the use of death squads, death squads like
24 the ones that killed Francisco Calderon's father, like the
25 one that killed Ana Patricia Chavez's parents and husband.

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1 These were paramilitary groups who took their orders from
2 military officers. They operated out of military
3 barracks, but they did their work in plain clothes so as
4 to have the ability to deny what was happening. But they
5 carried them out in very similar ways. They used the
6 military issued rifles, the G3, they wore ski masks, they
7 wore civilian clothes, all of these attributes of the
8 death squads that operated in El Salvador in the early
9 1980s.

10 Now, let's talk about Colonel Carranza's
11 particular role within this violence. In this case, you
12 will hear evidence about two specific time periods, 1980
13 and 1983. In 1980, Colonel Carranza was the vice-minister
14 of defense and member of the high command. Judge McCalla
15 yesterday read to you several undisputed facts. These are

16 facts that the parties have agreed to before trial. And
17 for the 1980 period, it is undisputed, and Colonel
18 Carranza admits that he did not initiate an investigation
19 to determine whether members of the Salvadoran military
20 were responsible for human rights abuses. That is a fact.

21 Another fact that is undisputed from the 1980
22 period is that Colonel Carranza did not discipline or
23 punish any members of the Salvadoran military for human
24 rights abuses.

25 Colonel Carranza will tell you that during this

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1 period he had no command authority in order to investigate
2 these abuses or to punish them. That will be his story,
3 but the evidence, the facts will show to the contrary.
4 You will hear testimony that Colonel Carranza was the
5 operational commander of the security forces. He
6 exercised the real power in the high command. You will
7 hear that testimony from witnesses in this case. You will
8 see it in documents with your own eyes. You will see the
9 Salvadoran Code of Military Justice, which provides for
10 the duties of Salvadoran officers, and Article 186 of the
11 Salvadoran Code of Military Justice provides the following
12 things: It says that the application of disciplinary
13 punishments in cases having to do with violations
14 committed by officers falls upon the following groups.
15 The first group being the minister and the deputy
16 secretary of defense. Remember, that this is another word

17 for vice-minister of defense. Salvadoran Military Code of
18 Justice gives the authority to the vice-minister for
19 disciplinary punishment of officers, but more than that,
20 termination of employment as disciplinary punishment may
21 only be imposed by the minister or the deputy secretary of
22 defense. That means that there are only two people under
23 Salvadoran military law who have the ability to take an
24 officer who is responsible for human rights abuses, pull
25 that officer out of his employment immediately and remove

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1 him from power. Colonel Carranza had the authority to do
2 that, but he never did it.

3 Now, the second period we will be talking about
4 is 1983. And in that period, Colonel Carranza held a
5 different post. Colonel Carranza was the director of the
6 treasury police, and you will remember that the treasury
7 police is one of the three branches of the security
8 forces, part of the military structure. For the 1983
9 period, there are also undisputed facts, facts that the
10 parties agree on. For this period, Colonel Carranza
11 admits, he admits for this period that he had the legal
12 authority and the practical ability to exert control over
13 subordinate members of the treasury police.

14 Colonel Carranza also admits that he did not
15 prosecute under military law or refer to civilian courts
16 any members of the treasury police for incidents of

17 torture or extrajudicial killing. So in this period,
18 Colonel Carranza admits that he had the authority to
19 punish. What he will tell you is that he had no notice of
20 abuses, that had he known about abuses in the treasury
21 police, that he would have investigated and punished them.
22 The evidence in this case will show, the facts will show
23 that Colonel Carranza knew or he should have known that
24 there were abuses being committed at the treasury police.
25 You will hear the testimony from Daniel Alvarado about

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1 Ricardo Pozo, the man who oversaw his torture, who was
2 present in the torture cell when he was tortured. Ricardo
3 Pozo was a direct subordinate of Nicolas Carranza. You
4 will hear that evidence. You will hear the evidence that
5 once it became known that Daniel Alvarado was tortured,
6 that it became news, not just in El Salvador, but in the
7 United States and elsewhere, specific reports of Daniel
8 Alvarado's torture in the treasury police headquarters.
9 Despite that notice, despite all of that information that
10 was available, Colonel Carranza did nothing to punish the
11 people responsible for Daniel Alvarado's torture.

12 The plaintiff will present the following
13 evidence in this case: The plaintiffs will first present
14 the testimony of Ambassador Robert White. Ambassador
15 White was the United States ambassador to El Salvador in
16 1980. He had meetings, regular meetings with members of
17 the Salvadoran High Command to talk about these abuses and

18 to address them and insist that the Salvadoran military
19 stop. The United States policy at the time was opposed to
20 all of this torture and killing, and the role of the
21 ambassador in El Salvador at the time was to try to
22 convince the members of the Salvadoran military to stop.
23 Ambassador White will testify about his experience in El
24 Salvador, what he saw in El Salvador, and he will talk
25 about the specific targets of violence.

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1 You will hear from the plaintiffs in this case.
2 You will hear from Cecilia Santos about her torture in the
3 national police headquarters. You will hear from Ana
4 Patricia Chavez and Francisco Calderon who will tell you
5 how death squads murdered their parents. You will hear
6 from Daniel Alvarado who will describe his torture in the
7 treasury police headquarters. And you will hear from
8 Erlinda Franco, the widow of Manuel Franco, one of the
9 leaders of the FDR. And you will also hear from an
10 eyewitness who was present at the school when the leaders
11 of the FDR were abducted, who saw with his own eyes men
12 abducting and taking away the leaders of the FDR. You
13 will also hear from two expert witnesses in this case.
14 You will hear from Colonel Jose Luis Garcia. He is a
15 retired colonel of the Argentinian army. Lieutenant
16 Garcia is an expert in issues of military structure, and
17 he has studied in particular the structure of the

18 Salvadoran military. He will tell you about Colonel
19 Carranza's duties and his obligations, not just in general
20 as a military commander, the obligation that all military
21 commanders have. He will tell you about the specific
22 duties and obligations that were upon Colonel Carranza as
23 a member of the Salvadoran military. You will also hear
24 testimony from Professor Terry Karl. She will give you
25 expert testimony in this case. She is a political science

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1 professor at Stanford University, and she has spent much
2 of her career studying the politics and the history and
3 the military in El Salvador. She has spent many, many
4 days, weeks and months in El Salvador personally
5 interviewing witnesses, including during the 1980s, people
6 from all levels of Salvadoran society, peasants, members
7 of unions, members of political parties, people in the
8 military, presidents of the country. She has reviewed
9 thousands of government documents, declassified documents,
10 Salvadoran documents, U. S. government documents, all
11 recounting what was happening in El Salvador at the time.
12 And she will tell you that what the Salvadoran military
13 did during this time was a widespread and a systematic
14 attack against the civilian population. That is what was
15 happening in El Salvador. And she will testify to Colonel
16 Carranza's particular role within the military and within
17 that violence.

18 At the end of this case, we will ask you, the
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19 members of the jury, to find three things, three
20 categories of things. First, we will ask you to find that
21 what happened to these plaintiffs, to three of these
22 plaintiffs constitute crimes against humanity. That means
23 that what happened to these plaintiffs was not just an
24 isolated act, but what happened was part of a widespread
25 or a systematic attack against the civilian population.

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1 So these were not random acts, these were not things that
2 occurred in a vacuum, these were part of a much bigger
3 pattern of violence. And when you find that, you will
4 find that these are crimes against humanity.

5 Second, we will ask you to find Nicolas
6 Carranza responsible as a commander, that he has command
7 responsibility for what took place and what happened to
8 these plaintiffs.

9 And finally, we will ask you for damages.
10 Judge McCalla explained that this is a civil case. That
11 means that the only remedy that the plaintiffs can ask for
12 is money damages, and we will ask you at the end of this
13 case to consider the evidence and to compensate the
14 plaintiffs for what has happened to them, to compensate
15 them for their physical and their emotional injuries. But
16 clearly, ladies and gentlemen, this is not a case about
17 money, it is certainly not. This is a case about justice
18 for the plaintiffs, and at the end of the evidence, we

19 will ask you to give the plaintiffs the justice that they
20 have awaited for too long.

21 THE COURT: Mr. Fargarson, do you wish to make
22 an opening statement on behalf of Mr. Carranza?

23 MR. FARGARSON: Yes, sir.

24 THE COURT: You may proceed. Just make sure we
25 have got our mic, Joe.

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1 MR. FARGARSON: Members of the jury, as you
2 were told when you were being qualified as jurors in this
3 case that opening statements are not evidence. The
4 evidence comes from the witness stand, and this is a time
5 for us to state something about the case and what we
6 believe the facts in the case are going to show.

7 Now, if I say something that's -- that doesn't
8 turn out to be evidence or isn't exactly true, I want you
9 to understand that that is not coming from my heart trying
10 to deceive you in any way, and to keep you from reaching
11 the truth and right of the case, it is an error in my mind
12 or either my tongue.

13 Now, on behalf of Mr. Carranza's case, let me
14 tell you a little bit about him at this particular point
15 and then we will talk about El Salvador. Mr. Carranza
16 came to the United States in 1985. He was still a member
17 of the military of El Salvador, but he retired, and after
18 coming to the United States, he got a license to sell real
19 estate, and he did sell real estate here in Memphis,

20 Tennessee for a couple of years.

21 After that, a friend told him about an opening
22 at the Brooks Art Gallery here in Memphis, Tennessee, and
23 he applied for that job at the Brooks Art Gallery and he
24 got a job as a security guard, and he continued to work
25 there from approximately 1991 until he retired as the head

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1 of security at the Brooks Art Gallery in 2001. He has
2 become a United States citizen, he lives in Memphis,
3 Tennessee, he has never gotten in any trouble. He has
4 lived an exemplary life, which is contrary to what the
5 plaintiffs particularly contend in this case.

6 Now, of course, prior to coming to Memphis,
7 Tennessee, he did live in El Salvador. He was born in
8 eastern El Salvador in the Yucatan Peninsula. His father
9 worked for a telegram company and his father wanted him to
10 be a lawyer, so he studied law for one year, but he had a
11 relative that was in the military that encouraged him in
12 the military career, so he did enroll in military school,
13 not desiring to complete his law courses, and he graduated
14 from military school, which I understand you have to go to
15 be an officer. That may or may not be true, but anyway,
16 he did, and graduated from military school in 1957, number
17 one in his class.

18 While in the military, he participated in
19 various areas. He was in the artillery, he went and came

20 to an artillery school in the United States on a
21 scholarship presented to him by the United States. He
22 also was in the cavalry regiment and learned cavalry
23 tactics, riding horses and being in the mountains, and he
24 served in a number of other areas in the military.

25 Now, in the period of time that we're talking

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1 about, which is 1979 and 1980, it was a very -- it became
2 a very turbulent time in the history of El Salvador, not
3 to say that there weren't other periods of turbulent
4 times, but in this particular period of time it was a very
5 turbulent period of time. The communists and
6 Marxist-Leninist proponents were very active in Central
7 America. Nicaragua had fallen into the hands of communist
8 sympathizers and those that believed in the communist
9 theory of government, and there was also activity going on
10 in other countries like El Salvador, Guatemala and
11 Honduras, and the United States government was very
12 interested in what was taking place in that area, and they
13 were sending military support, military aid and help into
14 that area because they didn't want communism to go any
15 further in the Western Hemisphere, and in particular that
16 close to the United States.

17 Also, in that period of time, the communists
18 were undertaking to influence their doctrine on certain
19 groups, and as Mr. Esquivel has told you, there were
20 groups that arose that were opposed to the military.

21 Those groups that were opposed to the military were
22 organizations like the FDL, organizations like the FMLN,
23 and they were indoctrinated in communism and they were
24 supplied by the communists and they were battling against
25 the military, which was the government of El Salvador at

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1 that time. And while we mentioned -- or Mr. Esquivel has
2 mentioned the 10,000 civilians that were killed, these
3 organizations which operated in guerrilla units throughout
4 the country and wore masks and carried rifles just like
5 military rifles that the military of El Salvador carried
6 except they were either Russian or Cuban or Mongolian made
7 were likewise killing civilians, cornering civilians and
8 forcing them to join with them, or if they wouldn't join
9 with them, they would either abduct them, kill them or
10 they were committing not just random acts, but they were
11 committing open violence in El Salvador. And not only
12 that, they were doing their best to destroy the
13 infrastructure in El Salvador and change the entire
14 government to their way of thinking, and there were
15 numerous of those groups, to the point that they even
16 controlled certain areas of El Salvador and even certain
17 cities at certain times.

18 Now, it is against this backdrop of civil war,
19 civil disorder and civil disturbance that some of these
20 acts and these circumstances have taken place, mainly all

21 of them. It is against this backdrop of confusion, civil
22 disorder, civil unrest that these occurrences are taking
23 place.

24 Now, in the period of 1979 to 1980, a period of
25 approximately 14 months, and only 14 months, Mr. Carranza

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1 was a subminister of defense. As Mr. Esquivel has told
2 you, there were divisions even in the military, and in
3 that period of time or during that period of time, there
4 were the younger military officers that wanted to take
5 over the military, and there were older military officers
6 that didn't want them to, and so there was at times a
7 struggle for control of the military. And what would take
8 place is there would be a coup. Certain periods of time,
9 there were coups in the military and in the government and
10 there would be a change.

11 The proof is going to show that Nicolas
12 Carranza never took part in any of those political matters
13 to try to take control of anything, but in the 1979-1980
14 period, when Guillermo was the minister of defense, he was
15 designated to be his assistant. In El Salvador, a number
16 of names is used, in the United States we would call it
17 the vice-minister. In El Salvador, it is called the
18 subminister. Basically, his assistant, but he acts always
19 under the orders and insubordination to Guillermo Garcia.
20 And I believe you will hear in this particular proof that
21 Guillermo Garcia, the minister of defense, was the most

22 powerful man in the army at this particular time. As a
23 matter of fact, when some of the younger officers wanted
24 to take a more authoritative position in the military,
25 many of the inline officers said they wouldn't take orders

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1 from anybody but Guillermo Garcia, and that's the man that
2 Nicolas Carranza served under and reported to and was
3 responsible to and was to obey and to do what he was told
4 to do and not usurp authority out from under him and try
5 to go around him insofar as the chain of command is
6 concerned. The chain of command works two ways. In other
7 words, a military officer is supposed to obey superiors,
8 and that included Nicolas Carranza. In acting as
9 subminister, he had to obey Guillermo Garcia, the most
10 powerful man in the army at the time he was the
11 subminister and his minister of defense.

12 Now, he was only in that position 14 months.
13 And then from that position, he was changed to ANTEL,
14 which was a telephone company in El Salvador, and he
15 stayed in that job for a short period of time, and then --
16 to manage that at a period of time when subversive actions
17 were taking place and disruption was taken in
18 communication and the phone lines, and then he was
19 assigned to what is known as the Limpia River Authority for
20 another relatively short period of time. In that period
21 of time, a man named Vides Casanova who had gone to school

22 with Nicolas Carranza became the minister of defense in
23 the place of Guillermo Garcia, and Vides Casanova asked
24 him to come to the treasury police and to be the director
25 of the treasury police. Now, it's no secret -- and this

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1 will be shown, that the treasury police had a terrible
2 reputation. They did have a reputation for being out of
3 hand. They did have the reputation for having violence.
4 And what Vides Casanova asked Nicolas Carranza to do is to
5 come and try to change the way the treasury department
6 conducted their business and the way they conducted their
7 affairs, and Nicolas Carranza accepted that position, and
8 he did come to the treasury police as their director.

9 Now, we're going to offer evidence that changes
10 were made, that he enlisted some civilian support, he
11 asked for regular officers to come over there so that he
12 would have people trained to work in that department
13 rather than people that weren't trained. He dismissed the
14 subdirector of the treasury police who was in that place
15 when he took over because he didn't like the way he was
16 conducting things, and he undertook to make a difference
17 in the treasury police from the very start, and there will
18 be a cable to the state department that shows that that
19 was his intention to make a change.

20 Now, how do you change everything that has been
21 going on for years in a moment of time? You -- if you use
22 your common sense, you'll understand that everything can't

23 be done in an organization that is misfit and not going on
24 in a moment of time, it is going to take some time. But
25 the proof is going to show that Nicolas Carranza made an

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1 effort to change what was taking place in the treasury
2 department. Just as soon as he got there, he started
3 doing things to make a difference.

4 Now, of all of the plaintiffs, there's really
5 only one plaintiff that Nicolas Carranza had any contact
6 with, and that was in 1983 regarding Daniel Alvarado when
7 Daniel Alvarado had been picked up and charged with the
8 assassination of Albert Schaulfelberger who was a military
9 attache of the U. S. Embassy.

10 Now, so you will understand, Nicolas Carranza
11 allowed Daniel Alvarado to go to a public meeting in front
12 of television cameras, in front of an audience which would
13 allow him to say anything he wanted to say. He could have
14 said I didn't do it, I have been tortured, I was captured
15 against my will, I have been held in a cell. Daniel
16 Alvarado never said a word about that. As a matter of
17 fact, Nicolas Carranza allowed him to go see a military
18 justice, and Daniel Alvarado never even said anything to
19 the military justice about being tortured or anything
20 happening to him. Nicolas Carranza allowed him to leave
21 the jail and go talk to agents from the United States,
22 which he did, and at first, even admitted to them that he

23 killed Schaufelberger. So Nicolas Carranza did not
24 prevent Daniel Alvarado from changing anything, from
25 saying anything, from telling the press, from telling the

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1 world from the very moment that Carranza saw him that he
2 had been duped, he had been forced into making a
3 confession.

4 With regard to the other members, Nicolas
5 Carranza has never seen any of them, didn't know anything
6 about their situations or their plight. And Mr. Calderon
7 is a relative, a distant relative of Guillermo Garcia, and
8 Mr. Calderon said and stated that he was offered the
9 opportunity to meet with Mr. Garcia and to see if an
10 investigation couldn't be conducted into the death of his
11 father, and rather than meeting with Mr. Garcia, who was
12 then Colonel Garcia at the head of the ministry, he chose
13 not to do so, not to have an investigation into the death
14 of his father.

15 Now, members of the jury, all I want you to
16 know is there's two sides to a piece of bread and there's
17 two sides to a lawsuit. Before closing, I want to tell
18 you one other thing. As I mentioned, the United States
19 was badly interested in what was happening in El Salvador.
20 Yes, there were some disagreements between the democrats
21 and the republicans, just like there is today. There were
22 times when aid was threatened to be cut off because of
23 what was going on. Then there were times they realized

24 that the best option was not to have a communist control
25 the country, but to have the Salvadorians in one form or

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1 another control their country, and that that would be in
2 the best interest of the United States of America.

3 In that process, you're going to hear in this
4 case that Nicolas Carranza was a paid informant of the
5 United States government, that he was paid by the United
6 States government to provide information to United States
7 representatives in the United States Embassy.

8 Now, Mr. Carranza does not know whether those
9 individuals that he was giving information to were state
10 department civilian employees, whether they were attaches
11 of the United States military to the state department or
12 whether they were CIA representatives. All he knows is
13 that he was enlisted to provide information to agents and
14 representatives of the United States, which he did over a
15 period of years, and in a sense, he was similarly employed
16 by the United States.

17 Now, I can understand that the United States
18 does things that are wrong even though it's my country,
19 and they're not always right, but it seems kind of
20 inconceivable to me that the United States of America
21 would trust a man like Nicolas Carranza to provide
22 information to them about what is taking place in El
23 Salvador and he be the savage and incentive person that

24 the plaintiffs want to make him out to be. The truth of
25 the matter is what the plaintiffs want done is to have

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1 Nicolas Carranza take the blame and the responsibility for
2 everything that took place down there because he had a
3 position, not that he did anything, not that he was the
4 cause of it, but because he was in a position and he
5 should have stopped the struggle and the harm that was
6 taking place, not that it would have helped these people,
7 but that he should be accountable for all those acts of
8 violence.

9 Ladies and gentlemen, we submit this to you,
10 and believe that you will when you hear all the proof in
11 the case, be able to be fair and reach the truth in light
12 of the case and satisfy the requirements of justice for
13 all the parties. Thank you.

14 THE COURT: Ladies and gentlemen, we have
15 concluded the initial opening statements of counsel, and
16 this is the time to take a break, and then we will come
17 back and hear from the first witness. I will tell you
18 that we adjusted the schedule. We will be able to stay
19 until noon and have a more normal schedule, I was able to
20 get somebody else to handle something else that was a
21 matter that had to be taken care of earlier, so your lunch
22 break will be at 12:00, and I anticipate that maybe we
23 will leave five minutes till 12 and come back no later
24 than 1:30. I'm going to see how we're doing. If we can

25 come back earlier, we will. That's going to be our

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1 schedule. So I'm going to ask you to -- we will -- these
2 breaks will be somewhat shorter, but there are a lot of
3 people, so they will typically be a 15-minute morning
4 break and an afternoon break. We will take that 15-minute
5 break at this time, ask you to check your watches and come
6 back in 15 minutes and be ready to proceed at that time.

7 THE CLERK: All rise. This Honorable Court
8 stands in recess for 15 minutes.

9 (Recess taken at 10:30 until 10:45 a.m.)

10 THE COURT: Yes, sir.

11 MR. BROOKE: May we approach?

12 THE COURT: You may.

13 (The following proceedings had at side-bar
14 bench.)

15 MR. FARGARSON: Let me tell him something
16 first.

17 THE COURT: Yes, sir.

18 MR. FARGARSON: I want you to know that I
19 opened the door to the jury room and I saw them in there
20 and I immediately got out.

21 THE COURT: Okay. I have never had a lawyer do
22 that before, but -- it is set up differently, as you know,
23 in different courtrooms, and ours unfortunately doesn't
24 have a separate restroom section, and you wouldn't know

25 that.

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1 MR. FARGARSON: I forgot.

2 THE COURT: You wouldn't have any way to know
3 that. I assume that is not a problem.

4 MR. FARGARSON: I told David that, but I wanted
5 you to know.

6 THE COURT: That just scared them. I'm
7 kidding, you know that.

8 MR. FARGARSON: It scared me more than it did
9 them.

10 THE COURT: That's no problem. I'm sure --
11 that's no big issue. Anything else?

12 MR. BROOKE: I have something, Your Honor. It
13 appears that they have some documents that they want to
14 use with Mr. White.

15 THE COURT: Sure.

16 MR. BROOKE: And those documents, I believe,
17 are basically the cables that he had written back to the
18 state department, things like that.

19 THE COURT: That he wrote to the state
20 department?

21 MR. ESQUIVEL: Some that he wrote and some that
22 others in the embassy wrote, but most of what he wrote.

23 THE COURT: Certainly, things that he wrote
24 are -- they are hearsay if they were simply letters. They
25 are records if they were recorded in the ordinary -- it

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1 needs to be qualified as a business record. I do not
2 know, but I assume that there are certain requirements of
3 the job and that they cable things as a matter of their
4 business, so the question is was this prepared in the
5 ordinary course type of inquiry, and I assume that is what
6 you intended to do.

7 MR. ESQUIVEL: We intended -- that is one of
8 the bases. We believe there are also matters pursuant to
9 duty 803(8)(b).

10 THE COURT: That can work also. I just don't
11 know every piece of paper, so some would be -- might be
12 more summary report material. Some matters might be
13 matters observed in that manner. I just don't know.

14 MR. ESQUIVEL: And, in fact, Your Honor, the
15 cleanest hearsay objection -- clearest hearsay exception
16 is the ancient documents rule. These are documents that
17 are greater than 20 years old.

18 THE COURT: Oh, okay.

19 MR. ESQUIVEL: So those are ancient documents,
20 the parties have stipulated to their authenticity, so all
21 of these documents come in under the ancient documents
22 section.

23 MR. BROOKE: Your Honor, I believe the witness
24 can use them to refresh his recollection, but just like a
25 police report, they're merely his observations.

1 THE COURT: Well, the exceptions that we just
2 went through would be exceptions which would allow
3 admissibility and would not be used for refreshment of
4 recollection, whereas a letter written by someone, a
5 letter written to a relative, you know, that sort of
6 thing, might well be in the category you just described
7 where you write your aunt and say this is what I observed,
8 you have no obligation to report it, it probably doesn't
9 have the same indicia in those circumstances. Generally,
10 that sort of material would be used only to refresh
11 recollection and probably would not be received, it would
12 probably be simply hearsay.

13 The ancient documents exception might sweep
14 that in too, but I just want to describe one category of
15 material that would -- that I don't think is going to come
16 up, but would probably generally not be in the same
17 circumstance as something prepared in one of the three
18 exceptions that we were talking about.

19 You see, you know every document that we have,
20 I don't.

21 MR. ESQUIVEL: Yes.

22 THE COURT: And you know what you intend to put
23 on. Although I have got some material on that, I do think
24 that these are probably each going to be admissible, but I
25 always reserve the final determination until I see it and

1 see for what purpose it is offered, and so what you will
2 do is you will hand the document to the ambassador, ask
3 him some appropriate preparatory questions. He doesn't
4 have to read the document. He shouldn't read it out loud
5 anyway. He can read the document to himself, and then say
6 we move its admission under, and if you want to reference
7 the rule at the time, then, of course, Mr. Brooke will
8 know exactly what you're talking about, which is very
9 helpful and so a lot of times if it is clear to me that it
10 is admissible, I'll say it's received and that will
11 resolve the question. If there seems to be a substantive
12 question, then you can approach the side bar. Most of
13 these are going to be pretty clear, I think.

14 MR. ESQUIVEL: I believe so, Your Honor. And I
15 have an extra copy for Your Honor so that I will show -- I
16 have one marked to show the witness and so that Your Honor
17 can see the document as well.

18 THE COURT: As soon as we determine it is
19 admissible or not, it should be very quickly, then it is
20 allowed to be displayed once it is received. Once it is
21 given a number, it can be then displayed so that,
22 obviously, it is much easier for all of us to see the page
23 you're on and the paragraph you're on if you're using the
24 computerized version.

25 MR. ESQUIVEL: So Your Honor prefers to show it

1 to the witness before it is marked with a potential
2 exhibit number?

3 THE COURT: Well, it can be given -- I would
4 like -- you can say I would like it marked for
5 identification Exhibit 1, and then we strike the ID or it
6 can be submitted, looked at and marked only for received,
7 it doesn't matter, either one is satisfactory.

8 MR. BROOKE: Is the general tenor of Your
9 Honor's thoughts that a state department memo that he
10 authored would more likely than not be received into
11 evidence, because I don't want to keep making objections?

12 THE COURT: Oh, exactly. It appears that these
13 are going to be exceptions under the hearsay rule for --
14 under one, two or three of the reasons cited, maybe all
15 three. It does appear that they will be, and he wasn't
16 writing home to his Aunt Susan, he was actually doing this
17 as part of his job, he had an obligation to make
18 observations, I assume he will say that.

19 MR. ESQUIVEL: Yes, I assume so too.

20 THE COURT: If we get the appropriate predicate
21 laid, and he agrees that that is the situation, then they
22 will be received.

23 MR. BROOKE: All right. Can we assume then we
24 have a continuing objection so I don't have to --

25 THE COURT: Oh, yes. You know, When the rules

1 were amended, most of the -- that is certainly a favored
2 procedure is to say, well, I object to this category of
3 materials and unless the plaintiff takes a different
4 position, you would have an objection in that regard.
5 Now, if you have got -- if one comes up and it is quite
6 clear that is different, we need to talk about it, because
7 I might exclude it, I may well exclude it.

8 MR. ESQUIVEL: We have no objection to that
9 procedure.

10 THE COURT: Are you all set?

11 MR. FARGARSON: Did we formally announce that
12 we wanted the rule?

13 MR. ESQUIVEL: Yes.

14 THE COURT: I don't know that the rule was
15 called for, but I think everybody understands that it has
16 been called for. Anybody -- of course, the parties can
17 all be present, the experts can be present for both sides.

18 MR. FARGARSON: Right, we talked about the
19 expert, but I don't believe we said we call for the rule,
20 but we do.

21 THE COURT: The rule has been called for and,
22 therefore, everybody --

23 MR. BROOKE: We need to get Mrs. Carranza and
24 the daughter out.

25 THE COURT: Well, unless they have no

1 objection, and sometimes there's an agreement.

2 MR. FARGARSON: Mrs. Carranza will --

3 MR. ESQUIVEL: We wouldn't object to
4 Mrs. Carranza, she is on the witness list, as long as they
5 wouldn't object to Irma Calderon who was the sister of
6 Mr. Calderon, who is also on our witness list.

7 MR. FARGARSON: Mrs. Carranza is gone.

8 MR. ESQUIVEL: And so is Mr. Calderon and so --

9 THE COURT: Well, the rule will simply be
10 followed, and if there is an exception and you agree upon
11 it, you can announce it to the court.

12 (The following proceedings were had in open
13 court.)

14 THE COURT: Mr. Esquivel, I think we're ready
15 to proceed. I will have the jury come in, and we will
16 call our first witness, and the witness can come in and be
17 seated so they can be called immediately if you would
18 like. You can bring the panel in.

19 MR. ESQUIVEL: Yes, Your Honor.

20 (Jury in at 10:50 a.m.)

21 THE COURT: Y'all get to be seated. All right.
22 Everybody can be seated. Ladies and gentlemen, we were
23 back in here actually early, but sometimes things are
24 brought up, try to bring them up so we don't have too many
25 interruptions, and we have accomplished that.

1 Mr. Esquivel, who will your first witness be?

2 MR. ESQUIVEL: Your Honor, The plaintiffs call
3 Ambassador Robert White.

4 THE COURT: If you would stop there, please, at
5 the podium and raise your right hand.

6 THE CLERK: Do you solemnly swear the testimony
7 you are about to give the court in this matter to be the
8 truth, the whole truth and nothing but the truth, so help
9 you God?

10 THE WITNESS: I do.

11 THE CLERK: You may take the witness stand.

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1 master's degree in international relations. I entered the
2 Foreign Service after a brief period of working in the private
3 sector, and I was in the Foreign Service for 25 years. I
4 served in Asia and Europe and I served -- I concentrated on
5 Latin America; and I served in Latin America basically between
6 1963 and 1981.

7 Q. Now, Ambassador, when you say you were in the Foreign
8 Service, what kind of post did you hold in this position?

9 A. Well, you start out as a relatively junior officer, I
10 was Chief of the Political Section in Honduras. I was the
11 Deputy Ambassador in Nicaragua, I was the Deputy Ambassador in
12 Colombia, I was ambassador in Paraguay. I was Deputy
13 Ambassador to the Organization of American States and
14 Ambassador to El Salvador.

15 Q. What's the Organization of American States?

16 A. The Organization of American States is like the United
17 Nations for Latin America for the western hemisphere.

18 Q. And describe for the jury, please, Ambassador White,
19 generally what the duties of a United States ambassador are.

20 A. Well, the primary purpose -- of course, there's
21 several, there's a number of primary purposes. One, you are
22 the representative of your country, your nation. The
23 ambassador is the personal representative of the president.
24 In that capacity, he or she is the eyes and ears of the
25 nation. It is our responsibility to keep Washington, to keep

1 the Department of State and the other agencies of government
2 and the White House informed of developments that could affect
3 the foreign policy of the United States.

4 Q. What are the resources that are available to a United
5 States ambassador to conduct that business?

6 A. Well, the resources are substantial. We have a -- the
7 United States is, of course, the super power and we have no
8 shortage of tools to get our job done. We have electronic
9 equipment where we have instantaneous communication with
10 Washington. We have representatives of various agencies
11 interested in foreign affairs in the Embassy, we have a
12 trained corps of diplomats which are -- which function under
13 the control of the Department of State.

14 Q. And what type of staff is at the disposal of the
15 ambassador in an embassy?

16 A. Well, you have -- of course, first you have trained
17 diplomats who have language facility and who go out around the
18 country and ascertain what is happening. You have consuls
19 whose primary job is to protect American citizens, to make
20 sure that these applicants to the United States are
21 trustworthy and will return, that is you do passports and do
22 other work that has to do with protecting American citizens.
23 You have economic officers that report on the economic state
24 of the country to which you are accredited because naturally
25 you are there also to develop trade and investment. You have

1 political officers that are specialized in analysis of the
2 political situation of the country, what is happening in that
3 country that could affect U. S. interests.

4 Q. Ambassador White, when were you appointed United States
5 Ambassador to El Salvador?

6 A. In 1979.

7 Q. And please describe for the jury for the particular
8 embassy in El Salvador where you served, what was the
9 composition of the staff and what were the resources available
10 to you there?

11 A. Well, I served as Ambassador in El Salvador. As I
12 said, the ambassador is the president's representative, it is
13 his or her responsibility to control all the different
14 elements that are within the embassy and to make certain that
15 they are functioning together as a team. That is the primary
16 responsibility of an ambassador. It also is that he will
17 relate to the head of state and the other important people in
18 the country, because it is his job to know what's going on.

19 Q. And as Ambassador to El Salvador, did you do that, did
20 you relate to the heads of state and inform people in El
21 Salvador?

22 A. Yes, I did.

23 Q. How often would you do that?

24 A. Well, I suppose every day, I would be meeting with all
25 different sectors of -- it would be a rare day when I was not

1 involved in some way with El Salvadorans, and some days I
2 might just be playing tennis with them. Some days, I would be
3 out on the cocktail circuit, which is a heavy burden on
4 ambassadors, but you have to do it.

5 Q. What specific sectors of the Salvadoran government or
6 society would -- did you have interactions with?

7 A. Well, I had interactions with as many as I could, but
8 I -- of course, I'm accredited to the government, my primary
9 obligation was to relate to that government, to the head of
10 state, and in this case, the head of state was a junta, a
11 five-man team, although that would be going too far to call it
12 team, because there was marked differences of opinion between
13 and among the members of that team. You -- there were two
14 military representatives on that junta, and they represented
15 the real power in the country.

16 Q. Now, Ambassador White, these meetings that you had and
17 the information that you obtained, did you relay that
18 information to the State Department in Washington?

19 A. Yes, I did.

20 Q. And tell the jury about that process, how that was
21 done.

22 A. Well, I suppose that we were sending 50 or 60 telegrams
23 a day into the Department of State. Now, these cables varied
24 in importance from the petty -- the ones that were just
25 reporting on something insignificant, but was material to a

1 particular issue at the time to the -- to those cables that
2 are of great importance that I would draft myself and would
3 sign. Now, I signed all important cables. There were some
4 cables of lesser importance that were signed by the Deputy
5 Chief of Mission, who is sort of the deputy ambassador.

6 Q. How important was it that these cables that you and
7 others in the Embassy relayed that they be accurate?

8 A. Well, I would say it was of crucial importance. The
9 integrity of Foreign Service reporting is of great importance,
10 because as I said, the Foreign Service and the ambassador are
11 the eyes and ears of this nation, and unless we report
12 accurately, our country is flying blind, and so it is of vital
13 importance that we get out, find out what is going on in the
14 country and tell the President, tell the Secretary of State
15 what is happening.

16 Q. Ambassador White, did you have a security clearance to
17 view classified information when you were the United States
18 Ambassador to El Salvador?

19 A. I had the highest security clearance.

20 Q. The highest clearance.

21 MR. ESQUIVEL: Your Honor, at this point, the
22 plaintiffs offer Ambassador White as an expert witness in
23 the political and military structure in El Salvador during
24 the time that he served as the ambassador.

25 THE COURT: Any voir dire as to his credentials

1 or qualifications?

2 MR. BROOKE: Your Honor, I don't believe we
3 were ever advised that he was going to be designated as an
4 expert.

5 THE COURT: I think we had a discussion about
6 that already. We can talk about this very briefly at side
7 bar.

8 (The following proceedings had at side-bar
9 bench.)

10 MR. FARGARSON: Did we?

11 MR. ESQUIVEL: I sent a letter disclosing him
12 as an expert back in November.

13 THE COURT: Gentlemen, gentlemen, it has
14 already been signed as part of the pretrial order, so I'm
15 kind of at a loss here, I think. The plaintiffs -- this
16 is the language on page 13, the plaintiffs will also call
17 Ambassador Robert White who will testify primarily as a
18 fact witness, but will also be offered as an expert
19 witness about the Salvadoran military and political
20 structure based on the specialized notice he gained as
21 United States Ambassador to El Salvador. So, obviously,
22 the court has notice and it became part of the document
23 which controls the proceeding, so I'm kind of at a loss as
24 to the basis of the objection.

25 MR. FARGARSON: We never got any report about

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1 him being an expert.

2 THE COURT: But this document is the
3 controlling document in the case. In other words, there
4 was no objection, including the language in the pretrial
5 order, so it is a surprise to the court that there's an
6 objection, that's my problem. Was there a report also
7 produced, although --

8 MR. ESQUIVEL: There was no need for a report,
9 Your Honor, because Ambassador White doesn't fall within
10 the category of an expert.

11 THE COURT: He's not a retained expert at all.
12 I don't think he is a retained expert, and this does come
13 up on occasion. The document was entered into and signed
14 by the court. I think we need to proceed in this matter.
15 Thanks very much.

16 (The following proceedings were had in open
17 court.)

18 THE COURT: The court will, in accordance with
19 the documents that govern the proceeding, accept
20 Ambassador White as an expert about the Salvadoran
21 military and political structure based on the specialized
22 knowledge gained by him as United States Ambassador to El
23 Salvador.

24 BY MR. ESQUIVEL:

25 Q. Ambassador White, describe for the jury, please, the

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1 political background of El Salvador in general terms before

2 you arrived as ambassador.

3 A. El Salvador had the longest running military
4 dictatorship in Latin America. It was a dictatorship known
5 far and wide for its brutal and harsh methods and for the
6 injustice of the system. The percentage of landless and near
7 landless in El Salvador was the highest in the world.
8 Bangladesh was second. The court system -- I mean there were
9 judges and courts, but they basically did nothing. No rich
10 person was ever tried for any serious crime, and rough justice
11 was meted out to the poor either through a gun butt or a gun
12 battle, depending on the seriousness of the offense or the
13 accusation. So what you had was a near total military
14 dictatorship that was run for the benefit of a very few
15 people. There's a very famous phrase that I'm sure you will
16 hear throughout this trial about 14 families, and 14 families
17 controlled the wealth of El Salvador. And what you had in El
18 Salvador when I arrived was an up-push of poor people. The
19 influence of guerillas as guerillas was wildly exaggerated.
20 Nobody -- a few guerillas are not really a problem unless they
21 have -- unless behind them in this great mass of people
22 demanding democracy, demanding change, and that's what
23 happened -- that's what was happening in El Salvador --

24 Q. Ambassador White, I'm sorry to interrupt you, sir, but
25 I do want to make sure that the jury understands, when you

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1 used the term guerillas before, could you explain, please,
2 what you were talking about and what you were referring to

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3 when you mentioned the presence of guerillas?

4 A. There was a left wing group of young people who had
5 despaired that change could ever take place under the
6 democratic forms of El Salvador, and they in despair took up
7 arms. These people -- there weren't that many of them.
8 According to our Embassy reports, there were fewer than 500 in
9 1979-1980. The real -- what you had was in a country of five
10 million people, you have 300,000 people peacefully
11 demonstrating in the streets, and that was where the real --
12 the real challenged leg to military rule. The military could
13 not last if the people rose up and demanded a fair vote and
14 demanded that they be counted as citizens, and so the military
15 of El Salvador, they didn't fight very much when I was there.
16 They killed a lot of people on the mere suspicion that they
17 were -- that they would not accept the system as it was.

18 Q. Now, in the military in El Salvador at the time, was
19 there an event or a time in October of 1979 where something
20 happened politically that was significant?

21 A. Yes.

22 Q. What was that?

23 A. This was the -- a revolt by younger, more idealistic
24 officers who wanted change, who wanted a democratic form of
25 government. They wanted more than democratic form, they

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1 wanted the substance of democracy as well. And it was, as I
2 said, led by younger, more idealistic officers. And they

3 ousted the military president and they threw out of the
4 military a great many senior officers whose violations of
5 human rights were well documented and well-known, and so they
6 presented to the world during October and November a new face
7 of the Salvadoran military.

8 Q. And this effort at reform that these younger officers
9 began, was it ultimately successful?

10 A. No, unfortunately, it was ultimately unsuccessful.

11 Q. And why is that?

12 A. It was unsuccessful because the real power never passed
13 to the younger officers, the idealistic officers. There was a
14 cabal of men headed by Colonel Garcia and Colonel Carranza and
15 others who simply wanted to have the stamp of reform on their
16 efforts, but who were not going to allow civilians to govern.

17 MR. ESQUIVEL: Your Honor, may I have
18 permission to approach the witness and hand him a
19 document?

20 THE COURT: Certainly.

21 BY MR. ESQUIVEL:

22 Q. Ambassador White, I'm handing you a document that is
23 dated February 17, 1980, the subject of it is meeting with
24 Salvadoran high command on mobile training teams.

25 A. Yes.

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1 Q. Have you ever seen this document before?

2 A. Yes, I have.

3 Q. Can you tell me who the author of this document is?

- 4 A. The author of this document is James Cheek.
- 5 Q. And who is Mr. Cheek?
- 6 A. He was the acting ambassador for a short period between
7 the departure of the former ambassador and my arrival in the
8 country.
- 9 Q. And is this document one of the telegrams or one of the
10 reports that you referred to earlier in your testimony that
11 the Embassy would send to the State Department?
- 12 A. Yes, this is.
- 13 Q. And does this document record acts, events or meetings
14 that Mr. Cheek or others in the Embassy had?
- 15 A. Yes, it does.
- 16 Q. Is document made at or near the time that those events
17 took place?
- 18 A. Yes.
- 19 Q. And were they made by or from information that's
20 transmitted by someone with personal knowledge of the events
21 that are described in this document?
- 22 A. Yes, sir.
- 23 Q. And is this a document that is kept in the regular
24 course of business of the United States Embassy?
- 25 A. Yes.

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- 1 Q. And was it the regular practice of the Embassy to keep
2 this document?
- 3 A. Yes.

4 MR. ESQUIVEL: At this time, Your Honor, the
5 plaintiffs move this document as Exhibit 1.

6 THE COURT: It is received.

7 (Exhibit Number 1 was marked. Description:
8 Telegram.)

9 BY MR. ESQUIVEL:

10 Q. Now, Ambassador White, if you would start, please, on
11 the first page of this document and read for the members of
12 the jury the first sentence in paragraph two.

13 A. The charge, the Deputy Chief of Mission, the Commander
14 of the United States military group and the defense attache
15 met for two hours on the afternoon of February the 18th with
16 the Armed Forces High Command. There were in attendance
17 Colonel Majano, Minister Defense Garcia, Subsecretary of
18 Defense Carranza and Chief of Staff Castillo to discuss timing
19 and mission of the military training teams.

20 THE COURT: Is there a problem with the
21 equipment?

22 MR. ESQUIVEL: I'm sorry, PL 1275. I'm sorry,
23 Your Honor, for the problem.

24 THE COURT: That's no problem.

25 MR. ESQUIVEL: That is a copy of the document.

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1 BY MR. ESQUIVEL:

2 Q. Now, this sentence refers to the high command?

3 A. Yes, sir.

4 Q. Could you describe for the jury what the high command

5 was?
6 A. The high command is the Salvadoran equivalent of our
7 joint chiefs of staff. The people who wielded the power in the
8 military are the high command.
9 Q. And was Colonel Carranza a member of the high command
10 while you served as a United States Ambassador?
11 A. Yes, he was.
12 Q. Let me ask you, please, sir, to turn to what is marked
13 as PL 1278, and it is paragraph six of this telegram.
14 A. Yes.
15 Q. If you could look to the, I believe it is the third
16 sentence in this paragraph, that starts Colonel Carranza.
17 A. Yes.
18 Q. Do you see that? Could you read that sentence for the
19 jury, please?
20 A. Colonel Carranza also conceded excesses on part of
21 security forces, but defended them for bearing brunt of
22 terrorist assault and now harsh criticism of POC partners
23 while maintaining good morale and avoiding desertions.
24 Execution on abuse of prisoners was forbidden, but in heat of
25 fighting, discipline among frightened troops broke down.

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1 Legal measures of -- legal measures were essential to show
2 troops that arrested terrorists will be punished legally. He
3 urged United States reps to make this point to the members of
4 the Christian democratic junta, the civilian junta. Carranza,

5 who is operational commander of security forces, emphasized
6 that the situation is worsening. Terrorist attacks are
7 mounting and new equipment is sadly needed to withstand
8 assault.

9 Q. Now, let me stop you there, Mr. Ambassador. The cable
10 says that Colonel Carranza was the operational commander of
11 the security forces. Does that comport with your view, was
12 that your understanding of Colonel Carranza's role in the
13 military?

14 A. Yes.

15 Q. And what was that understanding based on?

16 A. It was based both on reports from the military attache
17 who was a colonel in the United States army, it was based on
18 the reports from head of the United States military group who
19 was also a colonel in the United States army, it was based on
20 the reports of the professional diplomats, and it was my own
21 personal observation.

22 Q. What is that personal observation based on?

23 A. The personal observation is that I was present with
24 Colonel Carranza in several meetings, and also I flew with him
25 to a remote department of El Salvador, and we walked the

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1 grounds where there had been a military encounter.

2 Q. And if you would, please, describe that trip that you
3 took with Colonel Carranza.

4 A. Well, we went in a Salvadoran air force helicopter and
5 flew to the Department of Morazan, Chalatenango. I think it

6 was Morazan, and there had been a skirmish or some kind of
7 fire fight there, and we went out to survey what was going on.
8 We talked to the military commander in the capital city, and
9 it was clear that they looked, of course, to Colonel Carranza
10 as their chief. It was -- these -- these departments of
11 Chalatenango and Morazan were the places that while the
12 military could walk out during the day, at night the place
13 basically belonged to those forces that wanted change.

14 MR. ESQUIVEL: Your Honor, may I approach the
15 witness?

16 THE COURT: You may.

17 BY MR. ESQUIVEL:

18 Q. Ambassador White, I'm now handing you a document that
19 is dated March 13th, 1980, subject is assistance to government
20 of El Salvador. Have you seen this document before?

21 A. I have.

22 Q. And who is the author of this document?

23 A. I am.

24 Q. Is this the same type of telegram that you described
25 earlier in your testimony?

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1 A. Yes, it is.

2 MR. ESQUIVEL: Your Honor, the plaintiffs offer
3 this document as Exhibit 2.

4 THE COURT: It is received as Exhibit 2.

5 (Exhibit Number 2 was marked. Description:

6 Telegram.)
7 BY MR. ESQUIVEL:
8 Q. Ambassador White, I would like to direct your
9 attention, please, to paragraph 10 of this document.
10 A. Paragraph 10?
11 Q. Yes, sir. This is PL 2670 at the bottom.
12 A. Yes.
13 Q. Do you have that, sir?
14 A. Yes.
15 Q. And I believe the jury can see it now. I would like
16 you to read, please, the first sentence of paragraph 10.
17 A. Secondly, the extreme right is desperate, and it may
18 well be pushing sympathetic elements in the military to move
19 against the progressive members of the junta right now.
20 Q. Now, let me stop you right there, please. That talks
21 about the extreme right, what is the extreme -- what was the
22 extreme right in El Salvador?
23 A. The extreme right, here we're talking about civilians.
24 These are -- the extreme right are people like coffee planters
25 and these 14 families -- not all of the 14 families were

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1 necessarily of the extreme right, but there was an entrenched
2 group of very rich people who resisted any change because
3 their fortunes depended on maintaining the present system of
4 not having any taxes, on not -- about being able to use the
5 security forces as their personal security forces to -- if
6 anybody showed a sign of forming a labor union or an

7 association or if the priest in the area started telling them
8 that when babies died it wasn't because of God's will, as they
9 have been told, but it was because of dirty water, because El
10 Salvador had out in the rural area no fit drinking water, and
11 that is why so many babies died.

12 Q. And when you wrote in this cable that the extreme right
13 may well be pushing sympathetic elements in the military, what
14 military elements are you referring to?

15 A. I'm referring to the substantial number of people who
16 taught about reform, but basically resisted reform, and I'm
17 talking about Minister of Defense Colonel Garcia, I'm talking
18 about Vice-minister of Defense Colonel Carranza, among others.

19 Q. If you would, please, read for the jury the last
20 sentence in this paragraph, paragraph 10 of this cable.

21 A. At least one senior officer, Colonel Carranza has got
22 to go, and the sooner the better.

23 Q. Why did you write in 1980 that Colonel Carranza has got
24 to go and the sooner the better?

25 A. Because he, according to the colonel in charge of the

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1 military, according to the colonel, the defense attache,
2 according to all the information that we had from various
3 sources, Colonel Carranza represented the wing of the armed
4 forces and the security forces who believed that killing
5 people was the solution to El Salvador's problems.

6 Q. And if you would, please, sir, describe the level of

7 violence, the amount of people who were being killed in 1980.
8 A. The killings in 1980 came primarily -- there was
9 violence by the extremists, I would be last one to deny that.
10 We had a revolution on our hands. It wasn't yet -- but the
11 revolution was only in a small part an armed resolution. It
12 was mostly a revolution of people who were surging up against
13 the heaped up injustices of decades. And they were
14 demonstrating for a new El Salvador. They were demonstrating
15 for a profound change, and according to all the information we
16 had, it was Colonel Carranza who was at the head of those
17 officers who resisted change and who wanted to keep the status
18 quo, and it was under the Garcia and Carranza twin leadership
19 that the death squads, the military death squads flourished.
20 It was military death squads that assassinated Arch Bishop
21 Romero.
22 Q. Now, let me stop you just a moment and we will continue
23 with what you're saying, but please tell the jury who Arch
24 Bishop Romero was and about his assassination.
25 A. The Catholic Bishop, Arch Bishop of El Salvador was

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1 named Oscar Romero, and he had called -- he was a very
2 conservative man and he -- but he was simply outraged by the
3 killing. Just as I arrived, shortly before I arrived, the
4 military had killed one of the priests, the closest to Arch
5 Bishop Romero, and I think that really brought home to Arch
6 Bishop Romero how desperate the situation was, and so every
7 Sunday at mass, the people would come and they would report to

8 him what was going on. I would go to those masses, and then
9 he would call on the military to stop the violence against
10 what he referred to as the brothers and sisters. And -- but
11 the violence only intensified and gradually -- and then one
12 Sunday when I was there, he called on the soldiers not to obey
13 unlawful orders, not to obey orders to kill unarmed civilians.

14 Q. And what happened to Arch Bishop Romero?

15 A. And so the military gunned down Arch Bishop Romero.

16 MR. BROOKE: Objection, Your Honor.

17 THE COURT: Objection is overruled. He's
18 allowed to testify.

19 Ladies and gentlemen, of course, when someone
20 testifies as an expert in the matter, you still may
21 receive or reject that testimony. It is simply evidence
22 in the case. I believe that's offered as expert
23 testimony, not as personal knowledge testimony.

24 MR. ESQUIVEL: That's correct, Your Honor.

25 THE COURT: With that explanation, of course,

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1 it is received.

2 BY MR. ESQUIVEL:

3 Q. Now, Ambassador White, I'm sorry I interrupted you, you
4 were talking about death squads in El Salvador, could you
5 describe for the jury what the death squads were, please?

6 A. The death squads were military death squads, they were
7 made up of military personnel dressed in plain clothes

8 usually, but the -- they were basically soldiers who were
9 moonlighting as killing people who did not agree with military
10 rule.

11 Q. Did they have any distinctive method of operation?

12 A. Well, the -- yes, they would all operate at night.
13 Many times, they would tie them -- in many cases, they would
14 tie the people's thumbs behind their back and would march them
15 out and many times in full view of the people in the street,
16 throw them into vehicles, take them away and torture them and
17 assassinate them.

18 Q. And as the ambassador, how did you come to this
19 knowledge, what is the basis for your understanding of the
20 death squads?

21 A. Well, we had -- one of the primary tasks of an embassy
22 is to cultivate, keep contacts with people who are in a
23 position to know. We had people inside the military of El
24 Salvador telling us these facts. We had people who were very
25 close to military operations. We had people in the

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1 government, civilians in the government telling us this. We
2 had -- there were -- and I don't mean -- and these were people
3 for the -- when I'm talking -- I'm talking about people who
4 wanted -- who knew that change should come and were very
5 concerned and angry about the death squads and who didn't want
6 to see the Salvadoran military further tarnished by these --
7 this way of, you know, this uncivilized terrible barbaric way
8 of solving a country's political problems.

9 MR. ESQUIVEL: Your Honor, may I approach the
10 witness, please?

11 THE COURT: You may.

12 BY MR. ESQUIVEL:

13 Q. I have handed you a document dated March 19th, 1980.
14 It is entitled preliminary assessment of situation in El
15 Salvador. Have you seen this document before?

16 A. Yes.

17 Q. What is it, sir?

18 A. It is my report through the Secretary of State and to
19 the -- through him to the president about my best
20 interpretation of what is going on in El Salvador. I hasten
21 to add that it was not just my personal opinion, but the
22 opinion of the country team, which is made up of civilian and
23 military personnel.

24 Q. Is this the team that was operating in the United
25 States Embassy in El Salvador at the time, is that what you're

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1 referring to?

2 A. Yes.

3 Q. Is this the -- is this another telegram or report of
4 the kind that you referred to earlier in your testimony?

5 A. Yes.

6 MR. ESQUIVEL: Your Honor, the plaintiffs offer
7 this document as Exhibit 3.

8 THE COURT: It is received as Exhibit 3.

9 (Exhibit Number 3 was marked. Description:
10 Telegram.)
11 BY MR. ESQUIVEL:
12 Q. Ambassador White, I'm going to ask you to please look
13 at the page that is marked at the bottom PL 1855 and ask you
14 to read for the jury the sentence that begins the security
15 forces, the first sentence of that paragraph.
16 A. The security forces, the national guard and Police have
17 been closely identified with the oligarchy for generations.
18 Q. And if you would, please continue.
19 A. The national guard in particular has been a kind of
20 landlords militia in the countryside. All three security
21 services have a very bad human rights record, most of it well
22 deserved.
23 Q. What did you mean, Ambassador White, when you said the
24 security service -- security services had a very bad human
25 rights record, and most of it is well deserved?

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1 A. The military had ruled El Salvador since 1931. They
2 had been absolutely -- you know, they had -- progressively the
3 rule got more brutal, the rule became more arbitrary, and the
4 only way that this unjust system could be maintained in power
5 was by the military using force. In effect, the military
6 decided through violence who could and who could not
7 participate in the political life of the country.
8 Q. And how long of a period of time are we talking about
9 that the military exercised this dominance?

10 A. We're talking in rough terms 50 years.
11 Q. And did that violence occur in 1980 while you were the
12 Ambassador to El Salvador?
13 A. Yes, it did.
14 Q. How would you compare the level of violence in 1980 to
15 the level of violence that existed before?
16 A. Well, the violence escalated quite dramatically,
17 particularly towards the end of the -- of course, there was a
18 crucial period where they killed Arch Bishop Romero, that was
19 in March of 1980. So then the violence continued, but there
20 was some drop in it over the course of the year, but then
21 immediately after and -- during November and December and
22 January of '81, the violence escalated, and those were the
23 months where the security forces tortured and killed the
24 democratic -- the members, the leaders of a peaceful party, a
25 group of peaceful politicians who wanted to change El

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1 Salvador, and they -- the security services went into this
2 high school where they were meeting, they tied their thumbs
3 behind their backs, marched them out into vehicles and took
4 them to the outskirts and executed them after torturing them.
5 Then a couple of -- a few weeks later, they assassinated two
6 American advisors, people who were working in order to
7 strengthen the democracy in El Salvador working closely with
8 the government. In fact, assassinated along with these two
9 heroic Americans was another hero who was the head of the Land

10 Reform Institute, and it was -- this gentleman knew when he
11 took that job that he was going to be under fire because of
12 this one thing the rich people in El Salvador did not want, it
13 was land reform, which means that the big huge estates would
14 be broken up and would be -- and would be sold off to smaller,
15 smaller owners. So -- and then a few weeks after that, the
16 Salvadoran military gunned down -- well, first they tortured
17 and raped three nuns, and an American -- three American nuns
18 and one American volunteer. They kidnapped them as they came
19 out of the airport, they raped them, tortured them and killed
20 them. I was present at the -- when their bodies came out of
21 the ground, so I have particularly firsthand knowledge of
22 that.

23 Q. Now, this level of violence that we're talking about,
24 Ambassador White, let me direct you to another page in this
25 telegram, and it is marked PL 1846 at the bottom, if I could

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1 ask you to look at that, please.

2 A. Yes.

3 Q. Do you see the paragraph that begins number 13, what
4 can we do?

5 A. Yes.

6 Q. I would ask you to look, please, at the third point
7 underneath that and read for the jury, please, your comments
8 on that point.

9 A. Encourage the security forces to go after the left wing
10 guerillas and stop torturing and killing any youth between 14

11 and 25 because he may be involved with labor unions, church
12 organizations, et cetera.

13 Q. And if we will wait just a moment so the jury can see
14 that part. This is PL 1846. Is that the passage that you
15 just read, Ambassador White?

16 A. Yes, it is.

17 Q. Was that your experience in El Salvador in 1980, that
18 the security forces were committing these acts?

19 A. Yes.

20 Q. Were there particular targets of violence and, if so,
21 what were they?

22 A. The targets of violence were church workers,
23 catechists, labor union leaders, priests and nuns.

24 Q. And who were those groups specifically targeted?

25 A. I think that they were -- it used to be that -- well,

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1 the oligarchy feared about everything, that the campesinos
2 would organize and demand decent living conditions, running
3 water, some health center, a soccer field. And so any attempt
4 of organization of the people in the countryside was quickly
5 broken up by violence inflicted by the security forces. The
6 church, the Catholic church, but the main line protestant
7 churches also had been considered one leg of the tripod that
8 supported the society. It used to be, as I mentioned, that
9 when a baby died that the priest would say it was God's will.
10 Well, they were no longer saying that. They were saying, you

11 know, the baby died because there's no health center here,
12 because there's no pills, there's no one skilled to take care
13 a person. Women die in childbirth because there's no one
14 to -- no place for them to go where they can get minimally
15 decent treatment. So what happens was, of course, that the
16 people began to organize, and the church, the Catholic church,
17 but also the protestant churches began to work with their
18 parishioners to try to bring them together and to have a
19 certain solidarity so that they could demand some kind of
20 justice.

21 Q. In your telegram, you also list labor unions as a
22 group, why would labor unions be the subject of violence by
23 the military?

24 A. Because the worker in El Salvador was like a unit of
25 production. The wages were so low, he could not or she could

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1 not buy a -- most of the manufacturing in El Salvador was
2 exported. Most of the beef, for example, was exported because
3 the poor people couldn't buy it, there was no -- so there was
4 never any real attempt by these 14 families to -- they never
5 had someone who would say I would pay you a decent wage so you
6 can buy my products, no, they simply -- they simply paid the
7 lowest possible wages, gave no benefits; and if anybody tried
8 to organize a labor union, they would -- now, this isn't to
9 say that -- they were many courageous people in El Salvador
10 and there were -- there did exist unions, and particularly
11 they were unions in industries where it was possible to plunge

12 the country into a crisis. For example, the electrical
13 workers who had charge of the lighting in the city and lights
14 in the houses, so if they didn't get some decent wages, they
15 had a remedy, they could pull a lever and shut down all the
16 lights. So in industry such as this, there were unions, but
17 when you tried to extend unions to manufacturing plants,
18 that's when our -- or what is known now as maquiladoras. For
19 example, gloves would come from outside the United -- from
20 outside of El Salvador, they would go in, and young women
21 would sew on the decoration on the gloves and then they would
22 be re-exported to the United States. The wages were so low
23 that they -- that it would pay the glove manufacturers to pay
24 to ship them down to El Salvador and have the stitching done
25 down there and then ship them back, and that's something to

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1 think about, because -- it gives you an idea of how little
2 they were paid.
3 Q. Were there unions organized in other sectors of society
4 other than manufacturing?
5 A. Well, the -- there were very few unions of
6 manufacturing. There were unions in basic industries like
7 electricity, and particularly in the cities where the
8 Christian democratic party had a certain power, a certain --
9 the local government, the military for the most part, did not
10 influence -- or they influenced, but they did not participate,
11 they did not take positions in local government, so some --

12 under the protection of local government, there was more
13 opportunity to organize, and in the countryside, of course,
14 the -- there was -- you know, the situation was terrible
15 because I think that the average rural worker had got
16 something like 90 days of work a year, and in order for him to
17 get that amount of work, he had to move from place to place
18 four or five times a year and, of course, it had a devastating
19 effect on the society, family life.

20 Q. Ambassador White, your telegram also refers to the
21 torturing and killing of any youth between 14 and 25. Why
22 would that group of people, young people be targets of
23 violence?

24 A. Those were people that the military targeted because
25 they looked upon them as potential recruits for the guerillas,

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1 and, you know, it really was true that -- I mean -- we had a
2 guard at the Embassy who was a very devout Baptist, his son
3 went to a Baptist school, and he was 15 years old, and they
4 just gunned him down because he was -- it was really a truly
5 horri fyi ng inci dent.

6 Q. And tell the members of the jury, please, what the --
7 what was the real threat in El Salvador from what were called
8 guerillas or armed opposi ti on as opposed to peaceful
9 opposi ti on?

10 A. The role of the guerillas when I arrived was minimum
11 in comparison to the civilian organizations that would put
12 300,000 people onto the streets, but, of course, every time

13 you gunned down a 14 or 15 year-old kid, you -- that acts as a
14 recruiting tool for the guerillas. And so every time there
15 was a massacre, every time a priest is killed, that simply
16 radicalized people and makes them more extreme, and then that
17 justifies in the eyes of people like Colonel Carranza, that
18 justifies further killing. And so the reason for the mushroom
19 of the armed revolutionary movement was basically because the
20 military were killing innocent people, and their brothers and
21 cousins and fathers and so forth joined the guerillas, and
22 their mothers and sisters became part of the support group of
23 the guerillas, but they never wanted the violence. The most
24 conservative people I have ever met in my life are the
25 campesinos, the rural farmers of Central America.

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1 Q. Now, Ambassador White, I would like to ask you to turn
2 now specifically to Colonel Carranza's role, and particularly
3 his function in the Ministry of Defense in 1980. Could you
4 describe for the jury how the relationship between Colonel
5 Carranza and Colonel Garcia who was the Minister of Defense
6 that you have described, how their relationship operated?

7 A. According to the information that I had and that I
8 received from the head -- the American colonel in charge of
9 our military group, and according to the information I
10 received from the defense attache, our colonel at the Embassy,
11 Colonel Garcia was the man who was the public face of the
12 military establishment. He was the man who gave talks, who

13 spoke with foreign ambassadors, who participated in political
14 discussions, who had a sense of how the political system
15 worked. Colonel Carranza, according to our information, was
16 the executive officer, the operational head, the man who made
17 things happen. If you want an example, I would say that in a
18 sense, Colonel Garcia was like the manager of the team, but
19 the quarterback was Carranza.

20 Q. And when you say that Colonel Carranza was the
21 executive officer, describe for me, please, what kinds of
22 things that means, what was Colonel Carranza's day-to-day
23 duties, what did he do?

24 A. Well, I don't want to presume to more knowledge than I
25 have, because I wasn't, you know, inside the military

♀

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1 establishment, but it was my understanding that he had
2 operational control, meaning he would direct the different
3 military units and security units to deploy them in this
4 place, deploy them in another place, strengthen them, send
5 them on a sweep of a certain department to try to eliminate
6 armed revolt, that kind of thing.

7 Q. Now, when you were talking about the security forces
8 and those units, I would like for you to describe that
9 structure for the jury, and if I may ask you to, using this
10 diagram --

11 THE COURT: I think we may be at a transition
12 point in the testimony, it sounds like we are. Ladies and
13 gentlemen, we are going to take our lunch break. I'm sure

14 you're actually ready for lunch. Let's try to come back
15 at 15 after 1:00. I'm going to make it a little shorter
16 today, I want to allow adequate time for the completion of
17 Ambassador White's testimony, including, of course, full
18 cross examination. We're going to try to do that all
19 today. Don't discuss the case among yourselves. Don't
20 let anybody talk to you about the case. Of course, if
21 anybody tries to, report that promptly to one of our
22 security officers, a member of my staff or to me.
23 Remember that we're at the very beginning of the case, you
24 must keep an open mind until we have heard everything in
25 the case. We will see you at 15 after 1:00 o'clock. We

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1 will resume Ambassador's White testimony at that time. We
2 will let you step down. We will see you at that time.

3 THE WITNESS: Thank you very much.

4 THE CLERK: All rise. This Honorable Court
5 stands in recess until 1:15.

6 (Recess taken at 11:55 a.m. until 1:17 p.m.)

7 THE COURT: All right. Bring in the panel.

8 (Jury in at 1:17 p.m.)

9 THE COURT: Well, you may be seated, and
10 counsel may proceed.

11 BY MR. ESQUIVEL:

12 Q. Good afternoon, Ambassador White.

13 A. Good afternoon.

14 MR. ESQUIVEL: Your Honor, may I approach the
15 witness, please?

16 THE COURT: You may.

17 BY MR. ESQUIVEL:

18 Q. Ambassador White, I have handed you a document that's
19 dated October 27, 1980, and the subject is meeting with
20 Minister and Vice-minister of Defense. Have you seen this
21 document before?

22 A. Yes, I have.

23 Q. And who is the author of this document?

24 A. I am.

25 Q. And generally what does it describe?

‡

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1 A. It describes a meeting between the two heads of the
2 military and me and some members of my Embassy.

3 Q. And is this document one of the telegrams that you sent
4 to the State Department that you referred to earlier in your
5 testimony?

6 A. It is.

7 MR. ESQUIVEL: Your Honor, the plaintiffs move
8 this document into evidence as Exhibit 4.

9 THE COURT: It is received as 4.

10 (Exhibit Number 4 was marked. Description:
11 Telegram.)

12 BY MR. ESQUIVEL:

13 Q. If I could call your attention, please, Ambassador
14 White, to paragraph three of this document, the sentence that

15 begins on October 27, and ask you, please, to read the first
16 two sentences to the jury, please.

17 A. On October 27, military group Commander Colonel Cummings and
18 I met for approximately two hours at breakfast with the
19 Minister and Vice-minister of Defense, Colonels Garcia and
20 Carranza. I covered all the points made in the referenced
21 telegram --

22 Q. If I could stop you for just a moment, Ambassador
23 White, when you talk about the referenced telegram, in this
24 telegram, what are you referring to?

25 A. Those are instructions from the Department of State. I

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1 am, as ambassador, an instructed delegate of the United States
2 government. I don't make up policy, they -- the soup is made
3 in Washington, and they assign me the task of cooking it.

4 Q. I see. Well, go ahead, Ambassador, continue with your
5 cable.

6 A. I covered all the points made in the referenced
7 telegram. I emphasized the need to control right wing
8 violence and to put an end to the abuses committed by the
9 military. Our --

10 Q. Go ahead, Ambassador White.

11 A. Our conversation was friendly and constructive in tone
12 throughout.

13 Q. Now, Ambassador White, when you say your conversation
14 was friendly and constructive, how could you have a friendly

15 and constructive conversation with people who were responsible
16 for these abuses?

17 A. Well, don't forget, I was on their side. My -- the
18 guerillas were the enemy. I was trying to make the government
19 of El Salvador in general and the military in particular more
20 effective and have them conduct themselves in such a way that
21 they would not lose any more of the support of public opinion
22 in the United States and public opinion in the world.

23 Q. And what efforts did you make to try to convince them
24 to do that?

25 A. Well, I tried to convince them that by sponsoring death

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1 squads, they were simply expanding the numbers and the
2 commitment of the guerillas.

3 Q. How often did you meet with members of the Salvadoran
4 military to convey this message?

5 A. I met with them very frequently, and not just I, but
6 members of my Embassy, including the colonel in charge of the
7 military assistance being given to the Salvadoran military and
8 the military attache.

9 Q. And generally what was the response of the Salvadoran
10 military to these efforts?

11 A. Well, they talked one way and acted another.

12 Q. Can you explain what you mean by that?

13 A. Well, part of the job of particularly Colonel Garcia
14 was to sort of be the public relations man and tell me what I
15 wanted to hear and deny reality, and it's very difficult to

16 come to grips with someone who says all the information that
17 you have and everybody else has is false and we're the only
18 ones who have the truth. That's a particularly difficult task
19 to accomplish because, in effect, you're saying to the other
20 person that you're not telling me the truth, and that's what I
21 meant when I said the conversation, the tone was friendly
22 throughout. That means we weren't screaming at one another,
23 it doesn't mean that we actually got anywhere.

24 Q. If you would, continue with the last sentence of that
25 paragraph and your remark at the end of paragraph two, please

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1 read for the jury the sentence that begins I included.

2 A. I included Carranza in our meeting this morning because
3 I am convinced that he and Garcia are inseparable and that
4 it is essential to convince Carranza as well as Garcia if we
5 are to make any progress.

6 Q. Ambassador White, why did you say in this telegram that
7 Colonel Carranza and Colonel Garcia were inseparable?

8 A. Well, I think that Colonel Garcia leaned very heavily
9 on Colonel Carranza, as Carranza was the operational head of
10 the Salvadoran military.

11 Q. And why did you say in this cable that you became
12 convinced that Carranza as well as Garcia had to be convinced
13 if any progress was to be made?

14 A. Colonel Garcia was in many ways a figure inside the
15 Honduran -- inside, excuse, the Salvadoran military. I

16 remember one officer said that he fainted at the sight of
17 blood and stated, you know, he had never been really a soldier
18 in the field, whereas, I think Carranza, Colonel Carranza was
19 regarded as a soldier, soldier, I think he was regarded as the
20 real leader of the troops in the field.

21 Q. I want to direct your attention, Ambassador White, to
22 the final paragraph of this telegram, it is paragraph nine and
23 your comment there. If you would please read the -- to the
24 jury once they see on the screen paragraph nine, the comment
25 that begins there is something. If you would wait just a

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1 moment so that the jurors can follow along. This is on
2 page -- it is marked PL 1293, and if you would read that
3 through the end of this sentence on the next page on PL 1294,
4 Ambassador White.

5 A. There is something of an Alice in Wonderland air to
6 conversations with top military officers here. Garcia and
7 Carranza know perfectly well that some middle and low level
8 members of the military are involved in death squads and other
9 right wing violence, and yet as long as I follow civilized
10 rules of discourse aimed at ensuring a continuing dialog with
11 the high command, there is almost no way to break through the
12 pose, the pose Garcia and company have adopted. In effect,
13 what the colonels are saying is that one cannot accuse the
14 military of not moving against rightist terrorists because
15 they are not moving against the left or the right with any
16 legal effectiveness, and this is true. If you set aside the

17 sweeps now taking place in the north of the country against
18 the armed guerrillas, urban terrorism perpetrated by the left
19 and the right goes on nightly with almost total impunity. No
20 one ever gets caught, the extremes of left and right set off
21 bombs, shoot innocent passerbys and kill one another almost
22 without let or hindrance, and intermixed with the political
23 violence, many criminal acts are committed by people solely
24 motivated by financial gain or personal revenge. I am
25 convinced that the only way we will ever make real progress at

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1 reducing all extremes of violence in this country is to press
2 the government to move faster to implement the reforms,
3 especially the land to the tiller program and even more
4 important, to set the stage and announce firm dates for --

5 Q. I'm sorry, Ambassador White, to interrupt you, but I
6 think we're having technical problems with the document.

7 MR. ESQUIVEL: It is on the next page, PL 1294.

8 BY MR. ESQUIVEL:

9 Q. And I apologize that as you were reading, the jurors
10 were not able to follow. Let me ask you to go back so they
11 can hear what you were saying and start there on the sentence
12 that reads in effect.

13 A. In effect, what the colonels are saying is that one
14 cannot accuse the military of not moving against rightist
15 terrorists because they are not moving against either the left
16 or the right with any real effectiveness, and this is true.

17 If you set aside the sweeps now taking place in the north of
18 the country against the armed guerillas, urban terrorism
19 perpetrated by the left and the right goes on nightly with
20 almost total impunity. No one ever gets caught, the extremes
21 of left and right set off bombs, shoot innocent passerbys and
22 kill one another almost without let or hindrance and
23 intermixed with the political violence, many criminal acts are
24 committed by people solely motivated by financial gain or
25 personal revenge. I am convinced that the only way we will

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1 ever make real progress at reducing all extremes of violence
2 in this country is to press the government to move faster, to
3 implement the reforms, especially the land to the tiller
4 program, and even more important, to set the stage and
5 announce firm dates for elections.

6 Q. Now, Ambassador White, if I could stop you there,
7 because I do want to ask you about a part of your statement
8 which actually has carried over from the other page, but it
9 is -- you make -- you refer to the -- that it was impossible
10 to break through the pose that Garcia and company have
11 adopted. Would you explain to the jury what you meant by that
12 comment?

13 A. What Colonels Garcia and Carranza were doing were
14 simply denying what everybody in the country knew what was
15 happening, knew what was happening, and it's extremely --
16 if -- it is in the -- it was in the interest of Colonel Garcia
17 and Carranza, as they interpreted it, to never admit anything,

18 to never admit that they were guilty of -- or that their
19 forces were guilty of any particular act and simply to deny
20 reality and, therefore, it was because they wouldn't admit
21 that a problem existed, then they would not -- of course, they
22 would not move to address the challenge, the problem.

23 Q. Why was it in their interest to deny that these abuses
24 were taking place?

25 A. Because one thing leads to another. Everything is

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1 connected to everything else. If you can identify one person
2 in the death squad in uniform and you threaten him with
3 prison, he will tell -- you know, he will impeach others and
4 so on, so I think that they were protecting the institution.
5 El Salvador was a place where, in a sense, the military had
6 more loyalty to the institution than they did to the nation at
7 large.

8 Q. You started off the comment in this cable with the idea
9 that there was an Alice in Wonderland effect in El Salvador at
10 the time --

11 A. Yes.

12 Q. -- could you explain to the jury what you meant by that
13 comment?

14 A. Well, Colonels Garcia and Carranza knew perfectly well
15 that death squads were operating and that the death squads
16 were made up of military personnel, they knew that. Colonel
17 Garcia had admitted to me earlier that a certain percentage

18 did -- were indeed out of violence, and were guilty of
19 participating in death squad activity. But then I think under
20 the goad of Colonel Carranza and others, they adopted a hear
21 no evil, see no evil approach, and so it was very difficult to
22 come to grips, because they believed that the United States
23 had no alternative but to support the military or face a left
24 wing violent takeover, that was their interpretation.
25 Q. Did you agree with that interpretation?

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1 A. No, I did not.
2 Q. Why not?
3 A. Because I think as long -- I thought and I think -- I
4 thought as long as death squads roamed the streets killing
5 every 15 or 16 year-old that they could find and targeting
6 peaceful people who wanted a peaceful change in El Salvador, I
7 thought that would only add to the numbers of those opposed to
8 the government and willing to in one way or another work
9 against it.
10 Q. Now, Ambassador White, I want to turn your attention to
11 a new subject, and earlier you mentioned the assassination of
12 the leaders of the FDR. I would like to talk about that
13 episode with you and have you explain it to the jury. Would
14 you please explain to the jury, first of all, what the FDR
15 was.
16 A. The FDR was a political group made up of people who
17 were committed, to a lesser or greater degree, to democracy to
18 peaceful change, and they -- they were -- they were very much

19 opposed to military rule. They believed in -- that real
20 democracy should come from El Salvador and could only come
21 through El Salvador if the military were placed under the rule
22 of law.

23 Q. Did you have personal interactions with any of the
24 leaders of the FDR?

25 A. Yes, I did.

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1 Q. Would you describe those, please?

2 A. They -- I talked to the leaders of the FDR because they
3 were particularly well equipped to serve as a bridge between
4 the right wing, not totally committed to violence, the more or
5 less reasonable right wing who didn't believe that killing was
6 the way you solve the problem, and the moderate and the left,
7 even into the guerilla movement, because there the idea was to
8 build a somewhat artificial, but real center that was
9 committed to peaceful change. The military, by their actions,
10 demonstrated -- most of them, not all of them, that they were
11 against that kind of change.

12 Q. And why was it that the FDR was able to play that role
13 of a bridge between these two sides?

14 A. Because, one, the personal reputations of the leaders
15 of the FDR was excellent. The head of the FDR was a member of
16 the 14 families and a man of great integrity and great
17 learning, and I think respected on all sides. There was also
18 a man named Franco, who was another one. There were a number

19 of important people, Guillermo Ungo, there were a number of
20 excellent people who, while committed to peaceful change,
21 understood that after decades of the cruel and arbitrary rule
22 of the military, they understood that people took up arms in
23 desperation.

24 Q. You had described for the jury earlier the way in which
25 those leaders were abducted and killed, I want you to talk

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1 about, please, the effect that that -- those assassinations
2 had in El Salvador.

3 A. I think that the leaders of the FDR were killed for the
4 same reason that the military killed Arch Bishop Romero. They
5 were basically destroying the people who had the credentials
6 to preside over peaceful change. They had the credentials to
7 bring together, to lead a peaceful revolution.

8 Q. And what effect did the assassinations have on the
9 ability of El Salvador to bring about a peaceful resolution to
10 conflict?

11 A. Well, of course, one, it destroyed these key people who
12 were playing this crucial role. Secondly, of course, it
13 frightened other people who were in alliance with them. A
14 great many of them fled to the United States and entered as
15 illegal immigrants because they were -- they felt that they
16 were next on the list. And indeed, they may well have been.
17 So, basically, the military -- the death squads were set out
18 destroying the -- any organization or individual that could
19 serve as a bridge towards moving towards democracy and putting

20 the Salvadoran military under the rule of law, under civilian
21 rule.

22 MR. ESQUIVEL: Your Honor, may I have
23 permission to approach the witness?

24 THE COURT: You may.

25 BY MR. ESQUIVEL:

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1 Q. Ambassador White, I have handed you a document that is
2 dated November the 29th, 1980. It is entitled assassination
3 of FDR leader, consequences and recommendations. Have you
4 seen this document before?

5 A. Yes, sir.

6 Q. What is it?

7 A. It's a report to Washington assessing the results of
8 this assassination.

9 Q. Is this the type of telegram that you sent from the
10 Embassy in El Salvador to the State Department in Washington
11 that you referred to earlier in your testimony?

12 A. Yes, it is.

13 MR. ESQUIVEL: Your Honor, the plaintiffs move
14 admission of this document as Exhibit 5.

15 THE COURT: So received.

16 (Exhibit Number 5 was marked. Description:
17 Telegram.)

18 MR. ESQUIVEL: And this is document marked at
19 the bottom PL 1423. We will wait just a moment so the

20 members of the jury can see it.

21 BY MR. ESQUIVEL:

22 Q. Ambassador White, I want to direct your attention to
23 the summary paragraph, and in particular, the first sentence
24 of the summary paragraph in this cable, would you read --
25 please read that sentence to the members of the jury?

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1 A. This report states that the security forces of the
2 government kidnapped and killed six of the FDR leadership. It
3 discusses various possible consequences which could flow from
4 this event, including the probable departure of Colonel Majano
5 from the junta and a possible confrontation between the
6 Christian democrats and the military.

7 Q. If you would wait just a moment until we catch up with
8 you. I'm sorry, Ambassador White.

9 All right. Let me ask you about that first sentence.
10 The report states that the security forces of the government
11 kidnapped and killed six of the FDR leadership, on what basis
12 can you make that statement in this telegram, Ambassador
13 White?

14 A. This high school where the FDR leaders were meeting was
15 located in the central part of the city. There was a security
16 forces station only a few hundred yards from this, it was
17 absolutely impossible for anyone except the military to affect
18 this operation. While as they were leading the doomed men
19 out, reliable witnesses reported to us that they were security
20 forces in uniform directing traffic and holding them up and

21 paving the way for them, and so there was absolutely no
22 dissent from this indeed, there was no dissent whatsoever
23 about the truth of this telegram except within the high
24 command of the military.
25 Q. And what did the high command of the military say about

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1 this?
2 A. They denied it.
3 Q. Let me direct your attention now to what is marked at
4 the bottom of the page PL 1426.
5 A. Yes.
6 Q. In the middle of the page, there is a break in the
7 telegram there, and I would like you to read -- just before
8 that break, there's a sentence that begins by killing the
9 leaders, and if you would wait just a moment so the jurors can
10 follow along, I would like you to read that to the jury. If
11 you will wait just a minute. Okay. I think we have it. Go
12 ahead, Ambassador White.
13 A. I'm not clear where we are. This is on page 1426?
14 Q. That's correct.
15 A. And how far down?
16 Q. It's down to the middle of the page, but before the
17 break with the two lines that say confidential.
18 A. Yes. There is a report, is that the one you mean?
19 Q. Yes, the sentence that follows that.
20 A. By killing the leaders of the FDR, the military have

21 explicitly rejected dialog and heralded a policy of
22 extermination. Those who kidnapped the FDR leadership warned
23 the priests that they are next if they did not stop poisoning
24 the minds of the young.
25 Q. Now, Ambassador White, you refer here to a policy of

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1 extermination, what did you mean by that phrase?
2 A. I mean that they were killing unarmed people in public
3 life who wanted to use peaceful means, the ballot box,
4 elections, votes to change the country, which I might add was
5 also the policy of the United States government, to try to
6 peacefully change the country and help democracy take hold.
7 Q. Was there ever any variance in the United States policy
8 on that issue?
9 A. Not while I was there.
10 Q. What did you communicate to the leaders of the
11 Salvadoran military while you served as ambassador about that
12 policy?
13 A. That they were strengthening the violent left by
14 killing people who had never taken up arms against them.
15 MR. ESQUIVEL: Your Honor, may I approach the
16 witness, please?
17 THE COURT: You may.
18 BY MR. ESQUIVEL:
19 Q. Ambassador White, I'm handing you a document that's
20 dated December 1, 1980. Its subject is satisfaction of many
21 military officers with assassination of leaders of the

22 Revolutionary Democratic Front, FDR. Have you seen this
23 document before?

24 A. I have.

25 Q. What is it?

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1 A. It's a report by the military attache, it is not my
2 report. This is -- the reason it is blacked out is because
3 the different numerals and letters there could give clue as to
4 the sources and methods by which they gathered this
5 information, and so this is a report by a colonel in the
6 United States military who was reporting what officers told
7 him and what he gathered from his association with the
8 Salvadoran military officers.

9 Q. And is this also a report of the type you referred to
10 earlier that would be conveyed by the Embassy in El Salvador
11 to the State Department in Washington?

12 A. Well, this is slightly different because the primary
13 destination of this is the military intelligence bureau in the
14 Pentagon, but they sent copies, of course, to the State
15 Department, to the White House, to all the different
16 interested agencies, but the primary consumer of this
17 report -- this report was written for the Defense Intelligence
18 Agency.

19 MR. ESQUIVEL: Your Honor, the plaintiffs move
20 the admission of Exhibit 6 into evidence.

21 MR. BROOKE: Your Honor --

22 THE COURT: It will be received. We can talk
23 about it if we need to but it appears to be something that
24 would fall under the exceptions that we discussed earlier.
25 (Exhibit Number 6 was marked. Description:

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1 Memo.)
2 BY MR. ESQUIVEL:
3 Q. If we could show the members of the jury the paragraph
4 that appears on PL 1304. I direct your attention, Ambassador
5 White, to paragraph seven of this report. Before we get to
6 that, though, let me ask you about the person who prepared it.
7 Did you know or did you work with personally the United States
8 colonel who prepared this report?
9 A. Yes, I did.
10 Q. What was his name?
11 A. His name was Colonel Brian Bosch.
12 Q. And what do you know about Colonel Bosch and the work
13 that he did?
14 A. He was probably the best or one of the very top best
15 top ranking defense attaches with whom I have ever worked. He
16 was -- Bosch is a Catalan name, a Spanish name, and he was
17 bilingual in Spanish, so when he was down at the Officers Club
18 having a beer, I mean they -- to them, to the rest of the
19 Salvadoran military, he was just like one of them, and so he
20 didn't acquire this information primarily by asking questions;
21 he just overheard, he was present at conversations where there
22 was jokes and laughter and drinking going on, and that's the

23 way you get real intelligence.

24 Q. Now, Ambassador White, read Colonel Bosch's report

25 paragraph seven for the jury.

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1 A. Most military officers were highly pleased with the
2 assassination of the six FDR leaders. These officers believe
3 that other leaders and members of the FDR should be eliminated
4 in a similar fashion wherever possible. These feelings were
5 expressed by several mid level army officers on the 28th of
6 November, 1980, in the presence of Colonel Jose Garcia Merino,
7 Minister of Defense, and Nicolas Carranza, subminister of
8 defense. And both Garcia and Carranza indicated that they
9 supported this line of thinking. From the comments of all
10 those present during this conversation, it was clear that
11 Garcia, Carranza and the other officers present accepted as a
12 fact that the military services were responsible for the
13 assassination of the six FDR leaders.

14 Q. Ambassador White, the line of thinking that's referred
15 to in this report, is that consistent with your understanding
16 of the line of thinking of the leaders of the Salvadoran
17 military?

18 A. Yes.

19 MR. ESQUIVEL: Your Honor, may I approach the
20 witness, please?

21 THE COURT: You may.

22 BY MR. ESQUIVEL:

23 Q. Ambassador White, I have handed you a memorandum from
24 the State Department that is dated December 4, 1980, and it is
25 entitled U. S. response to assassination of FDR Leadership.

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1 Have you seen this document before?

2 A. I have.

3 Q. What is this document?

4 A. This is a memorandum from the Assistant Secretary for
5 Human Rights and the Department of State to the Deputy
6 Secretary.

7 Q. Is this a document that you saw while you served as
8 ambassador to El Salvador?

9 A. I saw it, but I didn't see it at the time that it was
10 written. I saw it later when I -- I made periodic trips to
11 Washington, I was called up there frequently on consultations,
12 and I saw it the next time I arrived at the State Department,
13 but I didn't see it at the time.

14 Q. Is it contained within the records of the State
15 Department?

16 A. Oh, yes.

17 Q. And is that the capacity in which you saw it?

18 A. Yes.

19 MR. ESQUIVEL: Your Honor, the plaintiffs move
20 this document as Plaintiffs' Exhibit 7.

21 MR. FARGARSON: Your Honor, may we approach?

22 THE COURT: You may.

23 (The following proceedings had at side-bar
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24 bench.)

25 MR. BROOKE: Your Honor, in the tendered

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1 document I don't see a Bates stamp that it has been
2 identified.

3 MR. ESQUIVEL: And I apologize, I should have
4 clarified this, Your Honor. We did produce an identical
5 document which was at PL 1381, and we very recently came
6 into a much better copy of it, and so I have referred to
7 the copy, and I would be happy to let Mr. Brooke compare
8 the document we produced with this exhibit, but it is an
9 identical copy. And I have used this one only because it
10 is much easier to read, and that's --

11 THE COURT: It is just another copy, it is not
12 a problem. Do we have the other document?

13 MR. ESQUIVEL: This is the document that we
14 produced.

15 THE COURT: I will let you take a look.

16 MR. ESQUIVEL: And it has my notes on it, but
17 that's fine.

18 THE COURT: That's probably not -- but that's
19 okay.

20 So this was -- this is a copy of this?

21 MR. ESQUIVEL: This is a copy of it.

22 THE COURT: There it is. There it is.

23 MR. ESQUIVEL: That's the cable, exactly. The

24 cable is almost illegible. And that is a transcription.

25 THE COURT: Let me look through and make sure.

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1 Where did this new one come from? It's pretty
2 indecipherable. You can probably put it together, but it
3 is reversed copy, so the letters are in white and the
4 background is in black.

5 MR. ESQUIVEL: Your Honor, this copy came from
6 the FOIA web site for the Department of State.

7 MR. BROOKE: From the what?

8 MR. ESQUIVEL: The FOIA web site, if you go to
9 the State Department --

10 THE COURT: It is relevant. I understand,
11 thank you.

12 (The following proceedings were had in open
13 court.)

14 (Exhibit Number 7 was marked. Description:
15 Briefing Memo.)

16 BY MR. ESQUIVEL:

17 Q. Ambassador White, let me draw your attention to the
18 second page of this memorandum. The first full sentence which
19 begins Embassy reports, and if you will wait just a moment so
20 that the members of the jury can follow along.

21 If you would, please, read the two sentences beginning
22 with Embassy reports.

23 A. Embassy reports make clear that the security forces and
24 the military are responsible for much of the killings and

25 human rights abuses in the country. The assassination of the

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1 FDR leadership reflects an intensification, an extension of
2 the repression conducted by the security forces since last
3 March.

4 Q. Ambassador White, did you agree with that sentiment or
5 that observation that the killing of the FDR leadership
6 reflected an intensification of the repression?

7 A. Yes.

8 Q. How did you see that work in El Salvador?

9 A. Well, realize, that most of these sentiments are sort
10 of a digest or a synopsis of the various reports flowing from
11 my Embassy. And as I have explained the policy by the
12 military of killing unarmed people simply because they
13 disagree with military dictatorship is an unfortunate way to
14 try to -- it is a futile way to try to build democracy, so
15 I -- this was our principal problem. We were trying to make
16 the government of El Salvador a cohesive unit headed by a
17 mixed civilian military junta that would lead the country
18 towards democratic rule and respect human rights. Unless
19 human rights were respected, then who in the country was going
20 to commit themselves to this dangerous road when the military
21 made it clear every day by assassinations that they were
22 lethally opposed to any kind of movement in that direction.

23 Q. Ambassador White, I want to draw your attention to one
24 more portion of this memorandum, and it is paragraph six which

25 is on the last page of the document. If you would, please,

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1 read for the jury paragraph six of this memorandum.

2 A. The killings last week of the FDR leadership were not
3 an aberration, nor were they simply the work of a handful of
4 middle level officers. Since March, the security forces have
5 embarked upon a campaign of quickening repression of which the
6 assassination of the FDR leadership is but the latest and most
7 spectacular incident. The JRG and its reform programs rather
8 than being sustained by the security forces and now threatened
9 by them. Unless we confront the fact that the security forces
10 are out of control, responsible for much of the indiscriminate
11 killings -- now approaching 9000 -- and themselves threaten
12 the government's existence, and we take actions based upon
13 those facts, we will not have addressed the central problem
14 jeopardizing all our efforts in the past year to arrive at a
15 moderate and democratic resolution of the civil strife now
16 raging in El Salvador.

17 Q. Thank you, Ambassador White. Now, I want to turn to a
18 different subject and ask you whether you are aware whether
19 Colonel Carranza during the time that you served as ambassador
20 had any relationship with the Central Intelligence Agency of
21 the United States?

22 A. I am aware that he had such a relationship, yes.

23 Q. What was that relationship?

24 A. He was a paid asset of the Central Intelligence Agency.

25 Q. And what did he do as a paid asset of the Central

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1 Intelligence Agency?

2 A. This is a very difficult question to answer. He
3 obviously supplied them information. He obviously was
4 valuable in the sense that he was at the core of all the
5 command decisions that were taking place. I once asked -- no,
6 I -- I once called in the station chief of the Central
7 Intelligence Agency in the Embassy and said to him that it
8 would be -- I -- I want to request you to request CIA
9 headquarters to cut -- to cut off any relationship that the
10 agency has with Colonel Carranza.

11 Q. Why did you make that request, Ambassador White?

12 A. Because it's a secret from the American people that
13 Colonel Carranza was getting \$90,000 a year to -- for this --
14 for this information, but it wasn't a secret within the
15 Salvadoran military. They all knew. In fact, they talk about
16 it, and that was a source of prestige for Colonel Carranza.
17 The fact that he was known to be in the pay of the United
18 States government gave him a standing that other top military
19 officers didn't have because the United States has huge power,
20 after all. El Salvador is a tiny country, the size of
21 Maryland or Massachusetts, and it -- it lives in the shadow of
22 a great power. Naturally, we have huge influence there, and
23 so I reported -- reporters would come to me, Salvadoran
24 reporters, European reporters and American reporters, and say
25 how can you be against human rights abuses when you keep

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1 Colonel Carranza on the payroll. So that was the kind of --
2 that was the motivation behind my request to the Central
3 Intelligence Agency to cut off the payments to Colonel
4 Carranza.

5 Q. And what happened in response to your request?

6 A. Well, it went into that big memory hole that Washington
7 has where nobody does anything about what you really need, and
8 so they just simply said this goes to our sources and methods.
9 Working with the Central Intelligence Agency is a challenge,
10 because while they -- the ambassador is, in theory, according
11 to presidential orders is in charge of all activities inside
12 his embassy or her embassy, the fact is that because the
13 Central Intelligence Agency representative, the station chief
14 reserves sources and methods to -- these are not to be shared,
15 in that case, in effect, there's a certain percentage of
16 activities that the ambassador doesn't know for sure, kind of
17 depends on the personal relationship that the ambassador has
18 to the station chief.

19 Q. Given everything that you have testified to about El
20 Salvador and violence and Colonel Carranza, why would the
21 United States government hire, in effect, Colonel Carranza to
22 provide information through the Central Intelligence Agency?

23 A. The United States government in its foreign policy is
24 not a model. Every agency -- each agency has its own
25 priorities, and they -- and the Central Intelligence Agency

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1 regarded having the deputy command of the subminister of
2 defense as an asset that this gave them a special insight into
3 what was going on, it gave them a way to communicate not only
4 with Colonel Carranza, but with the people in the military
5 close to Colonel Carranza, and I understand and appreciate the
6 need for the Central Intelligence Agency to have such
7 contacts, and to have assets, but it's my job or it was my job
8 to balance the presumed benefits to the United States
9 government through the CIA. And the downside of this, which I
10 regarded as -- because of his terrible reputation as a
11 violator -- as the person who basically orchestrated death
12 squads, that this was a central challenge to the -- to the
13 U. S. policy, and I thought that if we cut those ties that
14 whatever we might give up in information, we would gain
15 because the Christian democrats who felt that they were under
16 fire from Carranza and indeed -- and remember the Christian
17 democrats are the supposed governing party, and yet a number
18 of their leaders were killed by the military, and so I thought
19 that on balance, it was best to cut the agency's ties to
20 Carranza because I thought that this would give great heart
21 and courage to the civilian members of the government.

22 Q. In your view, Ambassador White, did the fact that
23 Colonel Carranza was operating as an asset of the CIA mean
24 that the U. S. government, in essence, approved of what he was
25 doing as a member of the military?

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1 A. I hope not. The fact is that no -- the answer is no,
2 you can't -- in one -- there is one part of international
3 politics, there's one part of foreign policy that's down and
4 dirty, you have to -- you have to have contacts among the
5 people you don't approve of as well as the people you do
6 approve of. I think that there are countless examples not
7 only in El Salvador and Central America, in Iraq, in Iran, all
8 over the globe, of the agency having ties with terrible
9 people, killers. There are -- some people in the United
10 States government worry a lot about that and think that it
11 should be curtailed. As a matter of fact, a recent director
12 of the CIA did what they call a scrub, and they scrubbed off
13 the principal human rights violators on their list of assets,
14 but that was not in the cards at that particular moment.

15 Q. Ambassador White, in your view and in your experience
16 in El Salvador, did Nicolas Carranza have the ability to
17 prevent or stop the human rights abuses that were occurring by
18 the military?

19 A. Not by himself. There was an ethic of violence within
20 the Salvadoran officer core that would have been very
21 difficult to irradiate by one person. That Nicolas Carranza
22 as perhaps the operational head, the soldier's soldier, the
23 man the officers looked to for leadership that he could have
24 had an enormous influence, absolutely, yes, but it would be
25 simplistic to believe that Carranza could have done this all

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1 by himself. But he would have been -- he certainly would have
2 been more effective than anyone else I can think of to have
3 begun and carried through that process of reforming the
4 Salvadoran military.

5 Q. And in your experience in El Salvador, did you ever see
6 or understand that Nicolas Carranza did anything to try to
7 start that process?

8 A. No, I did not. To the contrary, I saw him as others
9 saw him, as someone who as a leader who believed in violence
10 as an instrument of suppressing not only -- suppressing
11 peaceful dissent.

12 MR. ESQUIVEL: Thank you, Mr. Ambassador.

13 I pass the witness, Your Honor.

14 THE COURT: Cross?

15 CROSS EXAMINATION

16 BY MR. BROOKE:

17 Q. Mr. White, you have been out of the ambassador business
18 since 1981?

19 A. I have.

20 MR. BROOKE: My mic is not on, right?

21 Q. And since that time, you have been in the Washington
22 area with a private organization?

23 A. I have.

24 Q. Now, I notice that you appear to be friendly with
25 several of the witnesses here, is that correct?

- 1 A. Well, I met -- there's one, I believe, that I have met
2 before, but, no, I met most of them for the first time here.
- 3 Q. You didn't testify with them before in another matter?
- 4 A. I testified, I believe, with one of the persons here in
5 the courtroom, but that's the only one -- to the best of my
6 recollection, that's the only one.
- 7 Q. Who was that?
- 8 A. I don't remember what the name is at the moment, I'm
9 sorry.
- 10 Q. No, I mean the witness that you testified with.
- 11 A. Yeah, that's what I'm saying, I do not remember.
- 12 Q. Is it Mr. Garcia, the gentleman with the beard?
- 13 A. That may be true, yes. But, remember, that I testified
14 and then left. In other words, I was not a witness to the
15 entire proceedings. I didn't have any joint time with other
16 witnesses. I appeared as I'm appearing today, I came in the
17 courtroom, and then I left and went back to my home.
- 18 Q. When did you come to Memphis to testify in this case?
- 19 A. This morning.
- 20 Q. And what is the compensation that you're being paid to
21 testify?
- 22 A. Nothing.
- 23 Q. Nothing?
- 24 A. No.
- 25 Q. Your transportation was paid for out of your own

- 1 pocket?
- 2 A. Well, that's not what I consider payment. They are
3 giving me expenses which consists of my airfare.
- 4 Q. Now, you testified that you were appointed in 1979, is
5 that correct?
- 6 A. That is correct.
- 7 Q. Are the hearings for your ambassador's appointment,
8 specifically yours to go to El Salvador, are those before or
9 after the appointment?
- 10 A. Before.
- 11 Q. They're before the appointment. Would you agree that
12 you attended hearings, participated in hearings before the
13 Senate Committee on February the 5th, 1980 and February the
14 21st, 1980?
- 15 A. That sounds right.
- 16 Q. So that your testimony about having been appointed and
17 being in El Salvador since '79 would be in error?
- 18 A. No, sir, you asked me about appointed. I was appointed
19 by the president in 1979. The Senate ratified me in 1980.
- 20 Q. So that the hearings are after your appointment?
- 21 A. Yes. After my appointment, correct.
- 22 Q. And prior to going to accept your appointment in El
23 Salvador and accept the station there, when was the most
24 recent time that you had ever been to El Salvador?
- 25 A. I had been to El Salvador -- let's see, I was -- it was

1 probably about five or six years earlier.

2 Q. And so you had not been to El Salvador for
3 approximately five to six years?

4 A. Correct.

5 Q. During the occasion that you had ever been to El
6 Salvador up to five or six years before going in 1980, had you
7 ever met Colonel Carranza?

8 A. Not to my knowledge.

9 Q. And do you know what Colonel Carranza's background was
10 and when he actually even went into the military?

11 A. I knew at one time. Remember, this is 25 years ago,
12 but I certainly -- in the -- every embassy maintains a
13 biographic file on key players, on key officials, and I
14 certainly had read Colonel Carranza's file, but I don't
15 remember the details.

16 Q. In his file, when did you probably read that file?

17 A. Probably in the Department of State when I was acting
18 as the head of the Task Force on Central America, so for --
19 prior to my arrival -- I left my post as Ambassador to
20 Paraguay in probably something like November of 1979 and then
21 reported to the Department of State for duty, and from that
22 time on, I was the acting director of the Task Force on
23 Central America, which was primarily focused on El Salvador.

24 Q. Why was the primary focus of the State Department in
25 Latin America upon El Salvador in November-December, 1979?

- 1 A. Because there was a generalized surge of anger coming
2 out of the population and manifesting itself in marches and
3 demonstrations throughout the country, and there was great
4 fear that the armed left would take advantage of this and
5 overthrow the government of El Salvador.
- 6 Q. The Armed Left?
- 7 A. Yeah.
- 8 Q. The armed left in part had included some Salvadorians,
9 correct?
- 10 A. It was all Salvadoran.
- 11 Q. All Salvadorians. And many of whom had gone to Cuba
12 for training?
- 13 A. Yes.
- 14 Q. And the Sandinistas, can you tell the jury what was the
15 Sandinistas?
- 16 A. The Sandinistas were the revolutionaries in Nicaragua
17 that had revolted -- that had led a revolt against the Somoza
18 dictatorship. The Somoza family had ruled Nicaragua for 43
19 years. It was a neighbor of El Salvador. And I served in our
20 Embassy in Nicaragua, and the Somoza government fell to the
21 Sandinista revolution in 1979. And so the prospect of another
22 government falling to violence was unacceptable to the United
23 States government.
- 24 Q. And so you were in Nicaragua in '79?
- 25 A. No, no, I was not. The Sandinista revolt had roots

1 that went way back, because dictatorship breeds revolution,
2 and as part of -- I was Deputy Ambassador to the Organization
3 of American States, and I went to Nicaragua because -- the
4 OAS, the Organization of American States had been seized of
5 several crises, and they were trying to bring some
6 multilateral pressure to bear on the parties, and so I went on
7 missions for the United States government as part of a
8 delegation, but I was not at that time at the Embassy in El
9 Salvador -- in Nicaragua.

10 Q. Would you agree that the Sandinistas decides in
11 Nicaragua that they were going into other Latin American
12 countries as terrorists?

13 A. Well, I think that the terrorism is -- you know,
14 depends on what vantage point you're looking at it, but the
15 Nicaraguan revolutionaries were the example of successful
16 resolution against dictatorship, was probably the primary
17 example for the Salvadorians. If the Nicaraguans can do it,
18 why can't we kind of thing.

19 Q. But my question is did the Sandinistas go into El
20 Salvador as well as other Central American countries to effect
21 revolution?

22 A. No.

23 Q. Well, let me ask you if you were asked during your
24 Senate hearings, in part, when you look at the conditions in
25 El Salvador and Guatemala, you must even wonder whether

1 revolution of Nicaraguan type might not spread to other
2 countries in Central America?

3 Ambassador White: It is very likely.

4 Do you remember giving that answer?

5 A. Yes.

6 MR. ESQUIVEL: Objection, Your Honor. He's
7 reading from a document from testimony, could the witness
8 be allowed to see the testimony he's referring to?

9 THE COURT: The document can be passed to the
10 witness.

11 MR. BROOKE: If I may approach, Your Honor.

12 THE COURT: Certainly.

13 MR. ESQUIVEL: I'm sorry, Mr. Brooke, do you
14 have a copy for me?

15 MR. BROOKE: I'm afraid I don't. It is page
16 14. We provided a copy way back when.

17 MR. ESQUIVEL: Oh, okay, we do have a copy.

18 MR. BROOKE: You probably have a better copy
19 than this one.

20 BY MR. BROOKE:

21 Q. On page 14, Ambassador -- Mr. White.

22 A. Yes, sir.

23 Q. Is that the answer that you gave right there in the
24 middle of the text, the middle of the page, that it is very
25 likely?

1 A. I'm not -- I do not -- on page 14?
2 Q. 14.
3 A. That begins --
4 Q. At the very top, it says it is date lined.
5 A. Yes, now, where is the --
6 Q. If you come down right in the middle of the page, it
7 has ambassador.
8 A. Oh, I can tell you that we have had occasional reports
9 of Sandinista participation in the turmoil in El Salvador, but
10 the Nicaraguan government repeatedly has denied that this is
11 the policy of the government of the Sandinista movement. I
12 think there's substantial reason to believe they're telling
13 the truth.
14 Q. You tend to believe what the Nicaraguans told you that
15 they weren't participating, Sandinista was in other places,
16 but you didn't agree with the representations of the
17 government of El Salvador, their activities; is that what
18 you're saying?
19 A. No, it's not correct. I received this information not
20 directly from the Sandinistas with whom I had no contact; I
21 received this information from the reports of our Ambassador
22 and our Embassy in Managua, Nicaragua, and that was their
23 interpretation of the events; and as I was the chairman of the
24 Central American Task Force, of course, I had access to these
25 reports and, indeed, was in frequent communication with the

1 Nicaraguan desk at the Department of State.

2 Q. Before you went to El Salvador in 1980, did you agree
3 that the United States government should provide military
4 assistance to the El Salvadorans?

5 A. I -- the United States Congress had approved a 50 --
6 15 million non-lethal aid program to the Salvadoran
7 government. It was a -- when I assumed the ambassadorship,
8 that had already been approved and was a fact of life. When I
9 got to El Salvador and saw how the assistance that the United
10 States had been providing to El Salvador was being misused, I
11 opposed any lethal assistance to the Salvadoran military until
12 they demonstrated their willingness to respect human life and
13 civilian nonparticipants.

14 Q. Your appointment was by Jimmy Carter, is that correct?

15 A. Well, I was first -- I'm a career -- I was a career
16 foreign service officer. President Nixon was the first
17 president to propose me to be ambassador, and then President
18 Ford proposed me, and it was -- and then President Carter
19 proposed me, and at this time the hierarchy of the State
20 Department decided that it was my turn, and I was appointed as
21 Ambassador to Paraguay first, and I think that I was chosen as
22 Ambassador to El Salvador because I had the -- Paraguay had
23 been run by a particularly avirulent dictator and I had taken
24 a strong stand against violations of human rights by General
25 President Alfredo Stroessner, and so I think that the fact

1 that I had a reputation as a defender of human rights was the
2 reason that I -- that I was sent to El Salvador.

3 Q. And so when you're sent as an ambassador, you are for
4 the president of the United States and the United States
5 government in that country, you are the top authority of the
6 United States in that country?

7 A. Yes.

8 Q. And so if -- for example, if a military U. S. General
9 were in the country, he would be under your authority?

10 A. Yes.

11 Q. And you would have command responsibility, I guess,
12 over him?

13 A. Well, I wouldn't put it to the test too frequently, but
14 I didn't -- as I thought that -- the problem in El Salvador,
15 the challenge in El Salvador --

16 Q. No, I just asked you a question on command
17 responsibility.

18 A. Then the answer then is I have to distinguish, I can't
19 say -- if a general was attached to the Embassy, yes, I would
20 have a command responsibility. If the general was visiting El
21 Salvador and on a particular mission, I would have no such
22 command responsibility, although it would be normal for him to
23 certainly respect the -- my authority, but I couldn't say that
24 I had any kind of command responsibility over a visiting
25 General any more than I would have command responsibility over

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1 a visiting Secretary of Defense.
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2 Q. If they're visitors?
3 A. If they're visitors.
4 Q. But if they're stationed in your Embassy --
5 A. If they're stationed in there and attached to the
6 Embassy and accredited to the government, then, yes, sir.
7 Q. And so military advisors when they go to a country, are
8 they within your command responsibility as the Ambassador?
9 A. Here again, I have to distinguish, they're under my
10 command responsibility as far as what they do and the policy
11 that they reflect, but they have their own separate channels
12 to Washington.
13 Q. When you reviewed Mr. Carranza's file, when did you
14 determine that he had gone into the military and had any
15 office in the vice or sub-ministry of defense office?
16 A. Well, I -- you know, I can't recall Colonel Carranza's
17 file. If you have it, I would be glad to review it, but I --
18 what I remember is that he was the head of the treasury
19 police.
20 Q. When you were there?
21 A. No. What I remember from his file is that he was the
22 head of the treasury police and that he was the head of -- I
23 believe he was the head of the intelligence part of the
24 Salvadoran military, but I can't be a hundred percent positive
25 about that.

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1 Q. What was ANTEL?

2 A. ANTEL was the Central Communications Office that the
3 military controlled.

4 Q. And the telecommunications, did they -- did ANTEL
5 control the telecommunication system for the whole country?

6 A. Yes.

7 Q. And did the terrorists frequently bomb and try to
8 destroy communications in the country?

9 A. Yes.

10 Q. When you reviewed Mr. Carranza's file before going to
11 El Salvador, did you find in there that he was in relationship
12 with representatives of the CIA?

13 A. No.

14 Q. When did you make that discovery?

15 A. When you go to -- as ambassador, there is not the
16 obligation of the station chief to tell you who his assets
17 are, but most will tell the ambassador, because there is great
18 danger of getting mixed signals -- in other words, if I
19 considered Colonel Carranza as a good contact of mine and
20 began to have a relationship with him, then he would wonder
21 what was happening because he already had a firmly established
22 and indeed paid relationship with the CIA. So there is a
23 directive not to cross lines, and so if one agency, in a
24 sense, has a claim on a particular official, the other -- even
25 I as -- now, that doesn't mean that I couldn't meet with

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1 Colonel Carranza, because, obviously, I did, but I didn't have
2 the same kind of relationship that I might have had with

3 another member of the government, either civilian or military.
4 Q. So when did you determine that he had a relationship
5 with the CIA?
6 A. Well, I didn't determine it, sir. The CIA station
7 chief told me.
8 Q. When did he tell you that?
9 A. Oh, he told me within, say, the first month I was
10 there.
11 Q. So if your last session before the Senate Committee was
12 February 21, 1980 that you were in attendance, when did you
13 actually go to El Salvador as best you recall in the proximity
14 to --
15 A. Early March, I believe.
16 Q. Early March?
17 A. Yes.
18 Q. And so within a week or so, a month, you were advised
19 of Colonel Carranza's position?
20 A. Yes.
21 Q. And you have no recollection at this time as to how
22 long he had been in the military prior to that time?
23 A. Well, he was a career officer. Look, it's -- this is
24 not a problem that arises. Generally speaking -- in fact, I
25 don't know that there are any exceptions -- a young man will

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1 enter the military by -- when he is 14 or 15 years old by
2 going to the Military Academy, which is like the equivalent of

3 a high school basically, and when -- or a little more than
4 that, up to, say, two years of college, and when they come out
5 of there, they act -- they receive their commission. It is --
6 it is like, in effect, West Point, and so all officers of El
7 Salvador are graduates of the Military Academy and enter at
8 14, 15 years old, and I never heard that there was any -- that
9 Colonel Carranza was any exception. So given his age and when
10 I was there, I -- he had been -- he had been in over 20 years,
11 and I might add that promotions in the military of El Salvador
12 are done on a seniority basis, so -- primarily. So people are
13 promoted in their class, and their -- so there's no real
14 reason to go into the minutia of an officer's records because
15 you know the general progression.

16 Q. And so when did you develop the opinion that Colonel
17 Carranza at that time was not a valuable asset to the United
18 States or was acting contrary to the interests of the United
19 States?

20 A. Well, those are two different questions.

21 Q. If you would answer them one and two then.

22 A. Well, ask me the first one.

23 Q. When did you develop the opinion that Colonel Carranza
24 was not a valuable asset of the United States?

25 A. When I was in the Department of State, the military

1 representatives, that is the representatives of the Pentagon,
2 the Defense Department, the representatives of the CIA, the
3 representatives of the State Department all agreed that

4 Colonel Carranza was at the heart of the -- of the military
5 effort to suppress dissent by violence.

6 Q. When did you come to the opinion, your opinion?

7 A. Well, obviously, I have to listen to and give due
8 respect and credit to the people of the various agencies that
9 file reports on Colonel Carranza and on others. That was my
10 job, to get as much information as I could so I could figure
11 out a way to make the military more effective. I came to the
12 conclusion -- I don't think I ever came to the conclusion hard
13 and fast on this, I worked -- I tried to work with the high
14 command of the military, and I found that indeed it was
15 impossible to persuade them to recognize and communicate with
16 me on the issue of death squads.

17 Q. So when did that occur, I'm asking for some approximate
18 time?

19 A. I would say it was -- I went down there with the
20 intention of working with every official of the Salvadoran
21 government, and there was a lot of them that had reputations
22 that were bad, a lot of them had mixed reputations, but there
23 was accumulating evidence, which I think we have gone over in
24 the various reports from the Embassy, that gradually confirmed
25 my impressions, but I remember -- but I do recall that early

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1 on, I wrote a telegram that represented the accumulative
2 judgment of the country team that Colonel Carranza -- that the
3 government of El Salvador would be materially improved if

4 Colonel Carranza left his position as sub-minister of defense.
5 Q. And --
6 A. You can read in one of the early telegrams, my summary
7 telegram, I said that.
8 Q. And Exhibit 2, which has been referenced as being a
9 March 13th, 1980 summary of your impressions in which
10 paragraph two you say: Despite brief time here -- and then
11 you do a numerous page cable --
12 A. Yes.
13 Q. Having been on the job, you said you got there early
14 March, one or two weeks, and you do an early cable, and in
15 that you say at least one senior officer, Colonel Carranza,
16 has got to go and sooner the better?
17 A. Yes, sir.
18 Q. So you're pretty much -- while you're in the sky flying
19 from Washington down there, it didn't take you a whole long
20 time to make a decision that Colonel Carranza was not doing
21 anything good for his position?
22 A. Well, there's two facts that I would like to remind you
23 of. First, I had been for three months, over three months
24 head of the Department of State Central American Task Force
25 where I received every cable from El Salvador, where I talked

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1 with everyday the key players in Washington on El Salvador,
2 and we discussed Colonel Carranza frequently. So I didn't
3 come down -- I didn't arrive in El Salvador without any
4 background in El Salvador. Indeed, I had been at -- about as

5 intense experience with El Salvador as one could hope.
6 Secondly, again, as I have told you, the -- that telegram
7 represents not so much my judgments as the accumulated
8 balanced and unanimous judgment of -- let me take back from
9 that because that's not necessarily so, but the judgment --
10 that is the consensus of the country team. I'm not bound in
11 El Salvador, sir, alone. I am there with a very large and
12 capable Embassy staff.

13 Q. Well, this large and capable Embassy staff, were many
14 of them from the prior ambassador's assignment at that duty
15 station also?

16 A. Some of them were, yes, sir. Most of them, I guess.

17 Q. And that prior ambassador you had before you got there,
18 was it Mr. Cheek? What was the name?

19 A. He was -- he was the charge, he filled in for four
20 months -- three and a half months, I guess, between the
21 departure of Ambassador Devine and my arrival.

22 Q. And Devine, you have characterized in times past as the
23 worst expert who could have ever been there, is that correct?

24 A. Well, I don't recall those words exactly. I'm not
25 saying that I did not say them, but there was -- I certainly

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1 never said them while I was there. Afterwards, these -- that
2 judgment -- Ambassador Devine was basically relieved of his
3 duties by the State Department.

4 Q. So you're saying you didn't make that judgment until

5 after you got to El Salvador?
6 A. I'm not -- I certainly did not make that statement
7 until after I left the Foreign Service.
8 Q. Well, if you would look at the document before you,
9 which is a copy of the nomination of Robert E. White, the
10 Senate hearings, and the top of the page doesn't show the
11 number, but if you look at the prior page, that's where you
12 can get to it, it would be page 28.
13 A. 28?
14 Q. Yes. The very top of the page, there won't be a
15 number, so if you look for 27, you will know. It is the next
16 page.
17 A. I have 23, and then I have a page with no name. Go
18 ahead.
19 Q. Okay. Do you see question by Senator Helms about a
20 third from the bottom, it says Senator Helms?
21 A. Uh-huh. Yes, I see a couple, go ahead.
22 Q. Did he say -- this is Senator Helms: Mr. White, you
23 have said in your written responses and again this morning
24 that the United States believes any government not committed
25 to a reform program can stay in power and prevent civil war.

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1 Can you with some precision tell me what you mean by reform?
2 I can give you my -- can you give me the guts and feathers of
3 it?

4 And did you give this answer:

5 Ambassador White: No, sir, I cannot, with the

6 precision you asked. I've not been in El Salvador for several
7 years. I know Central America well. I have served there, but
8 I think there is no worst expert than the man who used to be
9 there.

10 A. Uh-huh. I'm referring to me. I'm not referring to
11 Ambassador Devine.

12 Q. You're referring to yourself?

13 A. Yes, sir.

14 Q. All right. Well, then let's look then at Exhibit
15 Number 2.

16 A. I do not know what Exhibit 2 is.

17 Q. I'm sorry, do you have the exhibits in front of you,
18 sir?

19 A. Yes, sir.

20 Q. Having been there -- and this supposedly was prepared
21 on or about March the 13th, 1980 --

22 A. Yes, sir.

23 Q. So having been there a week or two, on page PL 2672 --
24 and this memorandum cable, I guess, is sort of your summary of
25 your initial feelings after despite brief time here. Did you

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1 say in part:

2 Lastly -- let's see if I can do this -- this mission
3 needs urgently the personal -- the personnel approved by the
4 last SCC meeting. If we are to get our message out and our
5 programs in, we must have prompt action.

6 Is that correct?
7 A. Yes, sir.
8 Q. So you were short in personnel when you got to El
9 Salvador in the Embassy?
10 A. For the task -- yes, sir. Short in the sense that
11 the -- particularly, the military wanted more people there, I
12 wanted more political officers -- yes, sir, we were -- for the
13 task we had, we were shorthanded, yes, sir.
14 Q. And when you came to that country, you've -- we've
15 referred to what has been marked as Exhibit 1, there was
16 questions as to the integrity of the judicial system and that
17 the military was attempting to work with chaos or was
18 confronted with chaos in the countryside?
19 A. Yes.
20 Q. And there were foreign trained leftist terrorists?
21 A. Yes. Foreign trained.
22 Q. Trained, trained.
23 A. Yes.
24 Q. And you thought this Embassy was unquestionably the
25 most undisciplined diplomatic mission that you had ever served

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1 at?
2 A. Yes, sir.
3 Q. And the United States, as you have indicated, had
4 unlimited resources?
5 A. No, sir, not unlimited resources. We had resources
6 that were huge in comparison to any other -- any other entity.

7 We had resources that was -- after all, we were very close at
8 that point to being the principal support, financial support
9 of the Salvadoran government.

10 Q. Well, you had a large military, for example, in the
11 United States?

12 A. I don't understand the question.

13 Q. The United States had tremendous military --

14 A. Yes.

15 Q. Had tremendous intelligence resources?

16 A. Yes.

17 Q. El Salvador was asking for assistance in all these
18 areas to try to avoid civil unrest?

19 A. They were asking for additional assistance, yes, huge
20 increase in military assistance, yes.

21 Q. And the unrest was such that Germany had taken all of
22 their folks out of there, that they shut their Embassy down
23 because they could not provide security for them?

24 A. Yes. And other reasons, I mean it wasn't just the
25 security.

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1 Q. Well, if we look at your testimony, sir. Let me draw
2 your attention to -- let me see if I have got it -- page 34 of
3 the Senate hearing.

4 A. Uh-huh.

5 Q. About four-fifths of the way down.

6 A. Uh-huh.

- 7 Q. On page 34. Do you see where Senator Zorinsky asked
8 this question and did you give this answer?
- 9 A. Yes, I did.
- 10 Q. And has the State Department had any success in
11 convincing West Germany that it should join with the Spanish
12 government and us in generating economic aid to El Salvador?
- 13 Ambassador White: I think the West German government
14 has in train an economic support program for El Salvador, but
15 because of the violence, Germany has pulled out its Embassy
16 because it cannot guarantee the safety of its people.
- 17 A. Yeah. Do you see any contradiction between what I just
18 said and that?
- 19 Q. Well, I asked you if it was because of the security and
20 safety that they shut down their Embassy.
- 21 A. And I said yes, because I am here, you know, for hours
22 of intense questioning when I am on the stand before the
23 Senate, I have seconds basically to make my point, so I didn't
24 go into all ramifications.
- 25 Q. In the Exhibit 1 cable that you said was authored by

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- 1 the Cheek, I notice that counsel didn't have you read the last
2 paragraph, the comment and observation by Mr. Cheek. It is
3 paragraph number nine.
- 4 A. Okay.
- 5 Q. The last page should have a paragraph nine at the top.
6 Cheek's comment about after his discussions with those who had
7 been in attendance where Carranza and others were talking

8 about the problems of the day.
9 A. Yes, sir.
10 Q. Did that comment say, quote, we were impressed at
11 frankness with which military leadership was willing to
12 discuss sensitive subject of security forces. We were
13 generally encouraged by their acute awareness of the problem
14 and its implications and their willingness to do their part in
15 correcting the situation, if the PDC will help on the legal
16 side. We are pursuing this vigorously with both parties.
17 Cheek.
18 Is that correct?
19 A. Yes.
20 Q. So before you arrived, Cheek observed that Carranza and
21 those in attendance, besides asking for vests and, you know,
22 things like that for the protection of their troops, that
23 Cheek was impressed with how they were attempting to respond
24 to these accusations?
25 A. I don't think that's quite what he said. What he said

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1 is very similar to what you can find in reports from me. He
2 said, not that they responded in the sense of responded in the
3 sense of doing something about it. There's no commitment on
4 the part of the military leadership as I read this telegram to
5 do anything. They said they're sensitive to the problem, but
6 I search in vain. Other than -- they're willing to do their
7 part, what does that mean. As it turned out, what they did

8 was simply kill more people, and so the Salvadoran military
9 leadership was very good at talking, but they weren't so good
10 at fighting the people who were the threat. Instead, they
11 were killing the civilians, unarmed civilians.

12 Q. Well, sir, as an ambassador, you're supposed to be good
13 at talking too, right?

14 A. Yes, sir.

15 Q. You were a public relations agency for the United
16 States of America while you're in that duty station?

17 A. Well, that would be far doubt in the hierarchy of
18 priorities for why I was there. I was not there to become
19 popular, I was there to carry out a policy, and if it cost me
20 popularity, that was not a big concern of mine. But I did
21 have a very direct interest in communicating, frankly, with
22 the high command, and I think if you read the total -- the
23 totality of the telegrams I sent regarding the military, you
24 will find that I did communicate in a pretty straightforward
25 fashion with the military to express my intense disappointment

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1 and the disappointment of the Secretary of State and the
2 President that they had not seen fit to communicate -- to stop
3 the killing.

4 Q. With no shortage of tools, as I think you described
5 what was available to the United States, with you being the
6 person in the office that you had as the Ambassador for the
7 United States and by making the recommendation and decision by
8 March 13th, 1980 in your own mind that Mr. Carranza must go --

9 A. Uh-huh, yes.
10 Q. -- why wasn't that carried out?
11 A. The Salvadoran military are a very tightly knit force
12 and as -- and as Military Attache Colonel Brian Bosch's report
13 makes clear the majority of the middle grade officers approved
14 of killing of the FDR leaders, and -- and gave credit to the
15 high command, including Colonel Carranza for this decision.
16 So, naturally, I -- I mean do you -- I don't quite understand
17 the import of your question. The Salvadoran military under
18 the command of Colonels Garcia and Colonel Carranza
19 systematically killed thousands of Salvadorians and leading
20 people in the country, including Arch Bishop Romero, including
21 the five FDR leaders, including American citizens, and
22 naturally I am concerned that these people are destroying any
23 chance that this government has to survive. And if they keep
24 it up, they are going to be in very great danger that the
25 country will eventually fall to the violence. Naturally, I'm

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1 concerned.
2 Q. Well, in the -- who was the author of that summary
3 about the FDR killing?
4 A. Well, the telegram that I just referred to is the one
5 written by the Military Attache Colonel Brian Bosch.
6 Q. Right. And in Bosch's -- I'm trying to find where I
7 placed that. In Bosch's, which is Exhibit 7 --
8 THE COURT: Go ahead.

9 A. Number 7 is not -- 7 is a departmental memorandum
10 according to my --
11 BY MR. BROOKE:
12 Q. Well, didn't you identify that Bosch was the author of
13 that? Who is the author of -- from Patricia Derian?
14 A. No, it's Exhibition 6 is the one you're referring to.
15 Q. The one I'm referring to is a December 4th, 1980, at
16 the top, is that what you have?
17 A. No. This one is entitled Satisfaction of Many Military
18 Officers with Assassination of Leaders of the Revolutionary
19 Democratic Front: Belief that same tactics should be used to
20 eliminate other leftist leaders.
21 Q. All right. I ask you to look at the December 4th,
22 1980, I had that marked as Number 7. Is it number 8?
23 MR. ESQUIVEL: No, I think it is 7. There's
24 some confusion as to whether you were saying 6 or 7.
25 MR. BROOKE: I'm sorry.

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1 A. Yes, this is -- I have that.
2 BY MR. BROOKE:
3 Q. And that talks about the FDR attack, is that correct?
4 A. The attack on the FDR?
5 Q. Yes.
6 A. Yes, sir.
7 Q. And it -- on the second page at the bottom -- says
8 while the killings were almost entirely committed by mid level
9 officers, perhaps without the advance approval of senior

10 officers in high command, the fact remains that the security
11 forces were responsible that after the event the high command
12 senior officers had been either unwilling or unable to
13 apprehend or bring all those responsible to an account.

14 A. Yes.

15 Q. So the author of this document had no evidence that
16 they, in high command, which is I guess where you cast
17 Mr. Carranza --

18 A. I didn't cast him there, the Salvadoran military cast
19 him there.

20 Q. Okay, that's -- that's your observation. That no one
21 could apprehend -- they could not apprehend -- they were
22 unable to apprehend or bring all those responsible to an
23 accounting, that was this person's observation?

24 A. Yes.

25 Q. And you, in your capacity, of being the Ambassador with

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1 all the no shortage of tools, did you ever bring anybody to an
2 accounting for these alleged acts?

3 A. I think you're confused, sir. I am -- I am the head of
4 an Embassy in El Salvador. It is the government of El
5 Salvador that is responsible for ruling El Salvador and the
6 military who have been the chief instrument of power, I have
7 no domain or dominion over El Salvador.

8 Q. Did you --

9 A. So I can bring -- I can make no one accountable.

10 Q. With no shortage of tools, did you go to anyone in the
11 El Salvadoran government and tell them these are the people
12 that were involved?

13 A. Absolutely.

14 Q. You did?

15 A. I certainly did. And you will find in these telegrams
16 that the president of the junta -- the leading member of the
17 junta, Napoleon Duarte said that Colonel Carranza was
18 involved, that Garcia and Carranza were involved.

19 Q. Did you participate in any of the Truth Commission
20 interviews, investigations?

21 A. You mean the United Nations Truth Commission Report
22 entitled From Madness to Hope?

23 Q. Yes.

24 A. Is that the one you mean?

25 Q. Yes.

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1 A. Yes, I testified.

2 Q. You testified?

3 A. Briefly. I testified because the -- I was urged by the
4 Department of State to cooperate with the UN Truth Commission.

5 Q. Well, are you familiar with the fact that the
6 Department of State in a July 11th, 1984 cable found Carranza
7 to not be involved in death squads?

8 A. I was not in El Salvador, I was out of the Foreign
9 Service and I was not privy to classified documents at that
10 time.

11 Q. Well, you're living in Washington, D. C., being
12 involved in an organization like you're involved with, you
13 read the New York Times, don't you?

14 A. Yes, sir.

15 Q. And are you familiar with the article in the New York
16 Times where they reported that the State Department found
17 there was no credible evidence that Colonel Carranza was
18 personally involved in the death squads?

19 A. Well, one, I do not rely on newspaper reports for
20 evidence, but when the word personally is used -- often used
21 as a cop out, I do not believe that Colonel Carranza was
22 personally involved in death squads either, I don't believe
23 that he went on excursions with death squads and killed
24 people, no. I think that officially he was involved, there's
25 a big distinction. So, remember, there's -- a new

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1 administration is in now and there's a different policy, and
2 so this is -- to say that somebody is not personally involved,
3 frankly, is to say nothing.

4 Q. Well, the credible evidence that you are claiming to
5 have relied on for many of the statements that you have gone
6 with here are conversations that supposedly took place between
7 other people at a bar or I guess the tennis court or things
8 like that, is that correct?

9 A. I don't exclude that those -- that information was
10 passed in those places, but as you can tell, the resources of

11 the United States Embassy was constantly focused on the
12 military and on the military high command, and as I have
13 stated time and again here today, this judgment that I report
14 is not my judgment, this is the judgment of the consensus of
15 all the different agencies of the United States Embassies.
16 Otherwise, sir, there would have been a dissent at the end of
17 that cable that says this -- that the defense attache, for
18 example, does not concur with this or that part of the report.
19 There is no such notation on that report.

20 THE COURT: We need to go ahead and take our
21 afternoon break. We have some folks waiting to see me
22 briefly, so we're going to take a 20-minute break at this
23 time. I'm going to wait for a minute and see them for a
24 moment and then see if we should be able to conclude that
25 matter within a few minutes. Don't discuss the case among

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1 yourselves. Don't let anybody talk with you. Ambassador
2 White, we will see you back at 3:30, we will see you in 20
3 minutes. Thanks very much.

4 (Recess taken at 3:10 until 3:38 p.m.)

5 THE COURT: All right. We're ready to bring
6 the panel in.

7 COURT SECURITY OFFICER: Yes, Your Honor.

8 (Jury in at 3:38 p.m.)

9 THE COURT: All right. Counsel may proceed.

10 BY MR. BROOKE:

11 Q. Mr. White, when you were to embark upon your assignment

12 to the duty station in El Salvador, would you agree that the
13 discontent and violence in El Salvador were primarily the
14 result of years of festering domestic, political, economic and
15 social problems and not just a reflection of outside
16 agitation?

17 A. Yes, I would.

18 Q. And would you agree that you had represented to the
19 United States Senate in response to a questionnaire about your
20 appointment that if the government of El Salvador so requests,
21 it should be provided with training and equipment for
22 nonviolent handling of riots and other violent demonstrations,
23 training and equipment for use of deadly force against
24 terrorists and guerillas engaged in violent acts?

25 A. Yes, sir.

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1 Q. In Exhibit 4, which has been identified, I believe, as
2 a cable out of your Embassy, is that correct?

3 A. Yes, sir.

4 Q. And who authored this?

5 A. Well, my name is at the end of it, I believe, and so I
6 take responsibility for it. I mean I drafted every word, but
7 I certainly participated in it and read the final draft and
8 approved it.

9 Q. And counsel has asked you about part of it regarding a
10 prior telegram that this was sort of in response to --

11 A. Yes, sir.

12 Q. -- and I want to ask that if you would also continue
13 on, on page -- from the carryover, I guess, from the first
14 page at the very last three words, it says I emphasized. This
15 will be PL 1291. Do you see the bottom there where it says I
16 emphasize the, and it carries over to the next page?

17 A. Yes, sir. I emphasized the need to control right wing
18 violence and -- you want me to read this?

19 Q. Yes, if you would, please.

20 A. -- to control right wing violence and to put an end to
21 the abuses committed by the military. Our conversation was
22 friendly and constructive in tone throughout. This evening, I
23 am offering a dinner in honor of the operational planning
24 team. Approximately 15 high level Salvadoran military
25 officers will attend, including Colonels Garcia and Carranza.

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1 I will, therefore, have another opportunity to make the same
2 points in another format and in a different way. I included
3 Carranza in our meeting this morning because I am convinced
4 that he and Garcia are inseparable and that it is essential
5 to convince Carranza as well as Garcia if we are to make any
6 progress.

7 Q. All right. Now, there you said there are 15 high level
8 Salvadoran military officers, and we have previously touched
9 on mid level, and you have used the term high command. Can
10 you distinguish for us what in your mind, as best you recall,
11 what constituted high command, high level versus mid level?

12 A. High command, sir, is a precise term, it includes

13 Minister of Defense, the Sub-Minister of Defense, Colonel
14 Carranza. It includes the Chief of the air force, the Chief
15 of the national guard, the Chief of the Police and the Chief
16 of the treasury police. That is the high command. The high
17 level is by definition an imprecise term which includes
18 people -- battalion command, it just depended on who the high
19 command of the military decided to include in this particular
20 function.

21 Q. Would you agree, as I think you have attempted to
22 testify, that you weren't cognizant of the actual
23 interworkings of the military of El Salvador but for
24 information that was provided to you by third parties?

25 A. Well, I don't think that you stated my position

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1 accurately. I was knowledgeable about the interworkings of
2 the Salvadoran military up to a certain point. I was
3 obviously not privy to the conversations between this one and
4 that one, although because Colonel Carranza was a paid asset
5 of the CIA, I read reports of his statements which only
6 confirmed my impressions of -- that he was in charge.

7 Q. Do you have any copies of those reports of his
8 statements?

9 A. No, sir, they were CIA reports.

10 Q. You don't have any of those?

11 A. No.

12 Q. And you've been back in this country since about 1981?

- 13 A. Yes, sir.
- 14 Q. Do you know how long Mr. Carranza has been in the
15 United States?
- 16 A. No.
- 17 Q. And you're with an organization --
- 18 A. It's called the Center for International Policy. It is
19 a think tank, it has got nothing to do with the U. S.
20 government.
- 21 Q. Nothing to do with the U. S. government?
- 22 A. That's correct, we don't accept government money.
- 23 Q. Continuing on, on Exhibit 4, I notice counsel did not
24 have you read the next paragraph number four.
- 25 A. Uh-huh.

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- 1 Q. If you would read that for the jury.
- 2 A. Regarding indiscriminate violence and the military
3 connections with the right wing, Colonel Garcia went to great
4 lengths to deny any connection whatsoever on his part or the
5 high command's with the violent right. He contended that the
6 Salvadoran military establishment is just as anxious to
7 suppress the violent right as the violent left. Garcia said
8 that he had now provided the miligroup commander with the
9 names of security force personnel who had been kicked out or
10 who are serving sentences for abuses of authority. I pointed
11 out that while it was obviously difficult to gather
12 intelligence regarding left wing activities, it should be
13 fairly easy, given traditional ties to learn about planned

14 attacks by rightist terrorists. Garcia also denied the same
15 that he would be most grateful for any intelligence we could
16 provide about terrorist activities of a violent right. He
17 assured us that he would act on our intelligence immediately.

18 Q. Now, when you're talking about the left wing
19 terrorists, you're talking about communist, is that correct?

20 A. No, sir.

21 Q. It's not. All right. Then if we come down to
22 paragraph five, in the middle where it starts halfway in the
23 sentence or halfway in the paragraph, the sentence that starts
24 with Garcia again pleaded his good faith, can you read that
25 portion of the summary? Paragraph five, halfway down.

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1 A. Paragraph five, halfway down. The one that starts out
2 I pointed out to Garcia that the entire world believes that
3 the security forces are involved in right wing violence?

4 Q. Right.

5 A. And that restoring the reputation of the government
6 abroad requires special efforts to bring rightists under
7 control; otherwise, the military are in effect contributing to
8 the downfall of this government. Garcia again pleaded his
9 good faith and reiterated that he had no personal or official
10 attachments with either the right or the left. His only
11 objective, he stated, was to assist the government to bring
12 peace and order to the country. He spoke eloquently of the
13 high price the military forces were paying in this continuing

14 effort, referring to the recent military sweep in the guerilla
15 ridden department of Morazam. Carranza said that the military
16 forces had killed approximately 220 guerillas. He asserted
17 that almost all the dead were adult males. In response to my
18 question, he said that the military had suffered four killed
19 and 16 wounded in action.

20 Q. Now, is that the area that you went to with
21 Mr. Carranza?

22 A. Yes, sir.

23 Q. And so this Exhibit 4 is October 27th of 1980?

24 A. Uh-huh, yes, it is.

25 Q. O some time in close proximity there to, you got in a

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1 helicopter with Mr. Carranza and went to a scene where
2 guerillas and military had a skirmish?

3 A. Yes, sir.

4 Q. Did you ever receive anything in writing from the CIA
5 responding to your request that in March of 1980 Mr. Carranza
6 must go?

7 A. No.

8 Q. Now, in the Exhibit 7, December 4, 1980 memo by
9 Patricia Derian, in her last paragraph, she basically is
10 describing the failure of the last year's efforts in El
11 Salvador?

12 A. Yes.

13 Q. And, sir, you with no shortage of tools and having made
14 a decision, a recommendation by March of 1980, were the man

15 for the United States overseeing the events in El Salvador,
16 weren't you?

17 A. No, sir.

18 Q. Who was then the person for the United States on the
19 ground who was overseeing the events in El Salvador --

20 A. You didn't say United States, sir; you said overseeing
21 events in El Salvador.

22 Q. I'm sorry, I meant the United States.

23 A. Well, yes, sir, I was overseeing the policies and
24 programs of the United States of America in El Salvador.

25 Q. And when did you leave your post in El Salvador?

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1 A. I left in late January, 1981.

2 Q. And Ronald Reagan took the oath of office about
3 January 20th or so, 1981?

4 A. January the 20th.

5 Q. And do you know when Colonel Carranza left his post as
6 vice -- sub -- Vice-Ministry of Defense?

7 A. I believe he left shortly before I -- before I left. I
8 believe that he was put into another function at that time.

9 Q. And after you left your post, the Reagan administration
10 took over, El Salvador had free elections, didn't they?

11 A. They have elections, yes, sir. How -- it's very
12 different -- in some places -- they were as free as they could
13 have been in a country racked by violence.

14 Q. And do you know if Mr. Carranza ever came back at all

- 15 at any post with the military in El Salvador?
- 16 A. You mean after 1984?
- 17 Q. After 1981, early January of 1981, when you said he
- 18 went -- left several weeks before you did.
- 19 A. Yeah, he went into another post in the Salvadoran
- 20 military.
- 21 Q. Do you know when that was?
- 22 A. Well, I think it was in, let's see, more or less
- 23 December, 1980, I would guess. I haven't thought about it,
- 24 but I mean that's my recollection.
- 25 Q. You think he went to another post in the military in

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- 1 December of 1980?
- 2 A. Yeah, but I'm not certain of that. I mean this is --
- 3 I'm not quite clear on what bearing this has, but I do not
- 4 recall the exact date that Colonel Carranza was transferred.
- 5 Q. Do you know where he went to?
- 6 A. My recollection is that he went to ANTEL, but that may
- 7 be wrong. I'm not really certain.
- 8 Q. And do you know, did ANTEL have troops?
- 9 A. No, sir.
- 10 Q. Did he ever come back in any military position with
- 11 troops?
- 12 A. Sir, you're asking me about events that occurred
- 13 outside my responsibility and after I left El Salvador, and I
- 14 really don't feel comfortable testifying about events for
- 15 which I was not present.

16 Q. Well, are you familiar with Ambassador Pickering?
17 A. Yes, sir.
18 Q. Have you read Ambassador Pickering's cable to the State
19 Department regarding Colonel Carranza?
20 A. I don't recall that I have.
21 MR. BROOKE: I would ask -- if I may approach
22 the witness, Your Honor.
23 THE COURT: You may.
24 MR. ESQUIVEL: Objection to relevance, Your
25 Honor, of a cable of an ambassador after the time period

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1 where it occurs where Ambassador White was present.
2 THE COURT: Objection sustained.
3 BY MR. BROOKE:
4 Q. How many times have you testified, Mr. White, for one
5 or more of the attorneys in this case?
6 A. This is, I believe, my third appearance.
7 Q. How many times before March 13th, 1980, did you meet
8 with Mr. Carranza during that one to two weeks that you were
9 in your duty station?
10 A. I don't recall.
11 Q. How many times did you meet with Colonel Carranza after
12 authoring the March 13th, 1980 cable?
13 A. Well, I can't say for certain. That's 25 years ago,
14 but I certainly met with him on at least five or six
15 occasions.

- 16 Q. And one of those would be in the helicopter mission?
17 A. One of those would be in the helicopter.
18 Q. Who in the military killed Arch Bishop Romero?
19 A. Well, we know that a former major named Roberto
20 D'abuisson was found to be identified as the intellectual
21 author of the crime.
22 Q. Was he in the military at the time of this crime?
23 A. Yes and no.
24 Q. Tell us no.
25 A. The distinction between active duty and retired in the

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CROSS - ROBERT WHITE

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- 1 El Salvadoran military is very -- not the same distinction
2 that we have. They still continue to receive their full pay.
3 They're still entitled to be part of the military, it is just
4 that they don't have a definite assignment. The importance of
5 Roberto D'abuisson is that he was the leader of the death
6 squads, and we have many reports of contacts between Roberto
7 D'abuisson, the kill crazy person who would threaten people,
8 everyone, had called everyone a communist and was the head of
9 the -- and was the acknowledged head of death squads, and we
10 know about frequent contacts between ex-Major Robert
11 D'abuisson and the high command.
12 Q. Do you have any copies of those many reports that you
13 refer to?
14 A. Sir, I -- the way classified material works is that I
15 am forbidden by law to take away classified material. I can't
16 even take the copies of telegrams that I wrote. The reason

17 that I see these telegrams, because through the efforts of
18 various organizations, these telegrams have been declassified,
19 so it would be against the law for me to have those copies.

20 Q. Has your organization sought to have some of these
21 documents in this case declassified?

22 A. No, sir.

23 Q. When you make a statement that in November and December
24 of 1980 and in January of 1981, there was an escalation in
25 violence --

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CROSS - ROBERT WHITE

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1 A. Yes, sir.

2 Q. -- you were on the ground in El Salvador during that
3 time, weren't you?

4 A. Yes, sir.

5 Q. And what, if any, evidence do you have that
6 Mr. Carranza was in any way involved in any of that violence?

7 A. Look, there is such a thing as command responsibility.
8 If you are the Minister of Defense or the Deputy Minister of
9 Defense, you have a command responsibility to control your
10 troops. Garcia and Carranza conspicuously failed in that
11 duty.

12 Q. Did you fail on any of your duties there, sir?

13 A. Not by design, sir. They failed by design.

14 Q. When you made the statement or observation you don't
15 want to presume about the operational controls of the military
16 of El Salvador, I guess you have elected to go ahead and

17 presume about some of that?
18 A. I have to have that sentence repeated to me in context
19 because when I spoke about the organization in broad strokes
20 of the El Salvadoran military, I spoke from knowledge. When I
21 said I don't presume to know the details, the minutia of the
22 military organization, clearly, that is not the prerogative of
23 anyone who is outside that institution, so what I am saying is
24 that as far as the resources of the United States government
25 could be brought to bear on this daunting problem that we

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CROSS - ROBERT WHITE

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1 faced to try to control military violence of a government we
2 were supporting, I knew as much as any foreigner could have
3 known about the military organization, but I certainly could
4 not presume to talk about details of that organization for the
5 most part.
6 Q. When you made the statement that the military high
7 command would never admit anything --
8 A. That's right.
9 Q. -- is that still your statement today?
10 A. When I said that, what I'm talking about, they would
11 never admit to particular incidents. They would on occasion
12 say in general terms we understand we have a responsibility
13 for this or we understand that the government could fall if we
14 don't control violence of both left and right, but when you
15 brace them with specific acts, the most obvious incident is
16 the one we -- I have already discussed, the murder of six
17 peaceful leaders of the political party dedicated to change,

18 men who had particularly rejected violence, and the military,
19 under the command of Colonel Garcia and Colonel Carranza,
20 presided over that. They were responsible for the
21 assassination of six men, yet they denied it to me, they
22 denied it, and they -- just as they denied the murder of the
23 American church women, just as they denied the responsibility
24 of the military for killing two American labor advisors. The
25 military killed those men under the command of General

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CROSS - ROBERT WHITE

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1 Garcia -- I mean Colonel Garcia and Colonel Carranza.
2 Q. And you said they guided that act?
3 A. I did not say they guided that act; I said they have a
4 command responsibility to discipline, never -- there's a --
5 you read or someone read here something about how Garcia
6 bragged or Carranza bragged, I can't remember who said it,
7 that they had expelled military personnel, but they're not
8 talking about officers, they're talking about enlisted men who
9 got caught rustling cattle or something like that. And in the
10 hierarchy, in the -- the enlisted men in the army of El
11 Salvador are not, properly speaking, considered part of the
12 military. These -- it is the officer corps that is the heart
13 and soul and legally the military of El Salvador. Now, you
14 will look in vain for any officer who was ever tried for these
15 crimes except under the irresistible pressure of the United
16 States that took years and years to accomplish. It was never
17 a voluntary act where they prosecuted, brought to trial a

18 military officer.
19 Q. And -- excuse me, go ahead.
20 A. There is no example of which I am aware where the
21 military actually prosecuted one of their own.
22 Q. Have you ever been in the military?
23 A. Yes, sir. Well, not the military, I was in the navy.
24 Q. In the navy?
25 A. Yes, sir.

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CROSS - ROBERT WHITE

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1 Q. When a person in the United States Navy committed some
2 type of act, his commander, commanding officer would refer to
3 the JAG, wouldn't he?
4 A. Yes.
5 Q. And it was the JAG officers or the JAG department's
6 responsibility then to go ahead and investigate, bring charges
7 and then there would be a --
8 A. Yes, sir.
9 Q. -- hearing?
10 A. That's true. Are you comparing the United States
11 military to the Salvadoran military?
12 Q. Have I asked you to compare them?
13 A. Otherwise, why would you ask me about the United States
14 military?
15 Q. Well, you aren't holding yourself out to be an expert
16 in the El Salvadoran military, are you?
17 A. Yes, sir.
18 Q. You are, okay. Well, you have said that the FDR was
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19 comprised -- one of the folks was a member of the 14 families?

20 A. Yes, sir.

21 Q. Nowhere in your nomination hearings where 50 something
22 pages are discussed about you or your response and things do
23 you talk about any 14 families, do you?

24 A. No, sir.

25 Q. But, romantically, if there is 14 families that sort of

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CROSS - ROBERT WHITE

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1 controlled the country, wanted to keep everything they had,
2 would you -- you have served in Colombia, is that correct?

3 A. Yes, sir.

4 Q. Would you say that that was pretty much consistent,
5 equivalent to like the drug cartel?

6 A. Would you say that question again? I'm not sure I
7 understand what you mean.

8 Q. Well, we have got the 14 families that are supposedly
9 trying to contain and continue to be in control of the country
10 from your ideas?

11 A. Not at all. Not at all. I never in the slightest
12 degree even hinted that. The Salvadoran 14 families, the
13 metaphor -- that's a metaphorical phrase, it simply
14 identifies -- you know, I think the origination, that phrase
15 originated, I believe, by a military, a U. S. military
16 attache, that's my recollection of many, many years ago. You
17 know, the great majority of the 14 families were legitimate
18 businessmen, businessmen who -- and owners of large, large

19 plantations of various types. They controlled El Salvador
20 through the military, and the huge percentage of the
21 Salvadoran people simply did not partake in the fruits of El
22 Salvador. To the Salvadoran oligarchy and to much of the
23 Salvadoran military, El Salvador was just a money machine, and
24 the people were just dispensable units of production. There
25 is no way that you can have a revolution, a demand for change

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CROSS - ROBERT WHITE

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1 as broad based as that occurred in El Salvador unless the
2 people were driven to it. And many of our failures in El
3 Salvador and Central America was to believe that this was
4 something that could be cured by violence. So I think that
5 this is why we place such stress on democracy, this is why we
6 place such stress on putting the military under civilian rule,
7 something, unfortunately, the military headed by Colonels
8 Garcia and Carranza refused to accept.

9 Q. Would you agree that the 14 families like the drug
10 cartel folks in Colombia had capacity, competence to commit
11 torture and crimes in El Salvador during the year that you
12 were there?

13 A. No, sir.

14 Q. Okay. You mentioned the term a peaceful revolution.

15 A. Yes, sir.

16 Q. Can you give us some examples of peaceful revolutions
17 that have taken place?

18 A. Well, yes, I think I can. They're not -- particularly
19 in Latin America, as I stated before, the most conservative

20 people in the world that I know of are Latin American farmers,
21 peasants, and they do not resort to violence until the
22 situation becomes intolerable because they know that any
23 change that takes place is usually to their disadvantage. But
24 there was a revolution in Bolivia where a land reform was
25 instituted, and it was relatively peaceful.

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CROSS - ROBERT WHITE

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1 Q. How relative?
2 A. Relatively. They were -- it's a violent country.
3 There's the oppression of the indigenous people just as there
4 is in Guatemala. But let me say the phrase peaceful
5 revolution is drawn from John F. Kennedy's Alliance for
6 Progress, and it was his belief, conviction that the United
7 States could preside over profound peaceful change in Latin
8 America. It didn't work because his presidency was cut short
9 by his death, but I think it would have worked a lot better
10 than it had.
11 Q. Was -- you went with the State Department in '63?
12 A. No, sir, I went with the State Department in 1955.
13 Q. '55. So when President Kennedy guided and directed the
14 Bay of Pigs, was that an effort at peaceful revolution?
15 A. Well, your history is a little bit flawed here. The
16 Bay of Pigs was planned and brought to the brink of operation
17 under President Eisenhower and was in the very first days of
18 President Kennedy's administration that the bay of pig was
19 launched. It was under his presidency, and he took

20 responsibility, but it was planned under the previous
21 administration.

22 Q. And the reason for going was to try to set off or to
23 overcome a communist regime in Cuba?

24 A. It was planned to overthrow Fidel Castro, yes.

25 Q. How, if you had been in Mr. Carranza's position up till

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CROSS - ROBERT WHITE

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1 January 3rd of 1981, would you have affected influence to
2 bring the violence that was occurring in El Salvador to an
3 end?

4 A. I don't think it's proper for me to try to put myself
5 in the shoes of Colonel Carranza. He is one person, I am
6 another. I will only say that to the extent that Colonel
7 Carranza was involved in directing the violence against
8 unarmed people in El Salvador, he's doing a disservice to his
9 country and he was doing a disservice to the institution he
10 had.

11 Q. And you as an expert in the El Salvadoran army, as an
12 expert in international relations focused especially in Latin
13 America, cannot tell us today how you would have exercised
14 influence to bring an end to violence in El Salvador if you
15 were in Mr. Carranza's position for the time period that you
16 were there?

17 A. You have read the record, you will see the
18 representations I made. The government of the United States
19 did not pay me to, quote, understand, unquote, Colonel
20 Carranza. They paid me to carry out policies which said that

21 death squads were striking at the heart of that government.
22 And it was not just the United States government that believed
23 that, it was Napoleon Duarte and the heads of the Christian
24 democratic party, the partners in governing El Salvador.
25 Remember, the military not only killed people who were

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CROSS - ROBERT WHITE

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1 suspected of wanting change outside of the government, they
2 killed people inside the government. They killed a minister
3 of -- and they killed the head of the Land Reform, the
4 military killed them.

5 Q. When were those killings?

6 A. The killing of Minister Zamora took place, I believe,
7 in January or so -- at the beginning of 1980, and --

8 Q. So that would have been before you arrived?

9 A. Yes, but while I was the head of the Task Force on El
10 Salvador in the Department of State. And it -- the killing of
11 the head of the Land Reform Institute, he was murdered at the
12 same time that the two American citizens were at the Hotel
13 Sheraton while they were having dinner, and a death squad came
14 in and gunned down two American officials of the American
15 Institute for Free Labor and a -- the head of the Land Reform
16 Institute of the government.

17 Q. And when was that, approximately?

18 A. That was either late December -- late December, I
19 think, of 1980 or early January, 1981.

20 Q. So it was before you left to come back to Washington?

21 A. I was there.
22 Q. And so did you attempt to identify who these
23 individuals were?
24 A. We identified them very quickly. There is never any
25 secret about who does things in El Salvador. What -- you

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CROSS - ROBERT WHITE

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1 know, what we -- everybody knows what the military does
2 because it's a very small country. Remember at the time I was
3 there, there were five million people, but only, you know,
4 only 10,000 or so were actually in any sense in any positions
5 of power. So there is never any secrets in El Salvador.
6 People know -- we identified who it was immediately.
7 Q. And you did nothing about it?
8 A. Why would you say something like that? Of course, I
9 did something about it. I -- first thing I did was go to the
10 high command and say that they were responsible for this and,
11 of course, they denied it. But then, of course, it turned out
12 that under heavy, heavy pressure from the United States, from
13 me at the beginning and from the subsequent administration.
14 They were eventually brought to trial. Unfortunately, the
15 Salvadoran military permitted the chief culprit to disguise
16 himself and pressured the jury, and they found this man who
17 later confessed to the crime innocent because the jury was
18 frightened to death.
19 Q. Did you participate in that trial?
20 MR. ESQUIVEL: Objection, relevance.
21 THE COURT: Objection is overruled.

22 A. No, sir.
23 BY MR. BROOKE:
24 Q. Who was David Fenton?
25 A. David Fenton?

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CROSS - ROBERT WHITE

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1 Q. Yes, sir.
2 A. David Fenton is a public relations expert -- or he has
3 a company called Public Relations -- Public Relations, I don't
4 even -- Fenton Communications or some such title.
5 Q. Do you and he work together?
6 A. No, sir.
7 Q. So the -- none of the causes of Mr. Fenton have been
8 causes you and he have worked together on?
9 A. I do not have any connection with David Fenton.
10 Q. Or his business?
11 A. No, sir.
12 MR. BROOKE: If I may have a second, Your
13 Honor.
14 THE COURT: Certainly.
15 MR. BROOKE: Your Honor, I would ask that the
16 hearings for the Senate that he has referred to, if we
17 could make that as the next exhibit number.
18 MR. ESQUIVEL: We object to that, Your Honor.
19 THE COURT: Objection sustained. It is
20 hearsay, not admissible under the rule. No exception has
21 been cited.

22 All right. Well, anything else?
23 MR. BROOKE: No, Your Honor.
24 THE COURT: Mr. Esquivel, any redirect?
25 MR. ESQUIVEL: Your Honor, I have no redirect.

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CROSS - ROBERT WHITE

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1 THE COURT: Ambassador White, thanks for being
2 here, and we're going to let you be excused. Thanks you
3 very much.
4 THE WITNESS: Thank you, Judge.
5 (Witness excused.)
6 THE COURT: Who will our next witness be?
7 MR. EISENBRANDT: Your Honor, the plaintiffs
8 call Luis Ramirez.
9 THE COURT: Certainly.
10 THE CLERK: Sir, if you will stand right there
11 and raise your right hand to be sworn. Do you solemnly
12 swear the testimony you are about to give the court and
13 jury in this matter to be the truth, the whole truth and
14 nothing but the truth, so help you God?
15 THE WITNESS: Yes, I swear.
16 THE CLERK: You may take the witness stand.
17 MR. BROOKE: Your Honor can I ask that we mark
18 one of these for identification purposes?
19 THE COURT: We can talk about it at side bar.
20 (The following proceedings had at side-bar
21 bench.)
22 THE COURT: Is there some theory under which it
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23 should be marked for identification? I mean it's -- I
24 don't know, maybe there is something.

25 MR. BROOKE: I believe that it is more of a

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1 public hearing document and finding than --

2 THE COURT: It is just the testimony of
3 somebody before the senate. I honestly am not sure. I
4 don't --

5 MR. BROOKE: And they ended up passing the
6 nomination, and it has the documents that were referenced
7 for his nomination.

8 MR. ESQUIVEL: Your Honor, there has been no
9 foundation laid for that document. It was prior testimony
10 that was used as impeachment. It should not be admissible
11 as evidence, and there's no reason to mark it as an
12 exhibit.

13 THE COURT: It is available, and if at some
14 point it needs to be identified further, I think you gave
15 the identifying information in the record. Otherwise, I
16 don't have a number, it will be very odd, it be odd
17 because it will be non-sequential and it wasn't offered
18 during the testimony of the witness.

19 MR. BROOKE: That's what I'm asking if we could
20 at least identify it now for the record so we have --

21 THE COURT: It looks like yours is all marked
22 up, but I will take it.

23 MR. BROOKE: If I can substitute one. I can
24 make a clean copy.
25 MR. FARGARSON: We will substitute another

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1 clean copy.
2 MR. ESQUIVEL: Is there any reason to refer to
3 that further in the proceeding, Your Honor?
4 THE COURT: I don't think so.
5 MR. ESQUIVEL: Is it Ambassador White's
6 statement?
7 THE COURT: I'm trying to think of any reason
8 that it would come in under the 803 rules, any
9 suggestions?
10 MR. BROOKE: Well, it would be the same thing
11 they're relying on for the Truth Commission --
12 THE COURT: Well, that's different. The Truth
13 Commission meets the criteria under 803(8)(c), but I hate
14 to say this, but there's no indication that those
15 particular records that are being proffered would meet
16 that criteria, and there was no attempt to show that they
17 met the criteria, so I don't have any way to make that
18 determination. I just don't have any way to make the
19 determination. There was no -- there's no fact-finding
20 group. They don't have a charge from some governmental
21 administrative agency to make an investigation and file
22 the report. It is not the -- it doesn't meet the various
23 criteria under the --

24 MR. BROOKE: I believe that the Constitution,
25 Your Honor, states it. That a person's only available to

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1 be appointed after advice and consent of the senate.

2 THE COURT: Well, that doesn't -- there was no
3 attempt to demonstrate that it qualified, so the
4 opportunity has essentially passed, and there has still
5 been no attempt to show that it qualifies under 803(8)(c).
6 I just don't have the basis to do that.

7 MR. BROOKE: I'm just asking if we could
8 identify it for the record so that then I have it for
9 later use if I want -- as to appeal --

10 THE COURT: I'm just concerned that we are
11 setting a very bad precedent when there was an opportunity
12 to submit qualifying information and it wasn't done, but
13 what we can do is we will mark it as Exhibit A in the case
14 so it is not confusing to the jury, not received, and then
15 it will simply be for whatever value it has. Was a copy
16 supplied to opposing counsel?

17 Was a copy supplied to opposing counsel?

18 MR. BROOKE: Sure.

19 MR. ESQUIVEL: I have an independent copy of
20 it, Your Honor. I have not had a chance to review the
21 particular document.

22 THE COURT: Well, I think we've done all we can
23 do.

24 MR. FARGARSON: I think what we're talking
25 about is it is going to be identified as Exhibit A, it

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1 doesn't mean it is received.

2 THE COURT: No, and it avoids --

3 MR. FARGARSON: And it won't go to the jury.

4 THE COURT: It avoids that confusion.

5 MR. FARGARSON: That's all it is. So even that
6 could be marked that way, marked up.

7 THE COURT: Let's do that at the end of the
8 day, let you hand that to Joe and whatever you submit will
9 be A.

10 MR. BROOKE: If I could have until tomorrow,
11 Your Honor, our copying machine here didn't work.

12 THE COURT: Let's do that.

13 (The following proceedings were had in open
14 court.)

15 THE COURT: The testimony from someone who is
16 received through a translator is just the same as the
17 testimony given orally by someone in English and, of
18 course, we have talked about that earlier.

19 You may proceed.

20 MR. EISENBRANDT: Thank you, Your Honor. Is
21 the microphone working okay?

22 THE COURT: Yes, it appears to be.

23

24

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DIRECT - LUIS RAMIREZ

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1 (Francis Icaza previously sworn to interpret
2 English into Spanish and Spanish into English.)

3 LUIS RAMIREZ,
4 was thereupon called as a witness on behalf of the
5 Plaintiffs, and having been first duly sworn, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. EISENBRANDT:

- 9 Q. Please tell us your name, sir.
- 10 A. Luis Ramirez.
- 11 Q. Where do you live?
- 12 A. At the City of San Salvador.
- 13 Q. Is that the capitol of El Salvador?
- 14 A. It is the capitol of El Salvador.
- 15 Q. Are you a Salvadoran citizen?
- 16 A. Yes.
- 17 Q. What kind of work do you do?
- 18 A. I am an attorney and a notary public.
- 19 Q. Do you work for a law firm or an organization?
- 20 A. I am a professor at the University of El Salvador, the
21 State University.
- 22 Q. What subjects do you teach?
- 23 A. Especially on -- especially subjects on human rights
24 and administrative law.

25 Q. When you say human rights, what sorts of things are

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DIRECT - LUIS RAMIREZ

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1 taught in human rights courses?

2 A. Specifically treatises on human rights.

3 Q. Are you engaged in any other work other than the
4 university?

5 A. I'm a member of a humanitarian organization.

6 Q. What is the name of that organization?

7 A. It is called Code Fam.

8 Q. And what does Code Fam do?

9 A. It works specifically with family members of victims of
10 violations of human rights. It works on the impunity of the
11 cases and also in cases of forced disappearances.

12 Q. What do you mean by the term forced disappearances?

13 A. It's about victims or family members of victims who
14 have been detained especially during the ex-conflict in El
15 Salvador, and especially on the subject of the absence of
16 punishment of those responsible for the disappearances who
17 have carried out arbitrary detentions by the security forces
18 of the state.

19 Q. You also used the word impunity, what does impunity
20 mean?

21 A. In my view, it is about the absence of punishment or
22 the omission of the state -- on the part of the state to
23 perform the investigations to which the families of the
24 victims have a right.

25 Q. Mr. Ramirez, I want to talk about your education, have
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DIRECT - LUIS RAMIREZ

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1 you attended the university?

2 A. Yes, I entered the State University of El Salvador in
3 1978, and I graduated later in 1989.

4 Q. What kind of degree did you receive?

5 A. I received a degree in jurisprudence and social
6 sciences which awards permission to practice law in all of its
7 branches.

8 Q. Now, am I correct that you just said you started in
9 1978 and graduated in 1989, is that correct?

10 A. Correct.

11 Q. Why did it take so long for you to graduate?

12 A. Well, the fact of the matter is that this course of
13 studies is five years long, but the graduation took nine,
14 especially because at that time of nine years because for four
15 years the State University of El Salvador, which is the only
16 one that was intervened militarily.

17 Q. What do you mean by intervened?

18 A. During the armed conflict in El Salvador during the
19 '80s, the university was constantly accused by the government
20 by the security forces as a university that held positions
21 contrary to those of the government, thus it is important to
22 point out that the university was penetrated by the military
23 forces, by the security forces, and they captured many of its
24 members including university authorities.

25 Q. What does it mean that the university had a position

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DIRECT - LUIS RAMIREZ

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1 contrary to that of the government?

2 A. In general, it meant that the university was always
3 considered by the army, especially by the armed forces, the
4 university was giving protection to leftist people who were
5 against them.

6 Q. Have you yourself ever been a member of a political
7 party?

8 A. No.

9 Q. Have you ever been a member of any political
10 organization?

11 A. No.

12 Q. Have you ever met the defendant, Nicolas Carranza?

13 A. No, never.

14 Q. You have told us a little bit about your current work
15 in the human rights field, please tell us what it was that got
16 you involved in humans rights work.

17 A. My work in human rights began in the year 1980
18 immediately after the assassination of the Arch Bishop Oscar
19 Romero in San Salvador. And the reason was because Arch
20 Bishop Romero always would call, would call upon all citizens
21 especially the young that we should protect the lives of the
22 more -- of the poorest citizens of the country.

23 Q. So when you received that call to work, where did you
24 go to work in human rights?

25 A. I began working in the offices of Socorro Juridico, a

DIRECT - LUIS RAMIREZ

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1 legal aid office founded by the Jesuits, the Jesuit priests.

2 Q. Who are the Jesuits?

3 A. The Jesuit fathers are the founders of educational
4 institutions. They are Catholic religious persons who most
5 especially are dedicated to education and to the defense and
6 protection of human rights.

7 Q. Now, why would these particular people from the
8 Catholic church found a human rights organization in El
9 Salvador?

10 A. The intention for founding this Socorro Juridico, this
11 juridico assistance office was with the purpose of defending
12 the poorest people, the most down troubled people, people who
13 did not have the money to pay the fees of an attorney, persons
14 who did not have the ability to hire the services of an agency
15 of attorneys.

16 Q. Why would these particular people need an organization
17 of the Catholic church?

18 A. I believe it is the result of world changes and
19 especially the changes within the Catholic church throughout
20 the world.

21 Q. What were those changes?

22 A. At the end -- at the beginning of the '70s or maybe the
23 at the end of 1960s, the Catholic church begins to issue
24 reforms through papal encyclicals, and it makes changes that
25 are called -- well, they take place in Medellin & Puebla.

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DIRECT - LUIS RAMIREZ

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1 Q. How did those reforms apply to the work of Socorro
2 Juri di co?

3 A. I believe that the church, the Jesuits in particular
4 took the positive side of the call, of the call in El Salvador
5 so that one -- so that one of the fundamentals of the changes
6 in the church consisted of the creation of commissions for
7 justice and peace, and later they became the -- they became
8 the creation of material acts such as the creation of
9 institutions like Socorro Juri di co.

10 Q. Tell us about your specific work at Socorro Juri di co.

11 A. During the almost ten years of my work as a defender, a
12 labor defender for human rights, I had the opportunity of
13 defending hundreds of citizens who had been the victims of a
14 variety of violations of their rights, their civil rights most
15 especially.

16 Q. How did you defend their civil rights?

17 A. I would receive complaints and I would provide
18 follow-up to these complaints, most especially concerning
19 arbitrary detentions or for people who had previously been
20 detained and whose whereabouts was simply unknown.

21 Q. And when did you start this specific work at Socorro
22 Juri di co?

23 A. At the end of 1990 -- at the end of 1980 and the
24 beginning of 1981.

25 Q. Where was Socorro Juri di co located?

- 1 A. Socorro Juridico was located at the San Jose School .
2 Q. And what city was that in?
3 A. At the City of San Salvador.
4 Q. Tell us about a typical case, if you received a
5 complaint, what would you then do?
6 A. We would receive a case, and we would have a form for
7 each case, a form concerning criminal matters or in labor
8 matters because I must clarify that we did not only dedicate
9 our work to the criminal defense of persons, we also had cases
10 of laborers who were unprotected and who also required an
11 attorney.
12 Q. You mentioned earlier people who had disappeared, what
13 kind of legal action could you take for someone who had
14 disappeared?
15 A. After receiving a complaint, after taking a complaint
16 down, we would become familiar with the facts of the case. We
17 would request in addition from the family member or from the
18 complaint filer to somehow prove to us the identification or
19 the identity of the person who had been detained. For
20 example, we would request a photograph, a certification of
21 their identity, a birth certificate. If the person who had
22 come to file the complaint had been an eyewitness to the fact,
23 whether or not there were any witnesses, whether or not it had
24 taken place in dark circumstances, for example, at night when
25 no one would realize it happening or under what circumstances

1 had the events taken place. In possession of the general
2 parameters and the basic information, we would proceed to the
3 filing of motions which we felt were expeditious. Along these
4 lines within the State of El Salvador, there is a law for
5 constitutional procedures, which much like the declaration of
6 human rights allows us citizens to have an effective recourse,
7 or we would immediately file a motion for habeas corpus in
8 accordance with this law for constitutional procedures.

9 Q. Just briefly explain to us what a habeas corpus means.

10 A. Literally, habeas corpus means to show the body. Latin
11 voice which means personal exhibition. It also means that the
12 law mandates to the Supreme Court of the State of El Salvador
13 to appoint an attorney known as the executing judge and that
14 it be that person, that executing judge to initiate the search
15 for that person, which has been alleged has been detained.

16 Q. And who was alleged to be detaining these people?

17 A. When we had proof or when we had evidence that it had
18 been the state security forces, we would assign, we would
19 impute the detention, we would focus towards one of the -- we
20 would make the accusation against one of the security forces
21 that were in existence at the time.

22 Q. And how did the security forces respond to that?

23 A. In fact, in general, the response was null. The first
24 responsible party for the appointing of these experts, if you
25 will, that responsibility falls upon the Supreme Court of El

1 Salvador. Nevertheless, in the majority of the cases, these
2 cases were left forgotten with no resolution of any of the
3 requests.

4 Q. How many cases did you handle during your time at
5 Socorro Juridico?

6 A. Every week we would receive and prosecute between 11
7 and 15 cases. This means that for every year, we had around
8 some 300 to 400 persons.

9 Q. Did Socorro Juridico ever share its information about
10 detentions or disappearances with other groups?

11 A. It shared it with the arch bishop of San Salvador, to
12 have him denounce these acts of violence, and in addition
13 every week, Socorro Juridico would send a report of different
14 typologies of violations of human rights, especially arbitrary
15 detentions, political disappearances or for political reasons
16 or with political motivations. It would send them to the
17 Embassy of the United States in San Salvador.

18 Q. Did the Embassy of the United States use the
19 information that was sent by Socorro Juridico?

20 A. That is -- that was our intention, always. Citizens in
21 general felt unprotected, so we had these two major influences
22 in our national politics, which, of course, were impartial in
23 our conflict, especially Arch Bishop Rivera Y Damas and the
24 Embassy of the United States of America.

25 Q. Was it dangerous to work for Socorro Juridico?

- 1 A. Yes.
- 2 Q. Why was that? Continue.
- 3 A. Yes, to the point that there are people from Socorro
- 4 Juridico who are disappeared.
- 5 Q. Have they ever been found?
- 6 A. Up and until this date, a lady continues to be
- 7 disappeared, a citizen of the United States. She worked for
- 8 the offices of Socorro Juridico.
- 9 Q. Did you receive any threats?
- 10 A. We had permanent security --
- 11 THE INTERPRETER: The interpreter requests
- 12 permission to correct.
- 13 THE COURT: Certainly.
- 14 A. They had permanent surveillance by men whose identity
- 15 we did not know.
- 16 BY MR. EISENBRANDT:
- 17 Q. Did you ever see these men?
- 18 A. Yes.
- 19 Q. And how close were they to your offices? And how close
- 20 were they to your offices?
- 21 A. They were middle about the general area.
- 22 Q. You said before that the offices were located at a
- 23 Jesuit school, is that correct?
- 24 A. Yes, correct.
- 25 Q. What is the name of that school?

- 1 A. The name of the school is the Colegio Externado De San
2 Jose.
- 3 Q. What kind of school is that?
- 4 A. It is a Catholic school.
- 5 Q. For what ages?
- 6 A. Between elementary school and high school.
- 7 Q. So how did you get to work? How did you get to work?
- 8 A. I would generally travel by bus.
- 9 Q. I want to direct your attention to the day
10 November 27th, 1980, tell me how your day started.
- 11 A. In 1980, I was still a student at the university. I
12 would have two hours of class between 7:00 in the morning and
13 9:00 in the morning. Then I would take a bus, which is very
14 close. The office was very close, but in order to arrive
15 early, I had to take the bus.
- 16 Q. Let me just make sure I'm clear. On November the 27th,
17 1980, you were working for Socorro Juridico?
- 18 A. Yes.
- 19 Q. And this routine that you have just told us about, did
20 you go through that routine on November 27th?
- 21 A. Yes, the very same.
- 22 Q. About what time did the bus arrive near your work?
- 23 A. I arrived at the bus stop at 9:05 in the morning.
- 24 Q. And what happened when you got off the bus?
- 25 A. Walking down 25th Avenue North in San Salvador, two

1 blocks before the Embassy of the United States of America,
2 crossing a street that is called Gabriela Mistral. I looked
3 to my right, and I was able to witness the presence of a
4 military truck that contained many men.

5 Q. Give us an approximate idea of how many men.

6 A. Between 20 and 30 men.

7 Q. And how did you know that they were military?

8 A. It was easy to identify them. They were always
9 uniformed, always in an armed forces truck with olive green
10 clothing on.

11 Q. Was it well-known in El Salvador at that time in 1980
12 that people that dressed that way were in the military?

13 A. Yes, especially when they were traveling in
14 officially -- in official trucks.

15 Q. Were these men armed?

16 A. Yes.

17 Q. What types of arms did they have?

18 A. I'm not an expert on weapons, but these were high
19 caliber weapons, long weapons, possibly G3s.

20 Q. How far away were you from the men when you saw them?

21 A. Between 15 -- between 10 and 15 meters.

22 Q. So what did you do when you saw the military men?

23 A. I continued walking towards the school's facilities.

24 Q. And that's the San Jose School?

25 A. Towards the San Jose School.

- 1 Q. And what happened next?
- 2 A. I was walking into the inside of the San Jose School ,
3 maybe some 20 meters already inside. I was able to witness
4 men, several men dressed in civilian clothes heavily armed
5 riding in a pickup truck.
- 6 Q. Were these men -- you said they were dressed in
7 civilian clothing, were they wearing hats or any type of
8 shirts?
- 9 A. One of them was wearing a hat.
- 10 Q. What kind of a hat?
- 11 A. A cloth hat, sort of like for the beach.
- 12 Q. Just approximately how many men did you see there at
13 the pickup truck?
- 14 A. There were two men in the pickup and two on the ground,
15 and a fifth man -- two up, two down, and a fifth man trying to
16 load a person.
- 17 Q. How were they trying to load the person, describe that
18 for us.
- 19 A. The person that they were trying to load into the truck
20 had his hands tied and his eyes blindfolded.
- 21 Q. Where was his hands tied?
- 22 A. Towards the back.
- 23 Q. Is there anything else you can describe for us about
24 what the man looked like being put into the truck?
- 25 A. Yes, I remember that this person wore a mustache and he

1 also wore what we call sideburns.
2 Q. At that particular moment when he was being put into
3 the truck, did you recognize the man?
4 A. Yes.
5 Q. And how did you recognize him?
6 A. I later on found out by the television.
7 Q. Let me clarify, at the moment that you saw him being
8 put into the truck, did you know the man's identity?
9 A. No.
10 Q. Okay. So you found out his identity later in the
11 television, is that right?
12 A. Later on, yes, I was able to find out who it was.
13 Q. Okay. When you say later, how far later?
14 A. The following day.
15 Q. And at the time that you saw him the following day on
16 the television, at that point, were you able to recognize him?
17 A. Yes.
18 Q. And what did you see on the television?
19 A. They were showing pictures of several persons who had
20 been detained and who had shown up murdered.
21 Q. And when you saw this man, what did his body look like?
22 A. He was sprawled on the floor, on the ground, sorry, and
23 he appeared to have a gunshot to the head or something.
24 Q. And when you saw him on the television, did you know
25 what his name was?

- 1 A. Yes.
- 2 Q. What was his name?
- 3 A. His name was Juan Chacon.
- 4 Q. Did you see any other bodies on the television whose
5 names you knew?
- 6 A. Yes.
- 7 Q. And who were those?
- 8 A. I remember of those that were shown, I remember two. I
9 remember Manuel Franco and another gentleman with the surname
10 Cordoba, whom I knew a bit better was Mr. Franco.
- 11 Q. And how did you know Mr. Franco?
- 12 A. Mr. Franco attended or studied at the faculty that I
13 attended. It was just that he would study -- he was studying
14 international relations, and I was studying juridico science
15 or law.
- 16 Q. What did these other bodies look like on the
17 television?
- 18 A. The characteristics were the same, their eyes were
19 blindfolded and they were face down.
- 20 Q. Do you know from your own knowledge if there was any
21 connection between these men whose bodies you saw?
- 22 A. Yes, I deduced, but, yes.
- 23 Q. And what is that connection?
- 24 A. It was public knowledge that they were public faces in
25 our country. They were members of an organization called the

1 FDR.
2 Q. I want to return briefly back to the day before on
3 November the 27th.
4 THE COURT: Is this going to be our last area
5 of inquiry?
6 MR. EISENBRANDT: Yes, Your Honor, I should be
7 done with direct examination within minutes.
8 THE COURT: All right.
9 BY MR. EISENBRANDT:
10 Q. On -- when you saw the man being loaded into the pickup
11 truck, what did you do?
12 A. I quickened my pace, and I tried to hide along with a
13 Jesuit priest who I run into.
14 Q. And how long were you hiding?
15 A. I was with the Jesuit father inside a carpentry shop
16 for about two hours, two hours and 15 -- two hours 15 or two
17 hours and 30 minutes.
18 Q. Where did you go after that?
19 A. After that, the father and I left. He went somewhere,
20 I don't remember where, and I ran to the offices of Socorro
21 Juridico.
22 Q. Was there anybody there?
23 A. Yes.
24 Q. Who was there?
25 A. A friend, indicating a female, who was also a friend

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1 from the university who was also studying law.
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2 Q. And tell us about her, what did you -- what did you see
3 of her?

4 A. Well, the lady must have been between four and five
5 months pregnant, her name is Rosa Pena. And that was the
6 first person to whom I spoke upon arriving at the office.

7 Q. What sort of state was she in? What sort of state was
8 she in?

9 A. I think she was very tense, very nervous, and she was
10 trembling in fear.

11 Q. And you had a conversation with her?

12 A. A brief conversation.

13 Q. And what did she say?

14 MR. FARGARSON: Hearsay, Your Honor, I object
15 to that.

16 MR. EISENBRANDT: Your Honor, I believe that
17 comes in as an excited utterance, in that the woman was
18 still --

19 THE COURT: I understand.

20 Would you make another inquiry as to the
21 timeframe?

22 MR. EISENBRANDT: Absolutely, Your Honor.

23 BY MR. EISENBRANDT:

24 Q. When you spoke to Rosa Pena, how long was this after
25 you had hidden with the priest?

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1 A. Well, maybe two hours approximately.

2 THE COURT: We're going to have to come back
3 tomorrow anyway. I know you are about to finish, but I
4 think that we need to discuss the evidentiary question for
5 a moment. So, ladies and gentlemen, we will not complete
6 this witness today anyway, and it has certainly been a
7 long day for all of you, probably a longer day for some of
8 us, so we're going to remind you this is just the first
9 day of the evidence in the case. We have a number of days
10 to go. There are seven things to remember. First, don't
11 talk with anybody about the case. Don't talk among
12 yourselves about the case, number one. Number two, don't
13 talk to anybody else about the case. There may be some
14 inquiries, you know to tell them that you can't tell them
15 anything, not even the case that you are on, you are in a
16 civil case in federal district court. The third thing is,
17 of course, do not even speak to the lawyers, parties or
18 witnesses at all. And then the fourth thing is if
19 somebody should try to speak to you, you should report it
20 promptly to one of court security officers. The fifth
21 thing is don't do any research or make any inquiry. The
22 sixth thing is avoid anything on the newspaper, radio or
23 television about this case. And do tell one of our court
24 security officers if inadvertently you see something, you
25 should let us know that. It is probably not an issue, but

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1 you need to let me know, and we will discuss it very
2 briefly. And the seventh thing is to continue to keep an

3 open mind, an open mind until we have reached a conclusion
4 of the case. We will see all of you tomorrow at 8:30.
5 There is an 8:45 matter, which if it starts on time, we
6 will start in here about 9:15. I assume we will start in
7 here between 9:00 and 9:15 again tomorrow unless for some
8 reason we're delayed, but we will see you tomorrow. Have
9 a very pleasant evening.

10 (Jury out at 5:25 p.m.)

11 THE COURT: For the witness, I need to tell you
12 just a couple of things, with our interpreter, for the
13 witness, just a couple of things. And the main thing is
14 that you should not discuss your testimony at this point
15 with anyone, the testimony that you have given. Testimony
16 that has not been received, yet, of course, is still
17 subject to discussion, if there is additional material to
18 be testified about. Anything that you have gone over now,
19 the lawyers can't critique you on or discuss with you
20 about. By and large, the best rule is not to have any
21 discussions about the substantive matters as to which
22 you're having discussions. We will see you tomorrow no
23 later than 9:00 o'clock in the courtroom. Probably want
24 to get here a little bit early, we will get your testimony
25 resumed very promptly. Thank you very much.

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1 (Witness excused.)

2 THE COURT: We will discuss the issue -- and

3 you may step down. Everybody else can be seated. The
4 lawyers can come a little closer to the main podium if you
5 want. We need to discuss your theory of receipt of that
6 last statement.

7 MR. EISENBRANDT: Yes, Your Honor, I don't
8 think that the time element is the critical issue.

9 THE COURT: Well, I get to decide that.

10 MR. EISENBRANDT: Absolutely, Your Honor.

11 THE COURT: But it can be important. A
12 statement that is made very close in time, that is one of
13 the indicia of reliability. If it is made later, there
14 probably needs to be a little more explanation.

15 MR. ESQUIVEL: Right, Your Honor, and if made
16 while still under the stress of the circumstances --

17 THE COURT: Right.

18 MR. EISENBRANDT: -- about which is being
19 testified, and I believe the testimony about her shaking
20 and --

21 THE COURT: Probably need some more
22 clarification. The question is has there been sufficient
23 time for the witness to reflect and fabricate or perhaps
24 exaggerate and that, of course, would never happen in
25 America. I think it might on occasion, so that's the

1 thing we have to determine. I think we probably need to
2 let you ask a few more questions tomorrow about that
3 event. I know it is the end of the day, and you certainly

4 can't discuss that evidentiary matter with the witness at
5 all, but I think -- if you don't mind, at this point, I'm
6 not sure an adequate basis has been laid for my receipt of
7 it. One of the things that we need to understand, of
8 course, is his knowledge of the witness, and that was not
9 completely clear. It would be useful to know that. Okay.
10 Do you want to reference the rule so everybody will be on
11 the same page?

12 MR. EISENBRANDT: Yes, Your Honor, I have got
13 to get the number. I believe it is 803(2), but I would
14 have to look, Your Honor.

15 THE COURT: It is 803(2). There is some
16 notations -- there's some notes about it also. You might
17 want to take a look at those.

18 MR. EISENBRANDT: Absolutely.

19 THE COURT: And have a better discussion
20 tomorrow.

21 MR. EISENBRANDT: Thank you, Your Honor.

22 THE COURT: We will see you all. I ask for the
23 lawyers to be in here a little before 9:00 o'clock.

24 THE CLERK: All rise. This honorable court
25 stands adjourned until tomorrow morning.

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1 (Court adjourned at 5:30 p.m.)

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