

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.

NO. 03-2932-MI/P

NICOLAS CARRANZA,

Defendant.)

TRIAL PROCEEDINGS
BEFORE THE HONORABLE JON PHIPPS MCCALLA, JUDGE
NOVEMBER 10, 2005
VOLUME IX

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1 THURSDAY MORNING AND AFTERNOON

2 NOVEMBER 10, 2005

3 The jury trial in this case resumed on this
4 date, Thursday, November 10, 2005, at 9:15 o'clock a.m.,
5 when and where evidence was introduced and proceedings
6 were had as follows:

7

8

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10 THE COURT: All right. Do we have all of our
11 panel?

12 COURT SECURITY OFFICER: Yes, sir. I think we
13 are almost ready.

14 THE INTERPRETER: Good morning.

15 THE COURT: All right. I think we have
16 everybody. We can have the witness come back around and
17 we will proceed and bring the jury in. All right. We can
18 bring the jury in.

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

20 THE COURT: All right. You may be seated, and
21 counsel may proceed.

22 MR. FARGARSON: Thank you, Your Honor.

23

24

25

1 NICOLAS CARRANZA,
2 was thereupon called as a witness on behalf of the
3 Defendant, and having been previously duly sworn, was
4 examined and testified as follows:

5 DIRECT EXAMINATION (CONTINUED)

6 BY MR. FARGARSON:

7 Q. Mr. Carranza, I think yesterday when we adjourned, we
8 were at the point where you enrolled in military school.

9 A. Yes, sir.

10 Q. And so we will start there. When was that?

11 A. It was in San Salvador, it's a military school, which
12 is an institution similar to the West Point of the United
13 States. I entered there in 1954.

14 Q. And how long is the course that you take in military
15 school?

16 A. At that time, the course lasted four years.

17 Q. And is it required that if you're going to be an
18 officer, you go to that school?

19 A. Well, there were two ways to become an officer of the
20 army in El Salvador. One was through the military school, and
21 the other was through the rank, coming from soldier going up
22 the ladder, up to general.

23 Q. So what do you take in military school? Does it have
24 matters of education other than simply military affairs,
25 military matters?

- 1 A. Yes, sir. We have many, many subjects. Mainly, we
2 have English, we have mathematics, we have language, Spanish.
3 That's some of the -- cosmography, for example, something like
4 that.
- 5 Q. Okay. Are those courses in the first year or are they
6 throughout the education in the school?
- 7 A. At that time there were three in the first three years,
8 because it was a complement of the basic plan, which is what
9 is similar to a high school degree. A high school degree at
10 that time have three years of what they call basic plan, and
11 three years of bachillerato at that time. So we have in the
12 first three years, the common civil subjects, and the last two
13 years, we have matters related only to the military career.
- 14 Q. And did I understand you correctly that the first three
15 years have subjects similar to what you had had in high
16 school?
- 17 A. Yes, sir.
- 18 Q. And so you had already had some of the subjects that
19 were taught in military school?
- 20 A. Yes, sir. When I entered the military school, I was
21 already graduated from high school, so I had like an advantage
22 over some of my classmates.
- 23 Q. All right. And then the military education that you
24 obtained in military school, what would that consist of, what
25 would those courses or the core education courses consist of?

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DIRECT - NICOLAS CARRANZA

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- 1 A. Well, the -- we have the -- some matters related to the
Page 7

2 orientation like a study of maps. We had tactics, we have
3 logistics, we have something about anti-guerrilla operations,
4 besides physical training, which was very hard.

5 Q. Well, were the teachers and instructors you had all
6 from El Salvador or did you have teachers or instructors from
7 other nations?

8 A. Sometimes we had a couple of officers from the United
9 States, one gave matters of engineers. He was a member of the
10 Engineers Corps of the United States. Another gave us
11 something about explosives also. Otherwise, they were
12 military -- members of the army.

13 Q. Do you have to take tests during the course of the
14 education?

15 A. Yes, sir. You have to study like in any high school.
16 We were having every month, every three months, we have
17 several tests, and then at the end of the year, there was one
18 last test that had included everything in the year.

19 Q. What year did you graduate?

20 A. In 1957.

21 Q. And how many people graduated in your class?

22 A. In my class, we were 14, 14 officers.

23 Q. Do they rank you or do they list you as the graduating
24 class by number of academic achievement or anything like that?

25 A. Well, myself?

1 Q. Well, everybody. Do they rank everybody or only a few?

- 2 A. We -- all of us -- all of the 14.
- 3 Q. Well, what was your rank in graduating from military
- 4 school?
- 5 A. I was the first in class.
- 6 Q. Okay. When you graduate from military school, what
- 7 happens then?
- 8 A. I was assigned to a unit in San Salvador.
- 9 Q. And what year did you graduate from military school?
- 10 A. In 1957 on November the 15th.
- 11 Q. And then the assignment that you say that you received,
- 12 what was the assignment, what were you to do?
- 13 A. At that time, I was section commander of a mortar unit.
- 14 Q. And where was that unit located?
- 15 A. In the first infantry regiment, they called that at
- 16 that time in San Salvador.
- 17 Q. And that would be then in the urban area of San
- 18 Salvador?
- 19 A. Yes, it was in one of the edges of the city at that
- 20 time. Now, it is surrounded by a lot of buildings.
- 21 Q. And what did you have to do in that unit?
- 22 A. I had to train the soldiers mostly in very elementary
- 23 kind of training because even -- we had to teach them how to
- 24 read and write. Most of the people were from the field, from
- 25 the country, and we had to begin teaching them many elementary

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- 1 things, how to dress well, how to eat, how to clean their
- 2 teeth, something like that, elementary, plus physical exercise
- Page 9

3 and to learn how to shoot, how to march, elementary things.
4 Q. Okay. And how long did you have that position?
5 A. It was only one month and a half because over there,
6 there was a vacancy at the artillery regiment, and the first
7 of the class graduate with us, second lieutenant, was assigned
8 to the artillery regiment always. I was not assigned at that
9 time because there was no vacancy in the artillery regiment,
10 so they assign me in the infantry regiment for awhile.
11 Q. Was there any special reason why that was a rule that
12 the first in the graduating class would go to artillery
13 school?
14 A. No, sir. I don't think it was any -- just a custom
15 that they used to do, as a stimulus for the officer who had
16 the first honor role in graduations.
17 Q. And I may have said artillery school, I should have
18 just said the artillery unit, is that what it was?
19 A. Yes, sir, the artillery regiment we called it at that
20 time.
21 Q. And what did you do there?
22 A. I was at the office of the command unit. I had to do
23 something like working as a liaison making some municipality
24 job for the artillery regiment and work as a headquarters -- I
25 mean some kind of aid to the commander.

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DIRECT - NICOLAS CARRANZA

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1 Q. Let me back up a moment and go back to military school.
2 When you're in military school, are you taught anything about

3 the chain of command, the duty of commanders, the duty of
4 subordinates, the duty of military personnel?

5 A. Yes, sir, that's basic for the knowledge of the
6 military rules in the army, so we had to be trained in that.
7 We had what they call the Ordenanza del Ejercito, which is the
8 document that rules the procedures and some beginning theory
9 of the military career.

10 Q. Are you taught anything about a code of military
11 justice to the conduct of the military?

12 A. In the last period of the unit, between third and
13 fourth year, we were training, we were taught something about
14 the military laws, some of that included the code of military
15 justice.

16 Q. And what about the area of either human rights and how
17 you handle the treatment of noncombatants or combatants in
18 civil wars or civil disturbances or anything of that nature,
19 was there any instruction in those regards?

20 A. Yes, sir, there was some training in some knowledge
21 about the Geneva Conventions, and some of them at that time
22 were not -- El Salvador had not been signed yet. Later, El
23 Salvador signed some of the last Geneva Conventions.

24 Q. Okay. And so now, let's go back where we were at the
25 artillery brigade or the artillery unit. How long were you in

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DIRECT - NICOLAS CARRANZA

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1 that artillery unit?

2 A. In the artillery brigade, since 1958 until 19 --
3 1961 -- until 1960.

- 4 Q. During the course of being in that brigade, what did
5 you learn, if anything, or what were you taught?
- 6 A. In the artillery regiment, we had a school, school of
7 artillery, we learn the basic how to point weapons, how to
8 make the direction of the shots, how to measure the distances,
9 how to know about the different ammunition, things about
10 ammunition, the use; and, of course, in the time that I was
11 taking this course, I was trained by a colonel from the United
12 States was a military man, he recommended me to go to the
13 country of the United States on a scholarship to Fort Sill
14 Military -- U. S. Military Fort -- the school of artillery in
15 Lawton, Oklahoma, Fort Sill.
- 16 Q. Now, what was your rank when you were at the artillery
17 brigade.
- 18 A. What was my --
- 19 Q. What was your rank?
- 20 A. I was second lieutenant at that time.
- 21 Q. Is that the same rank that you received when you
22 graduated from military college or --
- 23 A. Yes, sir.
- 24 Q. -- school?
- 25 A. That's the rank I obtained at military school.

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DIRECT - NICOLAS CARRANZA

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- 1 Q. So the scholarship you got to come to the United States
2 and go to school in Lawton, Oklahoma, approximately when was
3 that?

- 4 A. It was more or less in August of 1958.
- 5 Q. And --
- 6 A. I came first to Washington, D. C. to learn a little
7 more English, and then I went to the end of 1958, I went to
8 Fort Sill, I stayed until January 1959.
- 9 Q. And you say you got a scholarship, what does that mean?
- 10 A. It is an opportunity that the United States give to the
11 officers of the -- of many countries in Latin America, and
12 they were a crusade in order to train the people in their kind
13 of weapons that the United States serve.
- 14 Q. Were you able to bring your family with you?
- 15 A. I was -- when I was in Washington, I had a -- my -- and
16 the woman I liked, and I was in love so much that when I went
17 in Washington, I married her by power, I don't know how you
18 call it, but I marry her in El Salvador, and she came to the
19 United States, and here we married by the church in
20 Washington, D. C., and then we went to Fort Sill, Oklahoma.
- 21 Q. Well, I'm not sure I understood all that, but do I
22 understand that you were married when you went to artillery
23 school?
- 24 A. Not at the beginning, sir. We are not allowed to marry
25 when we are cadets, so I married her in -- when I was here

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DIRECT - NICOLAS CARRANZA

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- 1 studyng English in Washington D. C. and then I took her here.
2 Over there, I married by the law, and here in the United
3 States, I married by the religion.
- 4 Q. Was learning English a part of the scholarship that you

5 received to come to artillery school?

6 A. Well, yes, it certainly was part of the scholarship,
7 but it is not usual to do that. The fact is I was not
8 completely, and I'm not yet completely fluent in English, so I
9 had to come to Washington, D. C. in order to improve my
10 English.

11 Q. At the artillery school in Oklahoma, what type of
12 artillery tactics or training did you receive?

13 A. That was the -- it was -- the name was field artillery,
14 and that means field artillery battery officers scope, because
15 it was not only dedicated to each artillery, but some of the
16 things of the -- mostly the tactics of some of the units, and
17 the way that the artillery men could call the names of the
18 other units that comes under the fire in order to comply with
19 the missions.

20 Q. And so when you completed your scholarship at the
21 artillery school of the United States, were you still a second
22 lieutenant or had you received any promotions or advances in
23 military rank?

24 A. That, of course, was a requirement to become first
25 lieutenant, so when I came here, I was in time, so I was

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1 promoted to second lieutenant -- to first lieutenant in 1961.

2 Q. When you completed your training at the artillery
3 school in the United States, what assignment or what duty did
4 you have?

5 A. I was assigned in the artillery brigade regiment at
6 that time. I may say the artillery brigade regiment because
7 it was named regiment, but later and more accordingly, the
8 terminology in the military way, it was named brigade, which
9 maybe was a little larger and more efficient unit. We had
10 the -- I was assigned the battery, the third battery which
11 used a kind of mortar, kind of mortar artillery, 75 caliber.
12 Q. And where was that unit stationed?
13 A. In the regiment -- artillery regiment in San Salvador.
14 Q. Okay. When did you get another assignment different
15 from the artillery brigade or the artillery unit?
16 A. My next change was to the military school. I went over
17 there as an instructor this time, 1961.
18 Q. Another military school or was it -- was it a different
19 military school?
20 A. No, sir, the same where I was, I became a second
21 lieutenant, I was assigned as teacher at that time.
22 Q. Okay. And as a teacher at the military school, what
23 was your area of instructions or the courses that you taught?
24 A. I had to train my cadets in the physical training, in
25 some of the elementary way they have to do in the school,

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DIRECT - NICOLAS CARRANZA

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1 teaching ordinance, the ordinance of the army. I mean
2 ordinance in the center -- I don't know really the expression
3 because ordinance could be in the military, in English, it is
4 a different thing than the ordinance in Spanish. The
5 Ordenanza del Ejercito is a document that give the -- how

6 the military men ruled themselves, how the functioning of
7 the -- the basis elementary things among the military people.

8 Also, I had to lectura de mapas, map lecture in order
9 to find a way to orient themselves to know how to measure the
10 distances using coordinates, maps, and to have the possibility
11 to direct the fire in that case or to make patrolling, the way
12 to offer one side to the other using a compass, something like
13 that.

14 Q. Well, were these courses the same courses that were
15 taught to cadets when you went to military school?

16 A. Yes, sir, the same, the same.

17 Q. All right. Now, how long did you do that?

18 A. I was over there three years. In 1963, I was assigned
19 to the calvary regiment. The calvary regiment at this time, I
20 had the time enough to be promoted to captain. It was getting
21 close, so I had to make a course, to take a course, because
22 the promotion calls for captains. We didn't have employment
23 in the students in the school of arms where I went. They
24 assign me to the calvary regiment in order to have a salary,
25 but I was not working there, I had to go to the school. The

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DIRECT - NICOLAS CARRANZA

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1 school of arms and services, arms and services because they
2 teach not only the tactical things, but the services that the
3 unit have to give in an army in supporting the troops.

4 Q. So where was the calvary unit that you went to, where
5 was it located?

- 6 A. The calvary regiment was located some places around 30
7 kilometers from San Salvador in a place near -- in the valley,
8 valley of San Andres, at the west part of San Salvador -- of
9 El Salvador.
- 10 Q. Are the calvary units -- let me take that back, were
11 the calvary units in El Salvador at that time motorized or did
12 the calvary units actually use horses because of the terrain
13 in El Salvador?
- 14 A. No, at that time, we didn't have any armor equipment,
15 we had only calvary, I mean horses.
- 16 Q. And so how long were you in that calvary unit?
- 17 A. 1963, 30 years.
- 18 Q. Excuse me?
- 19 A. I was 30 years old.
- 20 Q. Well, and you stated that you did it until when?
- 21 A. Over there, I stayed until July, 1964. I was at that
22 time, I was assigned to the school of arms and services. At
23 this time I was not a student, but I was a teacher.
- 24 Q. Now, where is the schools of arms and services located?
- 25 A. The school of arms and services at that time was next

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DIRECT - NICOLAS CARRANZA

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- 1 to the third infantry regiment, where I had been the first
2 time when I left the school, military school.
- 3 Q. And that's in San Salvador?
- 4 A. Yes, sir, next to the 13th regiment.
- 5 Q. And what were you teaching as a professor at that
6 school?

7 A. I had -- at that time, I had many, many of the classes,
8 would be extensions of the lecture of map reading, tactics,
9 something about logistics, functions of a personality meaning
10 labor.

11 Q. And when you say tactics, what tactics were taught at
12 the school of arms and services?

13 A. Tactics is a -- is a system that the units do in order
14 to achieve a mission assigned by the commander. It could
15 be -- include calculation of a kind of gun you use, how to
16 support the movement, how many troops could be used, what kind
17 of operation, the means of support and the need to accomplish
18 the mission, gasoline, transportation and so forth.

19 Q. Are officers only taught in that school or are other
20 people taught?

21 A. I'm not sure, but I think there was some lawyers that
22 were given some training about the military laws, procedures,
23 I mean the civil procedures and the applications of the law.

24 Q. Well, that was probably a poor question I asked, let me
25 ask it another way. The military people that were taught at

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DIRECT - NICOLAS CARRANZA

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1 the school of arms and services, were they all officers or
2 were there military personnel that were not officers, they
3 were ordinary soldiers or troops?

4 A. No, sir, that school was for -- you mean the students
5 or the teachers?

6 Q. Yes, the students, yes, sir.

- 7 A. Yes. Well, that was only for officers.
- 8 Q. Okay. And you did that for how long and up until what
- 9 period of time?
- 10 A. I was a teacher until 1969. In '69, I had now again
- 11 the time to be promoted to the next step to be major, and I
- 12 went to the school of command and general staff.
- 13 Q. Let me ask you something about the school of arms and
- 14 services. How many instructors would be at that school?
- 15 A. Could be about 10, 15, I'm not sure, sir.
- 16 Q. Teaching different --
- 17 A. Teaching different level, different subjects, because
- 18 there were several courses.
- 19 Q. Now, you mentioned you were promoted to major, is there
- 20 a period of time that you have to be in service to be
- 21 promoted?
- 22 A. Yes, at that time, there was a relation that gave time
- 23 to be in every rank in order to practice and be able to go to
- 24 the next step, to the next rank.
- 25 Q. Would it be an automatic type promotion?

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DIRECT - NICOLAS CARRANZA

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- 1 A. No, sir, that's why we had the courses to make them
- 2 able to capacitate them so they could develop the duties they
- 3 have to fill the next rank.
- 4 Q. All right. Now, where did you go to school when you
- 5 were promoted to major or after you were promoted to major?
- 6 A. I went to school beginning in 1969. At that time, you
- 7 had a problem by border with Honduras, and we had to go to

8 work in June. We fought what they call war of 100 hours,
9 because at the time it lasted until the United States stopped
10 the problem. After finishing the war, we came back to the
11 school, and I found that it was a possibility to obtain a
12 scholarship to go to Mexico to the Escuela Superior De Guerra,
13 superior war school in a scholarship. And I was having the
14 first place at that time, and they selected me to go to Mexico
15 in that scholarship.

16 Q. You mentioned a war disagreement with Honduras, how
17 long did that last?

18 A. It lasted only 100 hours. We had some -- there was
19 a -- the work begun -- lasted only 100 hours, and we were
20 stuck by, like I say, the United States' decision -- I mean
21 the United Nations' decision.

22 Q. Was there combat between the two countries?

23 A. Yes, sir.

24 Q. Were you involved in any of the conflict?

25 A. Sir, as I was studying in the school of command of

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DIRECT - NICOLAS CARRANZA

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1 general staff, I did not go with the unit because I didn't
2 have any assigned unit, but we -- the army brought some
3 reserve men. We went to several units, they getting ready to
4 go to the war and support the rest of the army. However, when
5 we were training these people, the war had already finished.
6 So we did some -- still some kind of missions before going
7 back to the school of command and general staff.

8 Q. All right, sir. Thank you. And now you said that you
9 went to another school for more training in Mexico?

10 A. Yes, sir, that's when I went to Mexico to the Escuela
11 Superior De Guerra, which is the correspondent of the school
12 of command and general staff that we have in El Salvador.

13 Q. So how do you get to go to a school like that, are you
14 selected, do you have to get a scholarship or what is the
15 procedure?

16 A. I was selected because I had -- occupying the first
17 place in the course.

18 Q. You mean in --

19 A. In the course of command and general staff that we were
20 taking at the Centro De Estudios Militares.

21 Q. All right. So how long did you go to school in Mexico?

22 A. The school over there last three years, and most of
23 these kind of schools last three years, except in the United
24 States, it's only one year. But in Mexico, it have three
25 because it's a more complete school. Not only see the matters

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DIRECT - NICOLAS CARRANZA

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1 related to the command and general staff, but also we had to
2 know the different arms -- branches of the army, we had to
3 know about the calvary, air force, navy, about engineers,
4 telecommunications in order to organize every complete set so
5 we could know not only the missions of the general staff, but
6 also the coordination with the different units of an army.

7 That's why it last three years instead of two.

8 Q. The instructors in Mexico, are those instructors all

9 connected with the Mexican military or are there instructors
10 from other nations or other countries?

11 A. All of them were Mexican officers or chiefs. The only
12 one exception was a colonel from the youth army who was
13 teaching English over there.

14 Q. And the students or the participants in the courses
15 that you just identified, would they be from countries other
16 than El Salvador or different countries?

17 A. Yes, sir, in that time, we had some people from
18 Guatemala, Honduras and from El Salvador.

19 Q. And so is it mainly a school for Latin American
20 countries, Latin American nation?

21 A. Mostly for Mexicans, but they use sometimes some kind
22 of exception and they gave scholarship to certain counties
23 that have a good relationship with Mexico.

24 Q. Now, what is the next position or next responsibility
25 that you had when you finished school as a student in Mexico?

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DIRECT - NICOLAS CARRANZA

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1 A. I came back to El Salvador, and I was assigned to the
2 Escuela De Comando Y Estado Mayor, to the school of general --
3 commander and general staff in order to become teacher.

4 Q. Well, now, explain that when you say in order to become
5 a teacher, I thought you had already been teaching.

6 A. Yes, sir, but I was -- the teaching over there didn't
7 require more than knowledge of the matter that we're going to
8 teach. In the case of the commander and general staff school,

9 it chose a higher level of the army, we had to take some
10 instruction, some training in order to land better means,
11 better procedures to teaching. I selected the subject of
12 tactics and operations, and I received training in -- at the
13 side of one of the older teachers, and later I became myself
14 teacher, military teacher of Escuela De Comando Y Estado
15 Mayor.

16 Q. How long did you teach at that -- how long did you
17 teach at either a school or those subjects that you were
18 learning about?

19 A. Until 1977.

20 Q. Now, did you receive any promotions during the course
21 of study in Mexico or during this period of time?

22 A. Once you -- once you get the diploma, the commander and
23 general school, you are able -- capable and able and willing
24 and able to be promoted according with the time. There's no
25 more courses to do.

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DIRECT - NICOLAS CARRANZA

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1 Q. Okay. Well, were you promoted at any time during that
2 period of time while you were in the school training to teach?

3 A. I was a major when I went to Mexico, and when I came
4 back, since I had graduated already from the school of --
5 superior war school in Mexico, I got promoted to lieutenant
6 colonel.

7 Q. Well, and then did you teach subjects at the school,
8 after you got through with training?

9 A. No, sir, that was the maximum rank, I mean training

10 that we could get in El Salvador to finish the -- to graduate
11 from the school of command and general staff.

12 Q. Well, what I mean is did you teach those subjects or
13 did you only learn those subjects?

14 A. No, sir, there was so many classes over there that we
15 had to be trained incompletely, to be continued. In the
16 military career, there are many changes, many changes in
17 weapons, many changes in procedures, so we had to be trained,
18 continue training, always learning something, always reading,
19 always learning.

20 Q. Well, when did you get another assignment after being
21 at that military school?

22 A. It was in 1997 -- 1977. At that time, there was the
23 assumption powered by General Romero. He was one time before
24 the -- he took power, he went to opening of the first air
25 station for communication that we had in El Salvador. In that

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DIRECT - NICOLAS CARRANZA

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1 time, the opening, he told me -- he asked me if I would like
2 to go to work in ANTEL as a general manager. ANTEL is a
3 telecommunications company of El Salvador. It is the same
4 thing like BellSouth in the United States under the duty of
5 telecommunication, telephone, teletype and also have the
6 mission, the responsibility to deal with the assignment of the
7 air waves to the air station, to the radio station, to the TV
8 in order to regulate the thing, that there is not interference
9 with the transmission of one company with the transmission of

10 others, and also regulate the different waves, lengths to
11 the -- all the kind of radio transmissions.

12 Q. Well, up until that time when you were asked to go to
13 ANTEL --

14 A. He took power July 1st, that was the time of the
15 transmission of power in El Salvador and at that date, he name
16 me the general manager of ANTEL.

17 Q. Okay. Well, let me ask a couple of things. Up until
18 that time when you went to ANTEL, how many years was it or
19 when was it that you were not in school?

20 A. Well, there was only the first when I graduated, I went
21 first infantry unit, I was then to artillery, and I was over
22 there a couple of years of which I was in training half, so I
23 was half in school. Well, let's say two years. After that, I
24 went to calvary regiment when I was only -- working over there
25 maybe a couple of months, and then because I was in school

♀

DIRECT - NICOLAS CARRANZA

1404

1 getting -- trying to be -- studying to be promoted to captain,
2 and up to now, up to the manager of ANTEL. The next --

3 Q. Excuse me, go ahead.

4 A. After ANTEL, I was designated by the general order, it
5 was in September the 3rd, I was assigned to the part east of
6 El Salvador in the department of La Union, which is near the
7 Gulf of Fonseca, which is divide -- separate us from
8 Nicaragua.

9 Q. Okay. But what I really was asking is how many years
10 or how long were you not in school during all that period of

11 time from starting in school in 1954 to going to ANTEL in
12 1977?
13 A. In reality, it would only be two years, two years. It
14 would take off the moment that I was in school.
15 Q. Okay. And then when you went to -- well, let me back
16 up a minute on what you said about Romero, you said he took
17 power?
18 A. He took power, yes, and he was elected in the elections
19 that year.
20 Q. Okay. And when he was elected, what did that make him?
21 In other words, what position did he then occupy, was it
22 president or what?
23 A. He became president of El Salvador.
24 Q. And that was in 1977?
25 A. July 1st, 1977.

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DIRECT - NICOLAS CARRANZA

1405

1 Q. Now, up until that time, had there been any coups where
2 someone had tried to take power?
3 A. Well, there had been a couple of times where there had
4 been coups in El Salvador. The coups began and had been
5 organized by the communists. The first one was Farabundo
6 Marti. Marti -- Farabundo Marti was the first communist
7 organized coup in El Salvador, but it was not appropriately a
8 coup, but an assault in the properties of landowners in the
9 west part of the country. He was part of the coming term, and
10 he began with a lot of capesinos who he had trained and

11 indoctrinated to kill the owners of the property that were
12 working. In reaction to this, the president at that time
13 ordered the army to stop that, and they were having a
14 confrontation between the capesinos and the army at that time
15 that some people say La Matanza. They say that there were --
16 some people say 10,000 men -- 10,000 people killed by the
17 army. Other people relate that to 30,000, but it is the first
18 time that everything looks -- aim to the army. The army
19 killed 10,000 people, but it was they never count the people
20 that are killed by the communists.

21 Q. Well, what year was that?

22 A. 1931, 1932.

23 Q. All right.

24 A. After that, there was another coup in 1943. The same
25 thing, I could not say communist, but they were leftist

♀

DIRECT - NICOLAS CARRANZA

1406

1 people. In 1943, there was a counter coup in 1944 in which
2 the army replaced how they programmed, and then the army again
3 restored the order in El Salvador. The next coup was in 1960.
4 At this time, I was in San Salvador in the artillery regiment
5 at that time. I took part in that last time because the sir
6 chief who was a friend of mine asked me to stay with them at
7 night and help to support that coup. I accepted, and there
8 was a coup, the president, there was a peaceful coup, it was
9 not only telephone calls, the president accepted to resign,
10 and he went to Costa Rica. He was President Lemus. I was in
11 certain way part of that coup because I accepted it at the

12 Last hour.

13 Q. What do you mean you accepted at the last hour to
14 become a part of that coup?

15 A. Because already was everything organized. He just told
16 me to stay with them and support them, and I did it.

17 Q. But I mean when you say -- you said stay with them and
18 support them, where were you to stay? What did you have to
19 do?

20 A. Well, I had to stay with them just in case because
21 we -- I was member of the third company of the small -- how
22 would I say, 75, remember, and this was capable to shoot short
23 distances, what they wanted, that's why they asked. We were
24 three members of that battery. We stayed over there that
25 night just in case.

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DIRECT - NICOLAS CARRANZA

1407

1 Q. Just in case what?

2 A. Excuse me?

3 Q. Just in case what?

4 A. In case the police or the other units in San Salvador
5 did not support the coup.

6 Q. All right. So you just stayed where you were?

7 A. Yes, sir. And the next day, we -- I didn't know who
8 were part of the coup, but I saw there at the minister of
9 defense, he was leaving the situation, the commander of the
10 artillery brigade, something like that, the second and third
11 shift.

12 Q. All right. And were there any others between that date
13 and when you went to ANTEL?

14 A. A long time. It was in '60, there was a counter coup
15 in 1961, because when the first coup was a success, the
16 president was forced to go to Costa Rica, then became some
17 movement in the demonstrations yelling humancy, United States
18 know something about it, gringo, go home, something like that,
19 we knew there was some people leaning to the left who were
20 organizing this -- supporting this movement. There was a
21 reaction among the other members of the army, other units, and
22 they made a countercoup that restore again the democracy
23 system in El Salvador. And I say something democracy because
24 my democracy is different than the democracy than the leftists
25 say. They say the public -- the democratic Republic of China,

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DIRECT - NICOLAS CARRANZA

1408

1 which is the most communist country in the world, democratic
2 country of some of everything was -- every one of those
3 countries, communist countries trying to present their image
4 that they don't have, they put their name democratic in their
5 title as a city. There was a counter coup right then and we
6 had our democratic system again. After that, I was in Mexico
7 when there was a coup in El Salvador, 1972, there was a
8 colonel who made a coup, took the artillery brigade, and he
9 hold the president prisoner, it was General Sanchez Hernandez
10 was prisoner, but the man was not real powerful, the man who
11 took -- who organized the coup, and there was the unit did not
12 support the coup, and then he failed, the president was

13 liberated, and he continue his presidential period. Then the
14 last coup was in October, 1979. In that time, I had been --
15 remember, I told you about going to La Union, the part that
16 passed over from San Salvador, when I was there, there was a
17 coup, and President Romero was deposed, he left the country
18 and that day, I think, 15, 16 of September -- October, 1979.

19 Q. Well, Mr. Carranza, I had asked you about before you
20 were at ANTEL in 1977 and you have gone by that to 1979, and
21 tell the jury about coups that took place. The question I
22 wanted to ask you is which ones did you participate in other
23 than the one where you said you stayed in your place in 1960.

24 A. I never did it because when I learn from my experience
25 of the coup in 1960, I deducted that people who were

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DIRECT - NICOLAS CARRANZA

1409

1 organizing those coups were made for their purposes, for their
2 own benefit, or for the benefit of their inclination to the
3 left, so I decided not to participate in any coup from my life
4 on, and I never did.

5 Q. Now, you stated that Mr. Romero had asked you to go to
6 ANTEL, and how long did you stay at ANTEL?

7 A. I was over there three years, from July 1st, 1977 to
8 September the 3rd, 1979.

9 Q. And then you mentioned or I thought I heard you tell
10 the jury that when that coup happened in 1979, you were
11 somewhere else?

12 A. I was in the La Union, the farthest part from San

13 Salvador to the east near Ni caragua.

14 Q. Did you go there from ANTEL?

15 A. Yes, sir.

16 Q. Now, you talked a little bit about what you did at
17 ANTEL, what was your position there?

18 A. I was a general manager, and I had to supervise the
19 working, the employees, see that their branches were working
20 fine and that we were trying to build a better net of
21 telecommunications.

22 Q. And what was ANTEL, what work did they do or what did
23 they perform?

24 A. The ANTEL is a telecommunications work similar to
25 Bell South. They had the system of telegraph, the system of

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DIRECT - NICOLAS CARRANZA

1410

1 telephone, teletype. At that time, we already had, like I
2 say, the air station in El Salvador, we were mechanizing at
3 that time the system. Before we had radio, and this time we
4 were using satellite in order to improve the transmission,
5 telephonic transmission radio to everywhere in the world.

6 Q. Well, was it a national company, was it a state company
7 or what was the ownership of the company?

8 A. The ANTEL was a national autonomous company, it was
9 supposed to be functioned by their own direction, but we had
10 to be depending from the minister of the interior.

11 Q. Did the staff of ANTEL, was it exclusively military or
12 was it staffed by civilians?

13 A. No, sir, we were -- mainly thing the president and the

14 general manager were members of the army, and also there was
15 retired man who was chief of the security.

16 Q. Who was the president at the time you were there in
17 1977 and 1979?

18 A. In 1977 was -- the president was Colonel Juan Antonio
19 Martinez Varela. He was retired a long time ago.

20 Q. Now, you stated you left there and went to some remote
21 spot. Who sent you to -- away from ANTEL to this remote spot?

22 A. It was the president decision. As a military man, I
23 accept the missions wherever they are, because that's what the
24 military is supposed to do. Some people ask why I have been
25 demoted. I said no employment in the army everywhere cannot

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DIRECT - NICOLAS CARRANZA

1411

1 be a demotion. I accept responsibilities of duties, I will
2 help. He told me that since the Sandinistas were sending
3 weapons from Nicaragua to El Salvador by air and by sea and by
4 land, that was the department that was in the border, in the
5 eastern border, and I had the possibility to try to interfere
6 with the flow of weapons in El Salvador.

7 Q. Well, were you placed in charge of a unit, a brigade, a
8 cavalry unit, an artillery brigade, what actually was your
9 assignment there other than just being sent to a remote place?

10 A. The unit there was a -- was a regiment, an attachment,
11 had three units. Only infantry.

12 Q. And how long were you there at that place?

13 A. I was 15 days.

- 14 Q. How long?
- 15 A. Fifteen days because then we had the coup on 18
- 16 October -- on 17th October of 1979.
- 17 Q. Now, you said we had a coup, who is the we?
- 18 A. Well, we had a coup in El Salvador, all of the -- there
- 19 was a coup that had deposed President Romero, it was organized
- 20 by some members of the army together with some civilians.
- 21 Q. Did you participate in any way in that event, in that
- 22 coup?
- 23 A. No, sir, I was invited to participate, but as I said,
- 24 at the beginning, a couple of times ago, that I had decide not
- 25 to participate in that coup. The only thing I did is to talk

♀

DIRECT - NICOLAS CARRANZA

1412

- 1 to the people who were telling me the things, that I wanted to
- 2 know who was behind the movement in order to tell them if it
- 3 was a good line that we were following or was it a wrong line.
- 4 It looks like it was not so good line.
- 5 Q. So when that happened, were you off in that remote
- 6 place that you had been sent to?
- 7 A. I was over there -- yes, some people went over there a
- 8 couple of days before the coup.
- 9 Q. And then Romero was deposed of, as you say, what type
- 10 of government or what type of ruling body was acting as the
- 11 government of El Salvador?
- 12 A. After the coup?
- 13 Q. After Romero, after he lost control or lost power,
- 14 however you want to put it, who came into power?

15 A. There was a Junta Revolucionaria de Gobierno. Always
16 after the coup, there is a junta, because they want to
17 demonstrate that they have the support of the civilian
18 population, it is not only a military matter, but also have
19 some support, and that's why we have a junta of about five
20 people, was Colonel Gutierrez, Colonel Majano as members of
21 the army, and Drs. Guillermo Manuel Ungo, Ramon Mayorga
22 Quiros, and Mario Andino. Mario Andino was the representative
23 of the industry. Ramon Mayorga Quiros was the -- I think it
24 was the director of the university -- De Centro American
25 University UCA, and Dr. Ungo was representative of one of the

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DIRECT - NICOLAS CARRANZA

1413

1 parties -- political parties in El Salvador.
2 Q. All right. Now, after they became or came into power,
3 what position did you receive, if any, or what changes were
4 made in your career?
5 A. As I did not -- since I did not participate in the coup
6 when it happened, I stayed in La Union, and later was -- I had
7 communication with Gutierrez when he was the president, and I
8 told him that we were in support of his movement at that time.
9 Q. Okay. And then my question is what happened. Did you
10 stay in the place where you had been sent by Romero or did you
11 assume some other responsibility?
12 A. Initially, I stayed over there because I did not have
13 part in -- I did not have any part in the coup. However, I
14 was called by Colonel Garcia -- Guillermo Garcia, and he

- 15 called me to San Salvador, he asked me to become general --
16 chief of general staff of the army.
- 17 Q. Did you --
- 18 A. After that, it looked like there was some problem
19 getting another person, and he order me to use the -- to have
20 the place of subdirector -- subsecretary of defense under his
21 command.
- 22 Q. And this Garcia was who, what was his full name?
- 23 A. Jose Guillermo Garcia. He was the minister.
- 24 Q. All right. And -- now, this period of time was when?
- 25 A. 1979, immediately after the coup.

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DIRECT - NICOLAS CARRANZA

1414

- 1 Q. Now, as subdirector how long did you serve in that
2 position?
- 3 A. Subsecretary?
- 4 Q. Yes, as subsecretary, undersecretary.
- 5 A. I serve until 1979 -- I mean from 1979 to January the
6 3rd, 1981, only one year and two or three months.
- 7 Q. All right. Could we pull up that chain of command?
8 Now, Mr. Carranza, the jury has heard a lot about the military
9 chain of command, and a lot of people's perspective, and I
10 want you to tell us your understanding of the chain of command
11 from your perspective, okay?
- 12 A. Yes, sir. The chain of command is the flow of order
13 from the higher levels to the lower levels of the army, which
14 generates orders and has -- receives information from the
15 lower levels. It is an up and down way, they always flow from

16 the head to the end of those, and the orders, the
17 communications come from the lower to the upper level to the
18 head.

19 Q. Now, is the commander in chief of the armed forces,
20 whoever it might be the head of the chain of command?

21 A. Yes, sir. The -- usually, everywhere in the United
22 States, in El Salvador, Mexico, the president is the commander
23 in chief of the army or the armed forces in a country like the
24 United States. Then the next level, the ministry of defense,
25 which comprise the minister and vice-minister or subsecretary

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DIRECT - NICOLAS CARRANZA

1415

1 of defense. Here in the United States, you call secretary of
2 defense and there are several undersecretaries for defense in
3 El Salvador, the size of the army we have minister, and also
4 it could be named secretary of defense, and the subsecretary
5 of defense which is the place I was having that time. Then
6 come the general staff, and through the general staff go to
7 all of the units from that part of the army.

8 Q. The commander in chief of the armed forces at the time
9 we're talking about, is that one person only?

10 A. Excuse me, sir, could you say it again?

11 Q. The commander and chief of the armed forces is not like
12 the commander in chief of armed forces of the United States?

13 A. No, the commander in chief -- yes, the same thing, the
14 commander in chief is the maximal head, the president.

15 Q. But there's not a vice-president in El Salvador, or

16 there wasn't a vice-president at that time like in the United
17 States?

18 A. No, sir, there was no -- at that -- the junta, all of
19 them represented the same level of command, but there was like
20 in the first time, there were two colonels, Gutierrez and
21 Majano.

22 THE COURT: We're going to take a restroom
23 break at this time, it will be 15 minutes, and we will see
24 you in 15 minutes.

25 THE CLERK: All rise. This honorable court

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DIRECT - NICOLAS CARRANZA

1416

1 stands in recess for 15 minutes.

2 (Recess taken at 10:28 until 10:50 a.m.)

3 THE COURT: All right. You may be seated.

4 Counsel may proceed.

5 BY MR. FARGARSON:

6 Q. Now, at the time you were under-minister of defense,
7 was there a junta?

8 A. Yes, sir, yes, sir, there was a junta.

9 Q. Were there military men in the junta?

10 A. Yes, the same colonels, Gutierrez and Majano.

11 Q. Were there civilians in the junta?

12 A. Yes, sir, there were civilians in the junta. At this
13 time, there was a change.

14 Q. What was the change?

15 A. In January 2, 1980, there was coming a protest. Some
16 members of subcabinet of the cabinet protested saying that

17 they felt not respected by the members of the army, so they
18 asked the -- there was -- excuse me, there was an organization
19 within the army integrated by young people, young officers who
20 were in part organizers of the coup. It was COPEFA, they
21 answer to the cabinet that the minister of the defense was
22 doing fine and they were supporting him. So they resigned,
23 some of them, and they were substituted by Dr. Dada Diresi,
24 Dr. Morales Ehrlich, and I don't remember who was the other
25 one, but there were three.

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DIRECT - NICOLAS CARRANZA

1417

1 Q. Okay. I'm not sure I understood exactly what you said.
2 Was there a disagreement among some of the people in the
3 military?
4 A. No. The COPEFA was supporting the minister of defense
5 at that time.
6 Q. Okay.
7 A. They answer to the cabinet, they made the response that
8 they were supporting the members of the army.
9 Q. All right. And so when they announced they were
10 supporting, what happened?
11 A. So they -- the members of the cabinet resign and say
12 that either the minister and the vice-minister resign or they
13 will resign themselves. And the COPEFA, Consejo Pemanente De
14 La Fuerza Armada, Permanent Council of the Armed Forces who
15 were the direct battalion officers answer the cabinet, and
16 they said that we're supporting the minister of defense, so

17 they resigned, members of the cabinet and also members of the
18 junta.

19 Q. All right. And what about Majano, what did he do?

20 A. Majano stayed over there also with Colonel Gutierrez,
21 but little after that, there was resigning of Dr. Hector Dada
22 Diresi, and then Napoleon Duarte was integrated to the junta.

23 Q. And when was Napoleon Duarte put on the junta?

24 A. It was around the 10th of January of 1980. And there
25 was some disagreement between Majano and Gutierrez about the

†

DIRECT - NICOLAS CARRANZA

1418

1 power and --

2 Q. Well, now, wait a minute, I thought I had asked you if
3 there wasn't some disagreement. Weren't both of those
4 military men?

5 A. Yes, Colonel Majano and Colonel Gutierrez was in
6 disagreement because of power. Gutierrez wanted to be the
7 commander in chief, and Majano wanted to be the same.

8 Q. Since the two military men on the junta wanted to be
9 the commander in chief, what happened as a result of that
10 discord or disagreement between those two military men?

11 A. There is a world that they try to become the commander
12 in chief of the armed forces, of the armed force, so they were
13 not -- Majano argued that he was member of the arms, and the
14 army had to -- people who aren't completely military men, and
15 the other who have a degree, civil degree. They could be
16 engineers, they could be lawyers, they could be doctors, so
17 they become members of the services, and they're military men

18 in the company unit are military of the arms. Majano because
19 was member of the army thought that he had the higher priority
20 over Gutierrez, and Gutierrez thought that it was the main
21 organizer of the coup had the right to become the commander in
22 chief. There was some kind of discussions, and there was a
23 meeting of the officer who chose between them who could become
24 the commander in chief of the armed forces. There was a vote,
25 secret vote from all of the units in the army, and as a

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DIRECT - NICOLAS CARRANZA

1419

1 result, Colonel Gutierrez won the election and he was made --
2 designated commander in chief of the armed forces.

3 Q. Well, when this dispute came between two members of the
4 armed forces, each one of them wanted power, what effect, if
5 any, did that have on the function of the military of El
6 Salvador, if any?

7 A. Well, as a matter of fact, as a result of these votes,
8 some units have more preference for Majano, some of the units
9 have more preference for Gutierrez, so there was some kind of
10 like division among them, among the officers of the army. But
11 this was not something could be important. However, looks
12 like the people who were some inclined to the left or what,
13 later. We know -- we knew could have been some problem so we
14 left it for the moment.

15 Q. Okay. So even though there was disagreement against
16 men with power and with authority, was the army able to
17 function --

- 18 A. Yes, sir.
- 19 Q. -- normally?
- 20 A. Yes, sir, there was no -- there was no different, we
21 continued to work the same. But in that vote, the officers
22 said that they would not obey anyone but Colonel Garcia.
- 23 Q. Now, who was that that said they wouldn't obey anyone
24 but General Garcia?
- 25 A. In the meeting, there was expression, I think it was--

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DIRECT - NICOLAS CARRANZA

1420

- 1 I'm not sure who said it, but there was a declaration that
2 they would not obey any other than Colonel Jose Guillermo
3 Garcia.
- 4 Q. Well, now, was that when he was minister of defense?
- 5 A. Yes, and he was minister of defense.
- 6 Q. Was he your superior?
- 7 A. Yes, he was my immediate superior.
- 8 Q. And did you report to him?
- 9 A. Yes, that was my duty to advise him of different
10 things.
- 11 Q. And did you do things or act without his consent or
12 permission?
- 13 A. Absolutely not. As a matter of subordination, as a
14 subordinator, we had to accept, obey what the superior tells
15 us.
- 16 Q. The -- I need you to pull up Article 27, duties of
17 the -- Article 27. In the chain of command is an interior
18 party or military officer to obey the orders of the superior

19 military officer or position?

20 A. According to the chain of command, they cannot disobey
21 the order, sir.

22 Q. Now, we have all seen this, but I want you to give us
23 your perspective the way this functioned when Garcia was the
24 minister of defense and you were the under-minister of
25 defense, where it says responsibility of the undersecretary of

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DIRECT - NICOLAS CARRANZA

1421

1 defense. How did you carry out the responsibility of
2 providing technical advice to Garcia?

3 A. In all matters concerning the branch, the branch of the
4 army, the defense as part of the government has to deal with
5 the defense of the country against any foreign attack or any
6 interior insubordination, also have to give him advice about
7 the measure that they can take in order to put into effect
8 that mission, to defend a country and to defend the population
9 against the enemy, any person who is an enemy.

10 Q. What is -- what does the word technical mean in a
11 military sense?

12 A. Technical is a branch that is not -- that refer to the
13 policies of the government of the defense in support to the
14 government, to the nation, and to protect the people and to
15 save the country.

16 Q. All right. Now, the next paragraph says to coordinate
17 the technical function?

18 A. To coordinate the technical function of the general

19 staff with each of the different branches. The different
20 branches are the air force, the community forces, navy, army,
21 calvary, so forth. Everyone has his own way to act, so they
22 had to tell the general staff, telling what unit they could
23 use in order to perform a specific task.
24 Q. All right. But in carrying out that responsibility to
25 coordinate the technical function of the general staff, how

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DIRECT - NICOLAS CARRANZA

1422

1 did you carry out that exact responsibility to coordinate the
2 technical function, what did you do to carry out that
3 responsibility?
4 A. It just a matter of advice about the qualities of every
5 unit to carry out the mission. It is about --
6 Q. What would be needed to carry it out?
7 A. What would be needed to carry out the operations.
8 Q. What units could accomplish the mission?
9 A. How could these characteristics of employment be the
10 best one to perform a specific mission.
11 Q. Okay. And then we have the third one, to propose
12 appointments, removals, assignments, resignations and the rest
13 of it. What did you do to carry out the responsibility to
14 propose appointments, removals and assignments?
15 A. That is referring to the personnel of officers and
16 members of the army, specifically officers. Sometimes there
17 was some civilians who were performing labors of files,
18 payment and something of that, but mostly were about the
19 proposals to the defense minister about the person who were

20 capacitated, more able, that is prepared to occupy any of the
21 places in the army. Some people have some work as members.
22 The school where they went was the navy was something like S4s
23 who had the best grades so we could chose the best man to
24 perform to occupy a specific post within the army, so we could
25 have the best functioning as a whole unit.

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DIRECT - NICOLAS CARRANZA

1423

1 Q. What does the work functionaries mean?
2 A. Functionaries are the employment, like I say, they --
3 for example, there was a judicial department, we had a lawyer,
4 we have something that related to the health, we could employ
5 a doctor, medical doctor, for example. These are the kind of
6 functionaries within the armed forces.
7 Q. Who would propose removal of some enlisted men off in
8 the calvary somewhere?
9 A. Enlisted men are not regulated by the commanders of the
10 unit. They don't have a minister, have nothing to do with the
11 number, for example, how many soldiers, how many corporals
12 they have. There is a plan of law which specify how many
13 sergeants, how many corporals, how many soldiers they have in
14 each unit, so a commander have that responsibility to organize
15 their unit with a troop from sergeant down to sergeant. This
16 is -- this mission is only for officers. And persons like
17 doctors, engineers, lawyers could become part of the ministry
18 because we needed some specific functionary in many of the
19 places of what we needed.

20 Q. The staff of the ministry of defense, what type of
21 staff did the ministry of defense have other than the
22 minister, Colonel Garcia and you, the under-minister of
23 defense, was there a staff that supported that department of
24 the military?

25 A. Yes, sir. He had -- for example, the judiciary

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1 department, has a lawyer. Later, we had some lawyers who
2 were -- excuse me, who were members of the army, were officers
3 that was sent to study other countries or were sent to study
4 universities in El Salvador in order to help people who were
5 military men and who were also technical assistance as a
6 lawyer and so forth, what I said.

7 Q. Well, did you have civilian employees and civilian
8 workers and staff?

9 A. Yes.

10 Q. That worked in the ministry of defense?

11 A. Yes, sir. We also had some civilian people working
12 over there with five secretaries, messenger, something like
13 that.

14 Q. And when you were in the office of undersecretary,
15 again, 12 or 13 or 14 months that you were there, did you
16 carry out those responsibilities to the best of your ability?

17 A. Well, when we were using -- remember, I want to remind
18 you that it was a situation not normal, it was after a coup.
19 After a coup, there is some problem with handling of the
20 people one side or the other side, Majano, Gutierrez, so we

21 tried the best our means to assemble them to assemble them, to
22 make them join and to make more together for the duties of the
23 army, so they won't be disturbed by problems among them.

24 Q. Well, because of the coup and because of Colonel
25 Majano's feelings and Gutierrez's feelings was there any

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1 divisiveness in the military for a period of time there?

2 A. Yes, there was some divisiveness, but we're trying to
3 get together to avoid anything that could be discontent among
4 them. Remember, there was this COPEFA, Permanent Council of
5 the Armed Forces, who was trying to help or some time
6 interfere with the minister of defense, because they said they
7 were representatives of the army, and the minister of defense
8 was a help from the army.

9 Q. I guess my question is how did this divisiveness affect
10 the ministry of defense? In other words, did it cause
11 additional problems, did it cause additional problems in the
12 military, that's all I'm asking?

13 A. Yes, sir, as a matter of fact, remember, when the --
14 when you have two brothers -- three of your sons have problem,
15 you don't feel -- you have to be a referee among them trying
16 to get them together. And remember as I was telling you that
17 it was not a normal situation. There were some demonstrations
18 sort of like there used to be after every coup, there was
19 demonstrations, and this time, there was a divisiveness coming
20 from General Romero government, was some social instability,

21 demonstrations, killing of guard, national guard, killing of
22 police, and robbing the weapons. There was some of these
23 things that maintained always the army in disarray, I don't
24 know if that is the right word, but trying to be more
25 efficient, trying to avoid this kind of associations of the

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1 members of the security forces.

2 Q. Well, what was the solution, how was the divisiveness
3 corrected so that the army was back in a normal functioning
4 force, if it was?

5 A. We were trying always to make them together, and there
6 was a situation at the beginning, this COPEFA group integrated
7 by the young members of the army made something -- a mistake,
8 and they lost accepting way the power, so they took the jump,
9 one of responsibilities of the minister of defense and --
10 relating to the third of faculties or duties to propose an
11 appointment, that was my proposal, my duty to make this
12 proposal about nominating different places, the office that
13 was going to occupy a specific space. They did the first
14 three general orders. And what happened, I said at the
15 beginning that every one that goes into a coup tries to do
16 that for the armed purposes, for their own benefit. They made
17 the order, and they assigned them to the best places in the
18 capitol. They representatives of all the country, but the
19 order, they came to San Salvador. The next order was
20 something like -- and if they want the same. And that time, I
21 told the minister, I advise him, Mr. Minister, this is your

22 responsibility, they're taking your command, you're not
23 functioning as minister, you need to make the general order
24 yourself. By that time, almost all of the young officers were
25 in San Salvador, and they had as their unit -- I mean it was

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1 kind of a democracy in that moment in the election that have
2 to be done. So they have to select a member of every unit in
3 the country, but the young people have left, occupy those
4 places in San Salvador. The new men who were elected to
5 become that group, COPEFA, had the minister then to have to
6 assume their own responsibilities and not taking them as young
7 personal -- as young officers of the army. That's the way
8 there was some solution to the divisiveness as it was before.

9 Q. At this period of time, was there a civil war going on
10 or civil disturbance taking place?

11 A. Well, yes, sir, there was a disturbance, as I told you,
12 as I said here, it came from the problems that General Romero
13 was having during his term as president, and they were
14 degrading some of the movements, movements that supposedly
15 were fighting for their rights, for their benefits, fighting
16 for their rights, but in reality, they were obeying the orders
17 of some specific organization that had contact with the
18 communists. I would not say they were communists, but they
19 were members who were following at the time an order from some
20 people who were communists and who had relationship with the
21 Sandinistas in Nicaragua, with Castro in Cuba, and sometimes

22 some like the president of the communist party in El Salvador
23 flew to China, to Libya to get some help.

24 Q. Well, the question I want to know is how did -- how did
25 this condition in the military with people vying for power

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1 affect the army's ability to effectively handle civil
2 disturbances in El Salvador? That's all I mean. How was the
3 army able to deal with that with a dispute in the officers of
4 the military?

5 A. Well, we have some problem. The problem because the
6 army was not equipped at that time with enough equipment to
7 hold the -- to make front, to confront the demonstration to
8 these strikes, to these occupation minister, to occupation
9 embassy that they were doing, so we tried to get from the
10 United States equipment so we could handle in the very best
11 way the demonstration, this kind of actions of the opposition
12 to the government.

13 Q. Okay. Would you put up Article 186 on the screen?

14 Now, Mr. Carranza, this Article 186 of the code of
15 military justice in El Salvador has also been presented to the
16 jury and discussed, and I want you to explain what this
17 Article 186 applies -- who it applies to and what the meaning
18 of it is, all right?

19 A. Yes, sir. The application of the disciplinary
20 punishment. Disciplinary punishment is something that is not
21 grave, something like in cases have to do with violations
22 committed by officers falls upon the minister and

23 undersecretary of defense, the corps commanders and the
24 commanders of military officers. Specifically for the
25 minister or myself as the undersecretary of defense was the

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1 termination of employment, as disciplinary punishment was only
2 done by the minister or by me. Otherwise, the commanders
3 could do the -- the corps commanders could do their own
4 discipline in their units. And the minister and -- both could
5 do the same at the higher level. It has to be, of course,
6 according to the level where the violation is committed.

7 Q. Well, who presented -- in other words, it says the
8 application of disciplinary punishment in cases having to do
9 with violations of officers. Who submits those violations for
10 disciplinary punishment?

11 A. Well, I understand it could be -- it should be a
12 system, an accusation, procedure, kind of tribunal, kind of
13 maybe -- any procedure, disciplinary procedure going to the
14 termination of the ability or not of the person who could
15 be -- who could be accused of something, investigation, and
16 then according to the termination, whether he's guilty or not
17 to establish punishment.

18 Q. Well, does that application of disciplinary punishment
19 apply to every infraction that some officer commits no matter
20 what branch they belong to and no matter what it is, such as
21 drunkenness or misbehavior of any kind?

22 A. No, sir, that's not some specific minor violation. For

23 example, if you go late to a place, I mean to his duties, not
24 to perform his duty very well. For example, they are acting
25 as security in the security post, they can be handled by the

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1 core commander. They just only take -- keep a record. Unless
2 there is something made by the officers, then the commander
3 can punish that fault and communicate to or -- to the
4 minister, to the ministry, so they keep a record of faults.

5 Q. Are you saying the commanders of the units have
6 responsibility to report certain infractions of the officers,
7 to make a record and report it?

8 A. Yes, sir, that is to keep, they call it services sheet
9 in where we have not only the punishment, but every fault,
10 every action that the officer has, every honorific position
11 that he occupies, everything about the officer is in this
12 services sheet.

13 Q. So it only applies to officers and not ordinary troop
14 or members of the military?

15 A. The services sheet is only for the officers. The
16 soldiers, the troop goes in another category, they always keep
17 records in the unit, in order to keep the track, and because
18 sometimes there might be -- have the possibility to be
19 promoted, in order to have this election, we had to see the
20 register so we could select the best members of the troop to
21 become promoted to corporals, to sergeants and so forth.

22 Q. Can the field commanders of units discipline the
23 troops?

- 24 A. Yes.
25 Q. For infractions that they commit?

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- 1 A. Yes, sir, they are supposed to do that immediately
2 after knowing what is happening and inform to the next level,
3 in the case of the higher violation; otherwise, they don't
4 have to inform.
5 Q. Now, that says termination of employment as
6 disciplinary punishment may only be imposed by the minister or
7 the undersecretary of defense?
8 A. Yes, sir --
9 Q. Excuse me, is that of an officer only?
10 A. Yes, sir. It is only of the officer, because that is
11 hard to do to make an officer to quit.
12 Q. Well, can the director of the national police terminate
13 an officer that is in the national police that is guilty of
14 something that needs to be punished?
15 A. No, sir. They have to be proposed to the minister the
16 demotion, the discharge of any officer.
17 Q. Would that be true of the national guard?
18 A. Yes, sir.
19 Q. Would it be true of the treasury police?
20 A. Yes, sir, it would be he proposed to the minister of
21 defense, they cannot act in that way.
22 Q. Or the air force?
23 A. The same thing, sir.

24 Q. All right. Okay. Now, while you were the
25 undersecretary, there was the murder of members of the FDR.

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1 A. Yes, sir.

2 Q. And there was -- there was a serious reaction to that,
3 was there not?

4 A. Yes, sir, because they were important members of a
5 position, and that was a crime, horrific crime committed by, I
6 don't know who, and I don't think it was ever known who did
7 it.

8 Q. Well, but the very nature of the abduction and the
9 killing was a very terrible and serious thing, was it not?

10 A. Yes, sir.

11 Q. Now, at that time, how long had Ambassador White been
12 the ambassador? Had he only been there a short time?

13 A. Yes, sir, I think it was in November, something like
14 that, and he came about half year maybe for a month, something
15 like that.

16 Q. Well, as a result of that occurrence, was there a
17 meeting with Ambassador White with certain people of the
18 military?

19 A. Yes, sir. As a matter of fact, it was very important
20 because we have received some informs that they were really to
21 make a peace talk with us. This gentleman, Mr. White,
22 ambassador of the United States at that time got a meeting
23 with members of the junta, the minister of defense and myself,
24 the undersecretary of defense. In that discussions, we talk

25 about the gravity of the situation, and I suggested, I

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1 requested the investigation, immediate investigation of the
2 death of the killing of those members of the FDR.

3 MR. FARGARSON: May I approach the witness,
4 Your Honor?

5 THE COURT: You may.

6 BY MR. FARGARSON:

7 Q. Colonel Carranza, I want to hand you that state
8 department document that mentions the meeting with the state
9 department, with the ambassador following this terrible event
10 that took place in regard to the FDR members, and you were
11 present at that meeting, were you not, with other people?

12 A. Yes, sir, I was.

13 Q. Was Colonel Garcia also there?

14 A. Yes, sir, he was.

15 Q. And did you make comments that the state department
16 recorded as a result of this meeting?

17 A. Yes, I see here something like that, sir, where I think
18 most of us talked -- said something about that case in that
19 circumstance, in that time.

20 Q. That what? I'm sorry, I misunderstood you.

21 A. Almost everyone who was over there made a statement
22 about this situation.

23 Q. Well, what was your statement?

24 A. It says here, a message from Ambassador White.

25 Vice-minister of Defense Carranza spoke next and at great

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1 length. I have to say that his presentation had made a great
2 deal of sense. He agreed that an investigation of the events
3 of Thursday was required. He said that the ministry of
4 defense was not attempting to deny its responsibility to
5 protect the civilian populous, but that the judicial system
6 had collapsed and there was a wave of crime carried on by the
7 political features of the left and also of the right. He went
8 on to analyze in detail the dangers of communism. The
9 interest that the United States had to have in preventing
10 another Cuba in Central America, and the need to find a
11 mutually satisfactory solution for both the United States and
12 El Salvador. He has stated categorically that he did not
13 reject dialog with any political group, but stress the
14 difference between those who have political opinions and those
15 who killed others for holding country political opinions.
16 Nevertheless, Colonel Carranza said he reviewed my
17 presentation of the United States position as an attempt by a
18 great power to impose its solution on El Salvador.

19 Q. And did -- were those, as far as you can recollect in
20 looking at the documents, accurate comments that were made by
21 you at that meeting?

22 A. Excuse me, could you repeat, sir?

23 Q. I said, as near as you can remember and as near as you
24 can tell, is this state department document which contains
25 what you said at that meeting with the ambassador, is that an

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- 1 accurate statement to the best of your recollection?
- 2 A. Yes, sir, it was.
- 3 Q. Did others also speak that were representatives of the
4 military such as Colonel Garcia, your superior?
- 5 A. Yes, he spoke also, sir.
- 6 Q. Okay.
- 7 A. And As a matter of fact, I want to make notes that the
8 members of the junta who were the highest level of
9 responsibility in El Salvador were present when I told them we
10 are required to make an investigation of the case.
- 11 Q. Well, let me ask you this: Was an investigation made
12 by someone? As stated in here, did any group or any police or
13 anyone conduct an investigation into this murder of these men?
- 14 A. I understand at the beginning when this happened in the
15 morning, there was some police trying to investigate, but I
16 don't remember what it was. They didn't let them go inside to
17 investigate. I mean I'm not sure what happened at that time,
18 but there was police trying to go to investigate, that's the
19 unit that had the responsibility to act in these cases.
- 20 Q. Well, I guess that was my question, there's a
21 discussion of the desire to have an investigation, my only
22 question is: Was some investigation conducted by someone,
23 whether or not it proved fruitful, that's all I want to know,
24 was an investigation made?
- 25 A. Like I said, at the beginning it was, but this meeting

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1 was later, and I don't recall whether there was -- they did
2 anything. It was not my responsibility to do that. My
3 responsibility was to advise them, and I did it at the highest
4 level.

5 Q. So the meeting that is discussed in this state
6 department document took place some time after the murder of
7 these men?

8 A. It was maybe one or two days.

9 Q. Okay. And are you saying some investigation had
10 already started?

11 A. Yes, sir.

12 Q. But you're not sure if any other investigations were
13 instituted following that?

14 A. Later, no, sir.

15 Q. Okay.

16 MR. FARGARSON: Your Honor, I would like to
17 move the admission of this as an exhibit.

18 THE COURT: It is received without objection as
19 Exhibit 50.

20 (Exhibit Number 50 was marked. Description:
21 Telegram.)

22 BY MR. FARGARSON:

23 Q. Now, how long were you in the position of the
24 undersecretary of defense?

25 A. It was 15 months.

1 Q. Fifteen months?

2 A. Yes, sir.

3 Q. Following this murder of the FDR men, was there any
4 type of escalation in the civil disturbance or civil
5 difficulties or things of that nature?

6 A. Yes, sir, because of that, I think, and also in last
7 part, because the Sandinistas were powerful in Nicaragua,
8 they -- the place, Somoza presidency, they were able to send
9 weapons and men to El Salvador, so the activity of the left
10 was increasing. We had more problems in the country.

11 Q. And what, if any, effect or how did that affect the
12 function of the military, and in particular, the ministry of
13 defense if it had any special effect?

14 A. Well, we had more problems. We had to try to recruit
15 more people because we are being attacked in many places.
16 They were using more sophisticated ways of combat. They begun
17 acting with guerillas. They were using at that time car
18 bombs, they were utilizing some system they call catapults.
19 There was something with enough power to send the blocks of
20 propane, propane in a specific way. They could send somewhere
21 else larger, intermediate distances, and with that provoke
22 explosions in buildings, garri sons, places, factories that
23 they didn't like.

24 Q. So did the military have to recruit more troops or do
25 anything to protect the public, to protect the nation?

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1 A. Yeah, we had to be more active in patrolling the
2 streets, patrolling the roads and the interior, protecting
3 important places, protecting personnel, and I think trying to
4 reduce wherever possible the activities of the guerilla or the
5 opposition who was acting by violent means at that time.

6 Q. And what about the United States, did the ministry of
7 defense or the department of defense have to coordinate any
8 effort with the United States who had an interest in El
9 Salvador?

10 A. Yes, sir, with a little history. President Carter
11 stopped -- he stopped the shift that came with weapons and
12 ammunition to Somoza, and President Carter ordered to stop
13 that shift and sent back to Iran where it was coming. The
14 national guard in Nicaragua didn't have the means to defend
15 themselves, and Nicaragua failed in the hands of the
16 communists, Frente Sandinista De Liberacion Nacional. As a
17 consequence with the fall of Nicaragua, they were able to send
18 weapons to here. What we had, the ministry by that time, a
19 great president, Mr. Reagan was in here, elected president,
20 and we had the opportunity to receive military aid. Mr.
21 Carter in our situation had stopped the military aid, but then
22 at the end of his period, he continued again the aid.

23 THE COURT: They have actually asked me to come
24 back to the back and see somebody for just a couple of
25 minutes. We will take a very short break. I'm talking

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1 about five minutes at the most, and we will come back. We
2 will take our lunch break at 12:20, and it will be fairly
3 short, it will be -- can y'all do lunch in 55 minutes
4 since it is already in the building, is that okay? We
5 will make it 55 minutes. We will make it today at 12:20.
6 I will be back in about four or five minutes. We will let
7 you be excused. Don't talk about the case with anybody
8 else.

9 THE CLERK: All rise. This honorable court
10 stands in recess.

11 (Recess taken at 11:45 a.m. until 11:50 a.m.)

12 THE COURT: All right. Have the witness come
13 back in. My projection now is that we will actually
14 finish the proof on Monday, is that your projection?

15 MR. ESQUIVEL: I would think so, Your Honor.

16 THE COURT: It depends on how long the final
17 two witnesses go. I think we're in pretty good shape.
18 Y'all just continue to think, and we will talk about that
19 at an afternoon break.

20 MS. BLUM: Your Honor, the only issue that I
21 want to raise with you is there was some changes made to
22 the jury instructions. I think a discussion about them
23 might be a little bit substantial. I think we have to be
24 sure that we have sufficient time to hammer that out today
25 in order that both sides are going to know exactly what

1 can be said in closing.

2 THE COURT: Exactly, we will probably do
3 that -- figure out when we need to at the end of the day,
4 so it sounds like we may be carrying over a little bit and
5 give us a little time to do that. I understand. Bring
6 the jury in, go for another 30 minutes. We will have the
7 witness come back around.

8 (Jury in at 11:50 a.m.)

9 THE COURT: You may be seated. I needed that,
10 and I do appreciate it.

11 BY MR. FARGARSON:

12 Q. Mr. Carranza, let me ask you this question, I think I
13 asked you before, but I'm not sure you answered it. What
14 other people were employed or working in the office of the
15 ministry of defense as either staff people, technicians,
16 secretaries, whatever was there to operate the ministry of
17 defense, how many people were there?

18 A. I couldn't say the numbers there, but we had enough
19 people to handle all of the, let's say, letters,
20 communications from the minister. We had telephone operators,
21 messengers, lawyers, department of -- judicial department,
22 clerical people working in the files, but I can't recall the
23 number of people who were in the ministry.

24 Q. Well, when you were the under-minister of defense, did
25 General Garcia ever issue an order advising the army to commit

1 human rights violations against the populous?

2 A. Yes, sir, there were several general orders to all
3 of -- the general ordered something close to all of the units
4 with the specific instruction for the minister to all of the
5 members of the army. That order goes usually every end of the
6 month, and raised -- certainly, we sent some orders to the --
7 all of the units asking about respect to human rights of the
8 people, instruction how to handle the cases, and later in the
9 term when we received some complaint, for example, that some
10 members of the army had weapons inside of the ambulance from
11 the Red Cross because they were carrying some soldiers sick or
12 wounded to a hospital, the Red Cross complained to the
13 minister, and he ordered that anyone going inside the
14 ambulance not to carry any kind of weapons in order to
15 maintain the neutrality of the ambulances.

16 Q. Well, I think you answered the question a little bit
17 different way from what I asked it. I think I asked you if he
18 ever issued for the military to violate --

19 A. No, absolutely not, sir. It was to the contrary, we
20 were trying to avoid any kind of violations, the Geneva
21 Convention. But even without the Geneva Convention, we were
22 people compassionate and they would not think about making
23 damage or hurt anyone.

24 Q. Well, we've talked a little bit about the murders of
25 the men who belonged to the FDR, and also during the period of

- 1 time that you were the undersecretary, other members of the
2 families had terrible things happen to them, and I want to ask
3 you about some of those occurrences, all right?
- 4 A. Yes, sir.
- 5 Q. Ms. Chavez's family members were murdered in Ahuachapan
6 on July 26th, if I have the date correct, of 1980.
- 7 A. Yes, sir.
- 8 Q. What information came to the attention of the minister
9 of defense or your attention at that period of time?
- 10 A. To myself, there was nothing until December the 3rd --
11 December the 10th, 2003, when I received a copy of this
12 summons that was presented to me.
- 13 Q. Well, did you hear anything about Ms. Chavez's family
14 in that period of time in 1980 when you were undersecretary of
15 the minister of defense?
- 16 A. No, sir, I never heard anything.
- 17 Q. Was there any talk in the office or any memorandums or
18 anything that you remember?
- 19 A. Absolutely not, sir.
- 20 Q. Mr. Calderon's father was murdered on September the
21 11th of 1980.
- 22 A. Yes, sir.
- 23 Q. What about that event, did any information about
24 Mr. Calderon's murder come to --
- 25 A. The same situation, we had never no list of that case

1 over there.

2 Q. Well, did you see any information from General Garcia
3 who was apparently contacted by a relative of Mr. Calderon?
4 Did General Garcia tell you anything or let you have any
5 information about that?

6 A. No, sir, absolutely not.

7 Q. Do you know what he knew?

8 A. Now, I know, but at that time, I didn't know anything.

9 Q. Well, is what you're saying now you know what you heard
10 Mr. Calderon say on the witness stand?

11 A. Yes, Mr. Calderon said that --

12 MR. ESQUIVEL: Objection, Your Honor, calls for
13 speculation.

14 THE COURT: Objection sustained.

15 BY MR. FARGARSON:

16 Q. Now, don't say what he said, all I said is did you hear
17 what he said on the witness stand, you don't need to repeat
18 it.

19 A. Yes, sir, I heard it.

20 Q. Okay. Now, Ms. Santos was arrested in the shopping
21 mall on September 25, 1980 and taken into custody and
22 tortured, as she said. Now, what information came to the
23 attention of the ministry of defense in 1980 while you were
24 there, what you heard, what you saw, what you know?

25 A. I was the undersecretary of defense and never heard

- 1 anything about her.
- 2 Q. Well, when was your first knowledge of the tortures and
3 the horrors that Ms. Santos had?
- 4 A. I didn't know anything until December 10th, 2003, sir.
- 5 Q. And what about Mr. Calderon that I just asked about,
6 when was the first time you learned anything about the murder
7 of Mr. Calderon's father?
- 8 A. It was in the same date, when I was presented this
9 summon of law.
- 10 Q. Now, other than Mr. Alvarado, who we will talk about a
11 little bit later on, with regard to all of the plaintiffs,
12 when you were in the ministry of defense, did you know
13 anything about what happened to them or did any information
14 come to the minister of defense office that you saw or that
15 you were informed about?
- 16 A. No, sir, not anything at all.
- 17 Q. Now, you stated that you were in the ministry of
18 defense as the undersecretary for 12, 14 months -- 14 months,
19 something like that?
- 20 A. No, sir.
- 21 Q. How many months?
- 22 A. Excuse me, could you say it again, please?
- 23 Q. All right. You were the under-ministry of defense in
24 the office of the ministry of defense for what space of time?
- 25 A. For 10 months, more or less, sir.

- 1 Q. Okay. And what assignment did you get after that?
- 2 A. I became president of ANTEL.
- 3 Q. Now, how did you become president of ANTEL?
- 4 A. It was -- I was in the order the same way, the same way
- 5 that the -- that we received orders through the general order.
- 6 It was on January the 3rd -- I think January the 3rd, 1981.
- 7 Q. Now, was the ANTEL that you received orders to go to
- 8 the same place that you had worked previously as a director
- 9 or -- I mean as a manager?
- 10 A. Yes, sir, the same institution.
- 11 Q. But do I understand that this time you were going to
- 12 occupy a different position?
- 13 A. Yes, sir, presidency.
- 14 Q. And so what would that mean, that you would be the
- 15 chief --
- 16 A. Yes, sir, responsible person for the functioning of the
- 17 company.
- 18 Q. Okay. And had anything about the ANTEL organization
- 19 changed at the time you were separated -- when you changed --
- 20 A. No, sir, there was no change, it was the same kind of
- 21 institution.
- 22 Q. And was it still a place where mainly civilians worked?
- 23 A. Yes, sir. The only officers were myself and the
- 24 general manager.
- 25 Q. Who is -- who had been the president immediately before

1 you, if you recall?
2 A. I think it was -- I'm not sure, sir.
3 Q. Okay.
4 A. I think it might have been Colonel Garcia -- no.
5 Q. Well, if you don't know --
6 A. No, no, sir, I don't know. I don't remember.
7 Q. All right. Now, how long did you occupy the position
8 of president of ANTEL?
9 A. I was there until October the 18th, 1982.
10 Q. And as president of ANTEL, what were your duties and
11 your responsibilities?
12 A. Well, I had to manage all the functions of the company,
13 make decisions like the one I took that period, I had to make
14 important decision that was to go digital in the system, the
15 digital system which changed completely the system of the
16 institution to that -- to the modern means of communications.
17 Q. Where is the headquarters of ANTEL?
18 A. In El Salvador, it is in the center of the government,
19 center of the government, it is beside the ministry of
20 interior, which was the ministry under which ANTEL was
21 located.
22 Q. Since it's a service to the general public, are any of
23 the facilities protected by the military or is the office
24 protected by the military?
25 A. No, sir, we had a security system in the ANTEL, use

- 1 facility to protect the properties of the institution.
- 2 Q. And what is the security system?
- 3 A. Well, take care of -- protect the important
- 4 installations like the air station that was located about 50
- 5 kilometers from San Salvador; the main building in the central
- 6 government, maybe a little storage we had close to San
- 7 Salvador about 20 kilometers.
- 8 Q. As a result of the civil war, civil disturbance, were
- 9 their attacks on that type of service to disrupt the
- 10 communication of the state?
- 11 A. No, sir. It was a small group that we only had small
- 12 group, and as ANTEL was -- they used the collections of ANTEL
- 13 to communicate. I think that's why they never attack in a
- 14 very strong force those installations. They damage only the
- 15 mixed communications like panels, distribution panels in the
- 16 streets, towers of transmission, for example. If there was
- 17 any important installation that could be -- for example, ANTEL
- 18 that we had in the pekacha (spelled phonetically), which is
- 19 the highest part of the San Salvador, the army have that
- 20 protection because we did not have enough power or arms to
- 21 protect it.
- 22 Q. Now, after your assignment at ANTEL, what was your next
- 23 position or assignment?
- 24 A. The next assignment was to go to CEL as president.
- 25 Q. What is that?

1 A. It is a -- it's Comisi on Electri ficadora De Lempa,
2 electri ficati on company of Lempa. Lempa is the main river
3 that crosses in El Salvador, which El Salvador has taken
4 advantage of and has been three dams in order to produce
5 energy that enable us to produce a very low price energy for
6 the people.

7 Q. Well, was that a demotion, a promotion or just a
8 lateral assignment?

9 A. Sir, I said at the beginning every place that I was
10 ordered was a pride for me to go, because as a member of the
11 army, I'm loyal and obedient, subordinate, and I was accepting
12 every challenge without commenting, thinking anything was
13 wrong.

14 Q. Okay. Well, I can understand that. Who was it that
15 sent you to that place?

16 A. I guess it was the minister of defense.

17 Q. And was that still Colonel Garcia?

18 A. Yes, sir, it was the same.

19 Q. If I call that the Lempa River Authority, would that be
20 a proper name for the place where you went?

21 A. CEL, Comisi on Electri ficadora De Lempa.

22 Q. Okay. And what did you do there?

23 A. I had to -- I had to try to do my best in the
24 functioning of the system. At that time, CEL was one of the
25 institutions, it was under the supervision of minister of

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1 economy. I was serving in the minister of -- the minister of

2 economy, and it was in the same area of -- the building was
3 close to the building of ANTEL. And when I was over there, I
4 established a coordination among the similar units in the
5 Central America in order to have the possibility to help each
6 other in the case of a problem caused by either the conditions
7 or by attacks. In that activity, I went several times to
8 Honduras, to Guatemala and in some cases, they had problem
9 with the border, and we helped them. Sometimes we have a lot
10 of problems with the other border and the other country help
11 us. So there was kind of a mucho help between the governments
12 of Central America. I did this because in ANTEL, we have an
13 organization paid by all of them, organization was called
14 Comisi on Tecni ca De Telecomuni caciones De Centro America.
15 Then we got commissions of the -- telecommunication of Central
16 America. We tried to get cheaper or less expensive equipment
17 for telecommunications. We had made this group. We had a
18 school where we were training all of the members of Central
19 America. It was located in San Salvador in order to maintain
20 a good relationship with all of the governments and so provide
21 better service at a lower cost.

22 Q. Well, did this electrical facility apply -- I mean
23 supply electricity to any place other than El Salvador?

24 A. Well, it was some kind of interconnection for some.
25 It's not normal, but in some places where they didn't have the

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1 possibility to send their lines, permission lines, we were

2 able to help them supply electricity to other specific place.
3 Q. Well, were you to do anything specific or just oversee
4 the operation of the facility?
5 A. I had to oversee everything, sir. This field of
6 operation, I did not have previous knowledge, so my kind of
7 work was mostly managerial. In ANTEL, I had little experience
8 because of my father work as a telegraph operator, and also
9 because as a young man, I was maybe 16 years old when I was
10 working as messenger of ANTEL, and I was proud to be the only
11 one at that time that had been messenger, which is the lowest
12 job in the ANTEL after the presidency.
13 Q. So how long were you there CEL?
14 A. I was there until 31st of May, 1983.
15 Q. And when you left CEL, where did you go?
16 A. I went to the treasury police.
17 Q. And why did you go to the treasury police?
18 A. I had the possible -- I was not promoted to general at
19 that time because I didn't have enough time in the army. I
20 was at this time working in ANTEL and CEL, took me some time
21 to where I could become for the time of service I had to be to
22 have in order to be promoted. I was lacking some time. And I
23 asked Vides Casanova. Vides Casanova was the minister at this
24 time, the possibility to go again to the army in order to make
25 the time and be promoted to general.

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1 Q. Well, there must have been some time when the office of
2 the position of general was enacted in El Salvador, I thought

3 colonel was the highest position in the military?
4 A. No, sir, at that time -- by that time, I had already
5 been promoted several generals. I think at least two, and
6 later there was some person promoted to general.
7 Q. Okay. Was -- where had General Garcia gone or Colonel
8 Garcia, whichever one it was?
9 A. It was general at the time, and I think he came to the
10 United States. I'm not sure whether he was still in El
11 Salvador or had come here to the United States.
12 Q. Okay. So in speaking to Minister of Defense Casanova
13 about having an army position, what happened?
14 A. Well, he called me to his office, and I -- he offered
15 me the treasury police command. He said that he needed to
16 make some changes over there, and he offered me the post.
17 Q. Well, when you -- when he mentioned the treasury police
18 and suggested that you go there, what was the reputation of
19 the treasury police?
20 A. Well, it had a bad reputation, sir, that's why he asked
21 me, he called me in, he says, Nicolas, I know you --
22 MR. ESQUIVEL: Objection, Your Honor, hearsay.
23 THE COURT: Objection sustained, that would be
24 hearsay.
25 BY MR. FARGARSON:

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1 Q. You can't say -- you can't get into a conversation.
2 A. Okay.

- 3 Q. And relate a conversation, that would be hearsay. So
4 as a result of the meeting with him and discussing the
5 treasury police, did you accept the assignment?
- 6 A. Yes, sir, I did. It was a big challenge, but I knew I
7 was capable to do it.
- 8 Q. Okay. And when did you take over the -- is it called
9 director?
- 10 A. Director of the treasury police, yes, sir.
- 11 Q. Did you have any specific plans when you went to the
12 treasury police?
- 13 A. Yes, sir. I tried to -- first of all, I had to know
14 the conditions of the place. I had to see, examine the
15 situation, try to start with some kind of training, education
16 and get procedures for handling the people, maybe of observing
17 the rules, maybe changing the rules according to the
18 situation.
- 19 Q. All right. So in putting that plan into place -- let
20 me back up. When was it that you assumed responsibility as
21 director of the treasury police?
- 22 A. It was the 31st of May, 1983.
- 23 Q. And how long were you the director of the treasury
24 police?
- 25 A. One year.

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- 1 Q. Okay. And so in carrying out your plan, what did you
2 initially do as the director?
- 3 A. When I went over there, sir, in 1979, after the coup,

4 there had been established an organization that they call
5 Comisi on Invesi gati va, the i nvesti gati ve commi ssi on. They
6 were trying to find out whether there was anything wrong who
7 had been denounced by the position at that time. And they
8 had -- one of the missions was to establish whether there were
9 clandestine cells and destroy them, of the mission of this
10 commi ssi on. I made myself -- in desperation, I had to go and
11 see the installation of the treasury police with the object
12 of -- the objective to find whether there was any clandestine
13 cells, and I couldn't find any one.

14 Q. Who was the director of the treasury police before you?

15 A. The director of the treasury police was Colonel Moran,
16 Francisco Moran.

17 THE COURT: This is probably a good time to
18 take a break. We are kind of making a transition to a new
19 subject. Ladies and gentlemen, we will take that break,
20 we will come back at 15 after the hour, and we will get as
21 far as we can today. Thanks very much.

22 THE CLERK: All rise. This honorable court
23 stands in recess until 1:15.

24 (Recess taken at 12:20 until 1:15 p.m.)

25 THE COURT: All right. Have the witness come

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1 back around, and if everybody is ready, if they are, we
2 will bring the jury in.

3 (Jury in at 1:15 p.m.)

4 THE COURT: All right. You may be seated, and
5 counsel may proceed.
6 BY MR. FARGARSON:
7 Q. Mr. Carranza, we were speaking about your taking the
8 position as director of the --
9 THE COURT: Microphone.
10 BY MR. FARGARSON:
11 Q. I'm going to repeat the question. Mr. Carranza, we
12 were talking about your assuming the position of director of
13 the treasury police, okay?
14 A. Yes, sir.
15 Q. Now, did you take any action to change the condition of
16 the facilities of the treasury police or do anything to
17 improve the environment of the people that were incarcerated
18 there or kept there?
19 A. I did several things, sir. According -- I told you
20 that there was a commission investigative of one day after the
21 coup organized by the government, by the junta, and they made
22 a statement that they had found clandestine cells, and they
23 have ordered to be destroyed. As a matter of fact, taking the
24 junta into account, that statement, when I went over there,
25 after meeting the officers, I asked -- I went to make a round

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1 around the installations in order to find if there was
2 anything wrong in it. I didn't find anything.
3 Q. Well, you said you talked to the officers, what did you
4 talk to the officers about?

5 A. My -- I told them my purpose of work in the treasury
6 police and the order that I received from the minister, the
7 minister to try to improve the image of the treasury police.
8 After receiving that order, I was thinking I could do it, and
9 I tried to do my best.

10 Q. Well, what was the image of the treasury police when
11 you went down there?

12 A. It had one of the bad -- the worst reputations of the
13 security forces.

14 Q. Why?

15 A. They were supposed to have death squad equipment and to
16 be causing many tortures among the prisoners they had.

17 Q. Well, in talking to the officers, did you learn any
18 information from them about --

19 A. No, sir, I understood since the beginning that it was
20 very hard to find something that was wrong that they were
21 possibly doing. So I knew I had to wait some times in order
22 to find out what was happening. I began talking with them in
23 a meeting, persons who were close to the headquarters and
24 explain to them the reasons why I was sent to the treasury
25 police, and that way, they had to corroborate with me to get

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1 rid of those wrong practices if they were performing those and
2 to try to change the image of them, and that will end with the
3 better image for the treasury police. I only -- not only
4 visited this -- had a meeting with these people, but I visited

5 every detachment they had of the departments of the country,
6 and also the small attachment that were around the border,
7 giving them the same lesson, about the need to make a change
8 to the procedure in order to get better result in the feeling
9 of the people.

10 Q. Well, what about the facility itself, what did you do
11 about --

12 A. That was another part. I knew -- I had the opportunity
13 to see some of those detaining sleeping on the floor, the bare
14 floor, there was nothing. And I had the help of the gentleman
15 that you saw a couple of days ago, and they donated this
16 equipment for the jails so they could sleep in the comfort in
17 a bed with cushion trying to improve the condition of the
18 feeling they were having. Besides that, I organized a series
19 of talks from persons of the San Salvadoran lawyers, priests
20 to give them talks about human rights and also to give them
21 information, training about public relations. I also
22 established -- I mean not only establish, but try to give
23 priority to the classical duties of the treasury police, which
24 were, for example, to combat smuggling, and in relationship to
25 that, we were able to get rid of some people who were

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1 trafficking with people related then to the United States.
2 Also, at that time, there was a lack of main subsistence in
3 the country, there was lack of milk, there was lack of rice,
4 beans, corn, which are the main food that most of the people
5 in El Salvador consumed. I -- in that place, I confiscated

6 hundreds of packages of beans, corn, rice. We also had at
7 that time the donation of a large amount of powder milk from
8 the United States. When we confiscated some of this food, we
9 donated some of them to the centers, asylums in order for them
10 to have something decent to eat. What we could not sell -- I
11 mean give away that way, in that manner, we sold to the public
12 in the price that was established by IRA. IRA was the
13 Instituto Regulador De Abastecimientos, and they fixed the
14 price, so the people would not speculate, but what those stock
15 pile was doing was to hide the subsistence and then sell at a
16 higher price. This way, we were happy with the people. I
17 have some meeting with people around the treasury police, and
18 I offered them cooperation in trying to solve any problem they
19 could have in the neighborhood. That way, establishing not
20 only the procedure inside the treasury police, but also
21 relationship with people around the treasury police.

22 Q. You used you confiscated meat, corn, things of that
23 nature, what do you mean by that, who did you, quote,
24 confiscate it from?

25 A. Yes, we confiscated this from the stockpilers, those

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1 people who buy -- at that time, they bought large amounts of
2 any of these materials, and they hid them in order to look for
3 a higher price, they were speculating with the hunger of
4 people. That way, we were trying to limit their activities.

5 Q. Okay. Well, let's kind of move back to the jail, to

6 the treasury police jail. You say you looked around, did you
7 have people take you and show you around, how did you know
8 where to go and what to do?
9 A. I had the -- over there, we had two groups of officers.
10 One group, the officers of the army, and there were some also
11 officers of the police, the treasury police. The officers of
12 the army are related for the school, you work from the
13 directors -- the director, the third shift, some people of the
14 staff that were officers of the army. The officers, they were
15 promoted from the ranks of policemen to subinspectors,
16 inspectors, sometimes they were called commanders. There were
17 people that were promoted inside the treasury police, so we
18 have duty for them. As you may understand, it was hard for me
19 to go into some people that have been together after this time
20 that were three years, four years together, working together,
21 it was going to be hard for me to penetrate that group. So I
22 came to the second rank in command, subdirector, and I was
23 talking to him to let him show me the installation of the
24 treasury police. After this, I went around the place, I asked
25 him about clandestine cells, and he told me they were

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1 destroyed when the investigative commission reported there.

2 Q. When the what commission?

3 A. The investigative commission, the commission that was
4 organized by the Junta Revolucionaria, the first day that the
5 coup took place.

6 Q. Now, you said the second in command. When you said the

7 second in command, was that someone under you?
8 A. It was the subdirector, yes, sir.
9 Q. Well, who was that?
10 A. It was Colonel -- Lieutenant Colonel Carlos Carrillo
11 Schenkler.
12 Q. Is he the one that took you around to look at the
13 facility, to look at the jail cells?
14 A. Yes, sir, he was the one that took me around.
15 Q. And did he tell you or did you believe you had looked
16 at everything there?
17 A. I was looking around there, sir, everywhere.
18 Q. Okay. Well, now, you mentioned that you got some beds
19 because prisoners were sleeping on the floor. What else did
20 you do about the prisoners, the people that were there, rather
21 than the general public, what did you do about the people that
22 were there at the jail?
23 A. Well, that's the main thing I did. I usually went to
24 visit them to see how they were doing in order to prove myself
25 what was going on in the police.

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1 Q. Well, you mentioned that you got beds. There was
2 another gentleman that testified something about some paint.
3 What was done --
4 A. Oh, yes. When there are people in jail, they usually
5 find something to write, and they paint the walls. I had
6 opportunity at that time because they spontaneously gave me

7 the paint, and I had the opportunity to paint everything and
8 erase every dirty wall.

9 Q. Okay. What else did you do? I mean did the -- were
10 the prisoners fed, did they have food?

11 A. Yes, sir, of course. That was one of the main things,
12 we're going to make the food for the people, we had our
13 own system to acquire the food, and I tried to improve the
14 food.

15 Q. And what about the G-2 section or the intelligence
16 section, did you talk to any of them?

17 A. Well, I talked to all of them at the same time. I did
18 not have a specific talk with any one of them. Occasionally,
19 we have some special gathering, and I was trying to get close
20 to them to find something what is happening.

21 Q. Did you do anything about the subdirector that had
22 responsibility under you or did any other military aid or
23 troops to work there at the facility?

24 A. Well, not at this time. I was trying to get
25 information, and this to me, I thought I was doing fine, there

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1 were not any kind of torture or abuse to any of the personnel
2 that was in there.

3 Q. When did you first meet Daniel Alvarado?

4 A. I met him the day that we had to present him to the
5 press. The day we had to present him to the press because he
6 had confessed that he was the person to have killed Commander
7 Schaufelberger.

8 Q. Well, had you seen him before that news conference or
9 anything like that?
10 A. No, sir.
11 Q. Did you see him in any cell before that or on the
12 facility?
13 A. No, sir.
14 Q. Did you even know who he was on the date that he was
15 brought to the news conference?
16 A. Well, the person in charge, Carrillo told me about him,
17 that's the first time I knew.
18 Q. You said the person in charge, who was that?
19 A. The person behind me -- I mean under me was
20 subdirector, he told me that we were going to present these
21 men.
22 Q. Okay. And so would that be the first time at the news
23 conference that you saw him?
24 A. Yes, sir.
25 Q. All right. Now, after that news conference, did you

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1 see him again?
2 A. Yes, as a matter of fact, some times I went to see --
3 to visit the cells, and I saw him two or three times.
4 Q. What would you -- what would you do visiting the cells,
5 what would you be doing that for?
6 A. Just to visit to see how they were doing, how they were
7 treated.

8 Q. Okay. Was that the time you said what are you doing
9 here or something like that?
10 A. Yes, sir, I think so.
11 Q. You didn't recognize him at first from the news
12 conference?
13 A. Not at the very first moment. I think he was maybe
14 shaved or something like that, but then I saw carefully and I
15 saw him and I knew he was Daniel.
16 Q. Okay. Did you see him again because of some request of
17 the news person to talk to him?
18 A. Yes. Once there was a reporter that wanted to talk
19 with him, and I sent for him through the office, and I asked
20 him whether he wanted to be interviewed by the reporter.
21 Q. Did you threaten him in any way or tell him he had to
22 talk to the newspaper?
23 A. No, there is no need to threaten. I'm not the person
24 that had been the people have been trying to portray me as man
25 of bad sentiments. I asked him whether he wanted to be

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1 interviewed, and he said, well, if you want -- I said if you
2 want to be interviewed, and he accepted.
3 Q. All right. And then did you see him when he went to
4 the legal magistrate, the military judge, Montenegro or
5 whoever the gentleman's name was?
6 A. It was Colonel Montenegro, executor chief or something
7 like that that they call it. Montenegro asked to take him
8 out. The order was from the minister of defense. Of course,

9 I had to let him go.
10 Q. Okay. Well, was there a time when you found out that
11 he was not guilty of what he had been accused of?
12 A. Well, there was some news about that, saying that he
13 was not guilty, that he had been interviewed, there had been
14 some test in order to know, reality, whether he had killed
15 Commander Schaufelberger or not, and looks like the test that
16 they made --
17 Q. Did you talk to him? Did you talk to him again after
18 he talked with the military judge and had talked to the
19 officials from the United States?
20 A. Yes, I went to ask him.
21 Q. All right. Well, when you talked to him after that,
22 what did you talk about?
23 A. After the news about his --
24 Q. After the military judge had taken him to the
25 representatives of the United States and they had talked with

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1 Daniel Alvarado, when did you next talk to Daniel Alvarado, if
2 you did talk to him again?
3 A. I did talk to him, but I am trying to remember the date
4 exactly. It was after he came back and I heard the news that
5 he had been declared innocent. I --
6 Q. That's what I'm asking you, after that -- after that
7 occurred, did you have another conversation with him about
8 what had happened?

9 A. Yes, sir.
10 Q. Okay. That's what I'm asking you about, when was that?
11 A. I would say I was disappointed, I was disappointed --
12 not only with him, he had no reason, according to me, he
13 didn't have anything wrong at this time. I was angry at
14 myself for not having -- not having gotten the idea what was
15 happening to him, because he never told me that he had been
16 tortured, and he went out in the other part to tell them -- if
17 he had done the same thing that the gentlemen that was here
18 yesterday, Talavera, that he had been tortured, this history
19 could be on the way around, he could not have not suffered any
20 more, he could have been released after, of course, more
21 investigation should be done. And by this time, the persons
22 who torture him would have been punished long time ago.
23 Q. Well, was Daniel Alvarado in a different place than
24 where Julio Romero was -- Talavera, whichever name?
25 A. Yes, sir. When he was captured, Talavera was already

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1 in the other place. Talavera was in a different situation.
2 Q. At the treasury police, they were both --
3 A. Yes.
4 Q. They were both at different places?
5 A. Yes.
6 Q. Well, were they in the same building?
7 A. No, not the same building, he was in jail, the other
8 man was in Pavilion.
9 Q. In a what?

- 10 A. In an officer's room, bedroom.
- 11 Q. Okay. Well, was Daniel Alvarado released from the
12 treasury police and sent to another place?
- 13 A. Yes, sir. According to the rules, they had to be
14 prisoners for awhile. After they ended the investigation,
15 they should have been sent to the national penal, the penal,
16 the jail named Mariana or the place where it is located, jail
17 for every kind of criminals.
- 18 Q. And is that the same place where Julio Talavera was
19 also sent?
- 20 A. That's correct. It is the same place that he was sent
21 after being released from the treasury police.
- 22 Q. Let me ask you a few more questions. The subdirector
23 that was there when you became the director, what happened to
24 the subdirector?
- 25 A. I remember giving him instructions about to find out,

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DIRECT - NICOLAS CARRANZA

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- 1 give me an explanation what had happened with Daniel Alvarado.
2 After a certain time when he didn't say anything, he said he
3 couldn't give me anything, I asked for his release, transfer
4 to another place, and I had a new subdirector.
- 5 Q. Who did you get to take his place?
- 6 A. Yes, sir. It was the new subdirector.
- 7 Q. Well --
- 8 A. And I had with the minister the promise that we're
9 going to get rid of anyone of them who were going to be

10 suspicious in some case, and if they were guilty, they could
11 have been punished.

12 Q. Who was the new subdirector that took --

13 A. The new subdirector was Colonel Roberto Armando Rivera.

14 Q. And he replaced who?

15 A. He replaced Colonel Carlos Carrillo Schenkler.

16 Q. And he was the same one that was -- he was the same one
17 that was there when you took over the directorship?

18 A. Carrillo, yes, sir.

19 Q. Now, earlier there was some mention of the treasury
20 police image of having death squads. Have you ever in your
21 entire military career organized death squads or participated
22 in sending or ordering death squads to threaten anyone, harm
23 anyone or kill anyone?

24 A. No, sir. And it looks very strange to me that after
25 being in school all the time, either as a teacher or as a

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1 student, I was never accused of anything until the moment I
2 was designated vice-minister of defense, I suddenly appear
3 like bad man. Not the organizer of the death squad, a
4 member -- even member of the death squad. That was the system
5 of the communist propaganda to make -- ruin the reputation of
6 regular officers they didn't want to be in the command of the
7 unit.

8 Q. Well, were there claims that the military --
9 paramilitary made up death squads and claims that the
10 guerillas or communists had death squads, were there claims

11 both ways?
12 A. Well, yes, sir, I think there is something very odd in
13 this situation. There were people from the left killed and
14 there were people from the right killed, so there were two
15 parts fighting each other. Some newspapers say or persons say
16 that have to be military men because they didn't have any
17 problem making those killings, but the same thing happened
18 with the other part, so were we member of the leftist or
19 member of the right. There were killings everywhere,
20 something that we could not stop even if we wanted to, but the
21 killings happened, and we were not able, the army, to stop
22 this killing, so if there were death squads like they say for
23 one side, there were death squads from the other side, but the
24 communists never in this kind of organization never talk
25 about -- when they talk about death squads, they say the

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DIRECT - NICOLAS CARRANZA

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1 military men, they did it, they forget the crimes committed by
2 the leftists.
3 Q. Did some group claim publicly that they had
4 assassinated the military attache Albert Schaufelberger?
5 A. Yes, sir, the next or after next day, there was a claim
6 by the FPL, claiming the possibility for the killing of
7 Commander Schaufelberger.
8 Q. Was that some public claim either on the radio or news?
9 A. Yes, there was a public claim, and they said it is
10 because of the intervention of the North Americans in the

11 province of El Salvador.

12 Q. Now, there was some statement or some claim that the

13 military judge that came to the treasury police and took

14 Daniel Alvarado to the United States representative that that

15 judge was later killed, is that true or untrue?

16 A. Not true, Colonel Montenegro, I don't think -- I don't

17 know which judge they're referring, but Colonel Montenegro

18 was his military judge, he's alive.

19 Q. I mean is he the one that came to the treasury police?

20 A. It was.

21 Q. And took Daniel Alvarado to the house where the U. S.

22 representative was?

23 A. That was Colonel Montenegro, sir.

24 Q. He's still living today?

25 A. Yes, sir, he's alive.

♀

DIRECT - NICOLAS CARRANZA

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1 Q. When you were with the -- when you were the

2 undersecretary of the department of ministry, did the

3 department -- department of defense, excuse me, did the

4 department of defense receive numerous requests from the

5 mayors for military protection in the outlying areas?

6 A. Yes. By that time, by being in the ANTEL and in CEL, I

7 was the person in all of the county, and when I was

8 vice-minister of defense, I have the opportunity to see most

9 of the letters from the mayors of the small towns in the

10 entire country asking for detachment of the national -- I mean

11 from the treasury police or the national guard. They didn't

12 ask about national police because they were restricted to the
13 largest cities. While the treasury police and the national
14 guard had the small detachment that they could install in
15 different towns. Also, when I was in the treasury police, I
16 received many requests from those people that knew me to ask
17 for a detachment or a small group of treasury policemen to
18 give them protection.

19 Q. Let me ask you about any relationship you had with an
20 informant of the United States. It has been stated apparently
21 in newspapers that you had a relationship, that you were paid
22 by the CIA.

23 A. Yes, sir.

24 Q. Now, when was any type of relationship or informant
25 position entered into between you and representatives of the

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DIRECT - NICOLAS CARRANZA

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1 United States?

2 A. Could you say again, please?

3 Q. All right. I will try to. Let me simplify it. Did
4 you have some relationship as a person providing information
5 to representatives of the United States when you were in the
6 military of El Salvador?

7 A. Yes, sir.

8 Q. Now, when did that relationship begin?

9 A. I think it began about 1965, something like that.

10 Q. And was the relationship that you had or the contacts
11 that you made at the U. S. Embassy?

12 A. Not at the U. S. Embassy, it never went to the embassy,
13 but some place near, something like that.

14 Q. Well, there was some statement that you were paid
15 \$90,000 a year for that information or as a result of that
16 relationship, is that a true statement?

17 A. No, sir. That is completely false. I never had
18 \$90,000 in my whole life from them.

19 Q. Well, do you know whether the people that you talked to
20 were agents of the CIA, agents of the state department,
21 representatives of the military, who were the people?

22 A. No, I don't know, sir. They never identified
23 themselves as any specific branch of the U. S. organizations.
24 They just told me -- I knew that they were members of the
25 embassy, I had seen them many times in the gallery with the

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DIRECT - NICOLAS CARRANZA

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1 embassy who had invitation to the ambassador, attache, chief
2 of the military group, and I met a lot of Americans who were
3 employees of the embassy.

4 Q. Well, did you -- did they wear uniforms, the people
5 that you talked with and the people that gave you money?

6 A. No, sir. They weren't -- no, sir, they were only
7 civilians. At least, they were in civilian clothes.

8 Q. And how long did this relationship go on?

9 A. Sometimes it was up and down, sometimes I didn't see --
10 they quit for a couple of years and then began again looking
11 for me, and after -- the last time that I had in touch with
12 them was when I was president of ANTEL or general manager, I'm

13 not sure which one.

14 Q. Well -- and you said it started in the 60s, do you know
15 what you were doing in the 1960s when contact was made with
16 you or you were asked to -- if you would serve as an informant
17 or something like that?

18 A. No, we began speaking about different subjects, and
19 then after some relationship established, some kind of
20 friendly relations, they asked me if I could accept some
21 money.

22 Q. Okay.

23 A. And I did that mistake.

24 Q. Well, let me ask you about the money again. Were you
25 paid on a regular basis or just when you would give

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DIRECT - NICOLAS CARRANZA

1472

1 information or something like that?

2 A. Well, we had meetings, sir.

3 Q. Okay.

4 A. At least --

5 Q. Is the only time you were paid is when you would have
6 meetings?

7 A. Not every time. Once a month, maybe, something like
8 that, sometimes more.

9 Q. One more thing and maybe this is all. Did you know the
10 Military Attache Robert Bosch who was at the embassy, the
11 United States Embassy in El Salvador?

12 A. Yes, sir.

13 Q. And did he send some commendation to the military of El
14 Salvador at the time he left?

15 A. Yes, sir, he made a statement that was given to all of
16 the people who were in this party. There was a meeting, and I
17 think it was in the commander's command and general staff
18 school, there was a meeting, and they were being -- saying
19 fair well from El Salvador. After the ceremony, they
20 distributed this piece to all the presence in that party.

21 Q. Did you have any personal relationship with Robert
22 Bosch? By that, I mean was he anyone at the embassy that you
23 had any personal contact with about exchanging information or
24 anything?

25 A. Brian Bosch?

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DIRECT - NICOLAS CARRANZA

1473

1 Q. Excuse me?

2 A. You mean Brian Bosch, the Colonel Brian Bosch?

3 Q. Robert Bosch.

4 A. Brian.

5 Q. Let me make myself clear. Did you have a personal
6 relationship with him when he was at the embassy?

7 A. He was a military attache. As a military man, we
8 always have relationship with them.

9 Q. Okay. But was he one of the individuals that you would
10 give information to and get paid for?

11 A. No, no, sir, no, sir.

12 MR. FARGARSON: All right. Excuse me just a
13 moment.

14 Your Honor, would you excuse me?

15 THE COURT: Certainly.

16 MR. FARGARSON: That's all, Your Honor.

17 THE COURT: Cross examination?

18 CROSS EXAMINATION

19 BY MR. ESQUIVEL:

20 Q. Colonel Carranza, when you were a member of the
21 Salvadoran military, subordination and discipline were
22 important subjects, weren't they?

23 A. Yes, sir.

24 Q. You heard Professor Garcia that they were the backbone
25 of any military structure; would you agree with that?

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CROSS - NICOLAS CARRANZA

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1 A. Yes, sir.

2 Q. And subordination means that subordinates must follow
3 the legal orders of their commanders, is that right?

4 A. Yes, sir.

5 Q. And discipline means that commanders have to enforce
6 the orders that they give their subordinates, would you agree
7 with that?

8 A. Give their respect, yes.

9 Q. You would agree that discipline means commanders must
10 enforce all of the orders that they give their subordinates?

11 A. Discipline?

12 Q. That that is what discipline requires.

13 A. Say again, please.

14 Q. Yes. We're talking about subordination and discipline
15 which are the backbone of the military.

16 A. Yes, sir.

17 Q. And I'm asking you whether discipline means that
18 commanders must enforce the orders that are given to their
19 subordinates, is that what discipline means?

20 A. Discipline is the loyal observance of the laws and
21 regulations of the army.

22 Q. And isn't a commander under an obligation to enforce
23 the orders that he gives?

24 A. Yes.

25 Q. And this is what you were taught at the military

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CROSS - NICOLAS CARRANZA

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1 academy, is that correct?

2 A. Yes, sir.

3 Q. It was one of the main subjects at the military
4 academy?

5 A. Yes, one of the principles.

6 Q. In 1961, you became a platoon commander at the military
7 academy?

8 A. 1961.

9 Q. Is it 1961?

10 A. Yes, sir.

11 Q. And you taught the principles of subordination and
12 discipline to the cadets?

13 A. That's right.

14 Q. And a soldier in the military is not to complain about

- 15 an order that he is given, isn't that right?
- 16 A. Yes, unless he doesn't like the order, he can complain
- 17 later.
- 18 Q. He can complain later, but at the time he's given the
- 19 order, he is to comply?
- 20 A. Yes. If it is a legal order.
- 21 Q. If it is a legal order?
- 22 A. Yes, sir.
- 23 Q. The obligation of a member of the military is to comply
- 24 with that order?
- 25 A. Yes.

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CROSS - NICOLAS CARRANZA

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- 1 Q. Is that right?
- 2 A. Yes.
- 3 Q. So if a superior ordered his subordinates to stop
- 4 torturing civilians, that order would have to be obeyed,
- 5 correct?
- 6 A. Yes, sir.
- 7 Q. There could be no discussion about that order?
- 8 A. Yes.
- 9 Q. And if the subordinate disobeyed that order, the
- 10 obligation of the commander would be to discipline the
- 11 subordinate, isn't that right?
- 12 A. Yes, sir.
- 13 Q. And if a superior ordered his subordinates to stop
- 14 killing civilians, that order would have to be obeyed,

- 15 would n' t it?
- 16 A. Yes.
- 17 Q. There could be no discussion about that type of order?
- 18 A. No discussion.
- 19 Q. And if the subordinate disobeyed that order to stop
- 20 killing civilians, it would be the obligation of the commander
- 21 to discipline the subordinate, isn't that right?
- 22 A. Yes, it is so.
- 23 Q. Colonel Carranza, I want to ask you a little bit about
- 24 your career in the military. When you became a cadet company
- 25 platoon commander at the military academy, you taught courses

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CROSS - NICOLAS CARRANZA

1477

- 1 to the students, right?
- 2 A. Yes.
- 3 Q. And one of those courses was tactics and operations?
- 4 A. Yes, sir.
- 5 Q. And tactics and operations was your specialty in the
- 6 Salvadoran military?
- 7 A. That's so.
- 8 Q. And I believe you testified earlier about tactics and
- 9 operations, that consists of what units do to achieve the
- 10 mission they are assigned, is that right?
- 11 A. Yes, it is.
- 12 Q. And it has to do with the movement of troops from one
- 13 place to another?
- 14 A. Yes, among other things.
- 15 Q. Well, it also has to do with the number of troops that

- 16 are needed to complete a certain mission, is that right?
- 17 A. Yes, sir.
- 18 Q. And it also has to do with organizing the equipment
- 19 that's needed to carry out a mission?
- 20 A. Of course.
- 21 Q. And the supporting units or logistical support that's
- 22 needed for troops who are carrying out a mission, is that
- 23 right?
- 24 A. That's right.
- 25 Q. Am I leaving anything out about what tactics and

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CROSS - NICOLAS CARRANZA

1478

- 1 operations involves?
- 2 A. I don't think so.
- 3 Q. And that is your specialty in the Salvadoran military?
- 4 A. Yes, sir.
- 5 Q. In 1964, you were appointed to the faculty of the
- 6 School of Arms and Services, is that right?
- 7 A. Yes, sir.
- 8 Q. You want to check that?
- 9 A. Yes, sir.
- 10 Q. And at that school, you taught tactics and operations?
- 11 A. Yes.
- 12 Q. In 1969, you went to study at the General Staff School,
- 13 right, is that right?
- 14 A. Yes.
- 15 Q. You graduated first in your class?

- 16 A. Yes.
- 17 Q. And because you graduated first, you were awarded a
- 18 scholarship to study at the Superior War School in Mexico
- 19 City?
- 20 A. No, no, there is something that is not the truth. I
- 21 didn't graduate in El Salvador, I was talking the first year
- 22 when we were suspended because of the war with Honduras, and
- 23 then because I had the best place in the school of command, I
- 24 was sent to the scholarship to Mexico. I did not graduate in
- 25 El Salvador.

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CROSS - NICOLAS CARRANZA

1479

- 1 Q. I see. But eventually you were sent to the Superior
- 2 War School?
- 3 A. At that time, went to Mexico.
- 4 Q. And when you were there, you studied operations in
- 5 Mexico City?
- 6 A. Everything.
- 7 Q. You studied also coordinated operations among different
- 8 branches of armed forces?
- 9 A. Yes, sir.
- 10 Q. That was within your course of study. And then you
- 11 went back to El Salvador to the General Staff School, and you
- 12 received training to be a teacher?
- 13 A. Yes, sir.
- 14 Q. And the subject that you were trained to teach was
- 15 tactics and operations, is that right?
- 16 A. That was my specialty, yes, sir.

17 Q. Yes. And you actually taught tactics and operations at
18 the General Staff School?

19 A. That's correct.

20 Q. So in 1979, when you are appointed the vice-minister of
21 defense, your specialty, your training, your teaching, all of
22 your learning was in tactics and operations, is that right?

23 A. Yes, sir.

24 Q. Now, Colonel Carranza, you discussed your role in the
25 October 15, 1979 coup, but you were made aware of that coup

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CROSS - NICOLAS CARRANZA

1480

1 before it happened, weren't you?

2 A. Yes, sir.

3 Q. You were in La Union, which you said was one of the
4 most eastern most parts of the country, right?

5 A. Yes, sir.

6 Q. And your second in command came to you and told you
7 about his participation in the coup, is that right?

8 A. Yes.

9 Q. And you told him that you would protect him, did you
10 say that to him?

11 A. Yes, sir, I was his commander.

12 Q. You were his commander, and you said that at the time
13 of the coup, you would assume responsibility for the coup,
14 isn't that right, sir?

15 A. Yes, sir.

16 Q. And you offered to leave the country if the coup

- 17 failed?
- 18 A. That is correct.
- 19 Q. And on the day of the coup, Colonel Gutierrez called
- 20 you in La Union, is that right?
- 21 A. Yes, sir.
- 22 Q. And you told Colonel Gutierrez that you had taken
- 23 control of the unit and that the unit was with the coup, is
- 24 that right?
- 25 A. Yes, sir.

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CROSS - NICOLAS CARRANZA

1481

- 1 Q. Now, you have talked about on January the 13th, 1980,
- 2 which was about two months after you assumed the position of
- 3 vice-minister of defense, that some of the members of the
- 4 cabinet of El Salvador resigned?
- 5 A. Yes.
- 6 Q. But the truth is that all of the members of the cabinet
- 7 resigned on January 3rd, 1980, isn't that right?
- 8 A. Yes, possibly all of them resigned, but the people who
- 9 signed the resignation were only four or five.
- 10 Q. But on January 3rd, 1980, every member of the cabinet
- 11 in El Salvador resigned except for you and Minister of Defense
- 12 Garcia?
- 13 A. Yes, sir.
- 14 Q. And they wrote a letter describing the reasons for
- 15 their resignation, didn't they?
- 16 A. Yes, I think so.
- 17 Q. And in that letter, they complained about repression

18 and violence by the military, didn't they?

19 A. I guess so.

20 Q. Now, sir, when you were the vice-minister of defense in
21 El Salvador, you were aware of accusations of human rights
22 abuses by members of the Salvadoran military?

23 A. Yes, there were accusations.

24 Q. And you received these accusations, these allegations
25 from a variety of sources? You heard about them on the radio,

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CROSS - NICOLAS CARRANZA

1482

1 di dn' t you?

2 A. Yes.

3 Q. And you heard about allegations of human rights abuses
4 by the military on television, right?

5 A. Yeah, the opposition organization was always claiming
6 the same problem.

7 Q. The opposition organizations were always continuously
8 saying that the military was engaging in killing and torture,
9 isn't that right?

10 A. As was the popular organization was the FDL, who was
11 the bloodiest organization in the whole history of El Salvador
12 war during the '80s. They killed ambassadors, they killed
13 members of the functionaries of the government, like minister
14 of foreign relations, many, many, many important personalities
15 were kidnapped, sequestered, were killed by the FDL.

16 Q. And how many civilians were killed by the Salvadoran
17 military, sir?

18 A. I don't know. The communists say there was about 16,
19 17,000 people, but never said anything about the people,
20 when -- I mean how much, how many of these were killed by
21 them.

22 Q. Well, you listened to homilies or sermons of Oscar
23 Romero on the radio, didn't you, sir?

24 A. Yes, sir.

25 Q. And in those sermons, Arch Bishop Romero also made

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CROSS - NICOLAS CARRANZA

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1 reference and allegations about abuses committed by the
2 Salvadoran military?

3 A. Yes, sir, he was repeating that from the popular
4 organizations.

5 Q. Was Arch Bishop Romero a part of those communist
6 popular organizations that you were talking about?

7 A. I would not say so, sir, but he was member of the group
8 of priests that were representative of the theory of
9 liberation that was against -- that was against the particular
10 church, Catholic church.

11 Q. The Arch Bishop of San Salvador was against the regular
12 Catholic church, is that your testimony?

13 A. There was a division among the regular priests and the
14 priest who advocated the theory of the liberation.

15 Q. And because of the position that he took, Arch Bishop
16 Romero was murdered in March of 1980, wasn't he, sir?

17 A. It could have been for that reason.

18 Q. It could have been for that reason. Can you think of

19 any other reason why Arch Bishop Romero would have been
20 murdered?

21 A. I never make speculation about nothing.

22 Q. Well, you never did anything to investigate the murder
23 of Arch Bishop Romero, did you, sir?

24 A. My role was not to investigate. My role was to
25 recommend to the minister or the junta in the case, usually

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CROSS - NICOLAS CARRANZA

1484

1 the minister, to do what we had to do to investigate. And you
2 recently a few minutes ago, you had the proof sent by Mr.
3 White, the ex-ambassador to El Salvador.

4 Q. The proof you're talking about is the cable that
5 Mr. Fargarson read or that you read a part?

6 A. Yes, as proof.

7 Q. We will get to that cable in a minute, sir. So during
8 your time as vice-minister of defense, there were many
9 accusations from radio, from television, from Arch Bishop
10 Romero and others alleging human rights abuses, torture and
11 killing by the Salvadoran military, is that right?

12 A. Yes, sir.

13 Q. And you are familiar with the expression where there's
14 smoke, there's fire, aren't you familiar with that?

15 A. Yes, there was fire everywhere.

16 Q. Well, you agree with me that that expression is true,
17 don't you, sir?

18 A. Depends on what you're referring to.

19 Q. I'm referring to the fact that when so many accusations
20 are made, it is inevitable that some of them have to be true,
21 you would agree with that, wouldn't you, sir?

22 A. I stated in my position last time to you that if there
23 was so many mentions of this case, it must have been something
24 true -- it could have been something true.

25 Q. And that's what I'm saying.

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CROSS - NICOLAS CARRANZA

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1 A. That's what I'm saying in coincidence with your
2 assessment.

3 Q. You're agreeing with me --

4 A. I am agreeing with you.

5 Q. -- when there are a lot of accusations, as there were
6 against the Salvadoran military, some of them had to be true?

7 A. Yes, sir.

8 Q. And despite that knowledge, you never ordered an
9 investigation by your subordinates of any of these
10 allegations, isn't that right?

11 A. There was never a specific accusation against the
12 Salvadoran military people, it was just vile referring to
13 their men in civilian dress.

14 Q. Well, sir, you have seen in evidence in this trial, a
15 photograph of a pile of about 15 bodies in downtown San
16 Salvador, do you consider that to be a vague assertion or
17 accusation of violence by the military?

18 A. Was there any relationship -- I mean accusation about
19 military men or members of the guerilla?

20 Q. I'm asking you about allegations of the Salvadoran
21 military and human rights abuses that they committed, and I'm
22 asking you about whether there was more concrete evidence,
23 more concrete evidence of violence than just vague assertions
24 of violence?

25 A. Yes, but they are referring to violence. There was

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CROSS - NICOLAS CARRANZA

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1 violence everywhere in El Salvador.

2 Q. And you never investigated the Salvadoran military's
3 role in that violence, did you, sir?

4 A. Because they were not specific accusations against
5 anyone.

6 Q. Well, let's talk about some of the things that you
7 could have done. Written orders in El Salvador could be
8 conveyed and received the same day all over the country, isn't
9 that right?

10 A. Yes, most of the times.

11 Q. That's how the general orders that you referred to in
12 your testimony earlier were conveyed?

13 A. The movement that every month within brigade to
14 brigade, improve the conditions, promote the things, trying to
15 keep the armed forces in good shape.

16 Q. And those orders were communicated, they were sent out
17 in written form, and they were read the same day by the people
18 in those posts?

19 A. Yes, sir, that's correct.

20 Q. Okay. And when you were vice-minister of defense in El
21 Salvador, you had radios at your disposal, didn't you?
22 A. Yes, sir.
23 Q. And you could communicate orders by radio?
24 A. With certain commanders. We had different waves,
25 different methods of communications. We could not have

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CROSS - NICOLAS CARRANZA

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1 contact with every one because of the -- if we were trying to
2 talk to all the people in El Salvador who had radios in the
3 army, no one could ever hear. We had specific commanders.
4 Q. You had specific commanders, specific officers that you
5 conveyed orders to, is that right?
6 A. Yes, sir.
7 Q. And you could convey those orders by telephone as well,
8 couldn't you?
9 A. When they were in the important series, we could do
10 that. In El Salvador, we didn't have at that time cell
11 phones, so it was impossible to go that way to all of the
12 country.
13 Q. Well, we've talked in this trial before that El
14 Salvador is a very small country, isn't it?
15 A. Yes, sir, very mountainous, a lot of hills, a lot of
16 volcanoes, a lot of forest that, you know, I guess, you know,
17 there are problems for the communications with radio,
18 interfere with the radio.
19 Q. But if you wanted to go some place by car and you are
20 in San Salvador, you could be at any point in the country of

- 21 El Salvador within about three hours, is that right?
22 A. Yes, if the conditions are ideal.
23 Q. If the conditions are ideal, that's how small a country
24 it is?
25 A. Yes, sir.

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CROSS - NICOLAS CARRANZA

1488

- 1 Q. It is about one-fifth the size of Tennessee, do you
2 agree with that?
3 A. More or less, yes.
4 Q. And when you were vice-minister of defense in El
5 Salvador, you had helicopters at your disposal?
6 A. We had a couple. As a matter of fact, Mr. -- you heard
7 the testimony from Ambassador White that he went once with me
8 to the farther part of the country to see something. And the
9 reason for that was that he never considered that there was
10 guerillas in El Salvador, and we had to take him to prove that
11 he was lying, that he was -- that he was not telling the
12 truth, I took him into the place where we had been fighting
13 with guerillas.
14 Q. Sir, are you saying that Ambassador White never
15 recognized the presence of armed guerillas in El Salvador when
16 he was there until you took him in the helicopter?
17 A. Yes, sir, he was in certain way denying that the
18 guerilla was so important.
19 Q. So if the members of the jury read the cables that have
20 been admitted into evidence that were written by Ambassador

21 White, they won't find there any reference by Ambassador White
22 to armed guerillas on the left, is that what you're saying?
23 A. No. What I said is it is denied, the beginning, the
24 presence of armed people there are really guerillas in the
25 country.

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CROSS - NICOLAS CARRANZA

1489

1 Q. Now, Colonel Carranza, you have talked about the murder
2 of the six leaders of the FDR?
3 A. Yes.
4 Q. Which took place in November of 1980. Now, that
5 abduction took place in the middle of the day, didn't it, sir?
6 A. In the morning.
7 Q. In the morning?
8 A. I think in the morning, if I remember.
9 Q. And it took place in the middle of downtown San
10 Salvador, right?
11 A. Not downtown. It is in an area close to some
12 hospitals. It is not in downtown area.
13 Q. Is it an area that has hospitals, buildings?
14 A. Yes.
15 Q. There are people that are there during the day?
16 A. Yes, of course.
17 Q. And at the time, you knew that there must have been
18 eyewitnesses to that abduction? Didn't you know in November
19 of 1980 that there must have been witnesses?
20 A. Yes.
21 Q. To the FDR assassination. But you can't remember any

22 action that you took in response to the murder of the leaders
23 of the FDR?

24 A. I guess the minister order an investigation, that's why
25 the police, the national police went to try to make an

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1 investigation.

2 Q. Well, you guess that's what the minister did, but you
3 don't really know what happened or whether an investigation
4 was actually done?

5 A. I read in the newspaper that it was an investigation
6 per the police.

7 Q. You have referred to the cable that Mr. Fargarson
8 handed you in your testimony earlier, and I want you to go
9 back to that, please. This is Trial Exhibit 50. Do you have
10 that in front of you, sir?

11 A. I don't think so. Thank you.

12 Q. Let me ask you to look at the next to the last page of
13 this cable. And this is on --

14 A. You said next to the last?

15 Q. Let me read it to you. I had hoped to put it on the
16 screen, but we're not able to do that. The next to the last
17 page, these are Ambassador White's comments following the
18 meeting that you talked about. Do you see the sentence that
19 begins I emphasized?

20 A. Yes, sir.

21 Q. Ambassador White's comment was this: I emphasized to

22 all present that unbridled violence was responsible for the
23 plummeting international reputation of El Salvador and,
24 unfortunately, the widely held opinion that some members of
25 the security forces were involved was too often substantiated

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1 by convincing evidence reported here and abroad. I told the
2 group that I regretted having to state these hard truths, but
3 that it was essential that they control the security forces
4 and not allow subordinates to take the law into their own
5 hands. These lawless elements were a cancer that had to be
6 cut out or it would eventually destroy the military. Do you
7 recall Ambassador White making those comments, sir?

8 A. Do I call?

9 Q. Do you recall that he made those comments to you in
10 that meeting?

11 A. Yes.

12 Q. Yes. And this was your reaction, if you will look,
13 sir, on page four of that cable.

14 Nevertheless, Colonel Carranza said he viewed my
15 presentation of the United States position as an attempt by a
16 great power to impose its solution on El Salvador.

17 Sir, that is how you viewed Ambassador White's attempt
18 to bring to your attention concrete evidence of human rights
19 abuses, as the attempt of a great power to impose its
20 obligations on El Salvador, is that right?

21 MR. BROOKE: Objection, Your Honor, I don't
22 believe that's the fair context.

23 THE COURT: Well, it is cross examination, and
24 the witness may answer and/or explain.

25 A. No, sir. There were many subjects that we were

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1 treating over there with not only the killings of those
2 people. It maybe was the attitude he had in El Salvador. He
3 had a commanding attitude. He thought he was God. He was
4 named by everyone for his attitude, Mr. White was hated in El
5 Salvador, and that's why he -- they made the claims to the
6 president of the United States, and he was removed because of
7 his attitude.

8 BY MR. ESQUIVEL:

9 Q. Well, that's your opinion of Mr. White's removal, is
10 that right, sir, because everyone in El Salvador hated
11 Ambassador White, is that your testimony?

12 A. It's not -- I didn't say anything in my testimony. I
13 answered you about your question about this aspect.

14 Q. Well, let me ask you about this: You said earlier that
15 you were never presented any concrete evidence of human rights
16 abuses by the military. What about this evidence, what about
17 the United States ambassador telling you of convincing
18 evidence that security forces were involved in violence, is
19 that not concrete evidence or was it not concrete evidence
20 enough for you?

21 A. His writing, his message or that there was any proof?

22 Q. I'm sorry?

23 A. Was there any proof about?
24 Q. Well, the United States ambassador thought there was
25 proof, that's what he says in this cable.

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1 A. Did he give any proof to the minister or to the junta,
2 that's my question? I may not be allowed to make questions,
3 but my reaction about this accusation.

4 Q. Colonel Carranza, let me ask you to please look at, I
5 believe, what has been marked as Trial Exhibit 6.

6 MR. ESQUIVEL: Your Honor, may I approach?

7 THE COURT: You may.

8 A. Thank you.

9 BY MR. ESQUIVEL:

10 Q. Colonel Carranza, do you remember Ambassador White's
11 testimony about this particular cable?

12 A. This one?

13 Q. Yes. This is the cable that's entitled satisfaction of
14 many military officers with assassination of leaders of the
15 Revolutionary Democratic Front, FDR?

16 A. Yes, I remember this.

17 Q. And you recall his testimony that this is a cable that
18 was written by Colonel Brian Bosch, the military attache in El
19 Salvador, do you remember that, sir?

20 A. Yes.

21 Q. And earlier, you talked about Colonel Bosch, his role
22 in El Salvador was as military attache to understand the
23 Salvadoran military, wasn't it?

24 A. Yes, sir.

25 Q. And to understand the role of the Salvadoran military?

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1 A. That is what is said.

2 Q. Let's look at paragraph seven of Colonel Bosch's cable.
3 Most military officers were highly pleased with the
4 assassination of the six FDR leaders. These officers believed
5 that other leaders and members of the FDR should be eliminated
6 in a similar fashion wherever possible. These feelings were
7 expressed by several middle level army officers on 28
8 November, 1980, in the presence of Colonel Jose Garcia Marino,
9 minister of defense, and Nicolas Carranza, subminister of
10 defense, and both Garcia and Carranza indicated that they
11 supported this line of thinking.

12 Now, this cable is not consistent with your testimony,
13 is it, sir?

14 A. No, it's not consistent with my --

15 Q. With your testimony, sir, that you -- that you believed
16 an investigation ought to be done into the assassination of
17 the leaders of the FDR, this cable is not consistent with
18 that?

19 A. No, it's not consistent.

20 Q. And how do you explain that?

21 THE COURT: Let's talk about this at side bar.

22 Why don't you take a 10-minute bathroom break.

23 Good idea, absolutely.

24 carranza09.txt
(The following proceedings had at side-bar
25 bench.)

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1 THE COURT: I don't want to interrupt, but
2 there's just an element of unfairness in asking him to
3 read the minds of why it says what it says and why it is
4 different. How could he possibly know that? Maybe I'm
5 missing something. This is written by somebody else to
6 somebody else, he never saw it, never had an opportunity
7 to correct it or object to it. It is not a statement of
8 his, so you're asking him --

9 MR. ESQUIVEL: I'm asking him to explain a
10 contradiction in the evidence.

11 THE COURT: There is no contradiction, this is
12 somebody else's statement. If he made a contradictory
13 statement, that's one thing. It is like asking anybody --
14 you know, I'm not on anybody's side, but when something
15 appears to be blatantly unfair, I'm obligated to say
16 something about it. And there was no objection, so I --
17 I'm not going to do it in front of the jury. It just --

18 MR. ESQUIVEL: I understand.

19 THE COURT: You're asking him to explain why
20 somebody wrote something, and he didn't have anything to
21 do with the writing of it.

22 MR. ESQUIVEL: Well, he can reconcile the two
23 things. I was giving him an opportunity, but I understand
24 Your Honor's --

25 THE COURT: You're asking him to read

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1 somebody's mind, and we wouldn't ask anybody to do that.
2 So I don't -- I don't care who is on the stand and what
3 they have done in the past or anything else, being fair in
4 a United States court is very important, and we don't
5 change our rules, period, we just don't do it. And I
6 don't think I should do it. I just would feel like we
7 were not honoring the process that you're criticizing him
8 for not following, and I'm going to be sensitive of that,
9 and I know you understand that. You see what I'm talking
10 about?

11 MR. FARGARSON: There are two different times,
12 there are two different cables, there are two different
13 people writing them, and one of them is writing what
14 Carranza said at one time, and one of them is trying to
15 write something else --

16 THE COURT: Well, the second statement, though,
17 didn't say that Carranza said, it said that officers in
18 the -- now, if it says what Carranza said, you can say,
19 well, you know, were you there, did you make that
20 statement, and you know, did you -- you can ask about
21 that. But this was a question about --

22 MR. ESQUIVEL: I asked him if he agrees with
23 that line of thinking. He's adopting what the middle
24 level officers have said in this cable.

25 THE COURT: Let me make sure. It just doesn't

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1 have his name in here.

2 MS. BLUM: It has Carranza's name on the second
3 page.

4 THE COURT: The military officers stated
5 that -- right. Well --

6 MR. ESQUIVEL: On paragraph seven of the next
7 page.

8 THE COURT: Paragraph seven?

9 MR. ESQUIVEL: Yes. Let me read that. I don't
10 quite know though to deal with it. If it says his
11 statement, if you're quoting him, I don't have a problem
12 with it, because he can say did they misquote you, did
13 they get it wrong, I'm just worried about it. What do
14 y'all think?

15 MR. BROOKE: Well, Your Honor --

16 MR. FARGARSON: Well, that's kind of trying to
17 interpret his state of mind. This is one mind trying to
18 interpret his state of mind over something that was --

19 THE COURT: I think you can ask him did you
20 agree with it. I don't have any problem with that. I
21 mean obviously you did and you can ask him that. But if
22 he says, no, though, I don't think you can ask him what
23 the writer meant.

24 MR. FARGARSON: Then it would be argumentative
25 if he says no.

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1 THE COURT: It is an argument being made in the
2 form of a question, and I'm just --

3 MR. ESQUIVEL: I will move on, Your Honor.

4 MS. BLUM: Yeah.

5 THE COURT: Just be a little sensitive. I
6 think you can ask most of it, but I don't think you can
7 ask him to tell you why the writer wrote what he wrote.
8 Well, good time to take a break. Apparently, the jury
9 wanted a restroom break.

10 (Recess taken at 2:25 until 2:35 p.m.)

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

13 THE COURT: You may.

14 BY MR. ESQUIVEL:

15 Q. Colonel Carranza, I have handed you a photograph, does
16 this photograph accurately depict you at or around the time
17 that you were vice-minister of defense in El Salvador?

18 A. I think so, sir.

19 MR. ESQUIVEL: Your Honor, I move that this
20 photograph be admitted into evidence as Exhibit 51,
21 please.

22 THE COURT: So received.

23 (Exhibit Number 51 was marked. Description:
24 Photograph.)

25 BY MR. ESQUIVEL:

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- 1 Q. Colonel Carranza, we will show the jury that photograph
2 in a minute. As the vice-minister of defense, sir, you were a
3 member of the high command of the Salvadoran military, is that
4 right?
- 5 A. Yes, sir.
- 6 Q. And as I understand your testimony, though, you were a
7 member of the high command, you did not command anyone, is
8 that right?
- 9 A. Yes, sir, I did not have a command.
- 10 Q. According to your testimony, you had an advisory role,
11 is that right?
- 12 A. Yes.
- 13 Q. You are familiar with a document called the code of
14 military justice for El Salvador, is that right?
- 15 A. Well, not familiar, it is a long time that I seen
16 something like that, I'm not familiar at this time.
- 17 Q. Well, you know that El Salvador at the time you were in
18 the military had something called a code of military justice?
- 19 A. Yes, at that time, it was named the red code because of
20 the color of the cover.
- 21 Q. It had a red cover on it?
- 22 A. A red cover, yes, sir.
- 23 Q. And it provided penalties for a whole chain of
24 infractions by members of the military?
- 25 A. Yes, sir.

- 1 Q. Some of them so serious that it provided for the death
2 penalty, is that right?
- 3 A. Still provides only for the military people, it doesn't
4 provide that for any of the crimes committed by civilians.
- 5 Q. So this is a code that provides penalties and governs
6 the conduct of members of the Salvadoran military?
- 7 A. Yes, sir.
- 8 Q. But this was not a document that the Salvadoran
9 military used very much, was it?
- 10 A. Well, I couldn't affirm or negate that.
- 11 Q. I'm sorry?
- 12 A. I could not affirm what you're saying.
- 13 Q. Well, is this -- is it true, sir, that this is a
14 document that the Salvadoran military did not use very much?
15 Can you not answer that question?
- 16 A. I think that they use it depending upon the kind of
17 crimes.
- 18 Q. Well, Colonel Carranza, do you recall giving deposition
19 testimony in this case?
- 20 A. Yes, sir.
- 21 Q. Do you remember that about a year ago, we met and we
22 were in Mr. Fargarson's office?
- 23 A. Yes, sir.
- 24 Q. And you remember that a court reporter was there and
25 taking down every word that was said?

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1 A. Yes, sir.

2 Q. And you remember at that time you raised your hand and
3 you swore an oath to tell the truth?

4 A. I remember that, and I did not lie.

5 Q. All right. Well, let's look at your deposition
6 testimony, sir.

7 MR. ESQUIVEL: May I approach the witness, Your
8 Honor?

9 THE COURT: You may.

10 BY MR. ESQUIVEL:

11 Q. Sir, let me ask you to look at page 211 of your
12 deposition, and let me direct your attention to line 10 on
13 page 211 of your deposition, lines 10 through 19.

14 Question: In your experience in the Salvadoran
15 military, you don't recall any application of the military
16 code of justice?

17 Answer: Yes, sir.

18 Question: Okay. Why is that?

19 Answer: I can't say why because the fault here -- the
20 fact is I am not familiar because we don't -- we didn't use
21 this too much. I never remembered to have listened something
22 to this.

23 Did I read that correctly, sir?

24 A. Yes, sir, you have.

25 Q. So you cannot recall a single instance in which the

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1 code of military justice was applied to hold a soldier
2 accountable in El Salvador?

3 MR. BROOKE: Objection, Your Honor, I don't
4 think that was the context in which the question was
5 posed.

6 THE COURT: Well, the question can be asked and
7 an explanation.

8 A. I did not know at that time what you were asking for,
9 but I have raised some of the statements, some of this
10 information, some of these cables that you have sent, and I
11 can tell you some of the information that I gave speeches, and
12 I can tell you it's a lot of people who were punished from the
13 military units, from the national guard, from the treasury
14 police that demonstrate that they use that; otherwise, we have
15 not dismissed or put in jail those people.

16 Q. And this is something that you have remembered between
17 the time you gave your sworn testimony about 11 months ago and
18 today?

19 A. And reading some of the cables that you gave us.

20 Q. So, Colonel Carranza, yesterday -- well, do you believe
21 that the only faults committed by the Salvadoran military
22 while you were in -- while you were the vice-minister of
23 defense were minor faults?

24 A. Well, I don't think there was a report that I have
25 read, there's nothing about death penalties, so I think mostly

1 to the note that they were minor offenses.

2 Q. Well, let me ask you to answer my question more
3 directly. According to you, the only faults committed by the
4 Salvadoran military while you served in it were minor faults,
5 is that right?

6 A. I could not say that and I could not affirm because I
7 don't know why some of the people who are in jail, some of the
8 ones that were dismissed or discharged from the units.

9 Q. Sir, is there a reason why you don't want to answer
10 that question directly yes or no?

11 MR. BROOKE: Objection, Your Honor.

12 A. I am explaining to you, sir.

13 THE COURT: Well, let's go back and ask the
14 question.

15 BY MR. ESQUIVEL:

16 Q. All right. Let me try again, sir. According to you,
17 the only faults committed by the Salvadoran military while you
18 served in it were minor faults?

19 A. No, sir, because there were people in jail who could
20 not be minor faults, they were people discharged what would be
21 because of the minor faults. If you put someone in jail, it
22 is because something more than light.

23 Q. Sir, let me ask to you look at your deposition at pages
24 211 and 212. Do you see line 20 at page 211?

25 A. Yes, sir.

- 1 Q. Line 20 reads:
2 Question: Well, in your experience in the military,
3 was there ever someone who committed an act for which they
4 needed to be disciplined?
5 Answer: Yes, but they were minor faults.
6 Question: No one in the Salvadoran military in your
7 experience, ever committed a major fault for which the
8 application of the code of military justice would be proper?
9 Answer: I don't remember, sir.
10 Question: You can't remember a single instance of
11 that?
12 Answer: Really, I don't.
13 Did I read that correctly?
14 A. Yes, sir. Like I said, I didn't remember. The same
15 thing that I didn't recall, the same thing. And what
16 happened, when I read some of the things, I saw there were
17 people who were dismissed, discharged for minor faults and
18 people who were in jail. That is not minor fault, but I can
19 not read the note from here the quality or gravity of any
20 fault from either.
21 Q. Well, sir, yesterday, you presented the testimony of
22 Mr. Romero who was tortured in every single branch of the
23 Salvadoran security forces in 1981?
24 A. Yes, sir. It was time when I was in ANTEL.
25 Q. Well, you remember, sir -- but you do remember

- 1 Mr. Romero?
- 2 A. Yes, sir.
- 3 Q. You remembered him, right?
- 4 A. Yes, I remember him.
- 5 Q. And you remembered him a year ago when I was taking
6 your deposition, didn't you? Had you forgotten about Mr.
7 Romero?
- 8 A. I don't remember.
- 9 Q. It could be just within the last few months that you
10 remembered what happened to Mr. Romero in the custody of the
11 security forces?
- 12 A. No, sir, but I didn't know he had been tortured. I
13 knew yesterday when he was here.
- 14 Q. You found out for the first time yesterday when
15 Mr. Romero was on the stand that he had been tortured in every
16 single branch of the security forces?
- 17 A. I knew yesterday.
- 18 Q. When he came to you in 1983, when you became head of
19 the treasury police and said I need to be treated as a human
20 being, there must be respect for my rights, what did you think
21 he meant?
- 22 A. Like I said.
- 23 Q. You didn't know in 1983 that he had been tortured, is
24 that what you're saying?
- 25 A. Yes, sir, I didn't know he was tortured. I was

1 trying -- I was trying to absolve someone who was suffering,
2 and I took the suffering and give him the treatment that he
3 deserve like a human being.

4 Q. And you didn't ask him about torture?

5 A. No, sir. My intention was not asking whether he was
6 tortured. I might have been in the position to do, but I
7 didn't think about those kind of things. I only was thinking
8 about helping one human being to live a better -- to have a
9 better treatment while he was in prison.

10 Q. So earlier in your testimony, I thought you said that
11 Daniel Alvarado could have changed his story completely had he
12 only done what Mr. Romero did?

13 A. Yes, he could have told me that he had been tortured
14 and I could have -- I would have given him the same protection
15 to him and to his family, the same way that I did with
16 Mr. Romero.

17 Q. But Mr. Romero didn't tell you he had been tortured,
18 according to what you're saying?

19 A. No, sir, not in time. I knew yesterday.

20 Q. So the Salvadoran military did commit major faults in
21 1980 while you were the vice-minister of defense, is that
22 right?

23 A. We punish them for that, so I don't -- I cannot say
24 minor or great. I suppose there was some great because there
25 was someone in jail.

- 1 Q. Sir, you say we investigated and punish, you never
2 investigated or punished anyone in 1980 in the Salvadoran
3 military, is that true?
- 4 A. Yes, sir, but that was not my duty. My duty was to be
5 near the minister advising him about the progress we have.
6 Remember, there was a normal situation where we would have to
7 have a lot of meetings with a lot of people attending
8 demonstrations that came to the minister, something like that,
9 trying to control the people and so forth.
- 10 Q. Now, Mr. Romero was tortured by the Salvadoran security
11 forces beginning in January of 1981. When did you leave your
12 post as vice-minister of defense in El Salvador?
- 13 A. January 1st. Or January 3rd, 1981. I was not there
14 for that time.
- 15 Q. And on January the 2nd, 1981, you were the
16 vice-minister of defense in El Salvador?
- 17 A. One day. I don't know -- let me check, I have to be
18 sure about the date.
- 19 Q. Okay. Go ahead, sir.
- 20 A. So you can't blame me for one day.
- 21 Q. Go ahead.
- 22 A. The 3rd of January, '81, yes.
- 23 Q. I do have the picture, sir, so let me show the jurors
24 Exhibit 51. Is that a picture of you at or around the time
25 that you were the vice-minister of defense in El Salvador?

- 1 A. Yes, sir.
- 2 Q. Sir, the jury has seen this several times, but I would
3 like to put back up Article 186 of the code of military
4 justice. Well, I believe the jury can see on these monitors,
5 there seems to be a problem with the projector. Now, Colonel
6 Carranza, this is the provision of the code of military
7 justice that provides for discipline of officers, is that
8 right?
- 9 A. Yes, sir.
- 10 Q. And violations committed by officers are to be
11 disciplined by the three groups that are listed in one, two
12 and three, is that right?
- 13 A. Yes, sir.
- 14 Q. And you as the vice-minister of defense had the
15 authority under this provision to discipline violations by
16 officers?
- 17 A. Yes, sir.
- 18 Q. And in the second part of this provision, it provides
19 the authority to two people in the Salvadoran military to
20 terminate the employment of officers?
- 21 A. Yes, sir.
- 22 Q. And you had the authority as the vice-minister of
23 defense to terminate the employment of any officer in the
24 Salvadoran military?
- 25 A. Yes, sir, but I had to be authorized by the minister.

- 1 Q. Where does it say that, sir?
- 2 A. Insubordination, the same thing that you have brought
3 here from the Ordenanza Del Ejercito. The one underneath has
4 to respect the other one. I cannot do anything without
5 informing him or asking him authorization.
- 6 Q. Does this provision Article 186 say that?
- 7 A. You mentioned this as the fine book for the conduct of
8 the members of the army from the soldier to the maximum
9 authority.
- 10 Q. Sir, does Article 186 mention subordination?
- 11 A. It doesn't mention; it is understood, according to the
12 insubordination.
- 13 Q. It gives the authority for two different people,
14 doesn't it, sir, the minister of defense and the vice-minister
15 of defense?
- 16 A. Yes.
- 17 Q. That's what that provision provides?
- 18 A. The minister and undersecretary of defense. It doesn't
19 say the minister or undersecretary of defense. It is a
20 different thing.
- 21 Q. Now, Colonel Carranza, we've talked in this trial quite
22 a bit about the security forces, but there were also army,
23 navy and air force branches in the Salvadoran military?
- 24 A. Yes, sir.
- 25 Q. And as the vice-minister, you did exercise command

1 authority over those nonsecurity branches, didn't you?
2 A. Yes, as a matter of fact, I exercise control only the
3 unit, the army, the navy and the air force. I did not
4 exercise control in the security forces because they were
5 taken under the responsibility of the minister of defense.
6 Q. So in 1980, did you have command authority over the
7 members of the army?
8 A. When we have -- yes, I had -- I mean I was authorized,
9 when I was authorized by the minister.
10 Q. As the vice-minister, you had command authority over
11 the members of the army, right?
12 A. Let's say so.
13 Q. Okay. Let's say so. That means that you were in the
14 chain of command for the army units, is that right?
15 A. Yes, sir, under the minister.
16 Q. Now, sir, you're familiar with the killing of civilians
17 at the Sumpul River in May of 1980, you have heard of that?
18 A. I have heard some news about that, but there is some --
19 I'm not sure it was a massacre.
20 Q. Well, let's look at what the United Nations Truth
21 Commission says about the Rio Sumpul massacre. And this is
22 Exhibit 28, Trial Exhibit 28. These are the findings of the
23 UN Truth Commission for El Salvador about the attack on
24 civilians in May, 1980.
25 The first finding there is substantial evidence that on

1 13 and 14 May, 1980, troops from military detachment number
2 one and members of the national guard and of the paramilitary
3 Organizaci on Nacional Democrati ca (ORDEN) backed by the air
4 force massacred no less than 300 unarmed civilians on the
5 banks of the Sumpul River.

6 The second finding: The commission believes that the
7 Salvadoran military authorities were guilty of a coverup of
8 the incident. There is sufficient evidence that Colonel
9 Ricardo Augusto Pena Arbai za, commander of military detachment
10 number one in May, 1980 made no serious investigation of the
11 incident.

12 Now, sir, military detachment number one in 1980 was a
13 section within the army, wasn't it?

14 A. Yes, it was.

15 Q. And the air force was also a part of the chain of
16 command, wasn't it, sir?

17 A. Yes, sir.

18 Q. And in May of 1980, you had command authority over the
19 members of the air force and the army, did you not?

20 A. The junta or Colonel Gutierrez, Colonel Guillermo
21 Garcia, me and chief of staff, four people had the
22 responsibility.

23 Q. You all --

24 A. Who was the higher authority.

25 Q. You all had commander responsibility, didn't you?

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1 A. Yes, sir, all.

2 Q. And you were one of those who had command
3 responsibility for the army and the air force in May, 1980?
4 A. I did not have the only responsibility, there were four
5 people.
6 Q. Please answer my question. I'm asking about you. You
7 had command responsibility over the army and the air force in
8 May, 1980?
9 A. Yes, I had together with the other three people that I
10 mentioned to you.
11 Q. I think you have answered my question.
12 A. Thank you.
13 Q. Now, sir, in 1977, you were the general manager at
14 ANTEL, is that right?
15 A. What year?
16 Q. 1977.
17 A. Yes, sir.
18 Q. And in 1981, you became the president of ANTEL, right?
19 A. Yes, sir.
20 Q. And you have described ANTEL as a phone company like
21 Bell South?
22 A. Yes, sir.
23 Q. But ANTEL was led by active duty military officers,
24 isn't that right? In 1977, the president and you, the general
25 manager, were both military officers?

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1 A. Yes, sir.

- 2 Q. And you were assigned -- your duty was to work at this
3 telephone company?
- 4 A. Out of the military branch, out of the minister of
5 defense, I was in a special relation that gave me permission
6 to accept any public administration office. I was not in the
7 army at that time.
- 8 Q. You were no longer in the army when you served at
9 ANTEL?
- 10 A. No, I was in the army special unit, have no
11 relationship with the army, with the units.
- 12 Q. Well, you were still an active duty officer in the
13 army, you just didn't command a unit is what you're saying?
- 14 A. I was an officer outside in the public administration
15 duty, not in the army.
- 16 Q. I understand, but your assignment was to be at ANTEL?
- 17 A. To be at ANTEL, yes.
- 18 Q. Yes. And did you find that unusual that active duty
19 military officers would be assigned to head up the phone
20 company?
- 21 A. I had experience in ANTEL, former experience, and also
22 there was some -- the government did many of this situation,
23 putting competent officers in charge of a public
24 administration that were not related to the minister of
25 defense. There was some people who was president of INSAFI,

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CROSS - NICOLAS CARRANZA

1514

- 1 Instituto Salvadoreno De Fomento Industrial. It is company
2 like a bank who was giving support in order to develop the

3 industry in the country. There was another, in ANTEL, there
4 was some other places.
5 Q. Well, sir, you have compared ANTEL to BellSouth, but to
6 your knowledge, is BellSouth led by military officers who are
7 appointed by the U. S. Army?
8 A. They are private companies, they are not public
9 companies.
10 Q. And to your knowledge, are public telephone companies
11 usually governed in the United States by active duty military
12 officers?
13 A. Here?
14 Q. Yes.
15 A. I don't know. I have not planned to investigate, but
16 I'm sure I could find someone.
17 Q. Now, within ANTEL, there was a small group of
18 technicians, and their job was to tap telephones, is that
19 right?
20 A. Yes, the same thing that happens here in the United
21 States with the FBI.
22 Q. And their job was to record telephone conversations?
23 A. Yes, the same things that happens here, sir.
24 Q. And that group sent a daily report to the president of
25 the country?

♀

CROSS - NICOLAS CARRANZA

1515

1 A. Yes, sir.
2 Q. About the taps that they had on telephones?

- 3 A. That is all.
- 4 Q. And when you were president of ANTEL, you got a copy of
5 that daily report of telephone conversations, is that right?
- 6 A. Yes, sir.
- 7 Q. And some phones were tapped because people were members
8 of political parties, isn't that right?
- 9 A. Yes, the same thing happens everywhere.
- 10 Q. The same things happens in every country that they tap
11 the telephones of people who are members of political parties,
12 is that what you're saying?
- 13 A. No, some countries do that.
- 14 Q. Sir, you don't know under what legal authority ANTEL
15 taped conversations, do you?
- 16 A. No, it was just made as a rule, the president was
17 supposed to authorize it.
- 18 Q. But you don't know of any legal authority in El
19 Salvador to support that?
- 20 A. No, sir.
- 21 Q. Now, in 1983, you became the director of CEL, what you
22 have talked about, the rural electric group?
- 23 A. Yes, sir.
- 24 Q. And also in 1983, Minister Garcia stopped being
25 minister of defense, and Minister Vides Casanova became the

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CROSS - NICOLAS CARRANZA

1516

- 1 new minister of defense, is that right?
- 2 A. Yes, sir.
- 3 Q. And you and General Vides were classmates at the

4 military academy, is that right?
5 A. Yes, we were classmates. He's an excellent officer.
6 Q. And he gave you a choice of assignments in 1983, didn't
7 he?
8 A. Yes, sir.
9 Q. You could either be the inspector general of the army
10 or you could be the director of the treasury police, is that
11 right?
12 A. Yes, sir.
13 Q. And you chose the treasury police?
14 A. That is correct.
15 Q. And at that time, the director of the treasury police
16 was Colonel Francisco Moran?
17 A. Yes, sir.
18 Q. And you have already testified that under his
19 leadership, the treasury police earned a very bad reputation
20 for human rights abuses?
21 A. That is so. I heard about the news, and he was a
22 commander, there's no other way.
23 Q. And what the treasury police was accused of doing was
24 torturing prisoners, isn't that right?
25 A. Maybe abusing, that is why I was chosen to go over

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CROSS - NICOLAS CARRANZA

1517

1 there.
2 Q. And they were also accused of operating death squads
3 out of the treasury police?

- 4 A. I -- the accusation is not a fact. Accusations should
5 be based upon investigations.
- 6 Q. Yeah, someone should --
- 7 A. Someone say that somebody has death squads in their
8 conversation, that is accusation, is not a fact.
- 9 Q. Someone should have investigated whether death squads
10 were operating out of the treasury police, shouldn't they?
- 11 A. I guess so.
- 12 Q. Yes. And someone should have investigated whether
13 people were being tortured in the treasury police
14 headquarters?
- 15 A. I guess so.
- 16 Q. Now, when you replaced Colonel Moran at the treasury
17 police, he was sent to be the president of CEL, wasn't he?
- 18 A. Yes, sir.
- 19 Q. So you and Colonel Moran just switched positions, is
20 that right?
- 21 A. That's correct.
- 22 Q. You became the director of the treasury police, and
23 Colonel Moran became the president of CEL?
- 24 A. Yes, sir.
- 25 Q. Colonel Moran was not investigated for allegations of

♀

CROSS - NICOLAS CARRANZA

1518

- 1 torture, was he?
- 2 A. I don't know. It was not my role to find out. I was
3 not to at that time to ask the minister if he was doing
4 anything.

5 Q. Do you know whether Colonel Moran was investigated for
6 operating death squads out of the treasury police?

7 A. No, I don't know.

8 Q. Now, when you replaced Colonel Moran, do you remember,
9 sir, making comments to a newspaper when you took over as
10 director of the treasury police about Colonel Moran?

11 A. No, I'm not aware, I don't recall.

12 MR. BROOKE: May we see what you have?

13 MR. ESQUIVEL: Oh, sorry. I'm sorry, it is in
14 Spanish.

15 Your Honor, may I ask, because this is a
16 newspaper article in Spanish, I would like to ask Colonel
17 Carranza to read that portion which describes his comments
18 and ask the interpreter to translate it to English.

19 THE COURT: That's fine. Although the
20 interpreter can also consult the document.

21 MR. BROOKE: Your Honor, could the witness
22 interpret it? He's the one that supposedly made the
23 statements.

24 THE COURT: He's not certified as an
25 interpreter, so that would generally not be the best way

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CROSS - NICOLAS CARRANZA

1519

1 to do that. The certification requires that you meet a
2 standard and know all sorts of words, and it is -- it
3 would be hard for me or anybody else to interpret as well
4 as a trained and certified interpreter, so that's why we

5 usually have them perform that function. Don't let me
6 down, now. I'm kidding. They have been doing a great
7 job.

8 BY MR. ESQUIVEL:

9 Q. Colonel Carranza, would you please read the third
10 paragraph of this article describing your comments when you
11 took over as director of treasury police?

12 A. Yes. (Reading in Spanish.)

13 THE INTERPRETER: Colonel Carranza remarked
14 that he will continue the fight against crime respecting
15 human rights from all points of view according to what he
16 said.

17 Q. I want you to read the third paragraph, Colonel
18 Carranza.

19 A. (Reading in Spanish.)

20 THE INTERPRETER: The new officials said that
21 while he was at the director general of the treasury
22 police, Colonel Francisco Antonio Moran elevated the image
23 and status of that security call through real efforts. He
24 recognized that the fight against crime had been affected
25 by the treasury police, and he said that he would have to

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CROSS - NICOLAS CARRANZA

1520

1 follow in his predecessor's footsteps to further firm up
2 the work already begun.

3 Q. Thank you, sir. Now, when you got to the treasury
4 police, there was a small staff of officers that made up the
5 command structure, is that right?

6 A. Yes, sir.
7 Q. You had an officer in charge of personnel, right?
8 A. I guess it was one.
9 Q. An officer in charge of operations, right?
10 A. Yes, sir.
11 Q. And there was an officer in charge of logistics?
12 A. Yes.
13 Q. And there was an officer in charge of intelligence, is
14 that right?
15 A. Yes.
16 Q. And that officer was Major Ricardo Pozo?
17 A. Yes.
18 Q. And these officers reported directly to you, didn't
19 they?
20 A. No, they have the subdirector makes the function of
21 chief of staff where personal plana mayor -- could you help me
22 with plana mayor, please? Excuse me.
23 THE COURT: No, that is perfectly fine.
24 THE INTERPRETER: The interpreter requests
25 permission to confer with the witness on the use of the

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CROSS - NICOLAS CARRANZA

1521

1 expression to be sure.
2 THE COURT: Absolutely, that's fine.
3 (The interpreter conferred with the witness.)
4 THE INTERPRETER: The interpreter has consulted
5 with the witness, and the witness has explained the use of

6 the Spanish words plana, p-l-a-n-a and mayor, m-a-y-o-r, a
7 small group of officers who supported any particular
8 commander at a unit. This would be his -- the commander's
9 staff, assisting staff or general staff of the commander
10 of the unit.

11 A. That was the mission of the subdirector to receive the
12 control of the things. The subdirector was also commander of
13 the executive. Because he perform all the functions of the
14 unit, the director had the problem, but mostly in relationship
15 to the contact with the higher echelon, in this case the
16 minister of defense, and some public functions establish
17 priorities, making contact with the minister in order to get
18 some help with the budget, something like that. But the men
19 in control then was subdirector, in this case was Colonel
20 Carlos Carrillo Schenkler.

21 BY MR. ESQUIVEL:

22 Q. When you first arrived for the first month --

23 A. Yes.

24 Q. -- those officers that I described reported to the
25 subdirector, is that right?

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CROSS - NICOLAS CARRANZA

1522

1 A. Yes, sir.

2 Q. But then after the first month, you became the
3 immediate supervisor of those officers, didn't you?

4 A. Yes. I had to supervise this activity with the plana
5 mayor.

6 Q. So you were the supervisor of Ricardo Pozo and the
Page 141

7 other officers who comprise the command unit of the treasury
8 police?
9 A. The director is not the supervisor. He has the
10 direction of the units, not supervisor. The supervisor could
11 be in lower level.
12 Q. Well, sir, let me ask you to take a look at your
13 deposition testimony.
14 MR. ESQUIVEL: Your Honor, may I approach the
15 witness?
16 THE COURT: You may.
17 BY MR. ESQUIVEL:
18 Q. Let me ask you to look at page 367 of your deposition,
19 please.
20 MR. BROOKE: What page?
21 MR. ESQUIVEL: 367.
22 BY MR. ESQUIVEL:
23 Q. And look at line 12.
24 A. Yes, sir.
25 Q. Question: Did the head of each of these units, the

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CROSS - NICOLAS CARRANZA

1523

1 combat company, S1, S2, S3 and S4 and 14 report to you?
2 Answer: Yes, sir, and to the subdirector who at the
3 beginning they were handled by the subdirector because I
4 didn't know what they did, but the subdirector was handling
5 that from the beginning, and then I was knowing what they did.
6 Question: Okay. At what point would you say you got

7 up to speed and became their immediate supervisor?
8 Answer: Could be one month, yeah.
9 Did I read that direct correctly, sir?
10 A. Yes, that was a mistake by me thinking about the
11 supervisor when, in reality, I was the director, not
12 supervisor. It was a mistake on my part.
13 Q. That was a mistake, and in the 11 months since you gave
14 your sworn deposition testimony, you now testify that it was
15 the subdirector who they reported to and not you?
16 A. The director -- the subdirector, reported to me.
17 Q. Yes. But in your deposition, you said that those
18 officers, including Ricardo Pozo reported directly to you, you
19 said that, didn't you?
20 A. Yes, that was a mistake.
21 Q. And that was a mistake that you made while you
22 testified under oath, isn't that right, sir?
23 A. Yes, sir, a mistake, not made on purpose, that's a big
24 difference.
25 Q. Now, in the first month that you were at the treasury

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CROSS - NICOLAS CARRANZA

1524

1 police, you met once or twice a week with this staff of
2 officers, isn't that right?
3 A. Yes, sir.
4 Q. The purpose of those meetings was for you to give them
5 instructions, right?
6 A. Mr. Attorney, sometimes social gatherings.
7 Q. Sometimes you would socialize with those folks?

- 8 A. I wanted to have -- to know them before, so that's a
9 way to get in touch with them, with all of them.
- 10 Q. So you got to know Ricardo Pozo both professionally and
11 socially?
- 12 A. Yes, sir, in the treasury police.
- 13 Q. And the purpose of your meetings with them was also for
14 them to report to you what they were doing?
- 15 A. They did not report to me. If I needed something
16 special, I could call them, but they didn't have to report to
17 me daily. They have to do that through their subdirector, and
18 there was also third shift.
- 19 Q. All right, sir. Now, when you assumed command of the
20 treasury police, you have testified that you visited posts
21 around El Salvador, is that right?
- 22 A. Yes, sir.
- 23 Q. And you told the members of the treasury police that
24 they had to improve the image of the treasury police, right?
- 25 A. That's correct.

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CROSS - NICOLAS CARRANZA

1525

- 1 Q. And I think you talked about in your direct testimony
2 that you did some public relations work, is that right?
- 3 A. Process training.
- 4 Q. Training in order to portray a better image?
- 5 A. A better -- it is like you have better treatment,
6 better relations with the communities where they were
7 protecting.

- 8 Q. You wanted them to have better publicity than they had
9 before under Colonel Moran?
- 10 A. Publicity is one of the means to let the institution be
11 known by the people who are they are protecting. Up to now,
12 the publicity was wrong, everything was against the treasury
13 police. I had to let the people know what we were doing,
14 otherwise the propaganda would continue making us look bad,
15 and that is what I was trying to fix, to change in the minds
16 of the community.
- 17 Q. When you had these meetings with members of the
18 treasury police, you told them that if they were killing, they
19 should stop, right?
- 20 A. Yes, sir.
- 21 Q. And you told them if they were kidnapping people, they
22 should stop, right?
- 23 A. Yes, sir.
- 24 Q. Did anyone in the treasury police volunteer to you that
25 they were killing or torturing people?

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CROSS - NICOLAS CARRANZA

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- 1 A. I would not expect that, but I will know that they was
2 hearing that, and they will probably stop that. That was the
3 purpose of this kind of talkings that I have with them.
- 4 Q. So no one volunteered to you that they were torturing
5 or killing people, did they?
- 6 A. Of course not. Even the people who received the
7 torture didn't tell me.
- 8 Q. And other than talking to those people, you didn't do

9 anything to try to determine whether any members of the
10 treasury police were committing abuses, did you?

11 A. I ordered the subdirector to make a report to me in a
12 certain time.

13 Q. Sir, let me ask you to look at your deposition at page
14 395, line six. Do you see that?

15 A. Yes, sir.

16 Q. Question: Okay. Other than talk to them, did you do
17 anything to try to ascertain whether any of the members of the
18 treasury police were committing abuses?

19 Answer: No, sir.

20 Did I read that correctly?

21 A. Yes, sir, you read it correctly.

22 Q. Is that another mistake that you made in your
23 deposition?

24 A. I didn't recollect at that time that I had done -- what
25 happened later, I found out that I really did something to

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CROSS - NICOLAS CARRANZA

1527

1 stop it, or at least to try to find out what was happening.

2 Q. So in December of 2004, you hadn't remembered anything
3 that you had done to try to find out about human rights abuses
4 in the treasury police, is that right?

5 A. Yes, sir, at that time, I didn't recollect.

6 Q. But in November of 2005, you now recollect some things
7 that you did in the treasury police?

8 A. Yes, sir.

9 Q. Now, while you served as director of the treasury
10 police, no member of the treasury police was prosecuted under
11 military law for torture, were they?
12 A. I don't remember that, sir.
13 Q. You don't remember that ever happening? You don't
14 remember anyone being prosecuted for torture?
15 A. No, sir.
16 Q. And while you served as director of the treasury
17 police, no one in the treasury police was prosecuted under
18 military law for extrajudicial killing, were they?
19 A. No, because I didn't know anything about extrajudicial
20 killing by members of the treasury police.
21 Q. So the answer is no, no one was ever prosecuted for
22 extrajudicial killing?
23 A. I do not recall. I didn't say -- I never -- I said I
24 did not recall if there was anything investigated by that.
25 Q. To this day, you cannot recall any prosecution of

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CROSS - NICOLAS CARRANZA

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1 extrajudicial killing of members of the treasury police?
2 A. There may have been, but I don't recall.
3 Q. You're not aware of any.
4 While you served as director of the treasury police, no
5 one in the treasury police was referred to a civilian court
6 for torture, were they, sir?
7 A. I don't remember.
8 Q. And while you served as director of the treasury
9 police, no one was referred to a civilian court for

10 extrajudicial killing, were they?
11 A. I don't remember, sir.
12 Q. Now, sir, while you were director of the treasury
13 police, you never received any information that Daniel
14 Alvarado may have been tortured, is that your testimony?
15 A. I received that notice when he said so.
16 Q. Your testimony here today is that he, Daniel Alvarado,
17 gave you -- told you that he was tortured while you were
18 director of the treasury police?
19 A. He didn't tell me. He told to the persons of the FBI
20 and the marine -- U. S. Marine Corps that he had been
21 tortured. He never told me.
22 Q. Let me ask you to look at page 375 of your deposition,
23 sir. Please look at line 11. Do you have that?
24 A. Yes, sir.
25 Q. Lines 11 through 22.

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CROSS - NICOLAS CARRANZA

1529

1 Question: Okay. At any time when you were director of
2 the treasury police, did you receive information about that
3 Daniel Alvarado may have been tortured?

4 Answer: No, sir. It was new when I -- until I saw
5 recently a statement for the first time that I heard about
6 that.

7 Question: Okay. The first time that you had ever
8 heard that Daniel Alvarado may have been tortured by the
9 treasury police was in connection with this lawsuit?

10 Answer: Yes, sir.
11 Did I read that correctly, Colonel Carranza?
12 A. Yes, sir, you did.
13 Q. And is that another instance in which your deposition
14 testimony was wrong?
15 A. I don't remember whether this question was given when
16 Mr. Daniel Alvarado was John Doe and we didn't have his name.
17 I don't know if it was at that time.
18 Q. Sir, when I took your deposition in December of 2004,
19 you knew who Daniel Alvarado was, you had seen him face to
20 face a couple of weeks before, hadn't you?
21 A. I remember, yes.
22 Q. So when I took your deposition, you remembered Daniel
23 Alvarado, you knew who he was, and your testimony in your
24 deposition was that the first time you got notice of his
25 torture was in connection with this lawsuit in Memphis in the

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CROSS - NICOLAS CARRANZA

1530

1 year 2004, that was your testimony, wasn't it?
2 A. Yes, because when you asked me this, I had not had
3 opportunity to look for information. Later, looking through
4 the newspapers in El Salvador, I found out who he was, but it
5 was later that I remember about this. That's why I did not
6 remember that he had been tortured, that he had been in any
7 way -- in some way liberated of this accusation, because there
8 was some test -- they did some test from him.
9 Q. Colonel Carranza, did you have access to News Week
10 Magazine when you were the director of the treasury police

11 when you were in El Salvador?
12 A. No, sir. Over there, I didn't subscribe to any of the
13 American magazines.
14 Q. Colonel Carranza, I have handed you a photograph. Is
15 this a photograph of you holding a copy of News Week Magazine
16 while you were the director of the treasury police?
17 A. Yes, sir, that's a picture.
18 MR. ESQUIVEL: Your Honor, we move into
19 evidence as Exhibit 52 this photograph.
20 MR. BROOKE: 53, I believe.
21 MR. ESQUIVEL: I'm sorry, 53.
22 THE COURT: Joe, I have got it down as 52.
23 THE CLERK: I got 52.
24 THE COURT: I got 52 also. Let's go with what
25 we have got.

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CROSS - NICOLAS CARRANZA

1531

1 MR. BROOKE: I believe the newspaper article
2 regarding Moran --
3 THE COURT: Let's bring that number 52 up to
4 side bar so we can get it marked for sure.
5 (The following proceedings had at side-bar
6 bench.)
7 THE COURT: We didn't get it marked somehow.
8 Nobody handed one to me, so that is okay. That is
9 perfectly all right, but let's get it done.
10 THE CLERK: This is 52.

11 THE COURT: It is in Spanish. Are we going to
12 have an English language translation? We don't have to
13 have one, I just thought I would ask.

14 MR. BROOKE: I would like one.

15 THE COURT: Well, what we will do is if
16 everybody agrees on the translated text, then we will just
17 add that to it, behind it, is that okay?

18 MR. ESQUIVEL: That's fine.

19 MS. BLUM: That's absolutely fine.

20 THE COURT: Now, we have got 52. No problem.

21 MR. ESQUIVEL: Thank you.

22 (The following proceedings were had in open
23 court.)

24 THE COURT: 52, as you know, is in Spanish, and
25 what we talked about was we agree that we will add for you

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CROSS - NICOLAS CARRANZA

1532

1 an English language translation, so it has been marked as
2 an exhibit, and that's what we will do. So we will do
3 that probably on Monday.

4 All right. The next document is marked as
5 Exhibit 53.

6 (Exhibit Number 52 was marked. Description:
7 Article.)

8 (Exhibit Number 53 was marked. Description:
9 Photograph.)

10 BY MR. ESQUIVEL:

11 Q. Now, Colonel Carranza, you have testified that you did

12 not have access to News Week Magazine when you were director
13 of the treasury police. Is this a photograph of you holding a
14 copy of News Week Magazine while you were director of the
15 treasury police?

16 A. Yes, sir. When I said I didn't have access, I was
17 thinking about having a subscription to the magazine.

18 Q. But you did have access to it in El Salvador?

19 A. If you mean this as access.

20 Q. I mean that if you wanted a copy of News Week Magazine
21 in El Salvador, you obviously could get one, couldn't you?

22 A. Say again, please.

23 Q. If you wanted to see a copy of News Week Magazine when
24 you were the director of the treasury police, you could have
25 gotten a copy?

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CROSS - NICOLAS CARRANZA

1533

1 A. I could have got a copy, yes.

2 Q. Yes. And the November, 21st, 1983 edition of News
3 Weeks which has been entered into evidence as Exhibit 44 gave
4 the following information: In one specific case, U. S.
5 officials said, the United States has concluded that
6 Salvadoran treasury police, along with some leading members of
7 rightist death squads, spent five days last August torturing a
8 young engineering student into confessing that he had
9 assassinated U. S. Lieutenant Commander Albert Schaufelberger,
10 the first U. S. military casualty in El Salvador. U. S.
11 officials firmly believe that the student is correct -- that

12 the student is innocent.

13 Did you receive notice when you were in El Salvador
14 from News Week Magazine, Colonel Carranza, of the torture of
15 Daniel Alvarado?

16 A. If this News Weeks were after the report from the
17 Marines, I guess I did.

18 Q. So you knew in November of 1983 that Daniel Alvarado
19 had been tortured by members of the treasury police, is that
20 right?

21 A. If that is the date after the person -- I mean the
22 representative from FBI and the Marines made a copy of the --
23 of the investigation, that's okay.

24 Q. And yet as you testified earlier, while you were the
25 director of the treasury police, no one was prosecuted for

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CROSS - NICOLAS CARRANZA

1534

1 torture, were they?

2 A. No. That inform from the people was made on a test
3 that is not accepted in the United States tribunals for any
4 proof.

5 Q. I'm sorry, sir, I don't know what you're saying.

6 A. I will mention the name, the polygraph test is not
7 accepted by the U. S. tribunals in the United States.

8 Q. Okay. Now, in December of 1983, Vice-president Bush
9 visited El Salvador, didn't he?

10 A. Yes, he went to El Salvador.

11 Q. And you were personally in attendance at a meeting with
12 Vice-president Bush in December of 1983, weren't you?

13 A. I was in one of the meetings.

14 Q. And he was there in order to make the leaders of the
15 Salvadoran military stop abuses that were being committed by
16 Salvadoran soldiers? That was the purpose of his visit,
17 wasn't it?

18 A. Yes, I think so.

19 Q. And vice-president Bush told you and the other
20 Salvadoran leaders that El Salvador would lose military aid if
21 human rights violations continued, isn't that right?

22 A. Yes, sir.

23 Q. Now, you have already testified that before you became
24 director of the treasury police, there were accusations of
25 torture and other human rights abuses by the treasury police,

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CROSS - NICOLAS CARRANZA

1535

1 is that right?

2 A. Yes, sir.

3 Q. And while you were the director of the treasury police,
4 those accusations continued, didn't they?

5 A. I think so.

6 Q. And the reason it was important for you to attend the
7 meeting with Vice-president Bush in December, 1983 was because
8 at that time the members of the treasury police were still
9 being accused of human rights abuses, isn't that right?

10 A. Yes. They were accused of torture, abuses of humani ty
11 by members of the opposi ti on groups.

12 Q. These are the communists and leftists that you have

13 been talking about?

14 A. Yes, sir.

15 Q. Your replacement at the treasury police was a Colonel
16 Golcher, is that right?

17 A. Yes, sir.

18 Q. And when he took over the treasury police, one of the
19 first things he did was disband the S2 intelligence unit,
20 isn't that right?

21 A. That appears in the newspapers, but if you see the same
22 newspapers, one year later, it was happening the same
23 accusation, was it true or was it false.

24 Q. Well, it is true that Colonel Golcher disbanded the S2
25 unit, that's true, isn't it?

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CROSS - NICOLAS CARRANZA

1536

1 A. Yes.

2 Q. It is true?

3 A. I read the newspaper. I was not in El Salvador at the
4 time.

5 Q. You read that in the newspaper. And the S2 unit, you
6 have personal knowledge that the S2 unit was headed by Ricardo
7 Pozo while you were the director, isn't that right?

8 A. Yes, sir.

9 Q. You did not disband the S2 unit while you were the
10 director of the treasury police?

11 A. I did not disband them because that was going to be the
12 stop of any investigation that the treasury police was doing.

13 Q. The kind of investigation that led to the torture of

14 Daniel Alvarado, is that the kind of investigation that you're
15 talking about?

16 A. There was some reports about this time when I took the
17 command of the treasury police that I was asking, I think it
18 was Ambassador Pickering that we needed some technical
19 equipment in order to have the possibility to execute better
20 the investigation based upon hits and bumps, but a scientific
21 method to get the information, to persist the information. At
22 that time, the United States aid to El Salvador prohibited
23 specifically the support to the security forces. They had
24 even the aid only for the army, so we continue with the same
25 poor equipment that we had. That's the reason why it may be

♀

CROSS - NICOLAS CARRANZA

1537

1 they were doing this, trying to use force in order to obtain
2 information. It is -- like I said, he said that he got the
3 disband of the unit, but one year later, that position was
4 still going on. What happened? It was -- they were lies
5 about that? There were truth, who knows?

6 Q. Well, sir, the truth is that the treasury police was
7 thoroughly corrupt and filled with people who were torturing
8 and killing other people, isn't that right?

9 A. That is your point of view only, not mine.

10 Q. Sir, after you were removed from -- as the director of
11 the treasury police, you were assigned to be the military
12 attache from El Salvador to Germany, is that right?

13 A. Yes, sir.

14 Q. But you did not go to Germany, did you?
15 A. No, sir.
16 Q. The German people expressed their disapproval of your
17 being allowed into their country, is that right?
18 A. I will tell you some information about this, the
19 history, the propaganda. The propaganda has been spread all
20 over the world, it has been so large, so big that they knew
21 Carranza man, humble man like me, incapable of hitting anyone
22 or hurting anyone, that there was killing in El Salvador, and
23 there was the demonstration. Who made the demonstration? Do
24 you think the honest people of Germany could be doing that?
25 Was there communist propaganda and the communists all over the

♀

CROSS - NICOLAS CARRANZA

1538

1 world trying to make me look worse than I was. As a matter of
2 fact, there is an example that here in the Catholic church,
3 colleges, schools, there is a book about history referring to
4 El Salvador, they say that Farabundo Marti was a leader, was a
5 celebrity, an important person in the independence of El
6 Salvador, and that is complete lie. It is based upon the
7 communist propaganda that has enough money to pay many people.
8 Q. Well, sir, the truth is that in Germany, there were
9 demonstrations in the streets with people saying that you
10 should not be allowed to go to Germany, isn't that what
11 happened?
12 A. That is correct. I just explained to you.
13 Q. Now, sir, let's clear up something about death squads,
14 there has been a lot of talk about death squads in this trial.

15 Despite the fact that Mr. Mejia, Mr. Marroquin and Mr. Araujo
16 have not personally seen death squads, the fact is that
17 paramilitary groups known as death squads operated throughout
18 the Republic of El Salvador from at least 1979 to 1984, that
19 is correct, isn't it?

20 A. When you say paramilitary, are you including members of
21 the guerilla?

22 Q. When I say paramilitary, I'm talking about groups
23 affiliated with the Salvadoran military.

24 A. So you don't accept the thesis of paramilitary units of
25 the guerilla?

♀

CROSS - NICOLAS CARRANZA

1539

1 Q. Sir, if you would just please answer my question.

2 A. Say again, please.

3 Q. The question is, it is a fact, isn't it, that
4 paramilitary groups known as death squads operated throughout
5 the Republic of El Salvador from 1979 to 1984?

6 A. I cannot accept this, the concept that they were
7 members of the military army.

8 Q. But there were death squads that operated throughout El
9 Salvador in 1979 through 1984, that is true, isn't it?

10 A. Yes, sir, it's true.

11 Q. There is no question that there were death squads who
12 went out and committed assassinations throughout the country
13 of El Salvador during that time?

14 A. Yes, I explain a few minutes ago, that it was people

15 from the left, the people from the right killed in that way.

16 Q. Now, sir, you have described in your testimony the
17 information that you gave to the Central Intelligence Agency
18 during the time that you lived in El Salvador, you remember
19 that testimony?

20 A. Yes, sir.

21 Q. This went on over a period of several years, didn't it?

22 A. Yes, sir.

23 Q. And you received money in exchange for the information
24 you provided?

25 A. Yes, sir.

♀

CROSS - NICOLAS CARRANZA

1540

1 Q. And that money was given to you in cash?

2 A. Yes, sir.

3 Q. And your meetings would take place in hotels and in
4 restaurants?

5 A. Yes, sir.

6 Q. Now, your attorneys have suggested that this makes you
7 a trustworthy person, but you are not proud of serving as an
8 informant for the U. S. government, are you, sir?

9 A. No, sir.

10 Q. This is the only part of your military career that you
11 consider tarnished, isn't that right?

12 A. Yes, sir.

13 Q. In fact, it's the only part of your life that you
14 consider tarnished, isn't it?

15 A. That's correct.

16 Q. It is the only part of your military career, sir, that
17 you are ashamed of, isn't that right?
18 A. Yes, sir.
19 Q. Now, sir, you would agree with me that civilians should
20 be treated humanely in all circumstances by the military?
21 A. Absolutely.
22 Q. That is required by the Geneva Conventions, isn't it?
23 A. I prove it with my way of acting.
24 Q. It is required by the Geneva Conventions, isn't it,
25 sir?

†

CROSS - NICOLAS CARRANZA

1541

1 A. Not only by the Geneva Convention, but my convictions
2 as a human being.
3 Q. The military should not torture civilians, should they?
4 A. Excuse me?
5 Q. The military should not torture civilians, should they?
6 A. Of course, I agree with that.
7 Q. And the Salvadoran military should not have killed
8 civilians?
9 A. I'm agreeing absolutely.
10 Q. Now, you have made frequent mention, sir, of communists
11 and communist sympathizers and leftists, and I ask you, even if
12 a government is fighting communism, that does not justify
13 torture, does it?
14 A. Absolutely, sir.
15 Q. It does not justify it?

- 16 A. It never justify any wrongdoing.
- 17 Q. And even if someone is a communist sympathizer, that
- 18 does not justify torture, does it, sir?
- 19 A. Absolutely, sir. A human being must be respected.
- 20 Q. And even if someone is a leftist, that does not justify
- 21 killing that person, does it, sir?
- 22 A. Absolutely. On certain occasions when I simply arrive
- 23 at the command of the treasury police, there was a member from
- 24 the TV station from California KVTA, something like that, and
- 25 they asked me whether I had prefer to kill those people, and I

♀

CROSS - NICOLAS CARRANZA

1542

- 1 said no, I would rather have been jailed because it is
- 2 possible to get information from there, and a human being must
- 3 be respected.
- 4 Q. Now, sir, even if someone is an actual combatant, even
- 5 an armed guerilla, once that person is taken into custody, it
- 6 is not acceptable to torture that person, is it, sir?
- 7 A. I agree with you.
- 8 Q. Colonel Carranza, there is no justification for torture
- 9 or for murder, is there?
- 10 A. No, sir, absolutely not.
- 11 Q. Political beliefs, political sentiments, none of those
- 12 things make a difference, everyone should be free from torture
- 13 and murder, would you agree that?
- 14 A. Nothing is over the respect of the human being.
- 15 Q. Would you agree that there is no justification for the
- 16 murder of Erlinda Franco's husband?

17 A. My soul, my heart goes to these people who have
18 suffered so much, who has suffered the killing of their
19 relatives or their beloved parents, mother, brothers, and my
20 heart goes to them. I understand their feeling, I suffer with
21 them when I hear what happen. I put me in their place, and I
22 agree I should be in the same thing. What I should be, I will
23 be accusing the real person really responsible, not someone
24 who was in the middle of the way with nothing to do with their
25 death.

♀

CROSS - NICOLAS CARRANZA

1543

1 Q. Sir, there is no justification for what happened to
2 these plaintiffs, is there?
3 A. No, sir.
4 Q. And the men in the national police who took Cecilia
5 Santos into custody and tortured her, they should have been
6 put in jail, shouldn't they, sir?
7 A. Yes, of course.
8 Q. And the members of the national police who showed up at
9 Francisco Calderon's house and participated in an operation
10 where his father was shot in the head right next to his son,
11 those people should have been put in jail, shouldn't they,
12 sir?
13 A. He was the only person who had the possibility to do --
14 to obtain that result, having talked to his inlaw political
15 and tell him, what the minister was about. It was like this
16 lady who testified, Ms. Terry Karl, he was the most powerful

17 man in the army, he could have obtained something certain to
18 be sure that those men were going to be punished, but he
19 didn't do anything.

20 Q. Is it your testimony, sir, that it is Mr. Calderon's
21 fault that no one was investigated or punished for the murder
22 of his father, is that what you're telling the jury?

23 A. No, absolutely not. But he didn't put his grain of
24 sand in the hands of the minister, the history could be
25 different at this time.

†

CROSS - NICOLAS CARRANZA

1544

1 Q. You expected Mr. Calderon to go to the minister of
2 defense after he had just seen members of the national police
3 stand outside his house, break into his house and shoot his
4 father, you would have that man go to the minister of defense
5 and talk to him about that; that is what you are suggesting?

6 A. If it was a message from the minister like you were
7 going to interview him in his dispatch, in his office, and he
8 didn't go.

9 Q. Sir, there is no justification for what happened to
10 Daniel Alvarado, is there?

11 A. Absolutely not, sir.

12 Q. And the members of the treasury police who tortured
13 Daniel Alvarado should have been put in jail, shouldn't they,
14 sir?

15 A. After an investigation of the termination culpability,
16 if he really could prove that he was guilty, he should have
17 gone to jail, but the person I told to investigate him didn't

18 do anything. And after that, I couldn't do anything. And
19 after a little later there, I was dismissed from the treasury
20 police, I was not able to do anything further.

21 Q. No one from the treasury police was ever punished for
22 that act, were they, sir?

23 A. No, sir, there was the person with charge of that
24 investigation didn't do anything, so I had to get rid of him.

25 Q. And no one was ever put in jail for torturing Daniel

♀

CROSS - NICOLAS CARRANZA

1545

1 Alvarado?

2 A. No, sir.

3 MR. ESQUIVEL: Your Honor, may I have a moment,
4 please?

5 THE COURT: You may.

6 MR. ESQUIVEL: Your Honor, I don't have any
7 further questions.

8 THE COURT: Redirect?

9 REDIRECT EXAMINATION

10 BY MR. BROOKE:

11 Q. Colonel --

12 MR. ESQUIVEL: Your Honor, I believe it was
13 Mr. Fargarson's witness.

14 THE COURT: That is correct.

15 MR. BROOKE: Okay.

16 THE COURT: It is just the rule. But why don't
17 we take a very short break? We're not going to stay late

18 today, but we have sort of broke the breaks up. Give you
19 a 10-minute break to stretch your legs, then we will come
20 back and allow the conclusion of this matter.

21 THE CLERK: All rise. This honorable court
22 stands in recess for ten minutes.

23 (Recess taken at 3:55 until 4:08 p.m.)

24 THE COURT: We should have the witness come
25 back around and bring the jury in.

♀

REDIRECT - NICOLAS CARRANZA

1546

1 If counsel has a marked up copy with the
2 corrections and/or objections on those instructions, it
3 may be easier to hand in and let me read them.

4 MS. BLUM: You don't want to see my markup,
5 Your Honor? I will pull one of my colleague's copies.

6 THE COURT: Sure. Thank you.

7 (Jury in at 4:08 p.m.)

8 THE COURT: All right. You may be seated and
9 have the witness come back around. Or maybe we have
10 concluded the examination, I'm not sure.

11 Mr. Carranza, we will let you resume the stand.
12 I think they have some questions for you on redirect, is
13 that correct?

14 MR. FARGARSON: Yes.

15 THE COURT: Okay. We will let you come back
16 around, yes, sir.

17 BY MR. FARGARSON:

18 Q. You were asked by counsel if you read News Week

19 Magazine and I learned in News Week Magazine about the torture
20 of Daniel Alvarado, and that occurred in 1983. Can you look
21 up there and tell the date of the magazine that counsel showed
22 you? Or maybe you can look over there.
23 A. January 14, 1983 or '84, I'm not sure.
24 Q. And then can you tell what that thing is talking about,
25 can you read that?

♀

REDIRECT - NICOLAS CARRANZA

1547

1 A. The death squads.
2 Q. Do you know whether that magazine in your hand had
3 anything to do at all with Daniel Alvarado?
4 A. I don't remember, sir, I don't recall.
5 Q. Let me ask if this is a copy -- or these the two
6 volumes of the deposition that you gave that counsel has been
7 asking you about on a number occasions?
8 A. Yes, sir.
9 Q. Tell the court and jury how many pages that deposition
10 has in it.
11 A. Number of pages?
12 Q. Yes, the total number of pages in your deposition.
13 A. Volume number one has 265 pages. Volume number two, in
14 total, about 450 pages.
15 Q. And do you recall how long it was that you testified
16 and answered questions of Mr. Esquivel when you gave those
17 volumes of deposition?
18 A. It was several hours, yes.

- 19 Q. Was it over -- was it during two days?
20 A. Yes, sir.
21 Q. All right. Let me take a look at that. You were asked
22 about whether or not any Salvadoran members of the military
23 were either prosecuted for acts of killing or torture, do you
24 remember being asked that question?
25 A. Yes, sir.

♀

REDIRECT - NICOLAS CARRANZA

1548

- 1 Q. On page 213 to 214 of your deposition, were you asked
2 these questions and gave these answers:
3 It says:
4 Question: And that is correct, and so this provides
5 for 15 to 20 years of confinement for members of the military
6 who performed the kinds of abuses that we looked at earlier in
7 the international covenants and treaties?
8 And you said:
9 Yes, sir.
10 Question: You would agree with that?
11 Answer: Yes, sir.
12 Question: Including torture of any kind of violence,
13 killing against combatants?
14 Answer: That's correct.
15 Question: Okay. And in your experience, you can't
16 recall a single incidence in which a member of the Salvadoran
17 military was held to account under Article 68 of the code of
18 military justice?
19 Answer: Well, now that you say it, I was thinking

20 about military faults, I remember during this period of
21 violence not only when I was vice-minister of defense, but
22 there's some other cases, and some people were. Some military
23 men were investigated for these cases.

24 Question: Okay. Do you remember who it was that was
25 investigated?

♀

REDIRECT - NICOLAS CARRANZA

1549

1 Answer: I was reading lately some of the things, and
2 there was an investigation about Colonel Araujo, Gonzales
3 Araujo, Elmer Gonzales Araujo, he was investigated. It looks
4 like in that case they judge him, and he -- I don't remember
5 whether he was acquitted or convicted, but there is another
6 captain or lieutenant, I don't remember the name, who was --
7 he was convicted, and he was in jail, in the military
8 garrison, something like that. There was some cases, but I
9 don't remember the name --

10 THE COURT: Excuse me, I think the jury is
11 having some trouble understanding. Well, Mr. Ruby says
12 you need to slow down. I think it probably was a little
13 fast. I know you're in a hurry, but I think --

14 MR. FARGARSON: I'm not in that big a hurry, I
15 mean --

16 THE COURT: They don't want you to slow down
17 that much. I'm kidding, but --

18 MR. FARGARSON: You want me to use my
19 regular --

20 THE COURT: Regular pace.
21 MR. FARGARSON: Pardon me.
22 THE COURT: It was a little fast, and that's a
23 good thing to have told us too because if it is faster
24 than you can follow, there is not any point in doing it.
25 MR. FARGARSON: I'm sorry, Your Honor,

†

REDIRECT - NICOLAS CARRANZA

1550

1 sometimes I read faster than I talk.
2 THE COURT: No problem.
3 MR. FARGARSON: Can I back up one paragraph?
4 THE COURT: Absolutely.
5 BY MR. FARGARSON:
6 Q. It looks like in that case, they judge him and he -- I
7 don't remember whether he was acquitted or convicted, but
8 there was another captain or lieutenant, I don't remember the
9 name who was -- he was convicted, and he was in jail in the
10 military garrison, something like that. There was some cases,
11 but I don't remember the names, when they were investigated,
12 and they went to jail, some of them.
13 Question: Aside from those two incidents that you told
14 me about, can you think of any other specific cases that you
15 remember?
16 Answer: No, sir.
17 Were those questions that you were asked by
18 Mr. Esquivel and answers that you gave?
19 A. Excuse me?
20 Q. Were those the questions that were asked and were those

21 the answers that you gave?

22 A. Yes, sir. When he was asking me, I thought he was
23 asking about specific form of the treasury police, not of the
24 army when I was vice-minister of defense. As a matter of
25 fact, there was several cases of units of the army who were

♀

REDIRECT - NICOLAS CARRANZA

1551

1 subjected to the accusations, and I have seen some of they
2 were convicted. It was the case where they had a problem with
3 violation of human rights in the presence of a farm close to
4 they call it Los Rojos, which is a shore near the western part
5 of the country, and also there was some others, but I don't
6 recall them.

7 Q. Did you give any orders as the undersecretary of
8 defense that were simply your orders and not issued by General
9 Garcia?

10 A. No, sir. Everything was ordered by the minister who
11 has the command.

12 Q. When you were undersecretary of defense, subsecretary
13 of defense, were you told and given charge of tactics and
14 operations of all the military units in the El Salvadoran army
15 and other units?

16 A. No, sir, we were totally completely busy handling the
17 political province in the capitol. The only time I went to --
18 farther from El Salvador is when I went to visit Ambassador
19 White to the eastern part of the country to see the place
20 where the guerrillas have 45, and they were having a strong

21 hold.

22 Q. Did you ever on your own and without authorization of
23 General Garcia make any written orders to any military units
24 or officer?

25 A. No, sir, the only thing he delegate to me were the

♀

REDIRECT - NICOLAS CARRANZA

1552

1 answers to the mayors the towns who were asking for the
2 installation of detachment of the treasury police and the
3 national guard. I answered them in the name of the minister.

4

5 Q. What was the population of El Salvador -- I mean of San
6 Salvador in 1983?

7 A. It was about one million, but I cannot say the capital
8 because it was a metropolitan area, which, like Memphis, has a
9 lot of small towns around the city, so we had its metropolitan
10 area, San Salvador, which included those small towns.

11 Q. Under Article 186 which we have discussed and the jury
12 has seen on numerous times, who is supposed to conduct the
13 investigation of infractions and who is supposed to perform
14 the prosecution, if you can tell the court and jury that?

15 A. Well, it doesn't say anything, it says just authorize
16 level persons to punish those faults or crimes. The minister
17 answer undersecretary, the commander -- general, and the
18 commander of specific unit in lower levels.

19 Q. Well, my question is in the military code or in the way
20 that the military conducts itself, who is responsible for the
21 investigation and who is responsible for the prosecution of

22 the individuals who commit the infractions, the violations or
23 the acts that are being -- that have been investigated?

24 A. Yes, the army is part of the -- you could say the
25 legislative power and the executive power. The investigation

†

REDIRECT - NICOLAS CARRANZA

1553

1 has to be from justice -- Justice Supreme Court, and the laws
2 has to be enacted like here in the United States by the
3 Congress. As a matter of fact, the gentleman who was here is
4 a member of Congress, member of one of the parties, political
5 parties in El Salvador. So all that are charged the duty or
6 responsibility for enacting the laws was the legislative power
7 for enacting the laws, making the prosecution investigation
8 was the Supreme Courts of justice, and the army was controlled
9 by -- directly by the president of the republic. In this
10 case, we had a junta sometimes.

11 Q. Were any specific officers brought to you when you were
12 undersecretary of defense and accused of being members of
13 death squads or authorizing death squads to assassinate or
14 kill citizens or even any member of the Salvadoran population?

15 A. No, sir, that's what I said, that there was no specific
16 accusation. There was rumor accusations simply, but there was
17 not one specific mention to integrate or to confirm the
18 killing in the form of death squads.

19 Q. Now, when the lawsuit was filed against you and your
20 deposition was taken, was Daniel Alvarado described as a John
21 Doe?

- 22 A. A John Doe, sir. No identity.
- 23 Q. And is that the reason you had some confusion about who
- 24 John Doe was and who Daniel Alvarado was?
- 25 A. That is correct, sir.

♀

REDIRECT - NICOLAS CARRANZA

1554

1 THE COURT: I need to give some explanation to

2 the jury so it is not unclear, and it is a point that is

3 appropriately brought up. When the case was initially

4 filed, Mr. Alvarado's name did not appear in the case. It

5 was filed as a John Doe case, as a person whose name was

6 not disclosed, but who was making a claim. Therefore, it

7 would not be initially possible to tell who was bringing

8 that claim, and I need to tell you that so that there will

9 not be confusion about that. There is nothing irregular

10 or improper about it, it is something that can be allowed

11 under some circumstances, and that's how it was initially

12 proceeded. Ultimately, of course, it was changed and the

13 names were listed in the case, but that was some

14 considerable time later.

15 MR. ESQUIVEL: Your Honor, may we approach at

16 sidebar on this issue, because I think we need some

17 clarification about the John Doe issue?

18 THE COURT: Well, the other thing is that --

19 well, we can, we can talk about it briefly. It may be

20 important when that change occurred, and that's what we're

21 going to talk about. They will give me the date, and I

22 can tell you when the change occurred.

23 (The following proceedings had at side-bar
24 bench.)
25 THE COURT: It may be that the change was

♀

REDIRECT - NICOLAS CARRANZA

1555

1 before the deposition, I just don't know.
2 MR. ESQUIVEL: What it was, Your Honor, he was
3 a John Doe, but in discovery, in response to their
4 discovery responses, we submitted the name of Daniel
5 Alvarado in March of --
6 THE COURT: I thought that they weren't allowed
7 to disclose it --
8 MR. BROOKE: Right.
9 THE COURT: -- at that point in time.
10 MR. ESQUIVEL: But they could disclose it to
11 their client, Colonel Carranza.
12 THE COURT: I don't know that.
13 MR. EISENBRANDT: Your Honor, it
14 specifically --
15 THE COURT: The question is did they do that.
16 Let's just ask -- you don't have to, and sometimes people
17 don't do that. Was that disclosed earlier?
18 MR. FARGARSON: I just think he -- you know,
19 gosh, he's 73 years old.
20 THE COURT: Well, how old are you?
21 MR. FARGARSON: Well, excuse me. I'm older
22 than he is. He is 72, and I am 73.

23 THE COURT: That is what I was going to say.
24 MR. BROOKE: I wasn't there, so I don't know
25 either way.

†

REDIRECT - NICOLAS CARRANZA

1556

1 MR. ESQUIVEL: There is one more thing, Your
2 Honor, is that the plaintiffs' depositions were taken the
3 week before the defendant's deposition, so at least a week
4 before --

5 THE COURT: I think that was the point was that
6 his name was disclosed prior to the deposition.

7 MR. ESQUIVEL: He sat in the same room.

8 MR. EISENBRANDT: His name was used in the
9 deposition. They sat across the table.

10 MR. ESQUIVEL: Colonel Carranza was at
11 Mr. Alvarado's deposition.

12 THE COURT: Why was there language in the
13 deposition he was still referred to as a John Doe?

14 MR. ESQUIVEL: In the deposition itself, there
15 was no --

16 MR. EISENBRANDT: Your Honor has names on the
17 deposition.

18 THE COURT: No, no, in the questioning. In the
19 question. I don't know.

20 MR. ESQUIVEL: In the questioning, I refer to
21 Mr. Alvarado by name. Throughout Mr. Carranza's
22 deposition, if you look at the deposition, you will see
23 that I referred to him as Daniel Alvarado.

24 THE COURT: I just need Mr. Fargarson to clear
25 up that question he just asked so we will get it all in

♀

REDIRECT - NICOLAS CARRANZA

1557

1 the right -- because that was one -- maybe I missed the
2 response. You read the thing about the John Doe?

3 MR. FARGARSON: I did, I stated was it the John
4 Doe. Now, I can -- I mean --

5 THE COURT: That's what I wanted to clear up.

6 MR. FARGARSON: I don't think they get another
7 opportunity to examine him, I can say you were at the
8 deposition that I took of Daniel Alvarado, and you did see
9 him at the deposition.

10 THE COURT: Okay, that will clear it up.

11 MR. ESQUIVEL: And that it was the week before
12 his deposition. I mean when he gave his deposition
13 testimony, he knew who Daniel Alvarado was. He was not a
14 John Doe, and I believe that's the confusion.

15 THE COURT: May I see the -- what was read? I
16 thought there was a question about a John Doe.

17 MR. FARGARSON: That's all I said.

18 MR. EISENBRANDT: We have the deposition
19 transcript, if you would like.

20 MR. FARGARSON: All I said was, was the -- did
21 I say it was a lawsuit filed with him as a John Doe, and I
22 believe that's all I said. And then I said was that the
23 reason for confusion in your mind, and he said yes.

24 THE COURT: And he said yes, and that's why I
25 was confused, because that wouldn't follow. Okay. I knew

♀

REDIRECT - NICOLAS CARRANZA

1558

1 something had to be wrong somewhere.

2 MS. BLUM: Yeah.

3 THE COURT: Okay.

4 MR. EISENBRANDT: That's Mr. Alvarado's
5 deposition there, and his name.

6 THE COURT: Yeah, it is.

7 MR. BROOKE: Well, that's Alvarado's
8 deposition.

9 MR. EISENBRANDT: And then we they Colonel
10 Carranza's is back here, Your Honor.

11 THE COURT: And that is where you were going to
12 show me that you used consistently Alvarado's name?

13 MR. ESQUIVEL: Yes, sir. I can find it.

14 MS. BLUM: What was the --

15 THE COURT: But I think we have cleared it up
16 now, which was that that is a confused response by the
17 witness more than likely.

18 MR. BROOKE: Sure.

19 MR. FARGARSON: That's all it is.

20 THE COURT: Well, I can't -- I'm always on the
21 generous side on that question, but I mean it probably is,
22 because counsel did -- the way the question was asked was
23 a little confusing.

24 MR. ESQUIVEL: My only concern is that the
Page 177

25 jurors have now been told and are under the impression

♀

REDIRECT - NICOLAS CARRANZA

1559

1 that at the time --

2 THE COURT: I will fix it.

3 MR. ESQUIVEL: Okay.

4 THE COURT: Yeah, I understand that. But
5 the -- what I'm going to say is that the question is
6 withdrawn and that, in fact, at the time all of the
7 depositions were taken, the names were known.

8 MR. EISENBRANDT: That's fine.

9 MR. FARGARSON: That's fine.

10 MR. EISENBRANDT: Thank you, sir.

11 MS. BLUM: That's fine.

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

14 THE COURT: I think I explained more to you
15 than you needed to know. The question is withdrawn, and
16 everybody agrees that at the time of the depositions, the
17 names were already known by that time, so people were not
18 referred to as a John Doe at the time of the depositions,
19 because initially it started out -- at one point it did
20 change, we were checking the timing to make sure that was
21 correct. So we're going to withdraw the response because
22 I think it was confusing to both the witness and the
23 court, and we will withdraw the question and response
24 regarding the John Doe.

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1 THE COURT: So if you wrote something down
2 about it, you can strike that through, and we have got it
3 all straightened out. Sorry. All that writing for
4 nothing.

5 BY MR. FARGARSON:

6 Q. Mr. Carranza, you were asked about embarrassment over
7 the fact that you had been an informant to the U. S.
8 government. Did your wife even know anything about it?

9 A. Did I?

10 Q. Did your wife know anything about your being --

11 A. No, sir, she never knew until I made that deposition.

12 Q. Did your family know anything about it?

13 A. No, sir, no one. It was a secret between the people
14 who I was speaking and myself.

15 Q. Did the military people that you worked with know
16 anything about it?

17 A. No, sir, no one knew about it.

18 Q. Is that the reason you were embarrassed, because this
19 was something that was even kept from your people closest to
20 you?

21 A. Yes, sir, I think it is a shame for me to have made
22 some such mistake in my life.

23 MR. FARGARSON: Just a minute.

24 Your Honor, that's all, sir.

25 THE COURT: All right. Mr. Carranza, thank you
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1 very much.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Thank you.

4 (Witness excused.)

5 THE COURT: Do we have a short witness? One
6 that will be -- you prefer to conclude on Monday?

7 MR. BROOKE: If we could finish it Monday, Your
8 Honor.

9 THE COURT: I think that's probably the fair
10 thing to do. I'm sure it is the fair thing to do, and
11 that's what we will.

12 Ladies and gentlemen, let me ask counsel,
13 though, I think that we're talking about three witnesses
14 that are -- I can't remember how many now.

15 MR. BROOKE: Just one.

16 THE COURT: Who is relatively short?

17 MR. FARGARSON: Relatively.

18 THE COURT: Maybe a couple of -- so we should
19 finish all the proof by certainly mid-morning?

20 MR. BROOKE: Easy.

21 MR. FARGARSON: Yes.

22 THE COURT: Okay. Well, that is useful for you
23 to know how we're doing on the schedule. We're actually
24 doing fine. Y'all get a holiday tomorrow. It is
25 Veteran's Day, still regarded as Armistist Day in Europe.

1 I remember when it was called Armistist Day here. And, of
2 course, I want you to have a pleasant holiday, and during
3 that three-day period, of course, remember those seven
4 things. Don't discuss the case among yourselves.
5 Obviously, you won't be seeing each other. Don't talk
6 with anybody else about the case, and if anybody tries to
7 talk to you about, really, seriously, report that to us
8 the first time you see us. The fifth thing -- the fourth
9 thing is don't speak to the lawyers, parties or anybody
10 you know that has anything to do with the case at all.
11 They shouldn't be speaking to you, and if that should
12 happen, let me know. The fifth thing is don't do any
13 research, make any inquiry, and you know what means, no
14 computer inquiries, don't Google anything. It used to be
15 not such a big deal, but it is actually different now.
16 The sixth thing is, of course -- the sixth and seventh
17 thing is don't -- avoid things on radio, television or in
18 the news media, and the seventh thing is keep an open
19 mine.

20 Next week, we will get to the closing arguments
21 of counsel probably on, I feel confident, on Monday, and
22 final instructions on the law, which will probably occur
23 on Monday, I would think. We have allocated a sufficient
24 amount of time for everybody to have a closing argument,
25 and so they will be able to be thorough and cover

1 everything. And between the two arguments from the
2 parties, it will allow us to have a break, so that is how
3 that will work. So I think that tells you our schedule.
4 Have a very pleasant weekend, come back in at the same
5 time. I do have things set early on Monday, and -- but we
6 should be through by 9:30 easily and hopefully a little
7 before that. Have a very pleasant weekend. I think it is
8 supposed to be cooler during the weekend. Thanks very
9 much. Let's stay here just for a moment. We will let
10 y'all be excused. I will stay here.

11 (Jury out at 4:35 p.m.)

12 THE COURT: I would like to get those materials
13 from Ms. Blum.

14 MR. BROOKE: Your Honor, I have some issues on
15 the jury instructions myself. I think I can discuss them
16 real quickly.

17 THE COURT: Everybody who needs to be excused
18 is more than welcome to be excused. If you would like to
19 stay, you may, and we will see all of you on Monday.

20 MS. BLUM: So, Your Honor, how do you want to
21 proceed on this?

22 THE COURT: Why don't you come to the close
23 podium for just a moment?

24 MS. BLUM: I will just hand you this.

25 THE COURT: Do you need this copy?

1 MS. BLUM: That's the copy I just made for you.
2 Hopefully, you can read my handwriting.

3 THE COURT: I'm going to run through these and
4 tell you what they are. We will ask everybody in the
5 courtroom to step out, let you go outside the courtroom so
6 you can visit, and that's probably the right thing to do.
7 And we will work here for a short period of time. We're
8 not going to stay late. Let me run through quickly the
9 proposed changes from the plaintiff. Basically, there are
10 not very many, as far as I can tell. There are a few
11 things.

12 MS. BLUM: There's a few things for
13 clarification for the jury's sake. I think there's so
14 many different, you know, names in this case, and so there
15 are a couple of places where I just clarified that, you
16 know, the full name, Jose Francisco Calderon.

17 THE COURT: That's fine.

18 MS. BLUM: You know, added the Jose where that
19 had been dropped. A couple of other places where I
20 indicated that, you know, so and so was the parent of Ana
21 Patricia Chavez or whatever, just to state the
22 relationship in the jury instructions for the jury just so
23 there is no confusion about names and relationships. So
24 that's, you know, really a minor detail.

25 The issue that I really wanted to bring to Your

1 Honor's attention had to do with the changes that were
2 made in the statement of Doctrine of Command
3 Responsibility.

4 THE COURT: Okay.

5 MS. BLUM: And the statement of the knowledge
6 element, the actual constructive knowledge.

7 THE COURT: I have no problem in the command
8 responsibility, we're adding torture, extrajudicial
9 killing or crimes against humanity. In fact, we had
10 intended to make those changes. I mean I have had a
11 discussion before you saw yours. Is there any reason we
12 shouldn't make those changes? I mean that seemed to me to
13 be the way to do that, and we wanted -- I did not think --

14 MS. BLUM: All right.

15 THE COURT: I don't like things like -- we put
16 it in, but being a little more specific is better. This
17 is where it says command -- Doctrine of Command
18 Responsibility. That is really the first one of many
19 substantive changes at all from you, because the rest of
20 them are just put the full name in, put the relationship
21 of the family.

22 MS. BLUM: Yes, so it would be there, and
23 element two and element three, to change these abuses to
24 the particular torture, extrajudicial killing or crimes
25 against humanity.

1 Now, Your Honor, I sort of took the liberty of
2 taking out the phrase the acts of. If we keep that in, I
3 think it should be acts of, not the acts of, because
4 that's where the confusion, I think, comes in directing
5 the jury's gaze towards specific crimes. So I don't think
6 to modify these or the --

7 THE COURT: These is not correct, that is not
8 no problem at all.

9 MS. BLUM: And then in the actual or
10 constructive knowledge instructions on the definition of
11 actually known, again, there was a reference to the -- to
12 the acts of torture, extrajudicial killing, crimes against
13 humani ty.

14 THE COURT: Say that again.

15 MS. BLUM: I'm sorry, moving ahead to actual or
16 constructive knowledge.

17 THE COURT: Okay. Let me get that one.

18 MS. BLUM: It is two pages after the Doctrine
19 of Command Responsibility.

20 THE COURT: Right, I have it right there. I
21 have got it.

22 MS. BLUM: Okay.

23 THE COURT: Committing or about to commit
24 torture, extrajudicial killing and crimes against
25 humani ty. You have that, you had an insert there, is that

1 right? That's your insert mark?

2 MS. BLUM: So what I did was just cross out the
3 acts of and the phrase involved in this case. The actual
4 knowledge element doesn't go to the acts involved in this
5 case.

6 THE COURT: I agree.

7 MS. BLUM: Okay.

8 THE COURT: That was not the reason it was
9 rewritten. I want to check one thing. And I have always
10 been a little concerned about the use of
11 defendant/military commander. If everybody agrees with
12 that, that is okay.

13 MR. BROOKE: I don't, Your Honor.

14 THE COURT: Okay. We may need to work on that.
15 That is something that I -- in preliminary instructions, I
16 had an issue about, and you can tell as I went through it
17 I actually modified it a little bit. Let me see if I
18 can't get this one correct. On or about -- were about to
19 commit torture, extrajudicial killing or crimes against
20 humanity. That's fine. I'm trying to figure out what
21 your hatch mark is trying to get me to.

22 MS. BLUM: Oh, the alternative.

23 THE COURT: Your hatch mark --

24 MS. BLUM: Oh, ignore that, now. That was just
25 if you felt for some reason went into the acts of.

1 THE COURT: Okay.

2 MS. BLUM: So you can just cross that out and
3 ignore it.

4 THE COURT: Okay. That is okay now.

5 MS. BLUM: I think the most straightforward
6 expression of it for the jury is just to say torture,
7 extrajudicial killing and/or crimes against humanity.

8 THE COURT: We have been moving that direction,
9 it has been just sort of a point of some discussion, as
10 you can tell.

11 MS. BLUM: Okay. So those are the only kind of
12 substantive comments that I have. I don't know what
13 Mr. Brooke has.

14 THE COURT: Some -- now, some of this language
15 was modified slightly because of other instructions in
16 other cases. So when you see something like that,
17 Professor Blum, there are cases that have used this exact
18 language.

19 MS. BLUM: Okay.

20 THE COURT: That's the reason that there is
21 this modification to this degree. I don't have a problem
22 with what has been done, but I --

23 MS. BLUM: Are you talking about Alien Tort
24 Claims Act cases, or are you talking about drawing from
25 jury instructions and Alien --

1 THE COURT: Drawing from jury instructions,
2 some of these languages, really, we're eliminating, has
3 been used before, just so you're aware of it. No problem.

4 MS. BLUM: I think there's not a whole
5 consistency yet in terms of that body of law. There has
6 been different -- slightly -- slight permutations of the
7 language in different of the cases.

8 THE COURT: It does, it varies a little bit
9 here and there. And if I go back through it, and for some
10 reason, I'm having that anxiety about it, I will tell you,
11 but I don't have a problem. This is something I feel like
12 is legally correct.

13 MS. BLUM: Okay.

14 THE COURT: I don't think this is a point as to
15 which you were making an objection. You have a different
16 point, is that right?

17 MR. BROOKE: Well, the first thing, Your Honor,
18 I think the defendants want to propose another instruction
19 based upon the evidence that has come in in this case, and
20 I have just handwritten it out, and, I'm sorry, I don't
21 have a -- but this --

22 THE COURT: Joe will make a copy for us. Don't
23 ever feel like --

24 MR. BROOKE: Mr. Alvarado testified that the
25 judge who assisted or heard his case was subsequently

1 killed, to which --

2 THE COURT: Which is pretty dramatic testimony.

3 MR. BROOKE: To which we objected and had a
4 side bar, and Your Honor was told by counsel that they
5 would have -- and Your Honor inquired will there be, I
6 assume, a cable to support it.

7 THE COURT: A document that shows that, right.

8 MR. BROOKE: And Mr. Esquivel shook his head
9 acknowledging yes, and that has never come into evidence.
10 And so I have suggested that we have a jury instruction
11 that that evidence should not be considered by the jury,
12 it is pure hearsay.

13 MS. BLUM: I'm sorry, Mr. Brooke, this is all
14 not something I precisely remember.

15 MR. ESQUIVEL: And also, I would like to see
16 the transcript. What I recall was saying that there
17 was -- when we were talking about the admissibility of the
18 polygraph evidence and we were talking about circumstances
19 of his torture, we decided not to introduce any cables
20 through Professor Karl about the polygraph, and that's
21 what I remember talking about, but not about the judge.

22 THE COURT: I think we can go to the
23 substantive issue, which even if it is a late raised
24 objection, it is of such prejudicial effect for the jury
25 to believe that the judge who -- the military judge who

1 went to the treasury police headquarters and got
2 Mr. Alvarado, and they brought him back the next day, that
3 that judge was killed. That would be of such a
4 prejudicial effect that unless there's substantive proof
5 to that effect, it would have to be -- the jury would have
6 to be instructed that they should disregard that since it
7 was the subject of an appropriate subsequent objection.

8 MS. BLUM: I think we would have to consult
9 with Professor Karl, though, because as far as we knew
10 until Colonel Carranza testified to that today, we had
11 heard from several different sources that, in fact,
12 Colonel Montenegro had been assassinated, and so I don't
13 know if we're talking about two different Colonel
14 Montenegro, but at any rate I feel we do need to consult
15 with our expert and determine if it is an issue. If it is
16 not an issue for the jury just to weigh and --

17 THE COURT: It is one of those things that we
18 have got a head nodding back there and I have got my
19 glasses off, so I can't tell for sure what the nod was.
20 Did you tell need to tell them something?

21 UNIDENTIFIED PERSON: (Unintelligible).

22 THE COURT: No, no, I thought you were telling
23 me that you were going to have some information on that,
24 and if that was, then we were premature.

25 MR. BROOKE: Your Honor --

1 THE COURT: Because we haven't heard quite the
2 end of everything.

3 MR. BROOKE: Your Honor specifically asked I,
4 assume --

5 THE COURT: I have no problem. My normal
6 reaction to that would have been exactly what you said, it
7 might not have been quite the same it would have been, I
8 assume there will be subsequent proof on this point, and I
9 might have said something, there will be a document or
10 whatever, and that would have been -- that's my mental
11 thought process. It doesn't surprise me. But if I didn't
12 say it, I certainly have been concerned about it, and when
13 a proper objection is raised at this point, I would hear
14 it on its merits, I wouldn't say it was too late to raise
15 the motion. I don't disagree. I mean, frankly, if there
16 is not some way to substantiate other than people -- I
17 have heard from this or I have heard from that, from these
18 hearsay sources, it is of such a prejudicial effect
19 that -- and it would be being received by the jury for the
20 truth of the matter contained therein, I would simply have
21 to give the correct instruction, but we haven't finished
22 the case yet, and I didn't -- you know, I don't know if
23 something else is going to come in.

24 MS. BLUM: The corrective instruction being
25 that they should just ignore all evidence related to

1 Colonel Montenegro?

2 THE COURT: Well, this is the instructions
3 proposed, it is pretty narrow, it says:

4 Ladies and gentlemen of the jury, you heard
5 Daniel Alvarado testify that the judge -- and I think it
6 was military judge, he says.

7 MR. BROOKE: I believe so.

8 THE COURT: Military judge, I just want to
9 be -- military judge who heard his case -- and I'm not
10 sure if he heard the case, but I think he -- well, he did
11 hear his case, that's right, and assisted him during his
12 incarceration was -- I think, was killed, I instruct you
13 to disregard that testimony as being hearsay, which is
14 without a proper foundation to be considered as evidence
15 in the case. We might change the foundation and just say
16 which may not be received, but you can all consult, there
17 may be a more appropriate way to put it, but absent some
18 nonhearsay source of that information or source that fell
19 into an exception of the rule, better way to put that,
20 that we would have to allow some instruction on that. I
21 will just let you take a look at it, and we will include a
22 draft instruction in there, and we have got a little bit
23 of time on Monday if we need to adjust it somewhat.
24 That's our -- I'm really looking to see am I missing
25 something. I mean was there proof other than the fact

1 that -- obviously, Mr. Alvarado doesn't know. If he has
2 no way of knowing if this particular judge was killed or
3 if he does know it from a verbal source, it is clearly
4 hearsay.

5 MR. ESQUIVEL: And was there foundation about
6 Colonel Carranza's knowledge about Montenegro being alive?

7 THE COURT: He said he saw him.

8 MR. BROOKE: He knows it.

9 MS. BLUM: Colonel Montenegro was assassinated
10 after Colonel Carranza left El Salvador. He wasn't
11 assassinated immediately after he had taken --

12 THE COURT: So he would not have had -- so it
13 could have happened and he would not have had a chance to
14 see him.

15 MS. BLUM: Absolutely.

16 THE COURT: Are we sure that he was
17 assassinated?

18 MS. BLUM: Well, I had heard it from three
19 different sources.

20 THE COURT: Professor Karl --

21 MS. BLUM: We didn't ask her to testify about
22 it.

23 THE COURT: If she had said it, I would say it
24 is probably true.

25 MR. EISENBRANDT: I believe -- isn't there

2 THE COURT: Wait a minute -- I'm sorry,
3 Mr. Fargarson, I just couldn't quite hear you.

4 MR. FARGARSON: I think Terry Karl said that,
5 that he was assassinated, that was the only judge down
6 there or something.

7 MR. BROOKE: Alvarado.

8 MR. FARGARSON: Right.

9 THE COURT: Let me suggest this: I don't
10 recall Professor Karl saying that he was assassinated. We
11 haven't gotten a cable which says he was assassinated, not
12 that they would have written one every time, but that
13 would certainly be a likely subject of a cable to the
14 state department, which then would have been admissible,
15 so, you know, if we receive -- if there is that type of
16 evidence that he was assassinated, that's simply rebuttal
17 proof, you can put that on in rebuttal.

18 MR. FARGARSON: It was a cable, it said the
19 cable or something said it.

20 MR. ESQUIVEL: We will look at that over the
21 weekend.

22 THE COURT: What I'm saying is absent it coming
23 in the record in an acceptable way -- if the sole basis
24 for that information before the jury, and really it is --
25 seems like so far, it has been, was Mr. Alvarado's hearsay

1 statement, then the instruction would be appropriate, and

2 we would give an instruction simply to that effect. I
3 will let everybody look at it and see what the situation
4 is.

5 MS. BLUM: I guess, Your Honor, my only concern
6 is that we have made these decisions at side bar and to
7 put this in the jury instruction somehow to me brings more
8 attention to it and, therefore, may raise in the jury's
9 mind some sort of doubt about Alvarado's veracity in the
10 first place, so I'm hesitant about this actually being a
11 jury instruction as opposed to a statement from the bench.

12 THE COURT: Let me suggest this, though, it is
13 really -- it's a good point, and I think it is often the
14 way we handle it is to do exactly what you say, which is
15 to maybe correct it, but not put it in the jury
16 instruction. The reason that I am most concerned about it
17 is that it is probably the -- absent the specific
18 testimony about, you know, some of the testimony from the
19 parties themselves about what happened to them, it is
20 the -- one of the most persuasive points and highly
21 prejudicial points, because it's just -- and particularly
22 in the American judicial system, we would find it very --
23 I think the jury is going to be highly influenced, might
24 be highly influenced by it, and by not putting it in the
25 jury instruction, not curing it in the most effective way

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1 possible, I'm just concerned that it might somehow taint
2 the record. I don't think it will, but I think you ought

3 to look at the instruction and modify it a little bit, I
4 think it could be improved a little bit so that it is
5 clear that the only reason it is excluded is that it was
6 hearsay on hearsay or something like that, and the jury
7 will understand that is something that even if it is true
8 we couldn't receive it.

9 MR. BROOKE: Your Honor, I want to submit for
10 the record, the witness testified that the attorney who
11 came to the prison who was going to assist him said the
12 judge had -- or a judge had initiated it and that the
13 prior judge had been killed.

14 THE COURT: That's what he said. That's
15 hearsay within hearsay.

16 MR. BROOKE: And so then we objected, and
17 counsel made the election to rely on that, that they had a
18 cable to support that. The witness then proceeded to
19 again say that the judge had been killed, and so that --
20 we submit that it certainly has to be cured by an
21 instruction.

22 THE COURT: Right, I think that for that
23 particular point, that would be the way to handle that.
24 Of course, if they come up with the cable, we won't be
25 talking about it.

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1 MR. BROOKE: The next item I had, Your Honor,
2 is in the burden of proof consideration of the evidence.

3 In the third paragraph, and this may be from the pattern
4 instructions, and I may be that far away from things.

5 MS. BLUM: You want to take Judge McCalla on,
6 is that what you're saying?

7 THE COURT: I have done this one before.

8 MR. BROOKE: In that first sentence, Your
9 Honor, the last word says probably true, that an
10 allegation is probably true.

11 THE COURT: That's the language.

12 MR. BROOKE: And that word probably, the
13 defense objects to, Your Honor.

14 THE COURT: What would be the appropriate word?

15 MR. BROOKE: Just that you believe that the
16 allegation is true. The word probably --

17 THE COURT: It is a probably standard, so I'm
18 going to overrule that one.

19 MR. BROOKE: The next one, Your Honor, is a
20 typo. I finally found one.

21 THE COURT: Good, good.

22 MR. BROOKE: This has merit, Your Honor.
23 Number 27 on the stipulation.

24 THE COURT: Oh.

25 MR. BROOKE: At the very bottom, the very

1 last -- the line, her husband even if they had not been
2 officially, and it carries over to the next page, which
3 they were not, I assume the married --

4 THE COURT: Oh, I think the word got dropped.

5 MS. BLUM: Thank you very much for picking that
6 up.

7 THE COURT: When I read it, I would have picked
8 it up.

9 MS. BLUM: While we're on that page, if you
10 don't mind, I just wanted to actually consult with
11 opposing counsel on this issue, numbers 23, 25 and 26,
12 there's a reference to the complaint. At this point --
13 that may have been appropriate for stipulation at the
14 point that the stipulations were written, but I believe at
15 this point when it is going to the jury, we may want to
16 just cross that out because they're not seeing the
17 complaint and they don't know anything about the
18 complaint, and --

19 THE COURT: That is perfectly correct. That
20 should go out. Now that we have gotten to this point --
21 although you put it in there, that is why we left it. I'm
22 not saying you personally, somebody acting on your behalf.

23 MS. BLUM: He put it in there.

24 THE COURT: We will take in the complaint out
25 there. I will try to find each of those. 23, 25, 26 and,

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1 of course, we have a question on 27.

2 Okay. Anything else?

3 MR. BROOKE: Your Honor, I'm trying to see what

4 my note means here. I guess the next one would be the
5 Doctrine of Command Responsibility, Your Honor.
6 THE COURT: Okay.
7 MR. BROOKE: That --
8 THE COURT: I take it no one has any objections
9 to the verdict forms?
10 MR. BROOKE: I do.
11 THE COURT: Okay.
12 MR. BROOKE: Yes.
13 THE COURT: Okay.
14 MR. BROOKE: But on the Doctrine of Command
15 Responsibility, we want to again note our general
16 objection which Your Honor has ruled on before.
17 THE COURT: Right.
18 MR. BROOKE: And on -- then the
19 superior-subordinate relationship, it seems that in the
20 second full paragraph that there seems to be a prejudicial
21 restatement highlighting of the statement again of --
22 THE COURT: I'm sorry, the language that is the
23 problem?
24 MR. BROOKE: The language up above in the first
25 element of command responsibility, Your Honor, has stated

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1 that.

2 THE COURT: Correct.

3 MR. BROOKE: But then in the second paragraph
4 where Your Honor then, again, in the last sentence, the
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5 defendant/military commander, Your Honor, by using the
6 term defendant/military commander, that I believe is going
7 to give the jury the impression that the court is finding
8 him to be a military commander, and I submit that that
9 is --

10 THE COURT: How do you want us to say that?

11 MR. BROOKE: I would just say the defendant. I
12 would strike the references slash military commander,
13 because I think it is giving the jury a highlighted
14 influence that the court is considering him to be a
15 military commander.

16 MS. BLUM: Is there a question about whether
17 he's a military commander? I mean that seems like pretty
18 much of a given in the case, it is stipulated that he was
19 a military commander from -- he held the position of
20 vice-minister of defense from 1979 to 1981, and the
21 director of the treasury police from 1983 to 1984, and he
22 was a colonel in the Salvadoran military until his
23 retirement. It seems to me that there is no question he's
24 a military commander, and it makes the jury instructions
25 more understandable for the jury to put the slash because

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1 it is just a reminder to the jury about what the analysis
2 is that they're engaged in. I mean these are stipulated
3 facts, they're not really at issue in the case. In fact,
4 the sentence that Mr. Brooke just referred to is the

5 sentence that allows for the defense that I think the
6 defendant is raising, that it may be that he lacked the
7 legal authority during the first period of time that he
8 was commander, in which case the statement is made that
9 the proof would have to be that he was an effective
10 commander. So if, in fact, he left the legal authority
11 under the theory you may be propounding in the case, the
12 burden of proof will be on us to show he was the effective
13 commander, i.e., he had the practical ability to exert
14 control over --

15 MR. BROOKE: But Your Honor has already given a
16 charge on command responsibility.

17 THE COURT: Right.

18 MR. BROOKE: And by narrowing it to just the
19 defendant, then that is an issue of fact for the jury as
20 to whether he has command responsibility. But by
21 saying --

22 THE COURT: You could say, you know, you must,
23 of course, determine that Mr. Carranza was a military
24 commander, as that term is used in these instructions. Is
25 that what you want me to say?

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1 MR. BROOKE: Well, I prefer it just be between
2 the defendant and person or persons committed the abuses
3 involved in this case. I would just strike all the
4 references to military commander. I think that is putting
5 him in a box of an adjective of who he is.

6 MS. BLUM: I think it is really confusing if --
7 the theory of liability in this case is command
8 responsibility. The whole notion --

9 THE COURT: I'm going to use military
10 commander, I'm not going to get rid of it. I am trying to
11 figure out if there is something we need to add, and I'm
12 not sure there is.

13 MS. BLUM: I guess there's potentially a
14 sentence that could be added at the beginning of the
15 Doctrine of Command Responsibility.

16 THE COURT: That's probably where it would go.

17 MS. BLUM: That's where I was thinking, you
18 know, you could add a sentence after the statement that
19 the Doctrine of Command Responsibility makes a military
20 commander liable for the acts of his subordinates even if
21 the commander did not order those acts, and then you could
22 say, you know, the first thing you must determine is if
23 the defendant is a military commander.

24 MR. BROOKE: Your Honor has got the defendant,
25 the defendant several times, and then at the end a

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1584

1 defendant military commander, and so --

2 THE COURT: I mean, basically, they have to
3 find a superior-subordinate relationship existed. The
4 instruction is a good instruction, I don't want to mess it
5 up, that's what I'm worried about.

6 MR. BROOKE: I don't see the need to have
7 military commander.

8 THE COURT: To hold military commander liable
9 under the Doctrine of Command Responsibility, must prove
10 the following, and then you're going to describe it all,
11 and I am just deciding whether there should be a statement
12 there, one sentence statement there, which is something
13 like remember, you must determine that Mr. Carranza was a
14 military commander in order to --

15 MR. BROOKE: That would help.

16 THE COURT: -- to apply the Doctrine of Command
17 responsibility. I'm not sure we want to say that because
18 everything it describes, describes a military commander.
19 We went through this one before I gave the preliminary
20 instructions in this case, I went through that problem in
21 my own mind. I probably talked about it a little bit with
22 the staff, and I pretty well left things the way they are
23 here. I tried to make sure that the jury understood that,
24 of course, they had to determine he is a military
25 commander. Sort of implied that is clear, that is

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1 transparent, but I didn't -- will you both look at if
2 there is a piece of very simple addition that we might
3 make under the first page on Doctrine of Command
4 Responsibility, and I will continue to think about that?
5 It is not a good idea to negotiate these things at the end
6 of the day, at the end of nine days of trial, it is better

7 to let everybody go back and read through them.

8 MS. BLUM: I would feel much more comfortable
9 if we did that. I would really like to look at this
10 rather than trying, you know, to parse some wording here
11 while we're all standing here at 5:00.

12 THE COURT: Take a look at that, and then, you
13 know, I have got that stock language we use all the time.
14 You must, of course, determine that -- we use these in
15 cases all the time -- that in this case that Mr. Carranza
16 was a military commander, as that term is used in these
17 instructions. That's very common type of language if we
18 think we need to wrap things up, it is sort of a
19 conclusory piece.

20 MS. BLUM: Your Honor, where are you thinking
21 about that at this point just so I can have an idea? Are
22 you talking about at the beginning of the Doctrine of
23 Command Responsibility or --

24 THE COURT: Sometimes it comes at the end. You
25 go one, two, three and say --

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1 MS. BLUM: Oh, at the end of the Doctrine of
2 Command Responsibility.

3 THE COURT: You might put something like that,
4 and it is sort of the -- a little wrap-up piece pulling it
5 together if somebody is not clear.

6 MS. BLUM: Okay.

7 THE COURT: I'm not sure that is where it
8 should go, but that's the kind of place you put these
9 sorts of things for clarification. Let's see if there is
10 anything because I do have a meeting that I have to
11 absolutely go to and be there very soon, I have only got a
12 few more minutes.

13 MR. BROOKE: On the next one, actual or
14 constructive knowledge, Your Honor, in the last paragraph
15 of the first page, it seems that the court is
16 re-highlighting again the -- restating the -- that which
17 has already been stated in the prior paragraph, it seems
18 duplicious.

19 THE COURT: Sometimes there's some repetition
20 in these. I think it is usually necessary to make sure
21 the jury understands the concept. Unless there's some
22 particular problem, the repetition wouldn't be a basis for
23 me to change it. I think it does help jurors to hear
24 things in sort of here it is, this is how it is, here it
25 is, there is nothing wrong with that.

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1 MR. BROOKE: In the failure to prevent or
2 punish charge, Your Honor --

3 THE COURT: Right.

4 MR. BROOKE: -- again, it's using the term, it
5 is putting the defendant in the box of a military
6 commander. It says the defendant/military commander,
7 and --

8 THE COURT: Well, in order to be a defendant in
9 these cases, you have to be a military commander.

10 MS. BLUM: I think that's the obligation of a
11 military commander, it doesn't --

12 THE COURT: The defendant/military commander.
13 We may need a little clarification, I think people may be
14 confused about. They may think somehow there's a disjunct
15 there as opposed to a conjunct, and so -- you see what I'm
16 saying? It is almost like -- it is really a combined
17 term.

18 MS. BLUM: Absolutely.

19 THE COURT: And so we will think about that
20 just -- I think if counsel has seen a bit of confusion
21 there, then maybe we need to -- not that you're confused,
22 but you're seeing confusion that the jury might see, then
23 we need to be a little concerned about it. Let's see if
24 we can't deal with that more in terms of just something
25 that reminds them that, you know, defendant/military

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1 commander is used to mean that, obviously, you can't find
2 the defendant liable if you find that he's not a military
3 commander. And the terms are used conjunctively to show
4 that the person is not only a defendant, but was also at
5 the relevant time a military commander.

6 Will you mark that, Mrs. Parker? That sounded
7 good. It may not be good, but it sounded pretty good.

8 MR. BROOKE: Your Honor, the next one is on
9 political views are irrelevant, Your Honor has --

10 THE COURT: Yeah, they are.

11 MR. BROOKE: In your deliberations, you should
12 not give any regard to political views, beliefs or
13 affiliations of any of the plaintiffs. I submit they
14 should be of any of the parties.

15 THE COURT: I think that's true. Of any of the
16 parties.

17 MR. BROOKE: And then the last sentence, it
18 says every person no matter what his political -- has the
19 right to be free from torture, that's -- I think that is
20 just basic that everybody knows that. I don't know that
21 it needs to be part of Your Honor's charge.

22 MS. BLUM: That is kind of what the trial is
23 about.

24 THE COURT: I'm sorry, where do you want me to
25 change this? The -- read that again.

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1 MR. BROOKE: It is the very last sentence on
2 political views are irrelevant. I'm just saying -- I
3 don't know that that is necessary to have that in the
4 charge.

5 THE COURT: Oh, unfortunately, I think you do.
6 I was agreeing with Professor Blum. Is professor the
7 better term for you?

8 MS. BLUM: Whatever you prefer. It's fine.

9 Professor is fine.

10 THE COURT: It should be in there, and it is
11 important because -- even -- I mean in the question, it
12 was acknowledged that it doesn't matter if you're a
13 communist or whatever, you still have a right to be free
14 from torture.

15 MR. BROOKE: So, Your Honor, as to the punitive
16 damage charge, I assume that would not be used until a
17 separate --

18 THE COURT: The charge --

19 MR. BROOKE: It would be bifurcated?

20 MS. BLUM: Well, we have to have some sort of
21 charge because we're asking the jury --

22 THE COURT: You have to have this portion so
23 they can tell us whether we're going to get to the next
24 portion. Maybe we need to rework that a little bit,
25 but -- let's look at that and we will pull the language

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1590

1 that I always use in a regular case and I will just try to
2 put that in because it is a little different, and I'm
3 going to redo it because really we're just -- so I will
4 pull that. Pull the Fresh language. Is this like the
5 Fresh language, the Fresh language?

6 MS. BLUM: Do you have pattern instructions for
7 a bifurcated hearing?

8 THE COURT: I think they're online, are they

9 not? I know I have tried to put them online, but
10 sometimes they don't get there. I'm not going to look it
11 up right now.

12 MR. BROOKE: The --

13 THE COURT: Is Fresh in there? We will get you
14 a copy of Fresh. It was a very simple case, but it has
15 got the standard -- and I'm going to let you give it to
16 them after I leave, because we will finish -- we all agree
17 we have done all the damage we should do today.

18 MR. BROOKE: The last issue I have is on the
19 verdict form, on each one of the verdict forms, it says
20 Defendant Nicolas Carranza is liable under the Doctrine of
21 Command Responsibility, and I submit that it should be
22 Nicolas Carranza is liable -- is liable for the torture of
23 rather than again highlighting the theory of the --

24 THE COURT: It is the only way that he can be
25 liable is the Doctrine of Command Responsibility. It has

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1591

1 been general practice to be as clear as possible under
2 these verdict forms. That's the -- maybe I'm missing
3 something, but it helps the jury stay focused. If I had,
4 you know, three types of liability in a case, I would put
5 X, Y and Z. It is really to help them get back to the
6 instruction section so they're looking at the right
7 instructions when they're making a decision.

8 MR. BROOKE: That's all I have.

9 MS. BLUM: Your Honor, may I ask one really
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10 quick thing? Is there a particular reason why you prefer
11 using doctrine to law?

12 THE COURT: Just so there is -- I mean it is
13 the Doctrine of Command Responsibility.

14 MS. BLUM: Law is more plain English. What is a
15 doctrine, people don't even know necessarily what that
16 word means. So that's why in the original draft we had
17 used the term law just because it is a law, and that's
18 something that everybody understands. I just throw that
19 out for Your Honor's consideration just to again do a
20 little more plain English thing that people understand.

21 THE COURT: Well, it might be better. What do
22 you think?

23 MR. BROOKE: I submit doctrine is good as we
24 should ever agree to. We object to the whole theory of
25 the command responsibility, but Your Honor has already

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1 ruled on that, but I don't think that the law of command
2 responsibility is appropriate.

3 THE COURT: Well, I will think about it. I
4 don't think -- functionally, I don't think it makes any
5 difference. It is sort of a stylist issue. I will think
6 about it. It would be a one word change if we did it.

7 MS. BLUM: Thank you.

8 THE COURT: We will let everybody be excused
9 and we will see everybody at a little before 9:00 o'clock,

10 although more than likely my 9:00 o'clock schedule will go
11 on Monday, so we may be waiting a little bit, but if not,
12 we will see you earlier just to make sure that you have
13 got a final set hopefully.

14 MS. BLUM: When we will have an opportunity to
15 talk to you about the few things you wanted us to get back
16 to you like on this potential proposal?

17 MR. BROOKE: At the conclusion of the proof.
18 We will see you that morning, we can make any -- we have
19 plenty of time to make changes. These are so small
20 compared to what we usually have that we can do these
21 very, very easy. Do not be concerned about it. But I
22 think we need to get that worked out.

23 MS. BLUM: Okay.

24 THE COURT: Have a very pleasant weekend.
25 That's why I thought you might come in a little early.

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1 THE CLERK: All rise. This honorable court
2 stands adjourned until Monday morning.

3 (Court adjourned at 5:20 p.m.)

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