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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
NORTHERN DIVISION

JUAN ROMAGOZA ARCE, JANE)	Docket No.
DOE, in her personal capacity)	99-8364-CIV-HURLEY
as Personal Representative of)	
the ESTATE OF BABY DOE,)	
)	
)	
)	
)	
)	
Plaintiffs,)	
vs.)	West Palm Beach, Florida
)	July 15, 2002
JOSE GUILLERMO GARCIA, an)	
individual, CARLOS EUGENIO VIDES))	
CASANOVA, an individual, and)	VOLUME 11
DOES 1 through 50, inclusive,)	
)	
)	
Defendants.)	
_____)	x

COURT REPORTER'S TRANSCRIPT OF
TESTIMONY AND PROCEEDINGS HAD BEFORE
JUDGE DANIEL T. K. HURLEY

APPEARANCES:

For the Plaintiffs:	JAMES GREEN, ESQ.
	PETER STERN, ESQ.
	BETH VANSCHAACK, ESQ.
For Defendant:	KURT KLAUS, ESQ.
Court Reporter:	Pauline A. Stipes, C.S.R., C.M.

PAULINE A. STIPES
Official Reporter
U. S. District Court

1 THE COURT: I wonder if I could see counsel
2 sidebar for a moment.

3 (Sidebar discussion on the record.)

4 THE COURT: Last week I had intended to defer my
5 ruling on the question of the admissibility of the
6 statements accompanying the Legion of Merit until we
7 reached that issue, but in thinking about it, because I
8 felt Mr. Klaus ought to be able to know that so he could
9 pace his presentation however he did, I made my ruling,
10 but I would like to take a moment and add, just to
11 supplement that a bit.

12 I suspect that none of us are aware of the fact
13 that as we are trying this case, the United States has
14 used its extraordinary power as a member of the Securities
15 Counsel of the United Nations to veto the Bosnian Peace
16 Force because of its concern that American troops might be
17 held to answer in some international tribunal because of
18 allegations of war crimes.

19 And, of course, I think we also remember that
20 President Bush has been talking about ways to eradicate or
21 somehow withdraw President Clinton's signature to the
22 International Treaty creating the International Criminal
23 Tribunal, because an American leader might be called in
24 front of that tribunal because of allegations of war
25 crimes.

1 I think we understand that doesn't signify the
2 United States lack of concern about war crimes, but what
3 it does is signify a sovereign nation's concern about the
4 kinds of tribunals in which its leaders might be called
5 upon to account for their actions.

6 Now, I mention that because when you think about
7 it, it is extraordinary, but by virtue of the Torture
8 Victims Protection Act that is exactly what is taking
9 place in the courtroom.

10 We have two people who by virtue of their past
11 official positions are really being asked to be
12 accountable for their actions or their inactions as to
13 what they did while they held office.

14 Now, the Plaintiffs, of course, in the
15 presentation of their case presented numerous State
16 Department cables, which were admitted into evidence,
17 really without objection, but probably would have been
18 admissible anyway under 803.8. Government reports,
19 seemingly trustworthy, they were being prepared and so on.

20 But there is no question those reports certainly
21 talked about the writer's review or the writer's opinion
22 as to what the Defendants were doing or not doing, and the
23 reasons that they may have had for taking action or not
24 taking action.

25 Now, the defense -- by the way, one of the things

1 that was brought out in the Plaintiffs' case was a
2 suggestion, I think Mr. Green mentioned this maybe a
3 little bit in opening statement, but it came out also as
4 evidence that there is a question as to what was the
5 nature of the armed insurgency. In other words, was it a
6 relatively small group that effectively grew because of
7 the over reaction of the Army literally driving people
8 into it because of repression, murder, and so on.

9 Now, the defense that has been mounted, of
10 course, is a defense that says, number one, the country
11 was in complete chaos, that there was an armed insurgency
12 which looked like it could have been successful and that
13 there were groups on the left and the right interacting
14 and engaging in death squads and extrajudicial killing,
15 torture, so on, so forth.

16 As I said before, whether that is a credible
17 defense is for the jury to decide. So the question, it
18 seems to me, is whether the statement accompanying the
19 Legion of Merit is admissible, and it seems to me that it
20 is, number one, it represents a statement by the
21 Government of the United States, it is apparently issued
22 by the Secretary of Defense with the concurrence of the
23 Defendant, and number one, represents and states
24 equivocally in the Government of the United States' view
25 there was in fact a war, Communist insurgency and so on,

1 and then goes on and talks about the role of the generals
2 in fulfilling their responsibilities.

3 Now, it seems to me that, too, is admissible
4 under 803.8. While we tend to think of accommodation as a
5 metal or certificate given to somebody, this is
6 accompanied by a statement of --

7 MR. KLAUS: Explanation.

8 THE COURT: -- explanation or view, and offered
9 under the seal of the Government of the United States.
10 We've heard testimony in this record there were military
11 advisers and other people providing information to the
12 defense Defendant and so on.

13 So it is my view that the basis of this is
14 sufficiently reliable to allow it to go into evidence, and
15 I mentioned the other day, you know, the United States
16 Supreme Court decision in Davis versus Alaska, that talked
17 about how important it is in due process, someone being
18 able to present a defense.

19 I did not want to suggest that the normal rules
20 of evidence would not allow this, but seems to me
21 particularly in light of what I mentioned earlier, it is
22 important that we not take a narrow or cramped view about
23 the rules of evidence, and both sides need to be able to
24 put in appropriate evidence as long as it is reliable,
25 trustworthy, and so on.

1 So I wanted to supplement that on the record.

2 Now, I wanted to mention two other things, and I
3 say this because I think we are within striking distance
4 of the conclusion of the case and I know that we've all
5 talked about this, how hard you have worked, and I think
6 you have succeeded. We have had a very good trial, and I
7 don't want this in any way to be seen as any kind of
8 restriction on cross examination. You have to have full
9 and complete cross examination.

10 I want to mention a couple things I am concerned
11 about it.

12 At one point when Ms. Gonzalez was on the stand,
13 there was a reference to the pain, difficulty she would
14 have in explaining what it was she went through because
15 her daughter was present in the courtroom, and would hear
16 for the first time the detail of that. My concern is that
17 that sounds like a -- kind of a thing for sympathy to the
18 jury, and I think we have to be careful.

19 The other thing, there was a picture and we were
20 talking about the uniforms. You remember General Garcia
21 was on the stand and there was a discussion about the
22 daily uniform, and then the dress uniform, and so a
23 picture was brought up. Now, the picture was not marked
24 for identification, and my initial thought was that you
25 were simply trying to show the colorful dress of the

1 uniform, and there was no objection when the picture
2 itself was shown to the jury.

3 But Mr. Green then began to point out what I
4 hadn't focused on it, looked like the marching step was
5 the step typical of the Nazis, that sort of thing, and I
6 think that is where the questions were going. I am
7 fearful something like that, had you really asked that
8 question and had there been a request for a mistrial, I
9 think I would have had to grant it.

10 And what I am really asking is that you be very
11 careful, that you exercise some restraint as you get to
12 the fringes of what is really relevant. I think the
13 business about if that is where you were going, and I sort
14 of suspect it was.

15 MR. GREEN: It was to show the precision with
16 which these guys, in part of discipline is learning how to
17 march in precision is to pass and review.

18 THE COURT: I am glad to hear that. I stopped
19 that because my fear was that was going to be your next
20 question and it would not be something we could remedy.

21 I would ask on all sides as we are proceeding
22 into the closing stages, we want to be careful, and I
23 don't want to limit cross and redirect and so on, but I
24 really think we've come a tremendous distance and I think
25 we've had a really good trial, I think these issues have

1 really been laid out, but I just ask everybody to be
2 sensitive to this as we are going along.

3 MR. GREEN: One matter along the lines we are
4 talking about in terms of the Legion of Merit. One of our
5 concerns is that the jury not be left with the message
6 that just because a person received a Legion of Merit
7 award, that they are immune or incapable of having
8 committed human rights violations. And we do intend to
9 elicit testimony concerning other Legion of Merit awards
10 being given to people who have subsequently been convicted
11 of war crimes, disappearances or other human rights
12 violations.

13 THE COURT: I will have to hear that in terms of
14 whether it is relevant or not. I suspected what you were
15 going to argue, this is so much diplomatic pabulum, you can
16 argue that if you think that is appropriate. But --

17 MR. GREEN: I am trying to be up front with The
18 Court in terms of, that would be one issue.

19 The other issue --

20 THE COURT: Are these other people in El
21 Salvador?

22 MR. GREEN: No, Argentina.

23 MR. KLAUS: Did they receive the awards after the
24 alleged acts?

25 MS. VanSCHAACK: The same idea. When you change

1 your position or retire, you get one.

2 MR. GREEN: The reason for the award is visit or
3 assignment, including these two Defendants.

4 THE COURT: Let's wait until we get to that and
5 let me think about it.

6 It is what I said before, once these things come
7 in, they are subject to attack, but we have to do it
8 within the framework of the case, but I don't know. Okay.

9 MR. GREEN: The other thing, Judge, apparently
10 the jury was upset about this, and we looked into it
11 afterwards. Your Honor brought to our attention
12 apparently there is someone in the back of the courtroom
13 being very expressive.

14 MS. VanSCHAACK: Huffing and puffing.

15 MR. GREEN: Huffing and puffing. That was a
16 court sketch artist from Univision.

17 THE COURT: No. I don't think it was. Let me
18 tell you why. The court sketch artist, I didn't say
19 anything about this before, but I asked her to move from
20 the front to the back because she was sitting in the very
21 front row and at some point, I guess maybe as her sketch
22 became more complete, she was putting it on the railing,
23 and she would start looking at the jury, it was unclear to
24 me who she was sketching. And so I decided I needed to
25 ask her to go to the back.

1 Now, I then heard her -- I don't know what she is
2 doing, filling in an area, that was audible, not too much.
3 But I don't think, maybe I am wrong, I don't think she was
4 the person.

5 I think it was coming from somebody, and I
6 couldn't tell who. But the thing is, I think everybody
7 understands that we need to be careful about it.

8 MR. STERN: We made as diligent an inquiry as we
9 could, and that is what consensus seems to be. If there
10 is any way to apprise the jury the fact as best anyone can
11 determine the noise did not come from anyone affiliated
12 with either party, and did not seem to correlate with
13 specific testimony.

14 THE COURT: I don't know. I think we ought to
15 leave it at is, but I do think we ought to try to exercise
16 restraint. We are in such a small courtroom, you could
17 hear each other breathe.

18 One last thing. I just got a note, and I don't
19 think there is anything we can do about this right now,
20 let me share this with you. It says "I do not know if
21 this is appropriate, but may I ask to see the cigarette
22 burns on Ms. Gonzalez's body, the bullet wound in
23 Dr. Romagoza's arm, and any documentary medical, not
24 psychological evidence, showing the extent and severity of
25 the jury suffered by the Plaintiffs?"

1 Now, I just got this morning, I think we should
2 leave it as is. We are in the defense case, but this is a
3 note from the jury, and we can talk about that later.

4 MR. KLAUS: I have two things, I prepared a
5 proposed jury instruction on the statute of limitation
6 defense, and rather than participate in their notebook, I
7 made folders that the exhibits admitted in my behalf I
8 will put in a folder to the jury.

9 THE COURT: Let's talk about that. I do think we
10 need to have one, not a Plaintiff and not a defense
11 submission to the jury. Let's talk about that.

12 MR. KLAUS: Like I did last week, when I had a
13 exhibit, I made copies for all of the jury, did they just
14 keep those exhibits?

15 THE COURT: I think so. I don't know.

16 MR. KLAUS: I was going to give them this.

17 THE COURT: Hold off on this.

18 All set?

19 (After sidebar.)

20 THE COURT: Mr. Marshal, would you please bring
21 in the jury?

22 (Thereupon, the jury returned to the courtroom.)

23 THE COURT: Let me turn to Mr. Klaus and allow
24 defense to call the next witness.

25 MR. KLAUS: I will call former Ambassador Edwin

1 Corr.

2 THE COURT: Let me explain to the jury.

3 I think the jury remembers, when we stopped on
4 Thursday, General Garcia was being cross examined, but in
5 order to accommodate the next witness, the parties have
6 agreed that Ambassador Corr may testify, and when we are
7 finished direct, cross, and redirect, we will go back to
8 Mr. Garcia.

9 Ambassador Corr, you may take the witness stand
10 and if you need any documents, you may bring that as well.

11 Please sit down and make yourself comfortable.

12 Sir, the microphone has a short pickup range. If
13 you pull up to the desk area, you will be better.

14 You may stay seated, that is fine.

15 EDWIN CORR, DEFENDANTS' WITNESS SWORN.

16 THE COURT: Ambassador, would you be good enough
17 to introduce yourself to the members of the jury? Would
18 you please tell them your full name, and would you please
19 spell your last name for the court reporter?

20 THE WITNESS: My name is Edwin G. Corr, and my
21 last name is spelled C-O-R-R.

22 THE COURT: Thank you, sir.

23 Counsel, you may proceed.

24

25

1 DIRECT EXAMINATION

2 BY MR. KLAUS:

3 Q. Ambassador Corr, can you give us an overview of your
4 education and professional experience?

5 A. I was born in Oklahoma, I grew up in Oklahoma,
6 attended the University of Oklahoma. Spent three and a
7 half years on active duty in the Marine Corps, returned to
8 school, took the foreign service exam for the diplomatic
9 service of the United States. I was lucky enough to pass
10 that exam.

11 In the meantime I got a Master's degree at the
12 University of Oklahoma in history. I went into the foreign
13 service, September 7, 1961, and served in the foreign
14 service for 29 years.

15 I don't know how many details you want, but I have
16 lived in eight countries including the United States. I
17 lived in six Latin America countries. I lived also in
18 Thailand from '72 to 75. I learned to speak Spanish fairly
19 well, I learned some Thai. I even studied Ketshua
20 (phonetic). I learned a little bit of French.

21 My first assignment after completing was to the
22 Mexican department, and that was a short assignment. Due
23 to lack of money in the State Department, once we got money
24 I went to an assignment in Mexico where I stayed for four
25 years.

1 I worked in the different sections of the Embassy.
2 Last two years I was special assistant to the Ambassador.
3 From there I decided to take a leave from the State
4 Department, leave of absence, and I worked with the Peace
5 Corps as a peace corps director in Colombia where I had
6 about 150 volunteers working in all kinds of projects
7 scattered across the western part of Colombia.

8 After that I returned to school at the University of
9 Texas, Institute of Latin America studies, got a Master's
10 Degree there in political science. I returned to the State
11 Department where I was the desk officer, person in charge
12 of Panamanian affairs within the State Department, and
13 related to the Embassy in Panama.

14 From there I went to Thailand during a very difficult
15 time out there. Returned from there, went to -- continued
16 to move up the ladder in terms of promotions. Returned to
17 Ecuador where I started as the political officer, political
18 counselor in charge of political negotiations,
19 representation, and was moved up to be what is called
20 Deputy Chief of Mission, number two person in the Embassy.

21 And there was a change of Ambassador. There was a
22 lengthy period of time before the next Ambassador arrived.
23 I was charge d'affairs, in charge of the Embassy for a
24 number of months.

25 From there I went to be deputy secretary for

1 international narcotics matters, helping to coordinate the
2 agencies overseas trying to impede the flow of narcotics
3 into this country.

4 I went to be Ambassador selected by President Jimmy
5 Carter, to be Ambassador of Peru, 1980, '81. When
6 Mr. Reagan was elected, I was moved from that Embassy to
7 make room for someone that was more in favor of the White
8 House at that time, and I was transferred to Bolivia where
9 I served from '81 to '85, in a particularly difficult time.

10 I think it was probably my best work. We went from
11 the repressive narcotics involved dictatorial decision of
12 Mesa, and Pasaota ([phonetic]), and although that country
13 has lots of problems, it ended about 150 years of great
14 turbulence and has functioned fairly well since then.

15 And from there I was informed about eight months or so
16 of my four year term there that the President wanted me to
17 go to El Salvador. And they begin to send me messages from
18 that being between El Salvadoran, Washington so I could
19 read the traffic, messages about what was going on there.

20 And I went to El Salvador in August of 1985 after
21 briefings and so forth in Washington and then by the
22 Embassy. I was there until August of 1988, and then I was
23 assigned to the University of Oklahoma for two years as a
24 diplomat residence. They offered me an academic chair. I
25 was teaching at that time which I held for six years.

1 And for the last -- I was doing other things, also, I
2 created and ran a Western Hemisphere Energy Institute, and
3 I am now associate director, and have been for six years,
4 some of this stuff overlaps, associate director for our
5 international program center trying to internationalize the
6 curriculum of our students at the University of Oklahoma.

7 That is probably more than you would like to know.

8 Q. I see at one time -- two times you were a political
9 officer, once for U.S. Embassy in Mexico, and once for the
10 Embassy in Ecuador. What were your duties as a political
11 officer, or counsel for political affairs?

12 A. I also ran the political section in Thailand for a
13 number of months at different times.

14 The political officer is charged with reporting, of
15 knowing what is going on in the country, of understanding
16 the different political economic events and social events
17 that are occurring and preparing reports that go out under
18 the signature of the Ambassador to Washington for the use
19 of all of the Government agencies.

20 He is also the officer that is in charge of
21 negotiations and our country has probably 5,000 treaties in
22 force that there is continual negotiations going on, and
23 what we call representation. I know how the term evolved,
24 but what that really means is spending a lot of time
25 meeting with the host country leaders and nationals, and

1 all sectors of society for kind of two purposes.

2 One is to better understand what is going on in the
3 country and get as many diverse opinions and as much
4 understanding as one could obtain, and help present the
5 views of the United States to the public as you have these
6 conversations.

7 Q. I see from '71 to '72 you helped set up the
8 Inter-American Foundation?

9 A. Yes, I left that one out.

10 Q. Yes, that is one you left out. What was that?

11 A. The Inter-American Foundation was created to work with
12 the poorest of the poor in Latin America, and I was the
13 second person hired there after the director and I helped
14 set up the criteria which the Inter-American Foundation
15 operated. And those criteria lasted for ten or 15 years
16 before they changed them.

17 And I got the first three or four projects, one of the
18 projects helped me to work in the City of Medellin, all of
19 whom were garbage collectors. The leader of the group had
20 a second grade education, to my knowledge all the rest of
21 the people in the group were illiterate. And they ate the
22 garbage.

23 Over a period of time we were able to get the children
24 into school, get them into a better community situation,
25 and I went to different entrepreneurs in Medellin, this is

1 before the cartels were so famous, and I arranged for paper
2 to be bought by one company for glass, and metal to be
3 bought by a salvage company, and I arranged for garbage
4 that they didn't want to take, avail themselves to be sold
5 so they could be fed to pigs.

6 In that process we got the children in school and was
7 able to help out that group of people. That was only one
8 of several projects we helped for launching the
9 Inter-American Foundation.

10 Q. Are you familiar with the history of El Salvador, and
11 how have you made yourself familiar with that?

12 A. Well, in part, as you can see from the outline of my
13 career, I have been what is called in the State Department
14 parlance Latin Americanist. And I spent more than 17 years
15 living in Latin America.

16 I wrote a book on Colombia in 1972. I have written a
17 couple other books that relate to Latin America, one on low
18 intensity conflict. That was an edited book. And at the
19 institute of Latin America studies, I again was studying
20 Latin America, and I wouldn't say that I singled out El
21 Salvador for particular attention prior to the fact, and it
22 was general knowledge, studied all of Latin America until I
23 was told I was going to go there as Ambassador.

24 Well, that kind of motivated me, and I had eight
25 months before I went there. I was still extremely busy

1 with matters in Bolivia, and during the time I was there,
2 and then when I got through with that experience, it had
3 been a very intense experience, and I went to the
4 University of Oklahoma, and I began to digest and
5 understand what had taken place in that country from --
6 while I was there and the time before and how it had gotten
7 there.

8 I wrote over a number of years a manuscript which I
9 still have not -- 19 chapters. Four of those chapters I
10 still wasn't happy with. It really had to do with the
11 areas of human rights and so forth. And I wanted to -- I
12 actually put that aside. I haven't looked at that
13 manuscript except when forced to do so for other reasons
14 for about four years now.

15 Sometime I want to pull it out and finish it.

16 Anyway, I have written several articles that relate to
17 El Salvador, and I followed it because of my interested --
18 my own personal involvement there.

19 Q. And you have written several articles that have been
20 published regarding El Salvador?

21 A. Parts of books and articles, yes.

22 Q. Okay. Now, we've had testimony about the roots and
23 causes of the civil war in El Salvador. Can you express
24 your opinion as to what were the causes of -- when do you
25 think the civil war started?

1 A. Well, in terms of the roots, the roots are very long,
2 they go back to economic systems, and the way they affected
3 the population, and number of people who had employment,
4 different crops that were employed, and so forth, and a
5 growing population in a very small amount of land.

6 Q. Well, go ahead, if you can give us your view of the
7 history of El Salvador and the roots of this conflict we
8 find ourselves.

9 A. Well, maybe one place to start is with -- the 1900's
10 are very turbulent, as they were throughout Latin America,
11 I won't give much attention to that. I certainly could.

12 And you had a period in much of Latin America during
13 the first couple decades of the 20th century, things seemed
14 to get better, there was a very limited, and I mean very
15 limited kind of oligarchy political system that operated.
16 There were elections, and political parties, but didn't
17 encompass the entire populous, and that went into the
18 depression.

19 And one of the things that happened, external events,
20 wars and depressions so often it appeared that Latin
21 America was starting to make progress and be able to do a
22 better job for its people when external things have come
23 in, also impacted. It is not that there aren't internal
24 things also, but you had a situation with the coffee
25 culture, and coffee situation worked out quite differently

1 in El Salvador, say, than in Colombia where I also lived.
2 So you have people buying up the lands and dispossessing
3 people from land, and what you were getting is larger and
4 larger rural proteuria, where you didn't have work all
5 year, maybe 100 days out of the year, and you were lucky to
6 get that. And so you had people who were getting in worse
7 and worse condition.

8 At the same time when the depression came along and
9 there were elections again and the President came into
10 office who campaigned very well and had a progressive
11 program, he was incapable of implementing that program.
12 And the military took over with a dictator by the way of
13 Martinez who stayed in power and he stayed in power until
14 1944. He was a real personal dictatorship.

15 And in Latin America, when you look at the military,
16 you make distinctions between -- you made distinctions
17 because caudillo personal dictatorships and dictatorships
18 of the institution of the armed forces.

19 And so beginning with the fall of this dictator, which
20 really was a first in Latin America where people from El
21 Salvador of all walks of life, wasn't just a military
22 rebellion, but they had the folded arms revolution, and
23 this dictator fell and he was replaced.

24 Q. When was that?

25 A. 1944.

1 Q. 1944.

2 A. And then there came into power more an institution of
3 the armed forces, but having served in a country like Peru,
4 the armed forces in El Salvador were always small
5 comparatively to the very large like Brazil. And what took
6 place in Peru, which is a very important example, and
7 personalism remained more important in the larger countries
8 where they had larger armed forces.

9 Nevertheless, you had a man come in and replace him.
10 There were elections throughout this period, but they were
11 pretty well controlled. There was a party controlled by
12 the dictator, and so the armed forces began to put people
13 in, but it was always a troubled situation.

14 For instance, in 1944, Menendez, who had taken
15 Martinez's place, was overthrown by the military by a man
16 named Aguirre Salinas. And in 1948, you kept having
17 these -- parties created and you kept having elections.

18 In 1948, there was another military, the coup of the
19 colonels, or rebellion of the colonels, and so again you
20 have this.

21 One of the things that was very, very important in the
22 1960's, under the spirit of the Alliance For Progress, and
23 all taking place throughout the hemisphere, there were a
24 lot of reforms, a lot of lip service to reforms that didn't
25 work to implement it as deeply as it should have been, and

1 so forth.

2 And one of the real fallacies, I don't want to get
3 beyond what is needed, but people have glibly said, you
4 know, you have the armed forces and oligarchy, and they
5 ruled, but what is not really -- what people did not
6 emphasize or grasp, the armed forces represented primarily
7 the middle class, lower middle class, and not the
8 oligarchy.

9 And, I mean, some of the people who hate the armed
10 forces most in Latin America are oligarchies because the
11 military came in and these recurring changes of Government,
12 and although they made alliances of convenience with the
13 oligarchy, and there was collaboration, they were not the
14 same, and military officers normally came from the middle
15 class, it was a way of social mobility, and they moved up.

16 Under the Alliance For Progress, you still had the
17 military governments in power. It is very true that the
18 situation was in terms of growing number of people who were
19 in a hard way, who couldn't get jobs and so forth, that
20 situation was becoming more exacerbated.

21 Q. What was the Alliance For Progress?

22 A. The Alliance For Progress, three great or major
23 initiatives toward Latin America in the 20th century, and
24 one was the good neighbor policy under Franklin Delano
25 Roosevelt. And the Alliance For Progress was initiated by

1 John F. Kennedy when he came into the office. I was a
2 child of Kennedy. I was admiring of him as a president. I
3 left the diplomatic service to work in the Peace Corps,
4 another one of the initiatives that came in along with the
5 Alliance For Progress.

6 Q. What were some of the other institutional changes in
7 Latin America that laid the grounds for later revolutions
8 there?

9 A. Well, let me complete this one thought. In the
10 '60's --

11 MR. STERN: Objection, Your Honor;
12 non-responsive.

13 THE COURT: I will allow the witness to complete
14 his answer.

15 THE WITNESS: The government of the armed forces
16 started talking about and trying to start agrarian reform
17 programs. They started trying to put taxes and so forth
18 on the people who owned the land. They had housing
19 programs and so forth. They, too, were part of this
20 movement that was taking place under the Alliance For
21 Progress.

22 May we return for your specific question?

23 Q. Yes. Were there other major changes in other major
24 institutions in Latin America that affected the stability
25 of El Salvador during the '60's?

1 A. Well, actually during the '60's it was a pretty good
2 time for El Salvador, if you look at the economic is
3 indicators. From '60 to '78, economic growth rate averaged
4 someplace close to six percent, which is pretty good in
5 Latin America.

6 And during the '60's things weren't so bad. It looked
7 like -- there was a whole school of thought in America
8 academia that talked about the third way to a Democratic
9 revolution, and under Charles W. Anderson, one of the most
10 respected scholars on Latin America who described how Latin
11 America worked, he talked about the tutelage role of the
12 armed forces.

13 And one of the most important things that happened in
14 terms of democracy, the armed forces in the 1960's
15 instituted the idea of proportional representation in terms
16 of election to people to Congress, and without that
17 Christian Democratic party, parties other than the official
18 party sponsored by the armed forces would never get the
19 chance to grow and get the strength that they had. They
20 begin to grow, and there were a lot of people who looked at
21 the situation, and they thought that it was opening up,
22 that institutions were being built, that things were moving
23 towards a better life for the Salvadorans. The economy
24 looked good.

25 By the time you get to the end of the '60's, it

1 doesn't look so good. Things begin to get worse, you had
2 bad coffee prices, which always affect the economy. '78
3 was a good year. Oligarchies and military and other people
4 were living kind of a false elusion. What was beginning to
5 happen as you got to the end of the '60's, and you also
6 had -- you had the Central America common market. El
7 Salvador is a very industries -- Salvadorans profited from
8 that in being able to sell their goods to Honduras, and
9 countries less able to take advantage of that, so that
10 helped them economically.

11 Then you had the soccer war, the war between Honduras
12 and El Salvador.

13 Q. When was that?

14 A. That was at the end of the '60's, '69.

15 Q. And what affect did that have on El Salvador?

16 A. In some ways, I look at that war, I believe that part
17 of the reason it took place is because the leadership in
18 both countries at that time were becoming aware that things
19 weren't so good, things that looked rosy in the early
20 '60's, mid '60's were coming apart.

21 And sometimes you are able to distract your people
22 with some kind of a conflict, but nevertheless, the
23 feelings are very, very strong, and finally broke out, and
24 you had a war between El Salvador and Honduras.

25 And one of the main things this did was that it

1 restored popularity to the governments of the armed forces,
2 to the PCN party. That was the official party. And so you
3 come down to 1972, which I think is the critical year in
4 terms of moving to revolution.

5 When Jos, Napoleon Duarte had been elected mayor of
6 San Salvador, I believe three times, and the Christian
7 Democrats began to grow at the expense of the official
8 party of the armed forces, everybody believed it was
9 inevitable that Jos, Napoleon Duarte was going to become
10 president. Christian Democrats was going to win.

11 This endeavor, armed forces had been launched, and you
12 never had complete unity like this, they had been going
13 through the '60'S, and you had the war, and failure of the
14 Central America common market, kind of the luster went off
15 of that, and things were bad, everybody gets patriotic in
16 war, and so this restored the strength of the institutional
17 party of the armed forces.

18 But, but, nevertheless, Duarte in 1972, by all -- by
19 practically everyone, including officers of the armed
20 forces, won that election, and here the military leaders
21 are not willing to abide by the path that they had set the
22 country on with the idea that they would eventually -- they
23 give up power if they lost an election.

24 They weren't willing to bite that bullet, and the fact
25 is, they thwarted the people, and there was a military

1 uprising by Colonel Mejia, and that things were not always
2 together harmonious in the armed forces.

3 From that forward on things got worse and worse. In
4 1970 you had the creation of the FAPO under FAPO guerilla
5 group.

6 Q. Was that an armed guerilla group?

7 A. Armed guerilla group.

8 Q. From 1970 there was an insurrection ongoing --

9 MR. STERN: Objection; leading.

10 BY MR. KLAUS:

11 Q. What is FAPO?

12 A. What happened, with the Cuban revolution that had
13 taken place, and the Cubans are very active in the 1960's.
14 They are very active in Venezuela, Colombia, they were
15 active in trying to persuade people who felt that a
16 socialize status type system would be superior for the good
17 of the people. They were helping him out, and established
18 training camps in Cuba to which Latin Americans all over
19 went to receive military training. And this was
20 something -- this was part of a movement that was taking
21 place in Latin America, and the Salvadorans were not immune
22 from that.

23 To the surprise of many people, the Communist party
24 that aligned itself and supported by most coups was a very,
25 very conservative party, conservative in its actions.

1 People were on low, but steady pay, the key people from the
2 Soviet Union, and they were always the last of any of the
3 leftist groups to really go to arms.

4 Within the Communist party, Caetano Carpio was
5 becoming increasingly a supporter of the view there was an
6 oligarchy structure in El Salvador that would have to be
7 cast aside. It wasn't going to work in an evolutionary
8 process.

9 And in the 1970's he broke off from the main line
10 Communist party and established a guerilla group with the
11 aim of following a Cuban plan and that is not quite
12 accurate, 100 percent there. But of overthrowing the
13 government and establishing a socialist government or a
14 Communist government, depending on what terminology you
15 want to use.

16 1972 you had the establishment of the ERP, which is
17 another guerilla group, and shortly after that because the
18 leader of the Army of -- popular Army -- revolutionary Army
19 of the people, he shot Roque Dalton, who was a
20 revolutionary poet over what the leadership subject and the
21 paths should have.

22 And you have the third guerilla group, the FARN which
23 was established, and they took more of a view that you had
24 to work with the people and educate the people and work
25 with the popular institution, whereas the ERP so than the

1 FAPO, Caetano Carpio group, it established the focal of the
2 Cuban peoples where you could advance revolution despite
3 what Marxist said through military action.

4 Q. In your opinion were there armed forces fighting
5 against the Government in El Salvador beginning in the
6 early '70's?

7 A. Yes. With the establishment of that group, you had
8 the first group of people who were armed and declared their
9 intention to overthrow the Government.

10 Q. Was the country further polarized by the government
11 stealing the election from Napoleon Duarte, the
12 presidential election of '72?

13 MR. STERN: Objection; leading.

14 THE COURT: Sustained. Let me stop for a second
15 and allow Mr. Klaus to rephrase the question.

16 BY MR. KLAUS:

17 Q. What happened as a result of the election in 1972?

18 A. Well, as I stated earlier, 1972 in my opinion, and
19 these things are incremental and difficult to attribute
20 cause to a single factor, Aldoux Huxley tells us that, and
21 from no doubt from 1972 on, although you had the creation
22 of the FAPO of 1970, the disillusionment of the people
23 after the 1972 elections was so great, because they really
24 accepted this plan that had been presented to them, or the
25 idea that had been presented to them that society was

1 opening up, that political parties were growing and
2 becoming stronger, and you were getting a more pluralistic
3 society. And when the armed forces shut that down, people
4 who had hopes for that before said no, a guy like Caetano
5 Carpio is right, maybe they weren't in favor of armed
6 result.

7 Nevertheless, a lot of people were disillusioned, and
8 further disillusioned by the way armed forces measured the
9 other arms forces during the 1970's. Whereas the '60's
10 could be characterized by an optimistic outlook, at least
11 by the people writing about it, so forth, by the '70's,
12 everyone is of accord that things got worse and worse.

13 And so guerilla movements, you know, they sometimes
14 get some outside support, they get outside training, but
15 they also begin by trying to recruit people and
16 indoctrinate people and persuade them to their cause, and
17 they begin to try to get more arms and become stronger.

18 And, so, I mean, the natural pattern of this has been
19 over the last 30, 40 years of bank robberies and
20 kidnappings, holding people for ransom in order to build up
21 the war chest, in order to build up the resources of the
22 guerilla group, and there were a tremendous amount of
23 kidnappings by the guerillas during the 1970's, a
24 tremendous, tremendous in terms of in the eyes of the
25 oligarchs because that is who you kidnap who has the most

1 money.

2 And so from -- in the mid '70's, '75 to '77 were the
3 largest number of kidnappings and assassinations, so forth.
4 And situation getting worse and worse.

5 Q. When you say situation getting worse and worse, what
6 was the status of the country regarding human rights come
7 '77, '78?

8 A. Well, the human rights situation was very bad in the
9 '70's. And it is hard to try to put a date as to when
10 human rights violations began. I don't think you can put a
11 date, there were always human rights violations.

12 What really came along was a greater awareness of this
13 and that this shouldn't be tolerated. Nobody ever wanted
14 it. You go back, countries vary in their levels of
15 violence and sociological --

16 MR. STERN: Objection; non-responsive.

17 BY MR. KLAUS:

18 Q. What was the level of violence in El Salvador at the
19 time?

20 A. Countries vary in their levels of violence. El
21 Salvador was a violent country. If you went back to the
22 Metanza, the killing of peasants in 1932, there had been a
23 higher level of violence.

24 Q. What was the Metanza?

25 A. Metanza was an effort back in 1932, which led, really,

1 in part to this guy Martinez becoming the long-term
2 dictator when people were getting fed up were not having
3 enough to eat and having their lands taken and having their
4 rights abused. So there began to be organization of
5 workers, and so in El Salvador these people begin to
6 revolt.

7 And they were put down very strongly and bloodily by
8 the armed forces. The figures on how many people were
9 killed vary from 5,000 to 40,000. They seem to grow
10 greatly -- the numbers, the estimates grew greatly in the
11 '70's and '80's, probably the best work on that is by
12 another man named Anderson, not Charles W.

13 And he figured it probably at the time he wrote the
14 study of it 10,000, nine or 10,000, nobody ever went less
15 than five, and that was bandied around all the time in the
16 '80's was 30 to 40. No matter that a lot of people were
17 killed, a high level of violence, and that kind of violence
18 continued to exist.

19 I was going to say in terms of looking at El Salvador,
20 it is important to understand that El Salvador has been a
21 highly violent country. Colombia is a highly violent
22 country. The United States compared to other countries is
23 a highly violent country.

24 Q. How would you measure violence?

25 MR. STERN: Objection, Your Honor; irrelevant.

1 THE COURT: I will overrule that. I will permit
2 it.

3 THE WITNESS: One of the best ways to measure
4 violence is how many people get killed unjustly.

5 BY MR. KLAUS:

6 Q. You mean murders? How many people are murdered?

7 A. Sure, sure. You can look in terms of trying to judge
8 if a nation is violent, some people would say, you know,
9 you look at murder rates. Some people say you look at
10 execution rates. There would be different things in trying
11 to attach to a country the idea that they have a culture of
12 violence, armed robberies, brutality by public security
13 forces, all kinds of things like this go into trying to
14 determine -- sociologists, and people who work in the field
15 trying to look at comparative levels of violence.

16 Q. So, on a comparative level, does that include all of
17 the nations in the world?

18 A. Well, I am really just looking at Latin America at
19 this point. El Salvador has a high level of violence say
20 with Ecuador and Bolivia, no doubt about it. And it does
21 today, many years after the war is over.

22 Q. And what does that mean to a person living in El
23 Salvador?

24 A. That means it is more --

25 MR. STERN: Objection, Your Honor; outside the

1 scope of Ambassador Corr's expert report.

2 THE COURT: I will overrule the objection and
3 permit it.

4 THE WITNESS: Would you repeat the question?

5 BY MR. KLAUS:

6 Q. What does a high level of violence mean to someone who
7 lives in El Salvador, during this time period, '79 to '83?

8 A. A high level of violence means it is people have
9 anxiety about the safety of their families, their children.
10 They are afraid that they might be killed. They are afraid
11 they might be unduly arrested and treated badly. These are
12 things that have to do with living in a violent society.

13 Q. Would that anxiety be real?

14 A. Yes. Well, I don't know whether I can answer that
15 question, but my opinion is that, yes, anxiety is real.

16 Q. Does having a high level of violence, comparative high
17 level of violence mean you are more likely to be a victim
18 of violence in El Salvador than the countries you compared
19 it to?

20 A. Yes --

21 MR. STERN: Objection; leading.

22 THE COURT: No, I will permit that. You may
23 answer that.

24 THE WITNESS: Yes. For instance, during the
25 time -- Ecuador in the last 15 or so years has become more

1 violent. Ecuador is a very passive country. That doesn't
2 mean there wasn't a lot of violence in families, but
3 people didn't have the same insecurity like people living
4 in El Salvador would have.

5 BY MR. KLAUS:

6 Q. Why is 1979 an important year in El Salvador history?

7 A. 1979, you have the decade of the '70's in which, first
8 of all, the election had been denied to the winner, Jos,
9 Napoleon Duarte, and the following elections also seemed to
10 be manipulated. And you had the rise of the guerilla
11 groups and increasing violence and responses by the
12 security forces in terms of trying to put it down. A small
13 almost constabulary force in the '70's, 12,000, I think by
14 1991, it was up to 14,000. That included all police, all
15 fireman, all soldiers and the three different branches, and
16 so forth.

17 So, I mean, you had a relatively small unit and it was
18 responding. In the counter insurgency someone made up and
19 everybody adopted it, a British general fighting in
20 Malaysia, in order to cope with insurgency, you had to have
21 a ratio of ten to one against the armed insurgents.

22 You had a situation where the number of armed
23 insurgents were growing, and armed forces and public
24 security forces trying to combat that, and the guerillas
25 have a great advantage, they could choose their place of

1 attacking, and the armed forces, and public security
2 forces, they have to try to guard everything, they have to
3 try to guard transmission lines, dams, highways, and so
4 with the number of people that they had in the armed forces
5 with this growing guerilla menace, they were very stretched
6 to try to respond to that.

7 Q. Who was in power in '79?

8 A. The president was a gentleman by the name of Romero,
9 and you had the -- you had a coup by -- within the armed
10 forces made up of -- everyone always talks about the young
11 officers, there were also more senior officers involved, in
12 which he was over thrown and the military announced that it
13 was going to carry out a program of agrarian reform, of
14 nationalization of several of the major industries, that
15 they were going to try to stop human rights abuses, they
16 were going to free people who were prisoners, that they
17 were going to try to reestablish better relations with
18 Honduras, and Nicaragua.

19 They established a commission to try to look into
20 these things, and the younger officers took over. They
21 expelled more than 70 officers, let's use the figure 70
22 officers from the armed forces.

23 The man who was my defense attach, while I was there
24 '85 to '88, had also been in El Salvador in the defense
25 attach, office in that period, '79 to 1980, and he told how

1 they swept out 70 officers. I am sure they varied in their
2 qualities, but they took them out because they felt they
3 were officers that they did not want to be part of the
4 armed forces. And Colonel Minus (phonetic), he said that,
5 you know, the officers who went to occupy the command
6 positions -- they didn't even have keys to their offices in
7 some cases -- to take 70 officers in key positions out of a
8 military unit with 14,000 people is -- was significant in
9 terms of --

10 The armed forces did this, the United States had
11 nothing to do with it and they established a military Junta
12 that was made up of Colonel Gutierrez and Majano who was
13 looked to favorably by the younger officers. They
14 established a committee called COPEFA. They didn't trust
15 the military or armed forces to try to guide the
16 revolution.

17 And you begin to move into a very chaotic period here
18 with this revolution.

19 Q. Did the level of violence increase in the country
20 during this time period?

21 A. Yes. The level of violence did increase. Violence
22 had been high in the '70's, but it became even higher, and
23 the guerilla groups had been talking about revolution,
24 people looking forward to -- they seemed to be growing in
25 strength, and so many of the people who led these armed

1 insurrections, these different groups, they were not really
2 that happy, and you would not -- well, one might have
3 thought that the armed forces have come out and declared
4 many of the same goals we said we were fighting for.

5 But power is an important thing to people. I can't
6 say exactly what motivated people but that -- the
7 revolutionary fear of these groups did not subside with the
8 ascension of the military officers to power and naming of
9 the Junta, and statement that they were going to create a
10 new Constitution and have elections and so forth.

11 Q. What kind of reforms were instituted by the
12 revolutionary Junta?

13 A. Well, agrarian reform was begun.

14 I would like to say, immediately upon --

15 MR. STERN: Objection; non-responsive.

16 THE WITNESS: I am still responding to the
17 previous question.

18 THE COURT: I will permit it. Let's go ahead.

19 You may answer the question.

20 THE WITNESS: I was still trying to answer the
21 previous question.

22 BY MR. KLAUS:

23 Q. I am sorry.

24 A. Immediately upon -- when the military forces
25 established announced the revolution, what they called

1 revolution of the armed forces, the ERP moved into San
2 Marcus and moved into two barrios of San Salvador and the
3 FAPO came out and the ERP both came out with public
4 statements that they opposed this.

5 Q. What is ERP and FAPO?

6 A. FAPO was the group that broke away from the orthodox
7 Communist party and formed the first guerilla group. And
8 ERP was the revolutionary Army of the people led by
9 Villalobos, and they issued statements.

10 And you moved into a period in the '80's that was
11 extremely high violence. 1980 and '81 were just horrible
12 years. You talk about people having anxiety, there were
13 all kinds of murders. You had the rise of death squads,
14 which had the roots in the 1970's of fighting against --
15 from the oligarchs as they tried to strike back against
16 some of the guerilla violence, and you had the streets of
17 San Salvador constantly -- there were demonstrations and
18 protests and people killed and shot in these
19 demonstrations.

20 And the numbers are almost impossible to establish
21 because they vary so greatly, but even the lowest numbers,
22 it was horrendous. You have the popular groups associated
23 with the guerilla groups. They were taking over Embassies,
24 taking over mine industries, they held Ambassadors hostage,
25 they would occupy mine industries and close down the

1 functions of the mine industries. And it was truly a
2 chaotic situation in the '80's, in 1980 and '81.

3 Q. What was the group ORDEN, O-R-D-E-N?

4 A. ORDEN was a group, I believe the gentleman's name was
5 Medrano, and they were -- I don't know, you might use the
6 word kind of vigilante. They were a group of people who
7 organized themselves, former military and police, and they,
8 with the support of oligarchies, they were trying to help
9 bring order.

10 And that was an acronym for something to the situation
11 in the countryside where you were beginning to have more
12 and more violence, and they were -- they were a group when
13 the armed forces, the younger officers and -- I am not
14 certain what adjective to use, but the officers overthrew
15 Romero. They said they were doing away with ORDEN. ORDEN
16 had been responsible for much of the violence in the
17 countryside.

18 Q. Did they issue a proclamation declaring ORDEN illegal?

19 A. I don't remember exactly the document, but the armed
20 forces stated -- they had a proclamation and a list of
21 emergency measures, and one of the actions specified was
22 that ORDEN was to be undone. It was to be -- I don't know
23 what word was used, disorganized, banished.

24 Q. Even though it was banished, did its members still
25 exist?

1 MR. STERN: Objection; leading.

2 THE COURT: Sustained.

3 BY MR. KLAUS:

4 Q. What happened to the members of ORDEN after it was
5 banished?

6 A. They continued to exist and found other groups and
7 organizations that they worked with and pretty much
8 continued doing a great deal of what they had been doing
9 before.

10 Q. Did there remain members of the armed forces who still
11 supported ORDEN and the oligarchy even after the coup?

12 A. Yes. And I will probably be said I am not responding
13 to the question here, but in terms of that, it is important
14 to understand that the literature and so forth, it very
15 much likes to teach that the church and armed forces in
16 Latin America were two institutions that were more modern,
17 they were more disciplined, they had more hierarchy, et
18 cetera, and that is the kind of thing that I went into
19 thinking until I got to El Salvador, and certainly it is
20 true in comparison to some other institutions.

21 I mentioned in the 19 -- from 1944 on, there were a
22 number of uprisings in the military, which shows that not
23 all was completely disciplined and orderly. You had a
24 whole array here, after the final offensive of 1981 was
25 launched, if you go completely to the left, you have

1 military officers who left the armed forces and went with
2 the guerillas, you have two and at least 80 soldiers who
3 went to garrison and went to the guerillas.

4 These terms are kind of inaccurate, but as you move
5 across the spectrum, you have younger officers like Majano,
6 some people say more progressive, you have people more
7 traditionalists, and spent a long time in the armed forces,
8 and had a lot of loyalty.

9 And more traditionalists, perhaps personified by
10 General Garcia, and you had people like General Vides. But
11 you can move across that spectrum until you get over to the
12 people on that -- that were very much all identified with
13 the oligarchy. One was D'Aubuisson expelled from the armed
14 forces.

15 And so you had a great mixture of officers and how
16 they looked at their own society and how they related to
17 each other, and although there is great unity in the armed
18 forces, the idea they were just one monolithic single force
19 is false, and that was true of the church. And that was
20 true --

21 THE COURT: Ambassador, let me stop you for a
22 second.

23 I would ask you if you would listen to Mr. Klaus'
24 question, understanding that he can -- if you don't limit
25 yourself to that, the other side doesn't have an

1 opportunity to object if there is a problem. Let's see if
2 we can't follow that format.

3 Mr. Klaus, let me go back to you and ask you to
4 ask the next question.

5 BY MR. KLAUS:

6 Q. What was the status of the church as an institution
7 during this time period, '79 to '83, in El Salvador?

8 A. The church was probably the most respected institution
9 in the country. Because of the failure of government to be
10 able to exercise its functions, it acquired a number of
11 more functions, operation of refugee camps. There was one
12 whole municipio that the armed forces didn't go into.

13 The church had a power to establish extra
14 territoriality. I had conservative bishops and people
15 complaining that the church -- we provided an I.D.
16 assistance, food for peace, food for lactating mothers, for
17 people throughout the hemisphere.

18 The bishop often stated that they took no aid from the
19 United States. They continued to take aid from the United
20 States for programs like lactating mothers. There were
21 bishops who came to me and said, we are unhappy with the
22 way things are, we would like to have more assistance.

23 You had the theology of liberation groups, you had
24 priests who left to be with the guerillas. This
25 fragmentation, lack of coherence was something that was

1 existent in labor, it was existent in business, it was
2 existent in the church, it was existent in the armed
3 forces.

4 Q. What you described with the armed forces, what would
5 that do to a chain of command in the armed forces?

6 A. Well, that, of course, would weaken the chain of
7 command. What really weakened the chain of command in my
8 opinion, if you go back to the armed forces in '79, '80,
9 '81, into '82, there are things that just absolutely were
10 astounding to me when I came as the Ambassador,
11 particularly having been a Marine Corps infantry officer,
12 and one was the fact you had regional commanders, and there
13 was not a central recruitment of soldiers.

14 Q. What does that mean?

15 A. Each regional commander recruited his own soldiers.
16 There was not a unified central training command in which
17 all Salvadoran soldiers got the same training by a central
18 training command. Each regional commander did his own
19 training.

20 The inspector general had very little power, and the
21 money for the budgets was sent out to the regional
22 commanders. And they had tremendous latitude in terms of
23 being able to move that money as they felt was best needed
24 for fighting, or whatever their needs were in their
25 regional command.

1 And, so, if you were to walk into -- there is this
2 tradition of very strong discipline in the military
3 academies, and very strong discipline among the soldiers,
4 but there was not the idea that like in the Marine Corps if
5 the Brigadier General says something, it goes down the
6 line.

7 This idea that there was immediate and always
8 compliance of the regional commanders as shown by, for
9 instance Cifredo Ochoa in 1983 or 1988. And another thing
10 that made it difficult in the armed forces, difficult in
11 chain of command and so forth, was what was called the
12 Tanda System in the armed forces. And that is each
13 military promotion, each graduating military class, they
14 formed an extreme loyalty with their class, and that lasted
15 throughout the years.

16 I went to a small high school, and I often said it
17 would be as if the 68 -- actually in my class, 40 men, 40
18 boys, less than that, if those guys who went to high school
19 together, because many of the people went to an academic
20 preparatory course, and went to the military academy, and
21 went through the hazing, and kind of experiences that kind
22 of bring you together in a military unit. And then they
23 went out and worked together for the next 30 years.

24 This was a group of men who stayed together. It
25 wasn't like you went one place and moved. And so you had

1 these very deep loyalties among these classes, and
2 different classes had different strengths and different
3 weights. And different Tandas would come to -- would
4 finally reach a level of where they would kind of be the
5 top people, their Tanda for a couple years, and some of the
6 Tandas, as the armed forces began to grow, the Tanda became
7 larger, the Tandona, the big promotion class, and these
8 guys stuck together, and very hard for commanders to deal
9 with.

10 Q. How did that specifically affect someone's ability to
11 effectively command?

12 A. Well, it reduced -- in my opinion it reduced it
13 greatly because those officers were talking with each other
14 all the time. They had their own plans, they knew who was
15 going to get to be regional commander, and working
16 together. And although it is a matter of degree, but the
17 interest of the Tanda took precedence over -- at times over
18 the interest of the armed forces and commands of the
19 leaders.

20 Q. You mentioned the Ochoa incident. What was that
21 incident?

22 A. Well, in 19 --

23 Q. Go ahead and have your drink.

24 A. Colonel Ochoa was an officer stationed up in El
25 Paraiso, and he had a reputation, at least a reputation of

1 being a good officer.

2 Q. Where is El Paraiso?

3 A. Up in the northern part of the country, in El
4 Chalatenango. He was successful in bringing about certain
5 changes there, and he did that in 1988.

6 The one in 1988, I am intimately, have more knowledge
7 of than the one in '83, but he was able to force the
8 removal of Lopez Nuila who was promoted to be a minister.
9 But these different groups -- he was not part of that
10 Tandonna, he used that Tandonna as part of this. He wasn't
11 even part of the principal leader there.

12 Q. What did he do in '83, and what was the result of what
13 he did?

14 A. Well, the result was change in administeries.

15 I do -- on this, I am not as sure of my facts, and I
16 don't want to say something that is not correct, but in '83
17 he led a movement or revolt and was successful, partially
18 successful in that.

19 MR. STERN: Objection. I move to strike the last
20 answer as speculation, about the witness' answer, lack of
21 facts.

22 THE COURT: Do you feel comfortable in voicing
23 that opinion?

24 THE WITNESS: I have no --

25 THE COURT: Let me stop you. Are you able to

1 give that opinion based on your experience and expertise
2 in terms of what happened in '83?

3 THE WITNESS: As what was told to me in 1983, he
4 led --

5 THE COURT: No. Let me stop you. Are you able
6 today in the courtroom to state what you have stated as an
7 opinion based on your expertise and background?

8 THE WITNESS: Yes.

9 THE COURT: All right. I will permit it, then,
10 obviously subject to cross.

11 BY MR. KLAUS:

12 Q. What about corruption in the armed forces during '79
13 to '83, and do you know anything about that?

14 A. Corruption was always a matter of great importance to
15 the American Embassy, particularly after our own military
16 assistance programs were resumed in 1981, 1981. There was
17 a -- my opinion was that although there was some corruption
18 that involved U.S. military assistance, that most of the
19 corruption that took place involved Salvadoran resources,
20 because they were putting them into -- they also were
21 putting their own resources into the war, of course.

22 And we in the Embassy, we tried to make a, kind of a
23 judgment as we tried to look at this with the information
24 that we could get that because of the budget system, and
25 because of the lack of paper trails, and so forth. If

1 money went out to a regional commander and he used money
2 for different purposes than was specifically outlined in
3 the budget, but was for the good of his unit to promote the
4 fighting capacity, moral of his unit, that was more
5 understandable, maybe not acceptable, but more
6 understandable.

7 If they used those resources to enrich themselves for
8 personal gain, that was unacceptable, and there were some
9 cases of that.

10 There was also a case in which a couple of military
11 officers were involved and, again, in terms of details, no
12 doubt about the facts I am going to say here, the fact that
13 an American company made a deal in which they dealt with
14 two military officers for the sale of ammunition, and this
15 ammunition was supposed to have been purchased in the
16 United States, but instead this company took -- I think
17 Yugoslav ammunition, they got ahold of ammunition from some
18 other place which is in violation of the law, and they paid
19 off a couple officers, and that was a case we were very
20 concerned about.

21 Q. What happened when the ammunition reached the weapons
22 in the field?

23 A. Well, that ammunition, much of it was not good
24 ammunition. It didn't work.

25 Q. Were there any El Salvadoran military officers being

1 paid directly covertly by our government during the war?

2 A. The answer to that is yes, but the answer to that is
3 Ambassadors do not know who -- they know that sometimes
4 this may be happening, but the officers are not
5 specifically identified unless the Ambassador is dealing
6 with them personally. And I am quite certain there might
7 have been a small number of officers that some intelligence
8 agencies had recruited.

9 Q. What was the United States' influence over how the war
10 was conducted in El Salvador during -- from '79 on?

11 A. Well, actually in 1979, it wasn't very much influence
12 at all, because President Carter in 1977 had suspended all
13 military assistance because of the human rights situation,
14 and the evaluation that the Salvadoran armed services and
15 public security was involved in human rights violations.
16 That was a dislike. People resented that greatly.

17 From that date until the final offensive, and when
18 President Carter actually resumed military assistance prior
19 to his leaving office, our influence was greatly
20 diminished. And actually once we announced the resumption
21 of military assistance, it takes awhile for that stuff to
22 flow, the United States Government in terms of its
23 bureaucracy to actually have, get people trained, that
24 takes time to provide weapons, and so forth. But I would
25 say once we resumed military assistance, our influence

1 increased with the armed forces.

2 Q. While you were there as Ambassador, did you -- did you
3 meet regularly, or did members of El Salvadoran military
4 meet regularly with the military attaches to the Embassy?

5 A. The way an Embassy is organized, you have what is
6 called a Milgroup, military assistance group, and also a
7 defense attach,. I think we are the only country in the
8 world that does this. And I always thought it was kind of
9 foolish, but the military assistance group mission is to
10 provide training and assistance to the country where they
11 are assigned, whereas the military attach, kind of
12 internationally, and under international conventions, they
13 are recognized as kind of acceptable observers if not
14 spies.

15 Their job is to report on the armed forces and
16 security forces of the host country, they meet, there is a
17 military attach,s corps, and it is pretty well understood
18 the assistance itself flows through the Milgroup.

19 Q. Is the Milgroup attached to the Embassy?

20 A. Yes, in the Embassy, works under the Ambassador.

21 Q. How many advisers did we have there in '83?

22 A. Well, there was a tremendous debate that took place
23 about how many military personnel could be assigned to El
24 Salvador, and that related very much to what had happened
25 in Vietnam, what people call the Vietnam syndrome, in which

1 there was a fear that we might get subjected into something
2 that our own troops would become involved in combat, and so
3 finally, it was not a Congressional restriction, but it was
4 agreed -- I mean, there was not legislation, but it was
5 agreed between the executive and Congress, key members,
6 that there would not be more than 55 trainers.

7 What I am going to say now everybody understood, you
8 had military officers who were designated as trainers, and
9 then you had, you had members of the Milgroup, they did not
10 come as trainers, they were there to provide support for
11 arrival of equipment and arrange for training and so forth,
12 and also to serve as kind of the support base for the
13 trainers, and then you had defense attach,'s office in
14 which you had another seven or eight military personnel. I
15 don't remember the exact number, and it may have varied
16 during that periods.

17 And, so when you count it up, usually in a country
18 with the DY people and so forth, you have anything from 90
19 to 120 U.S. military in the country, not more than 55 of
20 those could be what were designated as trainers.

21 THE COURT: Mr. Klaus, looking at the clock, we
22 are at a point where we need to take a break for the
23 mid-morning recess. Let's take a 15 minute break and we
24 will come back and continue on with Ambassador Corr's
25 testimony.

1 Let me allow the jury to step out.

2 (Thereupon, the jury retired from the courtroom.)

3 THE COURT: We will take a 15 minute recess.

4 (Thereupon, a recess was taken.)

5 (Thereupon, trial reconvened after recess.)

6 THE COURT: Ladies and gentlemen, please be
7 seated. When we stopped, we were in direct examination.

8 Let me turn back to Mr. Klaus so he may proceed.

9 MR. KLAUS: Thank you, Your Honor.

10 BY MR. KLAUS:

11 Q. Ambassador Corr, we talked about the breakdown of many
12 of the institutions in El Salvador, the church, Army. What
13 was the status of the courts and legal system during the
14 civil war?

15 A. Well, they existed, but little else. They didn't
16 function well at all, at least in the area of human rights
17 abuses and in all areas they were deficient, but they
18 didn't function very well.

19 Q. What other institutions can you talk to that had
20 problems during the civil war with their function?

21 A. Well, the guerillas themselves had problems. The
22 whole society was fragmented, they had five different
23 groups. As I mentioned earlier, they had the ability to
24 just eliminate someone if he did not carry out the orders
25 as they did with Roque Dalton, and Ernesto Jovel, Miguel

1 Castellanos, as they did -- we never did know what happened
2 to the FAPO, when the suicides and everything else took
3 place.

4 They had problems with coherency and unity, entire
5 society, splits in the business community. It was a very
6 fragmented -- the institutions, all of them, were -- had
7 problems in terms of chains of command, coherency.

8 Q. What could the Minister of Defense do if someone
9 didn't obey his orders during that time?

10 A. Well, they had a code of -- code of military law, and
11 he could be subjected to investigation and brought before
12 the military court system. Or if there were certain kinds
13 of crimes, they should be remanded and sent out to the
14 civilian courts.

15 Q. As a practical matter, could that be effectuated
16 during the time of the civil war?

17 A. Well, it could be, but what happened, if military
18 officer were sent out to the courts, the judges were so
19 frightened of death squads and reprisals, that they would
20 be very hesitant or reluctant to take action against a
21 military person. And they had that same fear of guerillas.

22 Q. Were there any additional coups or attempted coups
23 after the '79 coup?

24 A. Not that were successful. Well, in terms of coups,
25 the commander of the Air Force told me that he was

1 approached seven times by the business class, by the
2 oligarchies asking him -- he had capabilities because he
3 had some ground troops plus air, and he said several
4 different times that the civilian elements asked him to
5 carry out a coup against Duarte and he turned those down.

6 And so I am sure if he was approached, there were
7 other officers that were approached. That was told to me
8 personally.

9 There was again -- as I say, there was a great deal of
10 bridling by certain officers, and particularly the sedona
11 class, about the efforts of the command, complaining to
12 them about human rights abuses and trying to clean up the
13 act.

14 For instance, in 1980 the Junta made an agreement with
15 the International Committee of the Red Cross and they asked
16 the International Committee of the Red Cross to come in.
17 They asked the committee to set up three what they call
18 tracing stations, and they were guaranteed by the high
19 command, and by the President of the Junta that they could
20 enter any military installation or police installation in
21 terms of trying to search and look for disappeared persons
22 or torture chambers or anything like that.

23 And then periodically members of the Red Cross would
24 meet with the high command and President and Minister of
25 Defense, and they would give what the regional commanders

1 and some of the military officers call their report card,
2 and they would report to them on different commanders and
3 different abuses, and so forth that they had been made
4 aware of. And --

5 Could you return to your question? I am sorry.

6 Q. What obstacles were there for enforcing the laws
7 against military commanders and members of the military?

8 A. I think probably the biggest impediment to that was
9 that in many ways the President of the country and high
10 command of the armed forces were like a physician that was
11 trying to deal with a patient that had many maladies and
12 that if you tried too hard to cure one of those maladies,
13 you might kill the patient because of another malady that
14 he had.

15 And so the commanders of the armed forces, they were
16 in a situation where on January 10, 1981, the guerillas
17 launched what they called their final offensive, and they
18 had probably 5,000 men under arms going against the armed
19 forces trying to assume their places. And they assumed
20 there would be an uprising of the people to join them in
21 arms, which did not occur.

22 Excuse me, I am sorry, my mind wandered. Would you go
23 back to your question?

24 Q. What obstacles were there to commanders --

25 A. So, what I was saying is that the nation was on the

1 brink of falling, the government falling, of the guerillas
2 taking over the country. In the mind of the President, in
3 the mind of the high command, in the minds of most of the
4 people in the country, their feeling was that if this
5 revolution was successful, if this insurgency was
6 successful, and based on the statements, so forth that were
7 being stated, that the government would become a Communist
8 government modeled either on the Nicaragua model or on the
9 Cuban model.

10 And so you had this tremendous chaos and
11 demonstrations in the street, and you had power lines being
12 interrupted, and dams being threatened, and you had
13 transportation stoppages, of people shooting anyone on the
14 road. And at the same time that the leaders of the country
15 were trying to deal curbing human rights abuses, which is
16 one of their objections, and which I believe they had
17 success in reducing throughout the '80's, they also were
18 having to fight a war in which there was chaos in the
19 streets.

20 And then there was the possibility of losing that war
21 and getting what they considered would be a worst system
22 than what they had then. And so I think that -- they had
23 to depend on certain units and commanders, and for
24 instance, some of the most heinous and worst killings that
25 were carried out were right on the eve of the final

1 offensive.

2 And so I think that was the biggest impediment, trying
3 to balance and fulfill all of the responsibilities that
4 they had as part of the high command in not wanting the
5 armed forces, which were fragile and fragmented, to go
6 ahead and break and thereby lose the war.

7 Q. Were the armed forces in danger of falling apart?

8 A. In my opinion it wasn't so much that they would
9 completely fall apart, but there would be some very hard
10 line groups come in. I think they could have fragmented
11 and I think that would have been wrong for democracy, wrong
12 for reducing human rights violations.

13 Q. Was the biggest threat within the armed forces to the
14 ruling Junta and Ministers of Defense --

15 MR. STERN: Objection.

16 BY MR. KLAUS:

17 Q. -- from the right-wing mill of military?

18 THE COURT: I will permit that.

19 THE WITNESS: We used to talk about will the
20 center hold. That was a common statement that was made.
21 What that really meant was what a certain part of the
22 population, leadership was trying to achieve was to try to
23 achieve a more just society, a more Democratic society, a
24 society at peace, and so forth, and the threats to
25 obtaining those goals were from both the right and the

1 left.

2 They were from the right-wing death squads which
3 included certain elements of the armed forces that were
4 what you might say moonlighting, being paid out of their
5 own convictions, were members of death squads. And on the
6 other side there was a threat that the armed Communist,
7 foreign Communist supported insurgency would take over.

8 There was a threat from both sides, and what the
9 government and what the high command was trying to do is
10 to hold that center and expand it so that they would
11 eliminate the unconstitutional elements on both the right
12 and the left.

13 Q. When General Garcia was Minister of Defense, who was
14 the commander in chief of the armed forces?

15 Let me ask you, did he receive orders from the Junta?

16 A. As Minister of Defense he received orders from the
17 Junta, yes. Now, whether -- there was a negotiation in
18 there, I am sure, but on paper he received orders from the
19 Junta.

20 Q. As a practical matter, would he be aware of what was
21 happening in a regional detentional facility like San
22 Vincente National Guard post while he was Defense Minister?

23 A. He would generally be aware as Defense Minister of
24 things going on, but he would not be aware of a lot of
25 things going on. Just as I described earlier, the power of

1 the regional commanders, you had the Air Force, the Navy,
2 Army, regional commanders, you had the Tanda, and so forth,
3 and they were capable of certainly of hiding things if they
4 wanted.

5 Q. During that time was it the government's policy to
6 outlaw -- had the Government outlawed human rights abuses?

7 A. The armed forces, when they took over in 1979, said it
8 was their goal and they established a commission for this,
9 to try to do away with human rights abuses. And it was
10 certainly a stated goal of the Junta Government and
11 President Duarte and that was the goal.

12 Q. What were the major obstacles to doing away with
13 unlawful detentions and torture during that time period?

14 A. Well, I think it was an engrained pattern of behavior
15 that had been with military -- with the military and public
16 security forces that went back into the '70's, and maybe
17 even before. And I think that, you know, some of the
18 problems in command was the continued effort of the high
19 command to establish standard operating procedures in terms
20 of when prisoners were captured, notification of human
21 rights organizations, efforts to try to get a better handle
22 and control on this kind of unacceptable and horrendous
23 behavior.

24 Q. Why weren't they able to do that between '79 and '83?

25 MR. STERN: Objection; leading.

1 THE COURT: Sustained as to the form of the
2 question. It presupposes what the question states.

3 BY MR. KLAUS:

4 Q. Were they able to get a handle on unlawful detentions
5 and torture during '79 and '80?

6 A. No, they were not. I don't think that you really saw
7 progress beginning until at least in '81, '82. I think it
8 coincided greatly with the military resistance to the
9 Salvadoran military.

10 Q. You mean U.S. military assistance?

11 A. Yes.

12 Q. Was U.S. military assistance contingent on the El
13 Salvadoran government being certified as the human rights
14 progress?

15 A. Yes. Congress had passed legislation that required
16 the executive to render a report to Congress every six
17 months as to whether or not there was improvement in the
18 human rights situation. And the executive had to do that.
19 The executive was leaning very heavily on the Salvadoran
20 President, of the Junta, and on Magana, and conversations
21 with the high command of the armed forces to make that
22 happen.

23 Q. And, again, why wasn't that pattern of behavior or of
24 unlawful detentions and torture -- why wasn't progress made
25 between '79 and '83, or was it?

1 A. I think that progress began to be made in '81. I
2 think that 1980 was just -- there was so much chaos, so
3 many demonstrations, and then that culminated in January,
4 '81 with the final offensive. And I think in a sense they
5 couldn't drain the swamp when the alligators were snapping
6 at them. There were so many things they were occupied with
7 and trying to survive, not sufficient attention was given
8 to that.

9 And I think starting in '81, and when United States
10 government made contingent its assistance on an improved
11 human rights record plus other things, you begin to see
12 greater improvement. I think statistics of all of the
13 human rights organizations, even though a different
14 magnitude, would sustain that.

15 Q. When were the first truly free elections in El
16 Salvador?

17 A. In my opinion, in 1982.

18 Q. What election was that?

19 A. That was with the constitutional assembly, more people
20 turned out, higher percentage of voters, and more voters
21 turned out to vote than have ever done so in the past. The
22 criticism of that election, despite the fact that President
23 Duarte and the armed forces asked the guerillas to come in
24 and participate in the elections, and MMR still was legally
25 recognized as a party, they chose not to do so.

1 I wouldn't have come in either, had I be they, in
2 1982. I think the chances of harm to them was very great.
3 I nevertheless believed that a higher percentage of voters
4 voted. A lot of people -- and I think it reflected the
5 left part of the political spectrum as well as the center
6 and the right.

7 By definition of President Duarte and the Christian
8 Democrats, they carried out the largest land program that
9 had been carried out in El Salvador, and the armed forces
10 went out and implemented that and taking away the best plan
11 from the oligarchies and putting it into collectives. And
12 people thought there was some sort of Communist
13 organization that Duarte was setting up.

14 They nationalized three industries. Those are
15 generally things that are part of the agenda of parties to
16 the left. So I don't think it is true 1982 -- it is
17 certainly true there were groups of people who did not
18 participate in elections and chose to exclude themselves
19 for good reasons. I don't think in terms of the array of
20 ideas and programs that were on the table that they didn't
21 go across the board.

22 Q. Let me ask you specifically about the land reforms.
23 Was that instituted by the initial Junta?

24 A. Well, the Junta -- land reform is something since the
25 1960's that people had been talking about, and there had

1 been programs of land reform carried out by the military
2 presidents, military governments. They were usually
3 authorized by the oligarchy and the courts, but they
4 usually got legislation to pass land reforms.

5 And there were modest sized programs that were cored
6 out. There weren't enough to address the problem of land
7 reform. Land reform was on everybody's lips for or against
8 them throughout the '60's and into the '70's. The armed
9 forces announced that as part of their proclamation and
10 program and also nationalization of these enterprises, and
11 they were the ones who actually went out then under the
12 Junta and carried out the program.

13 One --

14 Q. What did that land reform that was instituted by
15 the -- after '79 entail?

16 A. Well, their earlier had been statements in which the
17 size, maximum size land holding was going to be like 100
18 hectares, and that was increased when they wrote the
19 Constitution.

20 When the armed forces implemented, under the Junta
21 implemented the land ownings, they took over the largest,
22 biggest, best land holding, and they established
23 collectives and in fact what happened because of the type
24 land reform they carried out, Salvadorans understood in
25 conversations with the U.S. Government that the United

1 States Government would provide funds to help pay the
2 owners of the land for their land at some assessed value.

3 And they carried out that reform program, and Senator
4 Helmes was able to put a stamp on that in terms of going
5 ahead further and doing more on the program because he put
6 a stop on paying any money to former landowners, and that
7 was a great impediment to the land reform program.

8 Large extensions of land, large extents of the
9 cultivatable lands were taken over and turned over to the
10 people in small plots, and turned over in large plots, and
11 in cooperatives.

12 Q. What were some of the industries that were
13 nationalized?

14 A. Coffee marketing, cotton, sugar.

15 Q. And what did that entail?

16 A. The view of the Christian Democrats and many other
17 people was that it didn't make any difference if you had a
18 grand reform if the producers were still in a situation
19 that the prices for their crops and so forth were set by,
20 in their words, the oligarchy. And so by taking over these
21 certain crops, and through land reform, the belief was they
22 could give to the farmers the more just price for the crops
23 and still market it on the market and to the benefit of the
24 country as a whole.

25 Q. So the prices that were paid to the farmers were

1 determined by the Government?

2 A. Well, there was a combination of the market and
3 government. They didn't have any money in the treasury
4 either, but that was the idea, also, that the percent of
5 money that would remain with the buyers, marketers, the
6 profit, it wouldn't be for profit, that would leave more
7 money to give to the producers even though you had to sell
8 your coffee at the price that the world market established.

9 Q. What happened as a result of the 1982 election?

10 A. Well, the Christian Democrats got about 40 percent of
11 the vote, and they were recognized as the largest party in
12 the country, but I don't know if I should use the word
13 unfortunately, but the facts were even though Christian
14 Democrats became the largest party in the country, and
15 combined with Acciñn Democrata party, they still didn't
16 have a majority.

17 The Arena party, the new party founded by D'Aubuisson,
18 and the right-wing party formed by the oligarchy, and PCN,
19 the party of the military rulers with smaller parties did
20 have a party in the Constitution, and that is how they
21 watered down in terms of the maximum size of the unit that
22 could be held. They got this there and D'Aubuisson became
23 President of the constitutional assembly which also later
24 acted as the national assembly of Congress.

25 Q. And what did that constitutional assembly do?

1 A. Well, they wrote a Constitution and then they pledged
2 themselves to carry out elections both presidential and
3 municipal, and legislative, and they did that.

4 Q. Did they appoint a President, or elect a President?

5 A. Yes. They selected a man by the name of Magana to be
6 temporary President while the Constitution was written and
7 until elections could be held for the presidency.

8 Q. And when was the first free election for the
9 presidency held?

10 A. In 1984.

11 Q. And were they -- did the United States participate in
12 the electoral process there? Did the United States provide
13 assistance?

14 A. We provided assistance as we had been throughout Latin
15 America, and we had done the same thing in other countries
16 I served in in terms of trying to get together a more
17 reliable list, registration list of voters, supports for
18 the central election committee, and making identity cards
19 for people to vote, so forth, to try to support the
20 mechanics of that election.

21 Q. Was that a fair process, fair election in your
22 opinion?

23 A. Yes, I believe it was. In both cases, '82, '84, and
24 every election after that, up to say, '94, there were very,
25 very large numbers of the foreign press corps present all

1 over the country, and there were numerous delegations from
2 different countries, OAS, U.N., and Freedom House and
3 different organizations who would put election observers
4 around to try to make certain that there were not
5 irregularities, and they would report on them if such
6 irregularities occurred.

7 Q. And who won that election in '84?

8 A. Jos, Napoleon Duarte won.

9 Q. Was he President while you were stationed there?

10 A. He is the man I dealt with as President from 1985 to
11 1988.

12 Q. Given the circumstances between '79 and '83, would
13 Minister of Defense Garcia be able to have done more to
14 curb human rights abuses?

15 MR. STERN: Objection; ambiguous as to more.

16 THE COURT: I will overrule that objection. You
17 may answer the question.

18 THE WITNESS: I think people could disagree on
19 that answer, but in my own opinion given the circumstances
20 and all of the challenges that were being faced by the
21 government, by the Minister of Defense in terms of the
22 final offensive, in terms of the chaos in the streets, in
23 terms of trying to hold the armed forces together, to
24 combat the guerilla war, the guerillas grew from '81,
25 5,000 to by their own announcements, 12,000 men under arms

1 by the end of 1983, even though they retired from San
2 Salvador.

3 There was a tremendous pressure, a sense that
4 they had to get ahold of the insurgency. There were the
5 problems of having people follow their orders, and to try
6 to, as I say, in taking care of this sick corporate body,
7 to deal with different maladies at the same time.

8 And I think such things as bringing in the
9 International Red Cross, trying to have them monitor and
10 looking for ways to get a better hold by an independent
11 authority on what was happening, and the very fact that by
12 1983, '84, according to the Embassy statistics, which
13 people will argue about, in 1980, during some months there
14 were as many as 800 deaths by political violence, non
15 combatants per month. The average for that year according
16 to the State Department was about 750.

17 I don't want to be held to the figure, but it
18 dropped to 450, something to that range, according to
19 Embassy statistics in '81, and had gone down again in '82,
20 '83, and by 1984. It had gotten into two digits in '83,
21 and I believe it was around 40 in '84. I don't want to be
22 held to that statistic, but there was a dramatic fall as
23 best that we could measure, the numbers of non combatants
24 who were being killed by political violence during that
25 period of time, which I think in our opinion, in the

1 government's opinion, we saw that whether it was
2 Ambassador Hinton, Pickering, or myself, signs of
3 progress.

4 Q. What about the head of the National Guards at the
5 time, General Vides, could he have done more, given the
6 circumstances and the practical limitations?

7 A. Well, I think the same things I said would apply to
8 his situation, and what I would say is having worked
9 personally with him for three years, is that in my opinion,
10 and I didn't have the opportunity to work with Minister
11 Garcia, but in my opinion, alongside President Duarte, he
12 was the person most responsible for helping to improve the
13 human rights situation in El Salvador.

14 Q. Would you say that this was the United States -- we
15 hear the termination building, nation building in
16 Afghanistan, would you say this is the United States first
17 in nation building in El Salvador?

18 A. No. I think that term goes back to the '60's. During
19 the alliance progress there was a lot of talk about nation
20 building. El Salvador would be an example where the United
21 States tried to join with nationals of their country in
22 making a better nation.

23 In the final analysis, the United States could only
24 help individuals of their own country improve and build
25 their nation. We don't have the power to do it unless

1 there are really leaders and persons who are willing to
2 take the risks, and do the things that had to be done to
3 improve their countries.

4 We can sometimes be critical in the balance, but you
5 can't do it unless you have people to work with who are
6 wanting to improve the situation in terms of such things as
7 human rights, democratization, building institutions,
8 changing attitudes of people, getting the economy working
9 so people can have a job.

10 Q. Would you say in your final analysis that El Salvador
11 developed into a democracy during this period?

12 A. Yes, I would. I would say -- it still has -- you
13 know, I think that you never have perfect democracy and I
14 think, you know, the guerillas are very fond of saying that
15 this is the first democracy ever achieved by negotiation.

16 I think the movement toward democracy, as I said goes
17 back primarily to the '60's. There were ideas about it
18 certainly before, that moved forward with regressions and
19 two steps forward and one back, and sometimes two steps
20 back, and I think it still has a ways to go, particularly
21 in terms of justice.

22 In terms of violence, Salvador remains a violent
23 country, high rate of crime, high murder rate, but I
24 believe that particularly in the '80's that there is
25 practically -- there is practically nothing in the final

1 negotiated agreement that hadn't already been started being
2 tried.

3 If you look at separating the police and armed forces,
4 people talk that this is something new with the
5 negotiations. Actually under Minister Vides and Lopez
6 Nuila, we set aside money and built a police academy to
7 separate the police so they had a system so that police --
8 could you be a policeman in one assignment, and infantry
9 officer in the next.

10 And the purpose of the police was to arrive at a
11 situation and constrain the violence, and turn it over to
12 somebody else for a settlement. Whereas the military's
13 missions are to seek, search, and destroy. That mentality
14 doesn't mix very well.

15 So, starting myself and Minister, we worked to try to
16 make that separation, to start that separation, so I think
17 that things were being done in a period, really. I would
18 put sometimes in the '60's, and move forward with a lot of
19 setbacks, and I think they moved forward. I think
20 negotiations themselves helped to move things forward
21 further, and they still have things to do.

22 MR. KLAUS: Thank you, Ambassador.

23 THE COURT: Mr. Stern, cross examination?

24 MR. STERN: Yes.

25

1 CROSS EXAMINATION

2 BY MR. STERN:

3 Q. Good morning, Ambassador Corr.

4 A. Good morning.

5 Q. Are you aware, Ambassador Corr, that the issues in
6 this case revolve around allegations of torture between the
7 period of 1979 and '83?

8 A. Yes.

9 Q. In 1979 you weren't in El Salvador?

10 A. No, I was not.

11 Q. You weren't in El Salvador in 1980, correct?

12 A. No, I was not.

13 Q. Or '81, '82, or '83?

14 A. That is correct.

15 Q. In fact, until you went to El Salvador in 1985 to
16 become Ambassador, you had never been to that country; is
17 that correct?

18 A. That is correct.

19 Q. 1979 to '83 you were working in Washington and at your
20 other postings as Ambassador; is that correct?

21 A. Yes, that is correct.

22 Q. In those years you had no reason to go to El Salvador;
23 is that correct?

24 A. No. I had no reason to go to El Salvador.

25 Q. So you weren't in El Salvador when the acts of human

1 rights violations that you testified about in those years
2 took place; is that correct?

3 A. That is correct.

4 Q. Massacre at El Mozote and Sheraton killings, you were
5 not there?

6 A. No, I was not there.

7 Q. So you are not here to tell us today that Juan
8 Romagoza wasn't raped and tortured, are you, Ambassador
9 Corr?

10 A. I am not in a position to say yes or no.

11 Q. You are not here to tell us that Neris Gonzalez wasn't
12 raped and tortured?

13 A. No, I am not.

14 Q. And you are not here to tell us Professor Carlos
15 Mauricio was not taken from his classroom and tortured; is
16 that correct?

17 A. I don't have any personal knowledge.

18 Q. I want to focus on one of the Defendants, General
19 Garcia. You never personally worked with General Garcia,
20 did you?

21 A. No, I did not.

22 Q. When you were in El Salvador, you didn't even know
23 whether he was in the country; is that correct?

24 A. That is correct. I did not think he was in the
25 country.

1 Q. So --

2 A. I think I was aware of a visit or two, but I did not
3 think he was in the country.

4 Q. So it would be fair to say that everything that you
5 have told the jury today about what General Garcia did or
6 didn't do is based not on your personal experience, but on
7 what you read or heard from other people; is that correct?

8 A. That's correct.

9 Q. Now, even though you weren't in El Salvador in the
10 years of 1979 through 1983, you testified that you have
11 made that period an object of study; would that be fair to
12 say?

13 A. Yes.

14 Q. And you have read books and had conversations with
15 people about that period?

16 A. Yes.

17 Q. And read some U.S. cables on the subject?

18 A. Yes.

19 Q. In fact, I think you testified, if I am not mistaken,
20 that you began to read U.S. Government's cables about El
21 Salvador before you assumed the post of Ambassador in 1985;
22 is that correct?

23 A. That's true. And before that -- a situation like El
24 Salvador was something that Ambassadors around the region
25 were sent a number of cables on because of high importance

1 in U.S. foreign policy.

2 Q. And you would agree with me that U.S. cables are
3 useful historical source about events in a country,
4 correct?

5 A. Yes, I would.

6 Q. They could tell you a lot if you read them carefully
7 about the attitudes of the United States towards events in
8 the home country, correct?

9 A. Yes, I would agree --

10 Q. Excuse me. Are you finished with your answer?

11 A. I would agree with that.

12 Q. Thank you.

13 And the U.S. has a variety of means for gathering
14 intelligence and information in a country such as El
15 Salvador, correct?

16 A. Yes.

17 Q. A lot of that information that is gathered is put into
18 cables and sent to Washington, and reflected back in the
19 cable traffic, correct?

20 A. Yes.

21 Q. So it would be important to know about what the cables
22 say and to read them in order to have an adequate
23 understanding of the period, of any historical periods,
24 correct?

25 A. To read some of the cables, yes.

1 Q. Fair enough.

2 Now, if we looked at cables relating to El Salvador in
3 the periods of 1979 through 1983 that went back and forth
4 between the Embassy in San Salvador and the State
5 Department, we would find a lot of those cables pertain to
6 human rights violations; is that correct?

7 A. Correct.

8 Q. Including allegations of torture?

9 A. Yes.

10 Q. Would it surprise you to see a U.S. Government cable
11 reflecting details about an incident of torture carried out
12 by the Salvadoran military security forces?

13 A. No, it would not.

14 Q. I have an exhibit I would like to show you, Ambassador
15 Corr, that has been entered into evidence previously in our
16 case. I say that, it may take me a minute to locate it,
17 excuse me.

18 Please take a moment to look at the cable, Ambassador
19 Corr. You may recall it is a document we discussed at your
20 deposition.

21 THE COURT: Mr. Stern, I wonder if I could ask
22 you for the record to identify the exhibit.

23 MR. STERN: Certainly, Your Honor. I meant to do
24 that. Exhibit 553.

25 THE COURT: Thank you so much.

1 BY MR. STERN:

2 Q. Ambassador Corr, this is a cable from the Embassy in
3 San Salvador to the Secretary of State in Washington, D.C.,
4 is it not?

5 A. Yes.

6 Q. And the date on the cable, if you look at the first
7 page, slightly above the halfway mark on the page is
8 June 10, 1982, correct?

9 A. I don't see that.

10 Q. If you look above the reference to the American
11 Embassy.

12 A. Yes.

13 Q. On the from line.

14 A. Yes, June 10, '82.

15 Q. June 10, 1982, okay.

16 I think you testified during direct exam that the
17 human rights situation in El Salvador began to improve in
18 1981. Do you recall testifying to that effect?

19 A. Yes. I said if you look at the statistics in 1980 and
20 1981, there was some improvement.

21 Q. So this document, because it is dated June, 1982,
22 would come after that beginning of improvement?

23 A. Yes.

24 Q. I would like to read the second paragraph of the
25 document for you, and you can see it there on the page you

1 have in front of you Ambassador Corr.

2 "This report describes the torture of a Green Cross
3 volunteer at National Police headquarters in San Salvador.
4 End summary." The document continues --

5 THE COURT: Mr. Stern, could I stop you? Could
6 you help the Ambassador finding where you are reading
7 from?

8 THE WITNESS: I have it now.

9 THE COURT: Thank you.

10 BY MR. STERN:

11 Q. Ambassador Corr, looking at the last page of the
12 document, very last page, there is what appears to be a
13 personal name at the bottom of the paragraph. What name is
14 that?

15 A. Bleakley.

16 Q. Who is Bleakley?

17 A. Ken Bleakley was the charge d'affairs at the time. He
18 was running a mission, running the Embassy.

19 Q. He was a high ranking officer in the mission?

20 A. Yes, he was.

21 Q. I want to continue reading. "The reporting officer has
22 known Francisco Castro, name --"

23 MR. KLAUS: I object; probative value outweighed
24 by prejudicial effect.

25 THE COURT: I will overrule the objection. This

1 is a document in evidence?

2 MR. STERN: Correct, Your Honor.

3 THE COURT: Okay.

4 BY MR. STERN:

5 Q. "-- for over one year --"

6 MR. KLAUS: I am also going to object on the
7 relevancy at this time.

8 THE COURT: I will entertain a motion to strike
9 if this is not relevant.

10 BY MR. STERN:

11 Q. Let me start again. "The reporting officer has known
12 Francisco Castro (name changed for his protection) for over
13 one year. He is a 40 year old school teacher and
14 accountant who dedicates most of his free time to relief
15 work with the Salvadoran Green Cross. He lived with his
16 wife and four young children in a small house in a lower
17 middle class district of San Salvador. When Poloff --"
18 that is -- that stands for political officer?

19 A. Yes.

20 Q. "-- met with him May 8, he spent ten days in a jail,
21 three of them under severe torture."

22 Are you aware that Carlos Mauricio alleges that he was
23 held for approximately ten days in the headquarters in the
24 National Police in San Salvador?

25 A. I read the statement, yes.

1 Q. Continuing on briefly numbered paragraph four, "We
2 have no reason to doubt his story. Castro exhibited the
3 following conditions as a result of his torture. He was in
4 extreme pain, lacked emotional control, and shook with fear
5 at regular intervals. He complained of neuralgia, muscle
6 strain in the extremities and ringing in his ears. His air
7 passages were inflamed and he had difficulty breathing.
8 His testicles were crushed. He had difficulty walking and
9 urinating. While we are not physicians, he gave every
10 appearance of severe physical and mental distress.

11 "The following is Castro's account on May 19 at midday
12 armed men in civilian dress captured Castro and two female
13 teachers as they were leaving the elementary school where
14 they worked. The men took them blindfolded with their
15 thumbs tied by car to National Police headquarters in
16 downtown San Salvador. Police released one of the two
17 woman they captured with him because she was eight months
18 pregnant. The others spent a week in a basement cell where
19 Castro says police agents coerced her into having sex with
20 them under threat of torture and death. Castro spent six
21 days in a basement cell where ICRC representatives visited
22 him on two occasions. He spent three more days in an
23 enclosed third floor cell located off a concealed
24 passageway. A police commandante tortured and interrogated
25 him on each of those three days in an adjacent six room

1 soundproofed suites of torture chambers. The ICRC did not
2 visit him there."

3 Ambassador Corr, you gave testimony about the ICRC?

4 A. Yes.

5 Q. That stands for International Committee of the Red
6 Cross?

7 A. Yes.

8 Q. That is a Swiss organization, is it not?

9 A. Yes.

10 Q. Now, as reported in the cable here, ICRC did not stop
11 Mr. Castro's torture, did it?

12 A. No.

13 Q. And although the ICRC visited Mr. Castro, the cable
14 states that ICRC did not visit him in the actual torture
15 chamber; is that correct?

16 A. That is what it says.

17 Q. Are you aware, Ambassador Corr, while he was held in
18 detention, Plaintiff Carlos Mauricio was also visited by a
19 representative of the International Red Cross?

20 A. Yes.

21 Q. But when he was held in a torture chamber, the ICRC
22 did not visit him; did you know that?

23 A. I know what was written there. I read it.

24 Q. Now, it is true, Ambassador Corr, that the ICRC seeks
25 to maintain access to prisoners in all of the countries in

1 which it operates, correct?

2 A. Yes.

3 Q. And in order to maintain that --

4 A. I am concerned about categoricals, but that is general
5 policy.

6 Q. Let's speak of El Salvador. Is that true?

7 A. Yes.

8 Q. In order to maintain access to prisoners, ICRC is very
9 concerned about confidentiality?

10 A. Yes, it is.

11 Q. So it would be fair to say ICRC as a general matter
12 did not publicize its findings when it encountered someone
13 in detention; is that correct?

14 A. That is correct.

15 Q. That is true in El Salvador as well?

16 A. That is true in El Salvador? In fact -- that is true
17 in El Salvador.

18 Q. ICRC would, as I believe you testified, pass along its
19 findings to Government representatives; is that correct?

20 A. That was certainly my understanding.

21 Q. So, ICRC visits and reports on torture would go to
22 government officials, but not to the rest of the world; is
23 that correct?

24 A. Yes.

25 Q. And the ICRC couldn't actually get anybody out of

1 torture -- let me strike that and give you a better
2 question.

3 ICRC was not able to actually retain release of any
4 individual from a detention facility in El Salvador, was
5 it?

6 A. I cannot answer that question, and I am not certain
7 that they might not have done so, because one of the things
8 that happened when I first got there is that I was told by
9 a member of the ICRC that they had in fact done something
10 like that. And I reported it back, and I got in trouble,
11 or I commented on this. I got in trouble because ICRC was
12 supposed to be --

13 I don't know exact facts recorded to me, but I thought
14 this is really good because they have done something. I
15 said that publicly or told someone else. Anyway I got a
16 complaint from the ICRC that all of their dealings with the
17 government and armed forces were confidential, and what
18 they shared with me, I had violated their confidence. I
19 was very embarrassed by it.

20 Q. The incident you just told us about did not happen in
21 the period 1979 to '83?

22 A. No, it did not.

23 Q. You are not aware of any incident in '79 through '83
24 in which ICRC obtained release of any prisoner from a
25 Salvadoran prison?

1 A. I am not aware of that during that period. I am not
2 aware that they did not do so.

3 Q. Fair enough.

4 I have another exhibit I would like to show you,
5 Ambassador Corr, and with The Court's permission, I would
6 like to hand out this exhibit, Number 554, to the members
7 of the jury.

8 THE COURT: This is in evidence?

9 MR. STERN: That is correct.

10 THE COURT: Yes, you may.

11 BY MR. STERN:

12 Q. Have you had a chance to look at this document,
13 Ambassador Corr?

14 A. No, I have not. I am looking at it now.

15 Q. Have you completed your review?

16 A. Yes.

17 Q. Now, this document is dated June 12, 1982?

18 A. Yes.

19 Q. Which puts it two days after the document we just
20 looked at?

21 A. Yes.

22 Q. This document is from the Secretary of State in
23 Washington, D.C. to the Embassy in El Salvador?

24 A. Yes.

25 Q. Would you look at the last page, last line and tell me

1 the name that you see?

2 A. Secretary Haig.

3 Q. So this is a cable from Secretary of State Alexander
4 Haig who was secretary at that time, correct?

5 A. It is. It does not necessarily mean that because
6 Haig's name is at the end, he probably saw this, or he may
7 not have seen it. I don't know. Because the secretary's
8 name -- all cables that go out of the Department of State
9 are signed by the Secretary of State, and the magnitude of
10 the cables that go out in the state are in the thousands.
11 And so not all cables that have the name on it necessarily
12 were reviewed by Haig.

13 This is the kind of cable that might have been, but I
14 just wanted to clarify that.

15 Q. You say it might have been because it is of sufficient
16 importance?

17 A. Yes.

18 Q. The heading says "Subject, torture." And paragraph
19 two states "Reftel".

20 What does Reftel mean?

21 A. That means that you are replying to cable, referenced
22 telegram, and that is in the line above.

23 Q. Let me keep reading.

24 THE COURT: Mr. Stern, could I stop you for a
25 second? Ambassador, if you could stand up more,

1 unfortunately that microphone has a short pickup range. I
2 am afraid the jury might not hear you. That is fine.
3 Thank you, sir.

4 BY MR. STERN:

5 Q. The cable states, "Reftel is an appallingly vivid
6 account of Salvador's security system at its worst.
7 Although evidence of ICRC visit and ultimate release of
8 visit rather than murder by security forces provide faint
9 sign that you USG human rights message has not been totally
10 without affect."

11 USG is reference to the United States Government; is
12 that correct?

13 A. That is correct.

14 Q. And this cable is a response to the cable that we just
15 looked at about the Green Cross volunteer; is that correct?

16 A. Yes.

17 Q. And the cable states that the ICRC visit is an
18 indication that USG human rights message has not been
19 totally without affect; is that correct?

20 A. That is what it says.

21 Q. Meaning that the suggestion of ICRC visits came at
22 least in part from the United States Government, was part
23 of the United States Government's message, correct?

24 A. Are you talking about this specific visit?

25 Q. No, just in general. The idea of ICRC visits.

1 A. Yes, yes.

2 Q. Paragraph three of the document states, "Department
3 believes we must use evidence of torture, if not the name
4 of the victim, to put the issue squarely before the GOES."

5 What is the GOES?

6 A. Government of El Salvador.

7 Q. "Therefore, as soon as victim safely departs country,
8 you should seek appointment with both President Magana and
9 Defense Minister Garcia and put issue to GOES drawing on
10 following talking points."

11 Now, Defense Minister Garcia is the Minister of
12 Defense Garcia who is in our courtroom today, correct?

13 A. I assume so, yes.

14 Q. And, Ambassador Corr, the cable states or instructs
15 the recipient in the San Salvador Embassy to take this
16 information to the Government of El Salvador without using
17 the name of the victim, and Secretary of State Haig was
18 clearly concerned that using the name of the victim would
19 subject the person to further prosecution and even murder;
20 would you agree with that?

21 A. Yes.

22 MR. KLAUS: Objection; beyond the scope --

23 THE COURT: I am sorry's, what is the legal
24 basis?

25 MR. KLAUS: Beyond the scope of his expertise.

1 THE COURT: You can answer that if you are able
2 to. Obviously, we don't want you to guess. If you feel
3 that is a reasonable interpretation, you can give that.

4 THE WITNESS: Yes.

5 BY MR. STERN:

6 Q. The cable states that certain steps should be carried
7 out as soon as the victim safely departs the country.

8 Would it make sense to you, Ambassador Corr, in a
9 situation like this to have the victim depart the country
10 as quickly as possible?

11 A. Yes, it would, because of threats. It would be very
12 high to the person if they felt they got in trouble from --
13 not necessarily from the institution, but the death squads
14 and so forth that were so prevalent at that time.

15 Q. It wouldn't be prudent, in other words, to stop and
16 consider filing some sort of a claim against the
17 institution that had detained the individual; is that
18 correct?

19 A. It wouldn't be prudent.

20 Q. I want you to focus with me on the talking points that
21 are set out on the next page.

22 The first one states "USG or U.S. Government has solid
23 evidence of torture of GOES citizens, torture took place
24 while individuals were in the custody of National Police."

25 In other words, Salvadoran citizens, torture took

1 place while individuals were in control of the National
2 Police?

3 MR. KLAUS: Objection; misread. It says in
4 custody of National Police.

5 BY MR. STERN:

6 Q. I apologize, were in the custody of National Police.

7 Now, based on this sentence and the previous cable
8 that we looked at, Ambassador Corr, it was very much
9 apparent to the U.S. Embassy in San Salvador and to the
10 Secretary of State that individuals at the Salvadoran
11 National Police had tortured Mr. Castro; would that be fair
12 to say?

13 A. Yes, that is what this cable says based on the
14 conversation of someone they have known for a year.

15 Q. So the U.S. Government knew that there was strong
16 evidence that torture had taken place in the National
17 Police headquarters, correct?

18 A. Yes. U.S. Government knew that torture was taking
19 place.

20 Q. I want to ask you to go to the third bullet point. It
21 states, "No Government should permit subjections of its
22 citizens to this kind of humiliation, pain, and degradation
23 in the name of achieving victory over any enemy."

24 Is that a sentiment with which you would agree,
25 Ambassador Corr?

1 A. I would have a hard time -- I have a hard time
2 answering that question, because I don't think -- this was
3 one of the things that we struggled with continuously
4 throughout this period, and it is very easy if you take --
5 it is a very defensible, very noble position to take, but,
6 you know, one would --

7 I could answer by certain conjecture, speculation as
8 to what somebody in this country might do. We have a case
9 that we have instances right now, and I am troubled by this
10 about people who are being sent to other countries for
11 interrogation. People have competing goals and objectives
12 in which they have to make judgments, moral judgments that
13 are very tough, but certainly no one, no one should have to
14 be tortured like this. And --

15 Q. Let me ask you a few more questions since I am kind of
16 hearing two things in your answer?

17 A. Well, I would say mainly, you know, in the name of
18 achieving victory over the enemy, the strong opinion of
19 nearly everyone I know, United States Government, this is
20 the way not to achieve victory. That treating your
21 citizens this way was not consistent with achieving
22 victory. It is not in the name, pragmatically you cannot
23 do that.

24 Q. Ambassador Corr, we read what happened to Mr. Castro.
25 Is it your testimony there are circumstances that would

1 justify what happened to Mr. Castro?

2 A. Nothing would justify what happened to Mr. Castro. If
3 one -- this is on June 2nd. I don't know what was going on
4 in the country on that particular date, but there are -- I
5 don't know who the commander of that unit was, and so
6 forth, but I can envision circumstances in which one might
7 not press that case at that moment or something if he
8 thought it was all of a sudden going to completely fragment
9 the armed forces.

10 Q. Ambassador Corr, if I can ask you more questions about
11 this, but based on reading the cable that we looked at
12 previously and this cable here, you don't seriously contend
13 that stopping what happened to Mr. Castro would fragment
14 the Salvadoran armed forces, do you?

15 A. It depends on where that took you, who is in charge,
16 and what faction he belonged to within the armed forces,
17 what the response to that might be. Believe me, this is
18 the kind of thing we were working to try to stop and I
19 think we made progress on.

20 I am saying when someone is in a command situation in
21 which there are threats to the state and institution and so
22 forth, it is not always just that simple a response. It is
23 very easy sitting here today making that response. It is
24 not necessarily that easy when you are trying to hold a
25 country and keep it from being defeated.

1 Q. Based on the cable we have in front of us, did
2 Secretary of State Haig agree with the position you just
3 set out?

4 A. I don't know whether he did or not.

5 Q. The cable states, "No Government should permit
6 subjections of its citizens to this kind of humiliation,
7 pain, and degradation in the name of achieving victory over
8 any enemy." That makes the U.S. Government's position
9 pretty clear, does it not?

10 A. It does in isolation, yes.

11 THE COURT: Mr. Stern, if I might, we are at a
12 point where we need to take a break for the luncheon
13 recess before you get into the next area. Why don't we
14 stop at this point.

15 Let's adhere to the schedule we have been
16 following. Why don't we take a break until quarter of
17 two, and we will come back and turn to the cross
18 examination of Ambassador Corr.

19 The Court will be in recess until quarter of two.

20 (Thereupon, the jury retired from the courtroom.)

21 (Thereupon, a recess was taken at 12:30.)

22 (Trial reconvened after recess at 1:45.)

23 THE COURT: Mr. Marshal, Mr. Caldwell, would you
24 bring in the jury, please?

25 (Thereupon, the jury returned to the courtroom.)

1 THE COURT: Ladies and gentlemen, please be
2 seated. We are in cross examination, so I will turn back
3 to Mr. Stern and allow him to continue.

4 MR. STERN: Thank you, Your Honor.

5 BY MR. STERN:

6 Q. Ambassador Corr, do you have a copy of 554 in front of
7 you?

8 A. Is that the cable, the response to -- which is the
9 cable?

10 Q. The cable of June 12, 1982.

11 A. From Secretary Haig, supposedly?

12 Q. If I could draw your attention to the bottom of the
13 document, the cable instructs the recipient to seek
14 appointment with President Magana and Defense Minister
15 Garcia.

16 Now, the reason why the recipient was instructed to
17 contact Minister of Defense Garcia is because he is the top
18 person in the Salvadoran military; is that correct?

19 A. I assume so.

20 Q. And because he is Minister of Defense and top ranking
21 military officer, he is in charge of the National Police in
22 the chain of command, correct?

23 A. Correct.

24 Q. And this incident is taking place in the headquarters
25 in San Salvador, correct?

1 A. Yes.

2 Q. Now, I want to now ask you some questions about the
3 portion of the document beginning at the bottom of the
4 second page.

5 The last bullet point set off by dashes on this page
6 states, "USG, U.S. Government urges you to move immediately
7 to discipline and remove from command those responsible and
8 to close down places where abuses occur."

9 I want to take these items one by one, Ambassador
10 Corr.

11 The cable instructs the Embassy in San Salvador to
12 move immediately to discipline and remove from command
13 those responsible.

14 In order to prevent human rights abuses, do those two
15 steps sound sensible to you?

16 A. Yes, if doable, yes.

17 Q. And close down places where abuses occur, does that
18 make sense?

19 A. Of course, of course.

20 Q. "To this end GOES should free the victims, jail
21 perpetrators, and give maximum publicity." Do those three
22 make sense?

23 A. Yes.

24 Q. Why would you give maximum publicity?

25 A. So that other people who might be involved in similar

1 activities would be aware that there are consequences.

2 Q. Okay. And this, as I believe you testified, this
3 detention and torture was taking place in National Police
4 headquarters in San Salvador?

5 A. I didn't testify. That is what the cable says.

6 Q. Do you have any reason to believe it did not?

7 A. No, but I didn't testify to that.

8 Q. Okay. The steps that we just -- set out in the cable,
9 closing down places where the abuses occur, freeing
10 victims, jailing perpetrators, and giving the operation
11 maximum publicity, those are all of the steps to be taken
12 in San Salvador; is that correct?

13 A. In San Salvador and other parts of the country.

14 Q. So the steps that this cable identifies, the steps
15 that this cable instructs should be taken in response to
16 the situation don't have anything to do with regional
17 command or regional commanders, do they?

18 A. Not a regional commander, but has to do with a
19 commander, somebody who is a subordinate commander in
20 charge of that facility there.

21 Q. And that commander would be in San Salvador?

22 A. San Salvador the First Brigade had San Salvador, there
23 would be a regional commander, and National Police would be
24 under the authority of the National Police.

25 Q. It doesn't require any action to be taken outside the

1 limits of San Salvador, does it?

2 A. No.

3 Q. And this -- taking the steps that are identified in
4 the cable to stop the torture of people like Mr. Castro
5 doesn't require any action at all in relation to the
6 guerillas, does it?

7 A. No.

8 Q. In fact, this torture doesn't have anything to do with
9 the guerillas at all, does it, Ambassador Corr?

10 A. I cannot say. In their minds, and people who did this
11 horrendously, in their mind it had something to do with the
12 guerillas.

13 Q. Would you agree with me as a practical matter taking
14 steps to eliminate human rights abuses on the order that
15 happened to Mr. Castro did not involve any steps that had
16 to be taken in relation to the guerillas?

17 A. I will -- that is what we were about -- that is what
18 we were trying to do continuously to stop that.

19 Q. And because this is a set of incidents taking place in
20 San Salvador, in the National Police headquarters, there
21 aren't any logistical or communications issues that would
22 arise in getting rid of this kind of a torture center, are
23 there?

24 A. Even though the unit is in San Salvador, there is a
25 chain of command that goes down to that unit, just as there

1 is as if it were in San Miguel, and in the military, having
2 served in the military, it would go right down that chain
3 of command. And so it is not as you describe, at least as
4 I am inferring that you are suggesting, is that there still
5 was a chain of command there to be exercised to operate on
6 these things.

7 Q. My question, Ambassador Corr, had to do with
8 logistics. Can you think of any reason in terms of
9 communications or physically getting a message to
10 somebody --

11 A. No. No. I didn't understand your question. You were
12 talking about communications?

13 Q. Focusing on the next sentence, Ambassador Corr, it
14 states, "Action should be followed by general order to
15 security forces, and armed forces noting that this activity
16 is incompatible with GOES policy and objectives."

17 Actions speak louder than words, don't they,
18 Ambassador Corr?

19 A. Yes, they do.

20 Q. This cable states that action should be followed by a
21 general order, the action being those steps we just
22 detailed?

23 A. Yes.

24 Q. So clearly U.S. Government that authored this cable
25 and instructed that the message be sent to the Salvadoran

1 Government didn't regard a general order to the Salvadoran
2 armed forces as sufficient to deal with the situation like
3 this, did it?

4 A. Well, they considered that to be an integral part of
5 the total action to be taken.

6 Q. It was part, but it wasn't sufficient, was it?

7 A. No. You have to have action.

8 Q. The next bullet point states, "In sum, decisive action
9 must be taken to discipline those responsible if we are to
10 avoid major jeopardy to U.S. ability to continue support to
11 El Salvador."

12 This is really the key to addressing the human rights
13 offense such as this, isn't it, Ambassador Corr, decisive
14 action?

15 A. Yes, it is. That is what we continue to strive for.

16 Q. The reason for that is, unless you take decisive
17 action, people will get the message that their actions are
18 permitted and they continue to abuse human rights; is that
19 correct?

20 A. Yes.

21 Q. The document in paragraph four states, "You should
22 leave paper with both Magana and Garcia which, without
23 naming individuals, details method of torture, location,
24 and if possible, names and unit of torturers. You should
25 not, repeat not, reveal names of individuals or date of

1 torture except to place it in the month in which it
2 occurred this year."

3 Based on this last paragraph and all of the
4 instructions that are contained in this cable, Ambassador
5 Corr, do you have any doubt that the message of action,
6 decisive action set out in this instruction was conveyed to
7 the Salvadoran government?

8 A. I am sure it was conveyed. I am as sure as I could be
9 just sitting here.

10 Q. Including conveyed to the man whose name is
11 specifically named in the document, Minister of Defense
12 Garcia?

13 A. I would assume the charge d'affairs would carry out
14 this and if possible, it would be done.

15 Q. If you had been Ambassador at the time this communique
16 was received, you would have been sure somebody conveyed
17 this message to General Garcia, wouldn't you?

18 A. I think I probably would have conveyed it myself.

19 Q. Ambassador Corr, before he became Secretary of State,
20 what was Alexander Haig's occupation?

21 A. He had been NATO commander.

22 Q. Was he a general in the U.S. Army?

23 A. Yes, he was a CING in the NATO commander and a general
24 in the U.S. Army.

25 Q. Ambassador Corr, based on what we've seen, and the

1 testimony that you gave this morning, would you agree with
2 me that between 1979 and 1983, it was common for the
3 military and security forces to carry out torture of
4 civilians?

5 A. The word common -- there was torture, there is no
6 doubt about that, it was reported on, and far in excess. I
7 couldn't give you numbers. We tried to establish that.
8 But what we saw, and what is reflected in human rights
9 reporting, including the U.N., and Inter-American Human
10 Rights Commission, was that they reported a decline, not an
11 abolition, but a decline in the amount of torture.

12 Q. I understand that. My question is between 1979 and
13 '83, was torture carried out by the military and security
14 forces common?

15 A. I answered your question saying that it was carried
16 out. I don't know exactly what you mean by common, but
17 there was a large amount of them.

18 Q. And you don't know have any doubts, do you, that
19 security forces among the other military forces of El
20 Salvador were the largest offenders in terms of torture
21 against civilians?

22 A. Yes, I think that is correct.

23 Q. And security forces included National Guard, National
24 Police, and Treasury Police, correct?

25 A. That's right.

1 Q. And there is a consensus, is there not, between 1970's
2 and '80's, military and security forces were responsible
3 for the bulk of human rights abuses carried out against
4 civilians in El Salvador?

5 A. There is a consensus on that. I've always believed
6 that the amount of human rights abuses perpetrated by
7 guerillas are greatly understated.

8 Q. I understand that. But you agree the bulk of human
9 rights abuses were carried out by Salvadoran military and
10 security forces?

11 A. In the '80's.

12 Q. In the '70's as well. Let's focus on '79 to '83.

13 A. I think there is a --

14 Q. I would like you to answer my question.

15 A. I am trying.

16 Q. My question is between the period '79 to '83.

17 A. I am trying to answer that question. Are you going to
18 let me do it?

19 Q. Please go ahead.

20 A. I am embarrassed. Would you repeat your question?

21 Q. Sure. Would you agree that there is a consensus
22 between 1979 and 1983 the official Salvadoran military and
23 security forces were responsible for the bulk of human
24 rights abuses against civilians?

25 A. That is what I wanted to respond. I think there

1 were -- when you talk about the military forces as an
2 institution, that is one thing. If you talk about members
3 of the military forces who are engaged in death squads, I
4 think it is not accurate to attribute that to the
5 institution.

6 If you take the number of civilians who were killed
7 who were not combatants, are in a way, there is a kind of
8 shift that the armed forces in their military operations
9 killed a lot of civilians as kind of what is popularly
10 called, what do we call it thans (phonetic) chivalry, some
11 word we come up with actions, in terms of actually killing
12 of people.

13 And I don't -- I don't know about torture, I don't
14 know what is known by torture, I wouldn't know how to
15 divide that between death squads and what happened in an
16 institution. And even when it happened in an institution,
17 I think sometimes at least those were maverick rebellious,
18 undisciplined officers that were carrying out those
19 functions.

20 Q. Ambassador Corr, do you remember back in March last
21 year we met in Norman, Oklahoma and I took your deposition?

22 A. Couldn't forget it, couldn't forget it.

23 Q. And there was a court reporter there?

24 A. Yes.

25 Q. And the court reporter administered the oath to you

1 the same as when you took the stand?

2 A. Yes.

3 Q. I asked you questions and you did your best to answer
4 them under oath?

5 A. Just as I am today. How long was that deposition?
6 How many pages was it?

7 Q. I am about to hand you a copy, sir.

8 If I could ask you to look at page 41, lines 11
9 through 15. "Question. I just want to make sure I am
10 following your thinking, Ambassador Corr. We were talking
11 about a consensus that the military and security forces
12 were responsible for the bulk of the human rights abuses.

13 "Answer. I think that is true."

14 Did I read that correctly?

15 A. Yes, you did. And I was making a distinction in my
16 response between institution of the armed forces and
17 members of the armed forces.

18 Q. I want to ask you questions now, Ambassador Corr,
19 about knowledge of human rights abuses.

20 You can keep that.

21 A. I don't need any more paper.

22 Q. Ambassador Corr, it is a fact, isn't it, not just the
23 U.S. government, but in the period between 1979 and '83
24 everyone in El Salvador knew the military was violating
25 human rights; is that correct?

1 A. That was certainly the common view. I use the word
2 common.

3 Q. And that would include General Garcia, Minister of
4 Defense?

5 A. I think he had to be aware that these things were
6 going on. Whether he had pre knowledge, that is something
7 else --

8 Q. And one reason for that --

9 A. -- of specific cases.

10 Q. And one reason for that was because the U.S.
11 Government was telling him about human rights abuses; is
12 that correct?

13 A. I am sure that is so.

14 Q. In fact, one would have to have been a dunce, blind or
15 deaf not to have known that the military carried out human
16 rights abuses against civilians; isn't that correct?

17 A. It is certainly true they carried out those. I
18 suppose you would have to be what you described.

19 Q. And that is because they stacked the bodies up every
20 day in the streets of San Salvador; is that right?

21 A. That is right. Sometimes the stack was larger, and
22 sometimes not.

23 Q. Based on that, do you think there is any way General
24 Vides Casanova in 1979 through '83 didn't know about human
25 rights abuses carried out by members of the National Guard?

1 A. I think he was aware of those allegations and that
2 they in fact -- some of those had happened.

3 Q. And --

4 A. I don't know how many.

5 Q. And, in fact, when you arrived in San Salvador in
6 1985, you personally felt that General Vides Casanova
7 understood that murder and torture had been carried out by
8 members of his forces; isn't that true?

9 A. Yes. As you said, I think everybody is aware of that,
10 and I think they were working to eliminate that, reduce it.

11 Q. Now, when you were Ambassador to El Salvador in the
12 periods of 1985 to '88, you worked closely with General
13 Vides on human rights issues, didn't you?

14 A. I did.

15 Q. And you had frank discussions with him about problems
16 in the military, correct?

17 A. We did.

18 Q. And you tried to bring to his attention to specific
19 human rights cases that you had a particular concern about,
20 correct?

21 A. Yes. I would point out that those cases in almost all
22 instances -- well, they were all cases that occurred prior
23 to my arrival and during the periods of concern.

24 Q. I understand.

25 And that was because the human rights abuses in 1979

1 through 1983 had been considerably more extreme than after
2 1985 when you were there, correct?

3 A. That is right. And that bears testimony to the fact
4 what they had been doing, trying to reduce such abuses, was
5 taking effect. And it was a process, and took time to
6 unfold.

7 Q. Are you familiar with the other individuals who
8 proceeded you in the post of Ambassador to El Salvador?

9 A. Yes, I know each -- well, back several years, I know
10 them all personally.

11 Q. Who were those individuals?

12 A. Immediately preceding me was Tom Pickering. Before
13 him Dean Hinton. Before him Bob White. Before him was
14 Devine.

15 Q. And those are all men that you respect professionally,
16 correct?

17 A. Absolutely. Every one of them.

18 Q. And they were doing their best, just like you were, to
19 try to reduce the level of human rights abuses carried out
20 by the Salvadoran military?

21 A. I believe every one of them were doing that.

22 Q. Do you have any doubt they had meetings with high
23 ranking military commanders such as General Garcia and
24 General Vides to discuss human rights abuses as you did?

25 A. I am sure they did.

1 Q. And they tried to bring these issues out in as much
2 detail as possible to get as much progress as possible?

3 A. Yes. And I think I said several times in that process
4 we saw progress.

5 Q. And they would have named names and been as specific
6 as possible in discussions with General Garcia, correct?

7 A. I think so, yes.

8 Q. And with General Vides Casanova, correct?

9 A. Yes.

10 Q. I want to ask you questions about a slightly different
11 topic, Ambassador Corr.

12 Both General Garcia and General Vides Casanova were
13 commanders, right?

14 A. Yes.

15 Q. Military commanders?

16 A. Yes.

17 Q. And because they were military commanders, that means
18 they had some specific duties, correct?

19 A. There may be a slight distinction here. As Ministers
20 of Defense, there was still a commander of the armed
21 forces. The President is commander in chief. There is a
22 distinction between being Minister and being Chief of Staff
23 of the Army, but nevertheless, they had overall
24 responsibilities.

25 Q. Well, when General Garcia was Minister of Defense in

1 1979 through 1983, he was a colonel in the armed forces,
2 correct?

3 A. Yes.

4 Q. And as a colonel during that time period, was now the
5 man who retired as General Vides Casanova, a general in the
6 armed forces?

7 A. Then --

8 Q. Between '79 and '83 --

9 A. He was a colonel in the armed forces with assignment
10 of National Guard.

11 Q. As colonel in the armed forces, Garcia and Vides
12 Casanova had a duty to control the troops under their
13 command, correct?

14 A. To the extent that they could, yes.

15 Q. And to prevent those troops from committing human
16 rights abuses?

17 A. Of course.

18 Q. Now, let's say there is an incident in which a soldier
19 under the command of either of these two men was alleged to
20 have been involved in human rights violation. Would you
21 agree with me that the commander of an individual like that
22 would have a duty to investigate the allegation?

23 A. Yes. And I come back to what I said earlier, is that
24 there was not a -- I mean, they were not the minister for
25 human rights, they were the Minister of Defense, and in

1 that role they had many responsibilities, and one of the
2 chief among them, right at the top was human rights.

3 But additionally they had other duties that they had
4 to carry out, in which as I tried earlier to say, sometimes
5 there is a question of treating the patient and not killing
6 the patient by over emphasis on one particular malady. I
7 think that is a position they were in.

8 I think in some way, perhaps I have not conveyed
9 sufficiently the amount of chaos, the amount of
10 dysfunctional institutions, the degree to which people gave
11 instructions that didn't happen, and that this was
12 characteristic of all of the institutions. They didn't
13 have the same -- they would have never gotten away of
14 bringing an officer in and shoot him as done by the FMLN.
15 They were required to try to use the dysfunctional
16 machinery that was there, and it just wasn't quite that
17 simple.

18 Q. The fact remains, doesn't it, Ambassador Corr, they
19 had a duty as commanders to prosecute individuals in their
20 command found to have done a wrongful act; is that correct?

21 A. That is so. I said that several times.

22 Q. And their duty as commanders was ongoing?

23 A. Yes.

24 Q. They didn't stop in time of war, did they?

25 A. No, they didn't.

1 Q. In fact, in time of war --

2 A. Neither did their duties of prosecuting the war.

3 Q. The fact that a war was going on made the duty to
4 control individuals and to investigate, to prosecute
5 wrongful acts against civilians all the more important,
6 didn't it, Ambassador Corr, because when you have a war is
7 when you are more likely to have civilians who need
8 protection from armed force; is that correct?

9 A. For that reason, and for the reason you cannot win a
10 ware of a nature that was going on if the government
11 appears to the citizenry to be abusing them.

12 So not only was it the moral issue, there was also the
13 strategic and tactical military necessity to be seen as
14 protectors and not as abusers of citizens.

15 Q. And in fact, that is precisely one reason why the
16 civil war in El Salvador took so long, isn't it, Ambassador
17 Corr, because the military was perceived as repressive, and
18 abusive of civilians?

19 A. That is one of the reasons. There were many other
20 reasons if you would like to go into them.

21 Q. I have another document I would like to ask you about.

22 MR. STERN: And with The Court's permission I
23 would like to distribute this document to members of the
24 jury.

25 THE COURT: This is a document in evidence?

1 MR. STERN: It is, Your Honor. It is Exhibit
2 557.

3 BY MR. STERN:

4 Q. This is another document we discussed at your
5 deposition. Please take a look at it.

6 A. I am not a speed reader. I will take a look at it.

7 Q. My intent is not to ask you questions about the whole
8 document, but please feel free to take whatever time you
9 need.

10 A. I have read the summary. I will tell you I will not
11 answer questions until I have read it.

12 Q. Fine. My first question will be, does your name
13 appear on the page, last page of this document?

14 A. I am sure it does. I have to make certain I wasn't
15 out of the country in Uruguay. I can't read the last
16 page -- yes, I can.

17 Q. This is a document, if you look on the first page
18 above the list of Embassies, you see the date -- well, you
19 see the month June, 1988, and over towards the left, the
20 first two digits are 29. This means the document is dated
21 June 29, 1988, doesn't it?

22 A. That is right.

23 Q. Now, by June 29, 1988, you had been in El Salvador for
24 almost three years, correct?

25 A. That's right.

1 Q. And in fact, fairly shortly after this document was
2 sent out, you departed as Ambassador in August, 1988,
3 correct?

4 A. That is correct.

5 Q. So when this document was put together, you had a fair
6 amount of familiarity with issues in El Salvador, including
7 El Salvadoran military, correct?

8 A. I think so, yes.

9 Q. In between the time '85 and '88, you continued to see
10 an improvement in the human rights situation, correct?

11 A. That's correct.

12 Q. Particularly in comparison to the '79 to '83 period
13 which was much worse, as you testified, correct?

14 A. Correct.

15 Q. But even though things had improved, there were still
16 problems in 1988, weren't there?

17 A. There were.

18 Q. And that is the subject of this document, it is
19 entitled post reporting plan?

20 A. Yes.

21 Q. What is a post reporting plan?

22 A. In Embassies, at the beginning of the year we sit down
23 and try to take the goals, objectives we have in terms of
24 foreign policy with the country we are serving. And we
25 look at those and try to make up a schedule of reporting.

1 We have reporting that is just kind of ongoing responses to
2 current happen evenings in the country, but we also try to
3 do thoughtful pieces, and take a longer range, and look at
4 things. This is one of those.

5 Q. This is a document that represents a synthesis, a
6 summary, if you will, of a fair amount of thinking?

7 A. Yes. I hope all of our cables had thinking in them.

8 Q. Looking at the first paragraph, where it says summary,
9 states "Credible reports of ESAF --" and that means El
10 Salvador armed forces?

11 A. Yes.

12 Q. "-- of ESAF, human rights violations have surfaced
13 regularly over the past year, (Septel), separate telegram.
14 And although military commanders have remanded to the
15 civilian courts, low ranking soldiers accused of some of
16 the crimes, they appear to have obstructed justice in other
17 cases, probably because the violations were committed as
18 part of a clandestine war against FMLN insurgency, either
19 on orders from above or because low ranking officers and
20 NCO's took matters into their own hands, and their
21 superiors felt it necessary to protect them. The reasons
22 this double standard persists revolve around an
23 unwillingness on the part of the commanders to permit the
24 latter cases to be aired in public. In some of these cases
25 there are indications that the commanders meted out

1 punishment internally, while in other cases the matter was
2 swept under the rug."

3 Ambassador Corr, the officers of the Salvadoran
4 military knew each other very well, didn't they?

5 A. Yes.

6 Q. It was a small officer corps?

7 A. It was.

8 Q. And they had been trained together, and as I believe
9 you testified, worked together?

10 A. That is right.

11 Q. And developed close bonds?

12 A. Yes. They knew each other very well. All those bonds
13 weren't always collegial. Maybe that is the wrong word.
14 They weren't always the best of friends, but they knew each
15 other very well.

16 Q. Nevertheless, their common training and background
17 meant when abuses came up, the officers were willing to
18 cover for one another?

19 A. That is something we dealt with always.

20 Q. In fact, there was almost an unwritten rule that you
21 don't rat on your fellow officer?

22 A. Yes, yes, there was.

23 Q. And that inhibited the report of the human rights
24 violations by military officers, didn't it?

25 A. To all persons concerned, yes.

1 Q. And that extended to the highest level of the
2 Salvadoran military command, didn't it?

3 A. In terms of not -- in terms of -- I think there was a
4 real distinction. I think there was some effort not to
5 push cases forward once they were discovered, so in a sense
6 to some degree that was so.

7 Q. I would like to ask you to focus on the next paragraph
8 with me, please.

9 Paragraph three. "The number of officers who now
10 advocate methods used by the death squads of the past
11 appears to be few and diminishing. The officer corps,
12 however, circles its wagons when faced with human rights
13 scrutiny, in part from a skeleton in the closet syndrome
14 that keeps one officer from tattling on another for fear
15 each accused will become an accuser until all the long
16 buried secrets are unearthed. The skeletons not only
17 include human rights abuse but corruption. Those officers
18 not concerned about hidden skeletons have nevertheless been
19 inculcated with a concept of corporate military honor that
20 does not permit any public admission of military
21 wrongdoing, no matter how grievous the crime and rejects
22 all scrutiny by civilians."

23 Are you familiar with the word impunity, Ambassador
24 Corr?

25 A. Yes, I am.

1 Q. Would you agree with me an atmosphere or culture of
2 impunity exists where officers or any soldier believes that
3 no matter what abuses are carried out, no one will have to
4 suffer the consequences for it?

5 A. I think that that was certainly the very strong view
6 of military officers when you go back to the period of the
7 '70's and '80, '81, so forth. I think that began to change
8 among the officer corps itself. It was not changing as
9 quickly as hoped for and as wanted, but I think that that
10 was changing. And I think that is what the President of
11 the country and so forth were working to bring about that
12 change.

13 Q. This cable is written in 1988, correct?

14 A. Yes, it was.

15 Q. And it is true, isn't it, that in fact impunity
16 existed for the Salvadoran officer corps until at least
17 1986?

18 A. In terms of actually being prosecuted, that is right,
19 but I think one of the things that was happening, whether
20 it had to do with such things as the kidnapping case in
21 which Salvadoran military officers, former officers, and
22 people outside, it was not a unit, it was not people in a
23 sense illegal entrepreneurs in which they had kidnapped
24 civilians.

25 They knew there was great pressure being placed on

1 them by the high command, by the Minister of Defense to try
2 to get them prosecuted, and certainly their backers,
3 probably for some years, were coming to their rescue and
4 putting up money for lawyers, and so forth.

5 I think there was a change. The changes in attitude
6 precede changes in action, and there -- as we say in the
7 opening of this summary to the cable, that there are few
8 that would advocate death squads, maybe a few neanderthals
9 around that would do that, but that is changing.

10 We had an increase in incidents that gave us great
11 concern in '88 and beginning at the end of '87, and that
12 coincided, and doesn't excuse them at all, but that
13 coincided with the guerillas strategy of carrying the war
14 to the cities in which it became much more dangerous. And
15 there was a reaction thing, it was not a justified
16 reaction, but in terms of comparing that, the number of
17 incidents in '88, to the number of incidents taking place
18 in '79, '80, '81, and even though there is a slight
19 increase, went back down in '89.

20 It was troubling, but it wasn't nearly at the level,
21 and because it went back down shows this process that I
22 have been trying to describe, that the high command, the
23 President, the United States Government in the effort to
24 try to change the armed forces, that it was having some
25 affect.

1 Q. But you would agree with me as a practical matter,
2 Ambassador Corr, you could prosecute someone for robbery or
3 theft, talking about a Salvadoran officer, you could
4 prosecute them on a common crime, but up until 1986 or '88,
5 you couldn't prosecute them on a human rights crime; is
6 that correct?

7 A. The second half of your statement is right. It was
8 very difficult to prosecute a military officer on any
9 crime. If the crime was committed against another military
10 officer, it was fairly easy. It was very hard to prosecute
11 any oligarchs in El Salvador or almost other Latin America
12 countries, almost like what you have in a justice system,
13 it was a class matter.

14 If you were out driving a car and ran over somebody,
15 there was a tremendous difference in your status of society
16 and what happened to you in the courts. And that was true
17 of military, it was true of business people, that was true
18 even of a labor leader.

19 And so when -- it wasn't just human rights in which
20 the justice system needed improvement, it was pretty much
21 across the board.

22 Q. Ambassador Corr, isn't the real reason why it was
23 impossible to prosecute Salvadoran military officers not
24 just for human rights crime but in fact for any crime as
25 you just pointed out, doesn't the reason for that lie in

1 the concept of corporate military honor that does not
2 permit any public admission of military wrongdoing no
3 matter how grievous the crime?

4 A. That is one of the factors I am trying to place in a
5 larger societal description what took place in the society.

6 Q. Doesn't the cable state that is the reason why --

7 THE COURT: Excuse me. Had you finished your
8 answer?

9 THE WITNESS: I guess so.

10 THE COURT: Mr. Stern.

11 BY MR. STERN:

12 Q. Doesn't the cable lay the reason for that inability to
13 prosecute, doesn't it attribute to the concept of corporate
14 military honor?

15 A. Yes, it does. This is not scripture, even though my
16 name is at the end of it. This is a cable written on human
17 rights and we were looking for the causes this had
18 unfolded. When I amplify that, this doesn't change it.
19 This is one of the factors, you are trying to change a
20 whole society and whole judicial system, and this was being
21 chipped away at, and -- that is enough to be said.

22 Q. You made reference to the judicial system right now.
23 Isn't it the fact that the problem lay not with the
24 judicial system but rather with the military that refused
25 to air its crimes so the offenders could get into the

1 judicial system?

2 A. There are no categoricals, if's. It was the problem
3 before the war started. You could go back and read
4 judicial authorities in El Salvador, and they would tell
5 you there was a problem with the judicial system.

6 In 1987, when I was trying to look at some aid
7 programs to see, you know, what kind of things needed to be
8 done in the country, I found out that the corte de cuentas,
9 the general's office was processing financial records.
10 This is '87 for 1973.

11 I found out that the judicial system's journal, which
12 in the code law system was absolutely essential for the use
13 of Justice of the Peaces and members of the judicial system
14 in order to apply the law, that journal. They were trying
15 to catch up -- that journal published the cases in the
16 judicial system, and they were publishing for 1976 in 1987.
17 It is not just that there was concern about the armed
18 forces, it was that you had a dysfunctional, not
19 functioning judicial system.

20 Q. Would you agree with me, Ambassador Corr, no judicial
21 system can prosecute cases that are never reported?

22 A. No. I have to agree with that.

23 Q. You testified about elections and democracy. Would
24 you agree with me that the notion of civilian control over
25 the military is an important component of democracy?

1 A. Absolutely. And I think you begin to see that
2 happening with the 1982 -- well, really with the coup and
3 its agreement to do a Constitution, and writing of the
4 Constitution, and the efforts of the civilians to begin to
5 have oversight of military budgets, so forth.

6 Those kind of things started to happen late in the
7 '80's, '87, '88, in which the budgets began to be presented
8 to the civilian side of the house instead of getting a lump
9 of money, there was a institutionalization process taking
10 place to insure domination of civilians over the military.
11 And I think that was one of the most repeated statements by
12 the Minister of Defense while I was there, that the armed
13 forces had to submit themselves to the Constitution, to
14 civilian authority.

15 Q. So you could kind of correlate the level or measure
16 the level of democracy at any given moment by looking at
17 the level of civilian control over the military; would that
18 be fair to say?

19 A. Yes. But I don't think civilian control in a
20 situation where you have moved from long-term dictatorship,
21 I don't think that you can point to some moment and say we
22 have -- there is now civilian control. You might try to
23 say by writing the Constitution of 1982, that that was
24 achieved. There were previous Constitutions that said
25 that, and so, I mean, it is a process.

1 And what I think that we saw was that exertion by
2 President Duarte and later by Cristiani, and Russo, and
3 today, and at least since the mid '80's, since 1982, they
4 haven't overthrown a government, they have increasingly
5 been subject to control, and that is a process that was
6 taking place.

7 Q. Okay. Let's look at the stage of the process in 1988
8 when this cable was written. Paragraph four states, "The
9 civilians in the Government have acceded to the military's
10 desire for non interference in the ESAF, Salvadoran
11 military, internal affairs by avoiding contact with the
12 military. Generally out of a ingrained sense of fear and a
13 belief that to get involved would be of no use in any case.
14 They do not even act laws that place limits or duties on
15 the military, nor do they normally press for prosecution of
16 military human rights offenders."

17 If we look at the situation in 1988, Ambassador Corr,
18 isn't it the case at least with respect to human rights
19 civilian authorities were still so intimidated by the
20 military that they didn't try to limit it in any way?

21 A. What I wrote and what I signed is here, but under oath
22 I am telling you what I think, and I certainly was writing
23 for a particular audience what I thought here, but I do
24 think strongly that there was an increasing subordination
25 of the military to the civilians. And even though it says

1 there are no laws, there were changes in procedures, in
2 budget procedures so that civilians begin to look at the
3 budget.

4 There was an increased -- if you go and read Duarte's
5 own book, "My Story" he writes in there about how he tried
6 to insert them himself in the military decisions as early
7 as when he was in the Junta, and there was an increasing
8 attraction. When campaign plans were attempted to be
9 created, particularly on the basis of the Woerner one
10 commission and Woerner two commission, the high command and
11 the general staff, they began to work together on those
12 campaign plans. They begin to try to coordinate the
13 arrival of aid and assistance and grass roots development
14 projects, once the military went in to occupy an area. And
15 so this says that.

16 And there was an increasing effort by the President
17 and by the government working with the high command to
18 implement that.

19 Now, one of the things I think has some relevance here
20 to the human rights thing --

21 MR. STERN: I object to move as non-responsive.

22 THE COURT: Well, I don't know. Is that
23 responding to the question?

24 THE WITNESS: I am trying to say something that I
25 think is important here.

1 THE COURT: Let me go back, and understand that
2 Mr. Klaus can come back with other questions, too. Back
3 to Mr. Stern.

4 BY MR. STERN:

5 Q. Ambassador Corr, you testified in 1982, when elections
6 were held, had you been a opposition party leader, you
7 would have been reluctant to run in the elections?

8 A. That is right.

9 Q. In what sense can those elections be labeled free
10 elections?

11 A. Everything is relative. It had the highest turnout of
12 voters that there had been. The thing that most restricted
13 the freedom of those elections in 1982 and '84 were
14 guerilla actions to impede voters from going to the polls.
15 And I have already addressed the question they were invited
16 to come in. I wouldn't have come in '82, I would have come
17 in '84, and I would have definitely come in by '85, because
18 I think by then you saw things happening in the country
19 that would have made it possible.

20 President Duarte used to say repeatedly that the
21 Christian Democrats who remained in El Salvador and were
22 fighting to try to assert civilian control, to try to bring
23 about democratization, and having a more Democratic
24 society. They had more people killed than the people who
25 left the country.

1 And he, too, would say he can understand why the
2 people didn't come in in '82, by '84, '85, you had things
3 happening in which a system was being treated in which
4 people might have come in. And in fact I give great credit
5 to the fact Silva, he came in '85, and he begin to live
6 there, and you have some -- Mr. Nungo come back.

7 And in my own opinion, you know, it wasn't too hard
8 living in Mexico City or Paris, but for the Christian
9 Democrats who stayed in there and continued to try to
10 change the system, Duarte always claimed there were more of
11 them killed than people who departed from the party. And I
12 think in terms of the commitment to democracy and change in
13 society '84, '85, it was time for people to start coming
14 back. '85 Silva came back, '87 started changing more.

15 Q. If I could ask you to turn your attention to number
16 paragraph ten. The page number says R3823.

17 "The Code of Silence. The solidarity of the officer
18 corps in covering up the human rights violations does not
19 imply that all officers commit violations or condone them.
20 The officer corps' tolerance of officers who order human
21 rights violations is only part of a syndrome of tolerance,
22 of incompetence and willful misconduct by other officers.
23 Not only has no high ranking officer ever been convicted of
24 a human rights violation, none has been dismissed for
25 ineptitude in combat or gross misuse of government funds or

1 other corrupt practices. In essence, an officer who
2 graduates from the military academy is practically
3 guaranteed to make colonel no matter what he does, short of
4 resigning or dying."

5 As of 1988, Ambassador Corr, some military officers
6 were involved in human rights violations in El Salvador,
7 correct?

8 A. I am sure there are officers who were involved in
9 human rights violation. I would say that description of
10 that bureaucracy could be the Japanese bureaucracy. In the
11 Japanese diplomatic corps, if you get into the first track,
12 you will make ambassador in someplace unless you end up
13 doing something like malfeasance. There are systems like
14 that, but for a different reason. What I have written
15 there I stand by.

16 Q. Leaving aside Japan, it is a fact that in 1988, the
17 officer corps as a whole tolerated the abuses that are
18 reflected in this paragraph, correct?

19 A. They tolerated in the sense that they didn't
20 aggressively pursue prosecution, but I think maybe in
21 this -- I know I wrote cables, I don't know if they are
22 here, maybe it was in the summary -- there were officers
23 who were carrying out punishment but not in the legal way
24 of remanding people to a court. But there were officers
25 who were punishing subordinates for human rights

1 violations.

2 Q. Well, you would agree with me, wouldn't you,
3 Ambassador Corr, not only has no high ranking officer ever
4 been convicted -- strike that, sorry.

5 You would agree with me no high ranking officer has
6 ever been convicted of a human rights violation as of 1988?

7 A. That was true as of 1988. It changed after the Jesuit
8 case.

9 Q. And that period up to 1988, at least, included several
10 years when General Garcia was Minister of Defense, correct?

11 A. Yes, from '79 to '88, yes, it included years he was
12 Minister of Defense.

13 Q. And when General Vides Casanova was head of the
14 National Guard?

15 A. And Minister of Defense.

16 Q. Thank you.

17 The code of silence described in the paragraph we read
18 means tolerating human rights abuses, doesn't it?

19 A. Yes, it does. But my own experience with Vides
20 Casanova and Lopez Nuila, in the case, Colonel Ralph,
21 Minister Vides Casanova helped me get that case back on the
22 docket, and by direct actions that he took, that helped
23 that to happen. That is a fact.

24 And in terms of trying to prosecute officers, as I
25 said, you can't go after everything, so we decided to try

1 to make -- we wanted to arrest a military officer and
2 prosecute him, and we figured that we could best do that on
3 the kidnapping case that I mentioned earlier. And I can
4 assure that Minister Vides Casanova and his subordinate,
5 Nuila, we were pulling all stops to make that happen.

6 And I could go into detail, but I am telling you those
7 are specific cases and facts in which minister Vides
8 Casanova and Lopez Nuila were trying to help get an officer
9 prosecuted.

10 In fact, this kind of uprising that took place in '88
11 was directly related, and I think the problems in '83,
12 also, because the high command was trying to come down on
13 the officers of the armed forces not successfully in terms
14 of achieving a prosecution, but of trying to move the armed
15 forces, and move toward that where that kind of thing could
16 take place.

17 Q. The fact of the matter is no military officer was ever
18 convicted of the Las Hojas massacre; is that correct?

19 A. That is correct, but that doesn't obviate what I just
20 told you.

21 Q. If you fail to punish human rights abuses over a long
22 period of time, Ambassador Corr, isn't it a case other
23 officers take that as a green light to commit other abuses?

24 A. I don't think the evidence of El Salvador
25 substantiates that. I think what you saw is because they

1 knew it was coming, they knew it was coming. They didn't
2 want to be the case, and I think that is part of why there
3 was diminution. And admittedly with a blip going up in
4 '88, and why there was a diminution in any armed forces
5 installation being involved in.

6 Q. In '88 there was a code of silence with respect to
7 reporting human rights abuses carried out by El Salvadoran
8 military corps. Isn't it the responsibility of the
9 military commander to break that code of silence?

10 A. Yes, and I think they were trying to move the armed
11 forces in that direction.

12 Q. I want to ask you to look at paragraphs 15 and 16.

13 "The immunity of the military from unwanted
14 investigation and prosecution is well entrenched and will
15 be difficult to eradicate. It does not mean, however, that
16 the military will not do anything about human rights
17 violations when they break into public view. The Melendez
18 murders, (Puerta del Diablo murders) case is instructive.
19 The reactions of the high commanders to accusations of
20 military involvement in the murders demonstrated clearly
21 that they did not have prior knowledge of the military
22 role. National Guard (GN) Commander Larios stated publicly
23 only two days the February 1 discovery of the bodies that
24 the GN would investigate the matter fully, very probably
25 not knowing that an eyewitness recognized one of the

1 perpetrators as a GN from San Jose Guayabal. Defense
2 Minister Vides and chief of staff Blandon reacted angrily
3 to Auxiliary Bishop Chavez's accusations of First Infantry
4 Brigade involvement. Then began an internal investigation.

5 "The eyewitnesses to the abduction of the victims
6 eventually gave declarations in court, but failed to
7 mention the San Jos, Guayabal GN, or identify any of the
8 other assailants, except a former guerilla whom they knew
9 as Tony. The judge ordered General Vides to provide the
10 names of the First brigade soldiers patrolling the Canton
11 Melendez area on the night of the incident, but Vides
12 responded with a list of 450 names, 50 of which are
13 Antonios, and The Court must now seek cooperation of First
14 Brigade Commander Colonel Campos Anaya, which is unlikely
15 to be forthcoming."

16 The cable states that General Vides Casanova reacted
17 angrily to accusations about National Guard involvement in
18 the murders, doesn't it?

19 A. Yes.

20 Q. And General Vides denied that the National Guard was
21 responsible for the murders, didn't he?

22 A. I don't know. Cable says he reacted angrily. Does it
23 say he denied it? Do you read the words that he denied it?
24 I don't see it says he denied it.

25 Q. Based on what the cable tells us, does it appear to

1 you General Vides Casanova conducted an investigation into
2 the matter before he reacted angrily?

3 A. I don't know whether it does or not. I don't know how
4 much time expired. I don't know whether he received a
5 report that merited investigation. I don't see that in the
6 cable. I don't see any details.

7 Q. Based on what the cable does tell us, 450 names and 50
8 Antonios, General Vides Casanova effectively stopped,
9 didn't he?

10 A. It was frustrated by these names. I went to Campos
11 Anaya. To answer your first question, I don't know there
12 was time to start an investigation. I do not know that he
13 denied it. I don't know about the investigation. When we
14 got the list, we were frustrated at 450 names.

15 Q. Could I ask you to turn to page 108 of your
16 deposition, please, line 25. "Vides effectively stopped
17 this investigation, didn't he?"

18 "It appears so from this account, which I am sure is
19 accurate."

20 A. That is the same thing I answered you then. We were
21 frustrated.

22 Q. You were frustrated because of the way General Vides
23 Casanova handled the investigation; is that right?

24 A. In that particular instance, yes.

25 Q. You testified a lot about General Vides Casanova's

1 involvement in human rights matters and progress, and so
2 on, but this cable doesn't separate him from any of the
3 other Salvadoran military officers with respect to the code
4 of silence, does it?

5 A. This cable doesn't, but the other actions that he was
6 taking does. The ones I tried to mention here, such as the
7 Las Hojas case.

8 Q. 1988 post reporting plan doesn't mention General Vides
9 Casanova in any regard other than the stopping of the
10 investigation that we talked about?

11 A. I am quite certain if we look at all of the reporting,
12 there are a number of cables that meaning miscooperation, I
13 have no doubt of that. This is a single cable. I have no
14 doubt of that.

15 Q. I want to ask some other questions for you. The
16 Salvadoran military had a phone system, didn't it?

17 A. Communication system.

18 Q. Telephone, an ordinary telephone for communicating
19 among its members?

20 A. I assume so. I know they had communication system.

21 Q. They had a teletype system?

22 A. I am sure they had a teletype system. When you say
23 they had a phone system, I don't know if you are speaking
24 of having a separate phone system, or they used the
25 national system. What are you asking?

1 Q. I should be more precise.

2 In the time period '79 to '83, did the Salvadoran
3 military forces have a system they could communicate among
4 themselves by telephone?

5 A. I am sure they did.

6 Q. In the same time period, did they have radios to
7 communicate with each other?

8 A. Sure.

9 Q. Ambassador Corr, you are not able to point to a single
10 specific instance in which a subordinate failed to carry
11 out the instructions of General Vides Casanova with respect
12 to human rights, are you?

13 A. In which a subordinate failed to carry out
14 instructions?

15 Q. When General Vides Casanova -- are you able to
16 identify an instance in which General Vides Casanova
17 ordered to do something to enforce human rights norms and
18 the subordinate failed to carry out the order?

19 A. I don't know that I knew or can give you a specific
20 case, but what I do know as I stated earlier, when the
21 Tanda was so up in arms and when Ochoa was so up in arms in
22 '88, a great deal of that was because repression was being
23 put on them by the high command, by the Minister, and Vice
24 Minister on the human rights issue.

25 Q. Ambassador Corr, you testified between 1985 and '88

1 you worked closely with General Vides Casanova on human
2 rights issues; is that correct?

3 A. Yes, that is correct.

4 Q. And it is well documented between 1979 and 1983,
5 Salvadoran military and security forces carried out
6 massacres of unarmed civilians; is that correct?

7 A. Yes, that is correct.

8 Q. One would be El Mozote massacre?

9 A. Yes, that is so.

10 Q. Would you agree with me for the military high command
11 to deny existence of a massacre such as El Mozote would
12 help to encourage a climate in which future massacres would
13 be carried out?

14 A. Yes, I guess so.

15 Q. And the reason for that is, naturally, is it not, that
16 if soldiers feel their wrongs are not going to be brought
17 to the attention of others, that they can get a way with it
18 again, correct?

19 A. Those things happen, but the reason that the high
20 command at that point, in my opinion, did not do what I
21 think they should have done on that issue is -- was, I
22 think not -- the reasons were at that time they were
23 particularly felt to be under siege, and the commander of
24 that unit, Monterosa, was one of the most popular single
25 commanders in the entire armed forces.

1 In fact, when I found out, I arrived at post, and I
2 had gotten some briefings there had been this accusation,
3 so forth, he was the biggest hero among the military
4 commanders that moved against. Monterosa would have been a
5 difficult thing to do in terms of maintaining the coherence
6 of the armed forces. That does not in any way excuse it,
7 but it is something that was there.

8 Q. But the fact of the matter is, Ambassador Corr, if you
9 want to prevent massacres from taking place in the future,
10 one thing that you might do is go to the site of the
11 massacre and acknowledge it, and express outrage about it;
12 is that true?

13 A. That is something without doubt, I believe, I agree
14 with you. It would be an inhibitor to further such
15 actions. It might also have been a provoker of a real
16 split in the armed forces.

17 Q. Well, you don't know of any instance between 1979 and
18 1983 when General Garcia went to the site of a human rights
19 violation and expressed outrage and demanded an
20 explanation, do you?

21 A. I don't know that. He might have, I don't know of
22 any.

23 Q. And another thing that is important to do in trying to
24 stop human rights abuses is to gather information about the
25 abuses; would you agree with me on that?

1 A. I would agree with that.

2 Q. Because you want to encourage people to report abuses,
3 since if they don't report them, they go undiscovered and
4 unpunished?

5 A. I agree with that.

6 Q. One way to accomplish that goal would be to set up
7 reporting requirements within the military about human
8 abuses, correct?

9 A. Yes, I think so. And I think that is one of the
10 reasons the armed forces entered into the arrangement with
11 the International Committee of the Red Cross, to get
12 reporting coming back as to what was going on with the high
13 command.

14 Q. You don't know whether between 1979 and 1983, General
15 Garcia or General Vides Casanova set up any special
16 reporting requirements for human rights crimes within the
17 military, do you?

18 A. I don't know that. What I do know is there were
19 standard operating procedures adopted and put into the
20 basic training and centralized training took place. I
21 honestly don't know in terms of standard operating
22 procedures -- and I am familiar with some of those cases,
23 not the particular ones there -- I don't know whether they
24 had any kind of requirements for reporting or not.

25 I have to look and see. I would be surprised

1 certainly if they were done today, they would have. And
2 whether they were then, I don't know. But I do know that
3 there was a real effort to establish standing operating
4 procedures in terms of human rights comportment and
5 response. I do not know if there was reporting
6 requirement.

7 Q. And in terms of enforcing human rights norms, the tone
8 that military commanders send out to their troops in public
9 statements and pronouncements is important, isn't it?

10 A. It is. And probably more important is the tone that
11 they have, the armed forces of El Salvador being small, and
12 this does not contradict my comments about there being --
13 it being factions and rivalries, but it was amazing how at
14 times the armed forces -- I saw the same thing in Bolivia
15 and Ecuador, as compared with my experience in the United
16 States Marine Corps, in which the high command would call
17 in all the regional commanders and they would cross
18 themselves for a day and a half or something, and really go
19 at it in the terms of discussion. Not in the way I can
20 envision happening in the United States Marine Corps, but
21 in those sessions in which people would come in, I think
22 there were discussions about the human rights violations.

23 THE COURT: Mr. Stern, we need to take a break
24 for the mid-afternoon recess, let's take a 15 minute break
25 and come back and continue on with Ambassador Corr's

1 testimony.

2 (Thereupon, the jury retired from the courtroom.)

3 (Thereupon, a short recess was taken.)

4 (Thereupon, trial reconvened after recess.)

5 THE COURT: Ladies and gentlemen, please be
6 seated. We are in cross examination. Let me turn back to
7 Mr. Stern, if I might.

8 MR. STERN: Thank you, Your Honor.

9 BY MR. STERN:

10 Q. Previously, Ambassador Corr, we had testimony about
11 the importance of publicity for preventing human rights
12 abuses. Do you recall that?

13 A. Not specifically. Please refresh me.

14 Q. Well, you may remember in the Haig cable that we
15 discussed earlier today --

16 A. You mean today?

17 Q. Yes.

18 A. Okay, yes.

19 Q. There was a mention of publicity, and I asked you
20 about why publicity might be important for stopping human
21 rights abuses.

22 A. Yes.

23 Q. During 1985 to '88 General Vides Casanova never asked
24 your help in publicizing human rights abuses, did he?

25 A. No.

1 Q. He never asked you to accompany him on any trips to
2 detention centers in El Salvador, did he?

3 A. No, he didn't. But there is a variation on that.
4 There was a young man by the name of Rivas who at 17 years
5 of age was abducted and really took place over a fight over
6 a girl at near Ilopango Air Force base. And we had a
7 person who was coming to the human rights officer in the
8 Embassy and giving information as to where they thought
9 Rivas might be, and so the President and I were trying to
10 find him, and in some kind of military facility. John
11 McCann would have done something similar in '92, where he
12 was.

13 I went to places unannounced, I flew by helicopter out
14 to a mountain top, and no announcement. The commander
15 didn't know whether to let me to do anything or not. And
16 we were never successful. It is very hard to find a place
17 if you don't know where it is and what you are looking for.

18 Q. It was important between 1985 and 1988 for you to have
19 a good working relationship with General Vides Casanova,
20 wasn't it?

21 A. Of course it was.

22 Q. To be effective -- for you to be effective in your
23 job, you needed his cooperation and help in carrying out
24 your duties, didn't you?

25 A. Well, yes.

1 Q. Okay. And the posting that you had in El Salvador was
2 the last foreign service position you had, correct,
3 Ambassador Corr?

4 A. Diplomat in residence is a foreign position.

5 Q. It was sort of in some way the cap stone of your
6 career, would you say?

7 A. No.

8 Q. A significant posting?

9 A. Pardon?

10 Q. A significant posting?

11 A. Yes, it was a significant posting. I probably did
12 better work in Bolivia than I did in El Salvador.

13 Q. It is important to you, nonetheless, that none of the
14 major massacres that have been discussed in this case, such
15 as El Mozote or Las Hojas, happened on your watch; is that
16 fair to say?

17 A. I am certainly gratified that they didn't. I think
18 that came in part from the increased efforts of the
19 President of high command and myself to try to keep the
20 pressure on to make certain those kind of things didn't
21 happen.

22 Q. And you would share --

23 A. Many human rights abuses still occurred while I was
24 there. None of the most notorious cases.

25 Q. In terms of the progress that you made, you would

1 share the sense of accomplishment you had with General
2 Vides Casanova, correct?

3 A. Yes, because I think that he -- it was his and the
4 President's and others efforts that made that possible.

5 Q. And, Ambassador Corr, isn't it the case that it would
6 bother you or offend you personally if this jury found that
7 General Vides Casanova, your partner in these
8 accomplishments, had been responsible for human rights
9 abuses?

10 A. I think if there was some kind of conclusive evidence
11 that showed that something like that had happened, that it
12 would be something out of a myth, but as I understand it,
13 in my working with him, he did everything he could to
14 prevent human rights abuses and change the culture of armed
15 forces.

16 MR. STERN: No further questions.

17 THE COURT: Thank you.

18 Let me turn to Mr. Klaus.

19 REDIRECT EXAMINATION

20 BY MR. KLAUS:

21 Q. Ambassador, who was Silva?

22 A. Hector Silva, he was elected the mayor of San
23 Salvador, probably a good presidential candidate, I would
24 hope, one of these times.

25 Q. Why is it significant he came back, and where did he

1 come back from?

2 A. He came back from being in exile. He was a medical
3 doctor, and came back to try to test the water to really
4 start looking to whether the FDR could come back and be
5 involved in elections that had taken place during the
6 '80's. He was a great guy, courageous guy.

7 Q. What political party was he a member of?

8 A. He was a member of the -- I forgot all the words, but
9 Christian movement party that Zamora created, and he was
10 one of the persons who left the country along with Zamora
11 and Ungo, and so forth after the Junta broke up and Zamora
12 left.

13 Q. Was he a social Democrat, is that what he was?

14 A. Those people considered themselves to be social
15 democrats, and the Christian Democratic party had been
16 associated with the Christian Democratic National, and Ungo
17 had been associated with the socialists, and these people
18 were associated with the MNR, the socialist party.

19 Q. Do you know why they left?

20 A. They left out of fear, out of concern. They had a
21 view that the military couldn't be reformed, and the
22 Christian Democrats who stayed had a view that, in fact had
23 conversations about this and one particularly interesting
24 session in which the Christian Democrats just before the
25 agrarian reform was carried out, they said this is

1 something in our platform since we became a political
2 party, and we believe that, you know, this is a chance to
3 state and get these reforms that we wanted implemented.
4 But if we stay and associate with the military, will hurt
5 our future electoral chances.

6 And they said, we have a dilemma here. And Duarte
7 came in and said, well, I think we have a better chance of
8 reforming the military and making them subordinate to
9 civilian control than we have to the guerillas, and
10 guerilla rhetoric modified as time went on.

11 But the solution was Nicaragua, the solution was Cuba,
12 and so -- but the other people, I think they made what they
13 thought were honest judgments and they decided that they
14 should leave and they left.

15 Q. And in your view, the Christian Democrats concluded
16 that by participating, they could institute the reforms
17 rather than by leaving or joining the guerillas?

18 A. Yes, yes.

19 Q. Now, this reform process, is that the civil war, is
20 that one of the elements of the civil war?

21 A. Yes. My own opinion is that if Duarte -- if they had
22 not carried out the agrarian reform, aside from the fact it
23 was needed and the just thing to do, instead of having
24 12,000 guerillas, they could have had 60,000 guerillas.

25 When the Christian Democrats carried out the reforms

1 of nationalizing the private sectors and major industries
2 and carrying out the agrarian reform, they were showing the
3 people in the countryside that they too cared about people,
4 and they were setting themselves apart from the past
5 governors. The military itself tried to carry out these
6 things, but nevertheless there was a growing belief that
7 you had the class society, and carrying out those reforms.

8 I related to that. There was not a reluctance of the
9 armed forces to carry out the reforms, there were a lot of
10 academics that had written about that, but they are wrong.

11 I never forget sitting -- in a way, I once heard --
12 more than once, I heard the armed forces described as
13 being, institutionally being democrats in the goals they
14 wanted, but individually being Avidaros (phonetic).

15 The members of the right-wing party founded by
16 D'Aubuisson -- and I never forget sitting in a meeting in
17 which there were five senior military officers, and almost
18 as if they forgot I was there, and began discussing among
19 themselves. And they were very angry with the oligarchies
20 who were trying to come back and repossess some of the
21 large land holdings that had been taken from them for land
22 distribution.

23 They said these are our reforms. They can't do that.
24 And that was very enlightening to me, and gave further kind
25 of meat to this idea that institutionally the leadership is

1 trying to carry them. And admittedly, they are the people
2 who kept oligarchy out of power in '72, they thought right
3 then is what the Christian Democrats is, but individually
4 many of them were conservative people.

5 Q. Who were the five officers? Do you remember the
6 names?

7 A. One Vides Casanova, one Blandon. I don't remember.
8 Upset about these guys would dare to try to undo the
9 agrarian reform.

10 Q. I want to go back to Plaintiffs' Exhibit 554, if you
11 could find that. That was the three page response by --

12 A. Signed by Haig.

13 Q. Over Haig's signature. I want to go to what is
14 marked -- the second page, R3807.

15 A. Okay.

16 Q. And this is supposedly Secretary of State Alexander
17 Haig giving directions to the Ambassador in El Salvador,
18 correct?

19 A. Probably to the charge, that was signed two days later
20 by Ken Bleakley.

21 Q. Okay. And says, "Issued to Government of El Salvador,
22 drawing on the following talking points. U.S. Government
23 has --" looking at the first paragraph. "U.S. Government
24 has solid evidence of torture of Government of El Salvador
25 citizens, torture took place while individuals were in the

1 custody of the National Police.

2 "Details of pain and injury suffered by individuals
3 are both gruesome and appalling."

4 THE COURT: Mr. Klaus, you want to slow down.

5 MR. KLAUS: You need me to slow down.

6 BY MR. KLAUS:

7 Q. "Details of pain and injury suffered by individuals
8 are both gruesome and appalling. Acts committed by poorly
9 educated, probably mentally unbalanced policemen who
10 believed they were serving best interest of Salvadoran
11 Democrat."

12 And goes on, "No Government should permit subjections
13 of its citizens to humiliation, pain and degradation in the
14 name of achieving victory over any enemy."

15 This is referenced to members who committed the
16 torture. Do you agree with that assessment, that they were
17 poorly educated, probably mentally unbalanced police?

18 A. Well, I think anybody who tortures someone has to be
19 somewhat mentally unbalanced, so by definition, I think
20 people who are inclined in that kind of behavior there is
21 something out of whack with their thinking.

22 In terms of their education, I don't know if you are
23 talking about formal education. We are talking about
24 education as the verbiage used in Spanish, when they were
25 badly educated even if they had a Ph.D.

1 I do agree, some of the comments I made as I was
2 thinking about them at lunch, I agree fully with the
3 statement here --

4 MR. STERN: Objection; non-responsive.

5 THE COURT: Let's hear what the answer is. You
6 may.

7 THE WITNESS: I agree with the third target point
8 that I discussed with the other attorney earlier, that,
9 you know, any Government does that, it -- nothing
10 justifies that.

11 BY MR. KLAUS:

12 Q. You agree with the statement that the sacrifice of
13 your principles in defense of your principles gives you a
14 hollow victory?

15 If -- what would be the point?

16 A. I am just saying on the face of it no Government
17 should permit subjections of its citizens to that kind of
18 mutualization. That is a statement I fully agree, and I
19 won't go ahead and get back into further conversation.

20 Q. Let me go to Plaintiffs' Exhibit 557, looks like --

21 A. Where are we going now?

22 Q. To the last exhibit you were handed.

23 A. Okay.

24 Q. I want to look at the second -- bottom of the first
25 page where it says, "Although military commanders have

1 remanded to the civilian courts low ranking soldiers
2 accused of some of the crimes, they appear to have
3 obstructed justice in other cases, probably because the
4 violations were committed as part of a clandestine war
5 against FMLN insurgency, either on orders from above or
6 because low ranking officers and NCO's took matters into
7 their own hands and their superior felt it necessary to
8 protect them. The reasons this double standard persists
9 revolve around an unwillingness on the part of the
10 commanders to permit the latter cases to be aired in
11 public. In some of these cases there are indications the
12 commanders meted out public punishment internally, while in
13 others, the matters were swept under the rug."

14 Now, did you mean to divide it into two types of
15 cases, ones that were committed by low ranking soldiers,
16 and then others that were committed on orders from above?

17 A. No --

18 MR. STERN: Objection; leading.

19 THE COURT: I don't think that suggests the
20 answer. Can you respond to the question?

21 THE WITNESS: I mean, you know, this is written
22 in 1988. This is 2002. It is hard to remember, you know,
23 what went into each one of these. And this kind of a
24 cable was written in the political section came to me, and
25 by I reviewed it, I put my name on it.

1 Cables of this kind didn't go out of the Embassy
2 unless I agreed with them, and at the same time it is hard
3 to describe to people. Everyone thinks they are busy, but
4 when you are in a situation where Brigades are being
5 overrun, and human rights cases going on, and economy has
6 fallen by 25 percent, gross national product in three
7 years, and dealing with all these kinds of things, and not
8 everything is done like you are writing a paper for
9 something.

10 So, I mean, you, you, you look at these things.
11 I don't remember the thinking that went in here.

12 But what is intended, I believe, was not that
13 some of these cases were carried out because their
14 superiors had ordered them to be carried out, but that
15 NCO's had taken matters in their own hands. Not by this
16 time of the war, but one of the things is, Salvadoran went
17 from 14,000 to 56,000. One of the difficult things is
18 having a junior officer corps of that size. Military
19 cadet classes had been -- the Tandon, whatever it was,
20 was a large class, classes were 20, 30, something like
21 that. And took cadets out of school that hadn't finished,
22 to NCO's and made them officers.

23 Many of those people had not had the same kind of
24 discipline and training. That was a problem also for
25 commanders in terms of trying to make things happen.

1 Q. Was there a lack of officers, just pure number?

2 A. In pure numbers there was a lack of officers. That is
3 why -- it is was very interesting to go to a graduation
4 ceremony at the military academy, because the first thing
5 they would do is read the number of cadets who had already
6 been killed in action, and then you would have young
7 soldiers, many of them who had been badly wounded or maybe
8 their leg was missing, whatever, coming up to get their
9 commission, to graduate with their class of this horrendous
10 war going on.

11 I can't describe the terror. If you talk about one of
12 the most horrendous things, all the legs blown off by
13 guerilla mines. I went to the hospital once a month to
14 look, and the hospitals were filled with people whose legs
15 had been blown off by guerilla mines. These are children,
16 and pheasant woman, and so forth. It was a gory situation,
17 particularly in those early years.

18 And I stand by that, you know, you had a culture in
19 the armed forces, there was more of a collective leadership
20 in some ways even though it was fractionalist than we can
21 imagine in United States forces. I talk about the high
22 command calling in the regional commanders, that is
23 different than the Marine Corps I knew operates. And there
24 was this commitment, this organization that had taken the
25 men from lower middle class, middle class backgrounds and

1 given them a certain amount of social mobility. There was
2 a great loyalty to it, and there was a factor that these
3 people did not want to squeal -- like a fraternity or -- on
4 a fellow officer. That was a factor we were dealing with
5 in trying to break down.

6 Q. So the code of silence, you go on later to allude to
7 in this letter, refers to what we've heard in the United
8 States described as a code of silence among police
9 officers?

10 A. Yes, same thing.

11 Q. I want to go to in the bottom marked R3824, in the
12 same cable. This is still under the heading of code of
13 silence where they say halfway through that paragraph "Even
14 Colonel Lopez Nuila, who was responsible for many of the
15 human rights improvements in the police forces, never
16 presented evidence of misdeeds of fellow officers to the
17 courts for prosecution. And any officer who would break
18 the code of silence would likely be committing career and
19 possibly physical suicide. The Embassy has met with many
20 good officers, but has yet to meet the one who will cast
21 the first stone."

22 Did the officers themselves have fear of breaking the
23 code of silence?

24 A. Yes, definitely, because they were people out there on
25 the right that would have done them in.

1 Q. Do you know of any acts --

2 A. Just as it wasn't safe for -- and this other cable
3 referred to -- for prisoners to stay in the country once he
4 had been identified. It wouldn't be safe for a military
5 officer.

6 Q. Do you know of any acts of terrorism committed against
7 General Vides and his family while you were there?

8 A. No. Not directly, there may have been. I am not
9 aware of any of them.

10 Q. How about general Garcia's family?

11 A. I don't know. I am not aware of any.

12 Q. How about officers, civilian or military, while you
13 were there?

14 A. The guerillas killed the daughter of one colonel.
15 That was about '89. That comes to mind immediately. Of
16 course, not a military officer, but they kidnapped the
17 President's daughter.

18 Q. Which president?

19 A. President Duarte's daughter. So --

20 Q. While he was in office?

21 A. Yes, yes.

22 Q. Was there any institution that escaped -- that still
23 functioned during this period of the civil war?

24 A. There was none that functioned that I am aware of that
25 functioned to the level that one would have wanted. They

1 were wonderful saintly, dedicated, committed people in the
2 church, and in other parts, and this, you know, this way we
3 paint people with broad brushes. I have been doing it,
4 some of it myself here in some ways.

5 But there were among the oligarchy people committed to
6 human rights and upset to democracy, you ran the gamut.
7 You found all kinds of people in every kind of
8 organization, and you found this fragmented --
9 fragmentation in all the institutions in which none of them
10 are functioning to the level they would have liked to have
11 been able to function.

12 Q. After the land reform, was this part of the battle for
13 the hearts and minds of the people of El Salvador?

14 A. Well, of course it was, I mentioned Alex Huxley
15 earlier. I have a quote from him, no human being does any
16 single thing for a single purpose.

17 The grand reform was won because it was right. There
18 was an unjust system that did not permit people to have
19 land, to make a living. It was done because in order to
20 win the war, you did have to have the support of the
21 people, and certainly the way they had been going
22 previously was not winning that in the 1970's, and, you
23 know, it was done some because people thought we are strong
24 believers in cooperatism, or committatarism (phonetic), and
25 people did it for a multiple of reasons, and there is a

1 mixture of all of that, and that is the way it is in almost
2 all human behavior.

3 Q. How many helicopters did the El Salvadoran military
4 have while you were there?

5 MR. STERN: Objection; beyond the scope of cross
6 examination.

7 THE COURT: I think you dealt with the militaries
8 ability to communicate with each other. I will permit
9 this.

10 THE WITNESS: I am sorry, I can't answer that.
11 They had what we thought was a sufficient number to be
12 able to change the balance. They always wanted more, and
13 there was -- I'm sorry, I cannot give you an exact number.

14 Q. The final outcome of this, was it a -- from a military
15 standpoint, was it a stand off militarily?

16 A. Nearly everyone writes, including Salvadoran military
17 officers, you talk with them, and I talked with Villalobos,
18 Chief Lee Candle, and people since the war, and there was a
19 widespread view that there had been reached a military
20 stalemate.

21 I am a great minority on this, but I don't believe
22 there was a military stalemate. Stalemate always has to do
23 with the time frame that you are talking about, and I
24 believe that really what the guerillas saw as they began to
25 go about 1987, and because of the changes taking place in

1 the society and armed forces in the political parties, and
2 because the Soviet Union was beginning to fail, and did
3 fail, I think they saw the handwriting on the wall. They
4 took trips to Latin America, Europe, and before they had
5 been able to get in to see prime ministers, and vice
6 ministers, so forth, they couldn't see anybody.

7 They were amazed when they went around, and so with
8 the changes taking place worldwide, and changes taking
9 place in Latin America, they were starting to lose access
10 they had in Europe, and South America.

11 It might have been another five years, but it is hard
12 to believe that they would have continued on. There might
13 have been remnants out there, but I would have said five to
14 six years after the end of the cold war, that military
15 balance would have gone to the constitutional Government,
16 the armed forces, and in some ways, as horrible as it was,
17 it was one of the most horrible things that happened, the
18 killing of the Jesuits.

19 I think that the terrific indignation and response to
20 that and what happened in Congress also helped to get
21 people to the table, and I think that it was good that they
22 got to the table and finally stopped killing each other.

23 Q. Were there ever any threats against you or any other
24 Ambassador that you know of?

25 A. Yes.

1 Q. How about against you personally?

2 A. Well, I made it a practice to go to conflictive zone
3 at least one time a week, and I think I adhered to that. I
4 went five times in one single week. One thing we did when
5 we got out of the helicopters, to see how many bullet holes
6 we picked up on that trip. It was not every trip, not a
7 weekly occurrence, but there were a number of times it
8 happened.

9 It was not nearly as dangerous for me in El Salvador,
10 strangely as it was, I had my house dynamited in Lima, I
11 had my Embassy blown up, and I had the people try to kill
12 me in La Paz. I didn't have the same direct threats
13 against me in El Salvador except that I was visiting
14 conflicted areas, and so forth.

15 Q. What about other Ambassador?

16 A. I don't know. I am just certain -- for instance,
17 Ambassador Pickering, there was a whole huge plot uncovered
18 connected to Ambassador Pickering, and I don't remember all
19 the details. I am sure Hinton had the same, I am sure the
20 end of my time, and Bill Walker coming on, things were
21 starting to move toward a more peaceful settlement.

22 MR. KLAUS: If I could have a minute.

23 THE COURT: Yes.

24 MR. KLAUS: Nothing further, Your Honor. Thank
25 you.

1 THE COURT: Thank you. May Ambassador Corr be
2 excused from his subpoena?

3 MR. KLAUS: Yes.

4 THE COURT: Ambassador, you may step down. Thank
5 you very much.

6 Let's take a moment to get some words I think
7 they need for the record.

8 Let me turn back and let me ask General Garcia if
9 he would take the stand, and I will turn back to Mr. Green
10 so he might continue with the cross examination.

11 There are some documents on the stand that
12 probably we can give back. I think Mr. Stern may want the
13 deposition.

14 Mr. Green, you wanted to hear the last few
15 questions and answers?

16 MR. GREEN: Yes, Your Honor.

17 THE COURT: Why don't we do that and if you would
18 read the last questions and answers.

19 MR. GREEN: Actually, judge, I have a new line.

20 THE COURT: All right. Whatever you like to do.

21 CROSS EXAMINATION (RESUMED)

22 BY MR. GREEN:

23 Q. Good afternoon, General Garcia.

24 Ambassador Corr who just testified was not the United
25 States Ambassador during any of your years as Minister of

1 Defense between 1979 and 1983, was he?

2 A. That is so.

3 Q. General Garcia, let's go back to your official title
4 as Minister of Defense in public security forces. That was
5 your title?

6 A. That is so.

7 Q. And under you were three branches of the military?

8 A. Yes.

9 Q. And the three branches of the security forces?

10 A. Yes.

11 Q. The National Guard, National Police, and Treasury
12 Police?

13 A. That is so.

14 Q. General Garcia, you testified about the significant
15 increases in the size of the El Salvadoran armed forces
16 that included both the military and security forces between
17 1979 and 1983?

18 A. Yes.

19 Q. And I believe that you -- the number of 14,000
20 combined military and security forces was the number for
21 1979, correct?

22 A. That is so.

23 Q. And sometime by 1983, I guess late 1983, the combined
24 total for both the military and security forces had
25 increased to over 50,000?

1 A. No.

2 Q. What was the number when you left as Minister of
3 Defense in 1983?

4 A. There were -- there must have been approximately
5 14,000 plus the security forces, approximately 17,000,
6 18,000 or 19,000 more or less. I do not have the exact
7 number.

8 Q. What was the approximate total -- talking about 1983,
9 March of 1983?

10 A. When I retired, and I don't remember the exact number,
11 but it may have been between 19 and 20,000.

12 Q. Total for both the military and security forces?

13 A. No, I am talking about the Army itself. The forces of
14 the Army had been increased to approximately 20,000,
15 separately. The security forces had also been increased,
16 mainly the National Police and National Guard.

17 Q. General Garcia, what I am asking you is what is the
18 total approximate number of military forces and security
19 forces for the year 1983 at the date you retired?

20 A. When I retired, approximately -- and I repeat, I do
21 not have the exact number -- the armed forces or the Army
22 had grown to the number of 20,000 approximately, and the
23 security forces had grown to an approximate number of eight
24 to 9,000, approximately.

25 Q. And in fact, General Garcia, when you began as

1 Minister of Defense in 1979, the total number of security
2 forces was approximately 8,500 men?

3 A. Security forces?

4 Q. Yes.

5 A. When I began, no. No, they were less.

6 Q. What was the number when you began as Minister of
7 Defense?

8 A. Approximately security forces 3,000, 3500.

9 Q. Is that the National Guard, Security Police or
10 National Police?

11 A. The three security forces.

12 Q. And, General Garcia, if General Woerner from the
13 United States had reported that there were 8,500 members of
14 the security forces, would that be inaccurate?

15 A. Not an error. This is exact data. I am saying
16 approximately.

17 Q. But there is a big difference between 3500 and 9,000,
18 correct?

19 A. That is possible.

20 Q. General Garcia, when you were Minister of Defense,
21 there was no centralized reporting system for the recording
22 of alleged or proven incidents of extrajudicial killings or
23 torture by military and security forces, correct?

24 A. There were several ways of providing those reports.
25 First, first to the general staff.

1 MR. GREEN: Objection; move to strike as
2 unresponsive, Your Honor.

3 THE COURT: Let me go back and ask you to restate
4 the question. I think what has been asked, whether there
5 was a central reporting system for those issues.

6 MR. GREEN: Yes.

7 THE WITNESS: I do not recall whether or not
8 there was a centralized system, because reports and
9 complaints would arrive at both the revolutionary
10 Government Junta, the Ministry of Defense, also to the
11 general staff, and sometimes directly to the responsible
12 commanders.

13 BY MR. GREEN:

14 Q. So the answer to the question is, you did not have,
15 when you were Minister of Defense, a centralized system for
16 receiving and reporting and acting upon complaints about
17 extrajudicial killings or tortures for the El Salvadoran
18 armed forces?

19 A. I don't recall exactly.

20 Q. Let's go back to General Woerner. In 1980 to 1981,
21 General Woerner from the United States Army went to El
22 Salvador to evaluate El Salvadoran armed forces and its
23 needs, correct?

24 A. Yes. At the request of the President of the
25 revolutionary government Junta.

1 Q. And in fact, the purpose of that was to evaluate what
2 your needs were as Minister of Defense so that you could
3 prosecute the war against the guerillas?

4 A. It was a critique that was provided upon that occasion
5 as pertains to all of the weaknesses, mistakes, and needs
6 that the armed institution had.

7 Q. And one of the things that it did was evaluate the
8 general -- General Woerner evaluated the actual power
9 structure of the El Salvadoran armed forces under your
10 command as Minister of Defense?

11 A. Yes.

12 Q. He was trying to find out what was working, and what
13 wasn't working, correct?

14 A. That is so.

15 Q. And one of the things that he evaluated was the fact
16 that Colonel Majano by that time was no longer in the
17 Junta?

18 A. That is possible, yes.

19 Q. But even before Colonel Majano left the Junta, your
20 capability as Minister of Defense over the El Salvadoran
21 armed forces was, quote, total, end quote?

22 A. As Minister of Defense I held responsibility, but the
23 full responsibility was by the Constitution for the
24 President of the republic as well as the commander in chief
25 of the armed forces.

1 Q. Okay. General Garcia, do you recall testifying at a
2 prior proceeding where on page 2087 you were asked the
3 following question and you gave the following answer, lines
4 16 through 24?

5 MR. KLAUS: Could we have a date?

6 MR. GREEN: This would have been on January --
7 October 30, 2000.

8 BY MR. GREEN:

9 Q. General Garcia, do you recall being asked the
10 following question and giving the following answer under
11 oath --

12 MR. KLAUS: Objection; improper foundation.

13 THE COURT: Let me hear the question and answer
14 if you would. Go ahead.

15 BY MR. GREEN:

16 Q. "When General Woerner came in 1981, Colonel Majano was
17 no longer an effective force in the military? You were in
18 control of the Army and the security forces; is that
19 correct?

20 "Answer. Yes. As far as my capability in the armed
21 forces, it was total, and I don't know if Colonel Majano
22 had already left."

23 A. If that is the way it is written, then it must have
24 been that way.

25 Q. You would agree as of October, 2000, you believe your

1 capability in the armed forces was total?

2 A. Well, as Minister of Defense I did have total
3 authority, but I depended on the revolutionary government
4 Junta.

5 Q. And you would agree with Ambassador Corr that while
6 you would sometimes receive orders from the Junta, you
7 would negotiate with the Junta as to which orders you would
8 actually implement?

9 A. No.

10 Q. So you disagree with your own expert?

11 A. I'm speaking of my experience. I received orders from
12 the Junta, and those were the orders that were complied
13 with. And when it was an order that was not in accordance
14 with what I thought was either legal or not, I did not
15 comply with it. And I can provide you with a classic
16 example.

17 Q. General Garcia, let me --

18 THE COURT: Wait a minute, now, you need to let
19 the witness answer the question.

20 BY MR. GREEN:

21 Q. Excuse me.

22 A. And precisely on Colonel Majano, on the day of the
23 Burial of Monsignor Romero, I received an order from
24 Colonel Majano to bring out part of the Army to provide
25 security for the place where the funeral was to take place,

1 to which I refused stating to him that that type of order
2 was to be given to me in writing with which I was not going
3 to comply, and that on the contrary, I would receive as a
4 answer -- interpreter stands corrected -- he would receive
5 as an answer from me my resignation as Minister of Defense.

6 The response from Colonel Majano, and I recall this
7 verbally, because I said to him send me the order and make
8 it in accordance with the other members of the
9 revolutionary government Junta, and the response was, you
10 as a minister answer more to the civilians in the Junta
11 than to me, and I am a military officer.

12 MR. GREEN: Move to strike non-responsive and
13 hearsay.

14 THE COURT: No, it is responsive to your
15 question. Let's go ahead. Next question.

16 THE WITNESS: And my response was that I was not
17 going to obey that order, and I did not obey, because I
18 knew the consequences of what was going to happen. There
19 was a vacuum in authority at the location where Monsignor
20 Romero's funeral was to take place. There were dead,
21 beaten and wounded, without the presence of even one
22 member of the armed force or security forces. I did not
23 comply with that order.

24 BY MR. GREEN:

25 Q. General Garcia, what you are saying is you make a

1 distinction between complying with a lawful order and an
2 order that you interpret to be not lawful?

3 A. That is so, yes.

4 Q. And General Garcia, a order from the Junta or an order
5 from you to subordinates to quit violating human rights, to
6 quite torturing people would in fact have been a legal
7 order, correct?

8 A. Yes.

9 Q. And if you had the will to implement such an order, it
10 would have been implemented given your vast powers of
11 Minister of Defense?

12 A. Yes.

13 Q. Getting back to your command of the Army garrison in
14 San Vincente from 1978 to October of 1979, San Vincente was
15 the town you were born and raised?

16 A. That is so.

17 Q. And you went to school in San Vincente?

18 A. Yes.

19 Q. You knew a lot of people in 1978 to 1979 who still
20 lived in San Vincente?

21 A. Yes, sir.

22 Q. And, General Garcia, given your familiarity with San
23 Vincente, don't you think that if you kept your ears and
24 eyes open, you would have learned about the massive
25 repression that was occurring under your nose in San

1 Vincente?

2 A. No repressive -- no massive repression was being
3 carried out by the. Army and there was a separation
4 between the public security forces and the Army itself.

5 Q. So you acknowledge that there was massive repression
6 occurring at the hands of the National Guard in the San
7 Vincente area?

8 THE COURT: Let me stop. Would you specify the
9 time frame?

10 BY MR. GREEN:

11 Q. General Garcia, during the time of your command of the
12 Army garrison in San Vincente between 1978 and October,
13 1979, isn't it true the National Guard was conducting
14 massive repression against people in the San Vincente area?

15 A. There was repression, but the concept of massive, I
16 believe that is relative, and those were the reasons
17 because of which, and that is why at the armed forces there
18 was already a certain level of uncertainty or critique
19 concerning what was going on.

20 Q. General Garcia, so you were aware there was repression
21 that was occurring by the National Guard in the San
22 Vincente area, but you never took any measures to go out
23 there with your Army troops and try to stop it, did you?

24 THE COURT: Let me stop for a second if I can for
25 a minute.

1 Ladies and gentlemen, in this case one of the
2 theories that the Plaintiffs are relying upon is holding a
3 military commander responsible for the acts of his troops.

4 I want to make sure the jury understands that
5 when someone is the commander of the military post and
6 there is another commander of the security forces, the
7 military commander cannot be liable for what the security
8 forces are doing. You all understand that at some point
9 General, then Colonel Garcia became Minister of Defense,
10 that is he became the commander of all of the forces. I
11 want to draw this distinction.

12 In this case, under no circumstances can Colonel
13 Garcia be held liable for what the security forces were
14 doing when he was not their commander, when he was
15 commander of the military garrison in San Vincente.

16 Let me go back to Mr. Green.

17 MR. GREEN: One second.

18 BY MR. GREEN:

19 Q. General Garcia, your last answer indicated that you
20 were aware there was repression occurring by the National
21 Guard in the San Vincente area but that you never took any
22 measures to go out there with your Army troops and try to
23 stop it, did you?

24 MR. KLAUS: Objection; relevancy.

25 THE COURT: Sorry?

1 MR. KLAUS: Relevancy.

2 THE COURT: No, I will permit the question. You
3 may answer it.

4 THE WITNESS: It was not my duty. Because it was
5 an attitude as established by a security force that was
6 completely separate from the Army.

7 BY MR. GREEN:

8 Q. General Garcia, you became Minister of Defense on or
9 about October 15, 1979, correct?

10 A. Yes, yes, that is so.

11 Q. And at that point, you had command not only over your
12 former Army garrison in San Vincente, but also over the
13 National Guard post in San Vincente carrying out this
14 repression, correct?

15 A. Yes.

16 Q. And notwithstanding your knowledge, and
17 notwithstanding the new power that you had as Minister of
18 Defense, you took no measures whatsoever to investigate,
19 punish or prevent the repression that had been occurring in
20 San Vincente during the time period that you were stationed
21 there, correct?

22 A. If that had been that way, I would not have accepted
23 the position of minister. It was the specific point within
24 the armed forces proclamation where the armed institution
25 commits to stand against and to fit against violations of

1 human rights.

2 Q. Can you name a specific measure, a specific
3 punishment, a specific investigation that you ordered
4 against those National Guardsmen in San Vicente for the
5 repression occurring from 1978 until you were appointed
6 Minister of Defense in 1979?

7 A. These are precisely the things we spoke of with the
8 Government Junta, as well as with the new commanders who
9 were responsible and had been recently appointed. Not only
10 was the Minister of Defense interested in this matter, it
11 must be recalled that the Junta itself was interested in
12 solving those problems.

13 That's why when upon the appointment of the Director
14 of the National Guard, the revolutionary government Junta
15 was very interested in that it not be any old commander,
16 but someone with the capacity to face those problems.

17 Q. General Garcia, you still have not answered my
18 question. Can you give me the name of a specific
19 individual from the National Guard who was punished for his
20 involvement in the repression that was occurring in San
21 Vicente from 1978 to 1979?

22 A. If you gave me a specific case I could say either yes
23 or no, or I could tell you whether I recall or not. We are
24 talking about cases in general that happened.

25 Q. What about Marlene, or Fedalina, Neris Gonzalez's

1 friends?

2 THE COURT: Let me stop. Break it down and ask a
3 single question or single person, so that will help us.

4 Let me go back to Mr. Green so you could phrase the
5 specific question.

6 BY MR. GREEN:

7 Q. General Garcia, what about the incident with Marlene,
8 Ms. Gonzalez's friend, who was murdered and tortured? Can
9 you name a specific individual who was punished for that
10 torture and that murder?

11 A. I have no knowledge of that case with the exception of
12 what has been said here.

13 Q. What about Feldilina, did you punish anyone for
14 killing her and torturing her?

15 A. I have no proof that she was tortured.

16 Q. General Garcia met me ask you this: Once you became
17 Minister of Defense in October, 1979, and having the
18 knowledge that you had about the repression that was
19 occurring in San Vicente, don't you think that you could
20 have taken more steps to punish and prevent so that you
21 would have been able to stop the repression and prevent the
22 future torture eight weeks later of Neris Gonzalez?

23 A. It is easy to say it that way, but to perform a
24 complete action was to be done in general terms. At that
25 time El Salvador was living in a situation of chaos as we

1 have stated before and one had to act in a general manner
2 when speaking of the armed forces.

3 There were many cases and the instructions that were
4 given were given in the sense of trying to change from what
5 had been happening to where we were guided to go as a
6 result of the movement of the 15th of October.

7 Q. General Garcia, when you were Minister of Defense,
8 there were several U.S. Ambassadors?

9 A. Yes.

10 Q. There was Ambassador White?

11 A. Yes.

12 Q. Ambassador Pickering.

13 A. Yes.

14 Q. Ambassador Hinton?

15 A. Yes. And some others. And Ambassador Chapin.

16 Q. And you met regularly with these Ambassadors, correct?

17 A. Yes.

18 Q. You met with Ambassador Hinton?

19 A. Many times.

20 Q. And Ambassador Hinton talked to you about human rights
21 abuses including massacres of unarmed civilians?

22 A. Ah, yes, he would talk about, not with a specific term
23 of massacre or in the form of which what had happened was
24 increased, but, yes, but, yes, about abuses carried out by
25 members of the armed forces, yes.

1 Q. And he also talked with you specifically about the
2 Morazan massacre that occurred at El Mozote, correct?

3 A. Not at the time upon which it happened nor immediately
4 after, but as we all know that specific case was known of
5 days after it happened, in fact. The case happened in
6 December, and now, years later, we finally find out it
7 wasn't until January when the first alert was given
8 concerning that case.

9 So it is possible that we have spent a lot of time
10 talking to Ambassador Hinton, but I could not specify as of
11 when.

12 Q. And notwithstanding the delay between the time when
13 the El Mozote massacre occurred, and the time you spoke
14 with Mr. Hinton, Ambassador Hinton, you had plenty of time
15 to learn about the El Mozote massacre, correct?

16 A. Well, I don't recall, because I knew of that after
17 much, much time had transpired.

18 Q. And Ambassador Hinton warned you to be ready to
19 respond to the Morazan or the massacre that occurred at El
20 Mozote, correct?

21 A. Yes. Yes.

22 Q. And your first response to Ambassador Hinton was that
23 it is a novella, it is a fairy tale, I will deny it, and I
24 will prove it fabricated?

25 A. It is possible that I answered him like that, it is

1 possible, but based on the non information of that event,
2 because the general staff never reported upon what had
3 happened.

4 Q. So your first response was whenever you heard bad news
5 from a reliable source like a United States Ambassador, you
6 said I will deny it, it is a fairy tale, and I will prove
7 it fabricated regardless of the truth?

8 A. Well, it is possible, but not in the form or terms in
9 which an attempt is being made to show it. But if the
10 Ambassador states it as such, it is possible I have done
11 that.

12 Q. Those are Ambassador Hinton's exact words describing
13 your reaction to an incident, a massacre that occurred at
14 least a month, if not two months earlier.

15 A. I am not stating that I exactly was the person who
16 said it, but with the respect that Ambassador Hinton is
17 owed, if he states this, then I believe that, yes, he is
18 telling the truth.

19 Q. So what you told Ambassador Hinton concerning the El
20 Mozote massacre is a lot of what you are telling the jury
21 here?

22 MR. KLAUS: Objection; argumentative.

23 THE COURT: Sustained. Let's go to the next
24 question.

25 MR. GREEN: May I approach the witness?

1 THE COURT: Yes.

2 MR. GREEN: This is a document already in
3 evidence, Plaintiffs 103.

4 BY MR. GREEN:

5 Q. General Garcia, isn't it true based upon your denials
6 and lies, Ambassador Hinton concluded, well, Garcia talks a
7 good game, I no longer trust him or believe him"?

8 MR. KLAUS: Judge, goes beyond the scope of his
9 knowledge.

10 THE COURT: Well, I think that Mr. Green is
11 simply publishing what is in evidence, the document is in
12 evidence. The question being asked is that what it says.

13 MR. KLAUS: The document speaks for itself.

14 MR. GREEN: May I reask the question, Your Honor?

15 THE COURT: Yes.

16 BY MR. GREEN:

17 Q. General Garcia, isn't it true that based upon your
18 denials and your lies, Ambassador Hinton concluded --

19 MR. KLAUS: Objection. Facts not in evidence,
20 argumentative.

21 THE COURT: Sustained as to the form of the
22 question.

23 BY MR. GREEN:

24 Q. General Garcia, isn't it true that Ambassador Hinton
25 concluded in that cable that, well, Garcia talks a good

1 game, I no longer trust him or believe him", end quote?

2 THE COURT: Mr. Interpreter, is the document the
3 witness has, is that in Spanish?

4 THE INTERPRETER: The interpreter would advise
5 the Court the document is in English.

6 THE COURT: Would you read the last section of
7 that to the witness?

8 THE INTERPRETER: The interpreter will proceed to
9 read the last highlighted section.

10 THE COURT: Thank you.

11 THE WITNESS: Yes, that is what it says.

12 MR. GREEN: May I publish that to the jury?

13 THE COURT: You have already done that.

14 THE WITNESS: But I haven't finished.

15 THE COURT: All right.

16 THE WITNESS: This is one of the thousands of
17 cables that were exchanged from the Embassy. Many of
18 those we have known of during this proceeding and this is
19 a personal opinion of Ambassador Hinton.

20 But as pertains to me, he never made any type of
21 complaint about this to me, that is why I feel so
22 completely confused when we were given such trust, when it
23 comes to analyzing and discussing problems, but if we were
24 acting in good faith, I believe that this type opinion, I
25 respect it, but nothing more.

1 MR. GREEN: May I have a moment, Your Honor?

2 THE COURT: Yes, surely, yes.

3 MR. GREEN: I have nothing further.

4 THE COURT: Mr. Green, thank you.

5 Let me turn back to Mr. Klaus for redirect
6 examination.

7 MR. KLAUS: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. KLAUS:

10 Q. Dealing with that same cable --

11 THE COURT: Let me stop for a second.

12 Mr. Green, did you say you did want to pass that
13 cable to the jury? You have copies of that?

14 MR. GREEN: No. I was going to pass out this one
15 copy.

16 THE COURT: That is fine, you may do that. We
17 will pass that among the jury if you like.

18 Again, ladies and gentlemen, if you don't have a
19 chance to study something to the degree you want, please
20 know, every single exhibit goes back to the jury room at
21 the end of the case.

22 With that, let me go back to Mr. Klaus.

23 MR. KLAUS: I would like to read and have the
24 interpreter translate the line above the line read by
25 Mr. Green where it says, I will read it in English --

1 THE COURT: Hold on a second. Do we have a copy
2 of that for the witness? We have just given that copy --
3 maybe we need to borrow it back if we can for a second,
4 and then well get it back to the jury, I'm sorry.

5 Here we go, let's borrow that back so it can be
6 on the witness stand.

7 Okay. Back to Mr. Klaus.

8 BY MR. KLAUS:

9 Q. "What Buckley feared has come to pass. As I have said
10 before, we are hostage to now violent forces seemingly
11 beyond our control. While Garcia talks a good game, I no
12 longer trust or believe him."

13 MR. GREEN: Your Honor, I do have the 12 copies.

14 THE COURT: Hold on a second.

15 What is the question now, or is that the
16 question?

17 BY MR. KLAUS:

18 Q. Do you know what Ambassador Hinton was talking about
19 there?

20 A. No, and I am confused. I don't understand what he
21 means when he says a good game. I don't know what he is
22 referring to.

23 Q. When Mr. Green was asking you some questions, he asked
24 you about the report from the Organization of American
25 States. When was that investigation done; do you know?

1 A. No, I do not recall.

2 Q. And were you a member of the Government when that
3 report was submitted to the Government of El Salvador?

4 A. I do not recall exactly to which report you are
5 referring.

6 Q. The report that -- there was a witness for the
7 Plaintiffs here who testified about finding jails or hidden
8 torture cells in the National Guard headquarters.

9 A. Before the beginning of the Government or after?

10 Q. Before.

11 A. Yes, I heard of the report.

12 MR. KLAUS: Your Honor, I have some exhibits that
13 I wanted to go over with General Garcia. Could I have a
14 couple minutes to get them in order?

15 THE COURT: Yes, yes.

16 MR. KLAUS: Could we have a brief recess? It
17 would be good for me if we stopped for today so I could
18 put them in order.

19 THE COURT: All right. Why don't we do that. It
20 is a little bit early. Why don't we stop and when we come
21 back in the morning, let's pick up so we can conclude
22 redirect of General Garcia and then I take it your next
23 witness would be General Vides?

24 MR. KLAUS: And that is my last witness. I may
25 recall --

1 THE COURT: I understand, all right.

2 Ladies and gentlemen, why don't we do that so
3 everybody can be prepared to move forward.

4 Let's stop a little bit early today. It has been
5 a long day, and let me ask the jury, I know you know the
6 jury instructions better than I do, but I want to ask you
7 to be so careful. I want you to know how much we
8 appreciate what you are doing to safeguard the process so
9 you can ultimately decide the issues we are going to put
10 in front of you, I ask you to be vigilant.

11 Please do not talk with anybody, do not allow
12 anyone to talk with you. And you want to avoid any media
13 coverage that might have anything to do with the case, and
14 especially with newspapers. Would you avoid them and
15 bring them in, run them by Mr. Caldwell in the morning, we
16 will get them back to you and we could read them.

17 A JUROR: Can we take these with us to read?
18 They are quite long.

19 THE COURT: Do the parties have any questions if
20 the jurors take some of the documents passed out with them
21 to take them home?

22 MR. GREEN: No.

23 MR. KLAUS: They kept the exhibits that were
24 given last week?

25 THE COURT: I think so. Here is what happened --

1 do you have those?

2 A JUROR: We have everything.

3 THE COURT: The notebooks are growing. Let me
4 tell you what the lawyers talked about, and it is still
5 our hope. We discussed early on about preparing a binder
6 that we would be able to give each member of the jury so
7 you could have the exhibits, understanding all the
8 exhibits will go back into the jury room. And I know that
9 in the lawyer's final arguments, they will be talking
10 about specific exhibits, and the exhibits will be marked
11 or in a folder so the jury will be able to find them
12 easily.

13 I think our hope also was that for some of the
14 exhibits that the lawyers will be referring to, that we
15 would like to have them in a binder, and that is still our
16 hope.

17 Now, I want to talk to the lawyers, because we
18 had a momentary discussion about that this morning, but I
19 will let you know more about it.

20 Now, the answer is yes, you can take home any of
21 the exhibits that have been passed around. Please don't
22 let anybody else see them. Sometimes you may have made a
23 mark or something on them, which is okay, but make sure
24 you keep those yourselves, safeguard them. You know the
25 marshal picks up your notes, and we lock those up, we

1 don't let anybody look at those. Those are yours and
2 yours alone, okay?

3 We will see you tomorrow morning at 9:30.

4 General Garcia, you may step down.

5 (Thereupon, the jury retired from the courtroom.)

6 THE COURT: Ladies and gentlemen, let's take a
7 ten minute break, and first thing on the agenda should be
8 the issue how do we handle the binder exhibit issue.
9 Let's come back and get some resolution to that, and we
10 will move on to some of the other things we need to talk
11 about.

12 Let's take a ten minute break.

13 (Thereupon, a short recess was taken.)

14 (Thereupon, trial reconvened after recess.)

15 THE COURT: Ladies and gentlemen, before we
16 discuss jury instructions or legal issues that are on the
17 table, I would like to come back to this question we have
18 been discussing for some time, and that is, what is the
19 best way to put some of the exhibits that the parties
20 regard as the key exhibits in front of the jury.

21 I have never been confronted with a question we
22 have just had. I am not sure it is a good idea to allow
23 jurors to be leaving with exhibits. The fear that
24 somebody might see something and start talking to them
25 about it, I don't know. And I want to reconsider that.

1 On the other hand, the exhibits are long
2 exhibits, and while we've referred to them, we really have
3 never given the jury the opportunity to study them, and
4 obviously you want to do that.

5 I suppose there is always the concern that one
6 exhibit gets elevated above others, so I think maybe the
7 better way to handle this would be to talk about how do we
8 get these exhibits to the jury. And personally, I am very
9 much favor of a single binder that both sides will
10 contribute to. By that I mean both sides can specify
11 exhibits that will go in, as long as they have been in
12 evidence.

13 And, again, surely you would want to enhance the
14 utility of the binder, you wouldn't wanted it to have
15 every single exhibit that have been received, but they
16 ought to be the ones you are probably going to refer to in
17 your closing arguments, because I suspect those are the
18 ones the jury would also be looking at in following your
19 argument and evaluating the case.

20 I think that is especially true where we have
21 loads of exhibits, and while it is true they all go back
22 into the jury room, I suppose it is equally true that the
23 jury would be looking at the exhibits that you highlight.
24 So I know the Plaintiff is pretty much ready to produce
25 that kind of a book. What is defense view about that?

1 MR. KLAUS: I am prepared to produce it, but what
2 I did, since I don't have binders, I just made folders,
3 and the ones I published to the jury I was going to put in
4 a folder, they are all marked, all copies --

5 THE COURT: I think we can do it either way. It
6 seems to me it is easier if you have one repository, one
7 book, and what you really need is a three hole punch to
8 give the jury the exhibits that you want added to it.
9 That would be my recommendation.

10 MR. STERN: As Your Honor points out, we have
11 been willing to do that, and we are still willing to do
12 that. If you put the entire Truth Commission Report and
13 entire OAS report in the binder, you don't have a lot
14 left.

15 THE COURT: I don't mind you folks editing it as
16 long as you agree to it.

17 MR. STERN: I was willing to do it thinking it
18 was an interim document they would be looking at as the
19 case is ongoing. I do have a concern if we give them
20 excerpts, they won't go back and look at the entire
21 document.

22 In principal we have no problem. I would like to
23 look at that a little more.

24 THE COURT: Would it make sense not to put the
25 Truth Commission -- I am trying to think about this.

1 MR. STERN: We could have a separate copy of one
2 copy of the Truth Commission or choose excerpts from the
3 Truth Commission, which is what we have done, actually.

4 THE COURT: Well, the whole purpose is to have
5 the jury both understand it, and be able to use it as they
6 try to reason through the case to reach a decision. If we
7 put one copy of the Truth Report back in the jury room,
8 and it is a voluminous report, I think we run the risk
9 that nobody is going to have the opportunity to study it
10 because the dynamic being what it is, there will be
11 discussions, and so on.

12 If both sides could agree as to what you think
13 are the appropriate excerpts, and you put that in
14 everybody's book as it is being discussed, if it is
15 discussed, everybody could look at the same document and
16 talk about it, and have the full document to refer to if
17 somebody really wants to do that.

18 I don't know. I don't know that there is any
19 preferred way, but I think we have to keep in mind what it
20 is we are trying to do, and seems to me what we are really
21 trying, number one is to give the jury ease in finding a
22 document that you think is significant and that the
23 lawyers will probably be referring to in your argument.
24 It is nice to say if you flip to tab two, or I will put
25 this on the board, but this is an excerpt, but if you look

1 at tab four, here is the exhibit, and someone can write in
2 their notes or what have you, that is where it is.

3 I will leave it with you, but I strongly urge
4 that the parties get together on that. I think that would
5 be so helpful.

6 I also want to mention to you, and maybe you
7 thought about this, but we need to have the exhibits in a
8 box or something with each file folder pretty clearly
9 marked so that if the jury is in there and they are saying
10 Mr. Green or Mr. Stern or Ms. VanSchaack talked about
11 this, I want to find this exhibit, where is it, it ought
12 to be reachable as opposed to shipping back a bunch of
13 papers.

14 MR. STERN: We have been keeping close track of
15 that, Your Honor. We will continue to do that.

16 THE COURT: I suggest we have the file folder for
17 each exhibit and exhibit number. I will leave it with you
18 if there is a better way to do it, but one of the things
19 you do want to think about is, how can the jury find a
20 particular exhibit that you think is significant.

21 MR. STERN: My understanding is that is the way
22 things are set up.

23 THE COURT: Good, okay. Anything else we need to
24 talk about on that issue?

25 MR. KLAUS: I will get a three hole punch. I

1 think what I have to go in will fit in their binder if it
2 stays the way it is now.

3 THE COURT: Okay, good.

4 MR. KLAUS: I have them all marked. Marked, you
5 marked, you spoke about a index. Would you like an index?

6 THE COURT: Well, think about it, it depends on
7 how you refer to the binders. If you refer to an exhibit
8 in your closing argument and you want the jury to go along
9 with you, I have seen it tabbed and they say if you flip
10 to four or five tab, here is what you are talking about.

11 The jury is looking at things you think are
12 important, and they can evaluate it. The more difficult
13 you make it to find, you run the risk -- and think about
14 this, people are going to flip through the book to find
15 what you are talking about, and may distract you and them
16 in listening to the argument. The greater ease to saying
17 to tab four or five is something you want to consider.

18 Let me leave that with you, but I do think you
19 want to consider that, and the jury is indicating it's
20 interested and concerned.

21 One of the matters we put to the side, hoping
22 that the Plaintiffs would have an opportunity to consider
23 these issues, was this question of proceeding under two
24 statutes versus one, so on, so forth.

25 Mr. Green, what is the decision?

1 MR. GREEN: Judge, there is a very powerful
2 attraction to simplifying the Plaintiffs' theory to
3 torture under the TVPA. We spent hours researching and
4 debating among the six Plaintiffs' counsel here. Were we
5 in an appellate court, I would tell you the split. Two
6 descents, two concurring and --

7 THE COURT: These are tough decisions. I feel
8 like we should have a drum roll.

9 MR. GREEN: Because the TVPA is a relatively new
10 statute, and ATCA is an old one, we have legal and
11 practical reasons doing what we are about to propose.

12 THE COURT: All right.

13 MR. GREEN: We hope to be able to narrow it
14 further by tomorrow, but we need to get client
15 consultation and consent on this. We are going to narrow
16 the theories to torture and crimes against humanity.

17 THE COURT: Let me stop you for a minute so I
18 understand the first point. Is it your intention to
19 present two statutory basis?

20 MR. GREEN: Yes.

21 THE COURT: We have the Alien Tort Claim Act and
22 the Torture Victim Protection Act?

23 MR. GREEN: Right.

24 THE COURT: The question becomes what are the
25 acts under both of those that we would look at, and one is

1 torture, under both.

2 MR. GREEN: Right.

3 THE COURT: Are there any other acts you are
4 thinking about?

5 MR. GREEN: Crimes against humanity under ATCA.

6 THE COURT: What would be the crimes against
7 humanity?

8 MR. GREEN: Ms. VanSchaack will go into some
9 detail, but according to the pattern, disappearances,
10 rapes, torture, and other acts relevant to the testimony
11 we've heard. However, we will not be -- we have attempted
12 to narrow the crimes enumerated under the crimes against
13 humanity to eliminate arbitrary detention, some of the
14 enforced enslavement.

15 THE COURT: What we are really talking about here
16 is trying to -- back up for a minute. We know the Torture
17 Victim Protection Act prohibits torture, and prohibits
18 extrajudicial killing.

19 So what we are really talking about, then, is,
20 focusing on other torts that would be violations of
21 international law that are cognizable under the Alien Tort
22 Claims Act, and I think a good example of that would
23 undoubtedly be rape.

24 We need to focus on what other torts exist that
25 are recognized at international law other than rape,

1 torture, and extrajudicial killing. And this case does
2 not involve extrajudicial killing, but it does include
3 torture as to each of the Plaintiffs, allegations of rape
4 as to two of the Plaintiffs, and then are there other
5 torts that the Plaintiff would be considering.

6 MR. GREEN: Enforced disappearance.

7 THE COURT: When you really think about that,
8 enforced disappearance is something we are putting on it,
9 but what we are really talking about is the concept of
10 abduction and being held incommunicado. Is that sort of
11 what it is?

12 MR. GREEN: Yes, Your Honor.

13 THE COURT: We need to think about that. I was
14 looking at the Second Circuit's opinion in the Caddic case
15 versus Carrasic, and in that case it lays out the analysis
16 that the court has to go through as we go down the list to
17 add other acts and to determine whether those torts are
18 indeed torts that are regarded as violations of
19 international law.

20 I would think, although I am not sure, but I
21 would think that being abducted and held incommunicado, it
22 does raise some interesting questions, because as you
23 think about it, today in the United States as a result of
24 September 11th there are allegations that people have been
25 held, I guess they are not incommunicado, but the

1 government has been unwilling to name who they are, and
2 things like that. We need to look at that to make sure we
3 are on solid ground.

4 Certainly rape, I don't think there is any
5 question. Fine, can I leave that with you and ask you to
6 begin to think about what is that list, what torts are on
7 that list.

8 Let's go to the next issue, and again I am sure
9 you are thinking about this.

10 MR. GREEN: I may be able to save Your Honor a
11 little more time.

12 THE COURT: All right.

13 MR. GREEN: In order to avoid the double recovery
14 concern Your Honor raised, we prepared a proposed jury
15 special verdict where it is kind of like a decision tree.
16 That is how I try to explain it. Leads the jury through
17 each step they have to take with respect to each client
18 and each claim.

19 One of the things we are considering, but we
20 haven't gotten client consent on this, proceed on the TVPA
21 only for Dr. Romagoza because he is a U.S. citizen and
22 cannot avail himself of the Alien Tort Claim Act, and then
23 proceed --

24 THE COURT: You don't have a choice on that?

25 MR. GREEN: No, we don't.

1 With respect to Professor Mauricio and
2 Ms. Gonzalez, we do have a choice whether to proceed under
3 the TVPA and/or ATCA. We may proceed on the Alien Tort
4 Claims Act for those Plaintiffs. That is one of the
5 things we have been discussing this afternoon, and during
6 breaks, and that way, if we had a decision tree,
7 Dr. Romagoza is a United States citizen availing himself
8 of the TVPA. Professor Mauricio and Ms. Gonzalez, they
9 are not citizens --

10 THE COURT: Right. And your position is if that
11 is clear in the record beforehand, while we have to spell
12 out for each Plaintiff the acts that they are relying
13 upon, the jury by whatever decision it would make would
14 manifest its intent and we simply would not be dealing
15 with this problem of trying to determine whether the award
16 is under one or the other or both?

17 MR. GREEN: Correct.

18 THE COURT: And any kind of double issue that
19 might take place?

20 MR. GREEN: Right.

21 THE COURT: I agree that is probably the simplest
22 way if that is an acceptable way. If it is not an
23 acceptable way, then we need to simply give some thought
24 of an interrogatory to the jury, would you return the same
25 verdict whether it be under this act or that act. Because

1 when you think about it, the nucleus of facts, the torture
2 is certainly common to both acts.

3 It is that other list of possibilities that is
4 unique to the Alien Tort Claim Act, and not cognizable
5 under the Torture Victim Protection Act. Let me leave
6 that with you. That would be helpful if that is where you
7 are going. That would be helpful. Okay.

8 MR. GREEN: If I may turn the Plaintiffs'
9 arguments over to Ms. VanSchaack, if there is further
10 argument.

11 THE COURT: Sure. I don't think there is, but I
12 think it would be helpful if the Plaintiffs would do this.
13 Assuming, as I think you have stated unequivocally,
14 irrespective whether you abandon claims under the Torture
15 Victim Protection Act you will pursue the Alien Tort Claim
16 Act, we need to go through the process of identifying
17 torts that are cognizable or recognized at international
18 law, because that is what we they had to include on it.

19 Now, certainly we have torture, we have a
20 definition for that. Certainly sexual battery, however
21 one -- we probably need to get a definition that would be
22 cognizable under that, and then let me leave it with you.

23 Again, I think we all agree we want to try to
24 keep these, if we can, to the most severe issues,
25 because -- because I think the more we go down trying to

1 figure what is and is not covered by that, understanding
2 that it is an evolving standard, we get under thin ice
3 when someone says you stuck an item of damage in there
4 that is not appropriate. And clearly the egregious ones
5 we talked about.

6 I think I need the benefit of your thinking on
7 that. When you come up with that list, okay.

8 Where are we? Are there any other matters we
9 need to talk about in terms of jury instructions?

10 MR. KLAUS: I submitted a proposed jury
11 instruction on affirmative defense, statute of
12 limitations.

13 THE COURT: Yes, let me see if I have it. When
14 did you give me that -- at the sidebar.

15 MR. KLAUS: Yes.

16 THE COURT: Is there any objection to the giving
17 of a statute of limitations defense?

18 MS. VanSCHAACK: There is, Your Honor.

19 This issue has been raised multiple times and has
20 been denied by this court multiple times, and as such I
21 think the decision constitutes the law of the case. In
22 the absence of additional evidence, it would not be
23 appropriate to give a statute of limitations instruction.

24 I think it is clear that no reasonable jury could
25 find that the statute of limitations was not tolled up

1 until at least 1992.

2 THE COURT: Let me come back for a second before
3 we get into the facts of this case.

4 Is there such a thing, do you feel, of a jury
5 question statute of limitations defenses? Have you looked
6 at that?

7 MS. VanSCHAACK: I have. I have never seen an
8 instruction quite as blunt as this one. There is occasion
9 juries are asked about when a claim accrued, when a
10 Plaintiff in a personal injury case or product liability
11 case, where they knew there was a legally cognizable
12 injury. Not as bluntly as this.

13 THE COURT: What is the principle if you are able
14 to find, if there is one that underlies those issues? Is
15 it usually there is some disputed issue of fact that only
16 the trier of fact can decide?

17 MS. VanSCHAACK: Yes, that is right.

18 THE COURT: Now, I think what causes a little bit
19 of confusion here is that we have this principle called
20 equitable tolling, and I suppose the question is who does
21 the tolling? Normally issues of equity, we tend to think
22 are for The Court, not the jury.

23 MS. VanSCHAACK: That's right, but I don't want
24 to elevate, you know a tag or a name.

25 I think if I can explain.

1 THE COURT: Yes.

2 MS. VanSCHAACK: What I found in cases,
3 distinction about when a statute basically runs and ends,
4 and actually when it begins to accrue. That I think is a
5 factual question for the jury, but whether or not the
6 statute has run or not given the principle of equitable
7 tolling as you mention, that, indeed is a legal question
8 for The Court to decide.

9 In this case no reasonable jury could find that
10 the statute was not to be tolled.

11 THE COURT: What you are really saying is, there
12 is no -- there just is no dispute about the facts, that
13 is, assuming for a moment the events all occurred, and I
14 think I have to assume that for the sake of this analysis,
15 the question then becomes could someone who was tortured
16 in 19 -- we have the dates, could those lawsuits have been
17 brought. When does that statute begin to run. And I've
18 ruled, as I think I did the other day, that the earliest
19 could be '82.

20 MS. VanSCHAACK: '92.

21 THE COURT: '92, which was the date of the
22 negotiated settlement. And I think a strong argument
23 could be made, maybe it is '94 when the first elections
24 take place under that, but your point is that if there
25 really is no dispute and The Court has ruled as a matter

1 of law in its analysis for other considerations, that
2 there really is nothing to present to the jury.

3 MS. VanSCHAACK: That is right.

4 THE COURT: Yeah. I hear what you are saying.
5 What is defense view on that?

6 MR. KLAUS: Well, a reasonable jury can infer
7 when Mr. Mauricio came here in 1983, nothing kept him from
8 filing a lawsuit except that he didn't know he could, and
9 that is not a legal excuse. You know -- and if they are
10 going to determine the equitable factors, they can
11 consider, you know, the equitable factors. We talked
12 about this in the prior case.

13 THE COURT: How did this come up the other day?
14 I have my notes here, and you raised this regarding which
15 claim?

16 MR. KLAUS: Regarding Professor Mauricio, he
17 didn't join the lawsuit until the year 2000.

18 THE COURT: You moved as a judgment of law in
19 that the statute of limitations had run, and I ruled the
20 beginning time period for calculating the statute of
21 limitations was '92 when the U.N. Peace Accord was
22 negotiated and set in place.

23 And I indicated then I thought there probably
24 could be a pretty good argument made that it might be '94
25 when the elections took place, but it didn't make any

1 difference. Once you are at '92, the period encompasses
2 when the lawsuit was filed.

3 MR. KLAUS: That is right. We talked before in
4 the prior litigation when they were here, when they became
5 permanent residents, we stipulated was '89.

6 THE COURT: Why is that not for the law to
7 determine given the facts of this case? In other words,
8 there is no dispute in the facts of this case that there
9 was the discord and breakdown of civil law and so on in El
10 Salvador. There was a civil war which was brought to a
11 negotiated resolution in '92. There just is no dispute
12 about that.

13 If that is true, and I mean there is nothing for
14 a jury to resolve, and if as a matter of law that is
15 enough to toll the statute, what factual issue is the jury
16 being called upon to resolve, if you will, in applying
17 this defense?

18 MR. KLAUS: I don't understand what the Peace
19 Accord has to do with them being here, living here, being
20 available for -- living here open and notoriously, he
21 being here from '83 on, then from '89 on, why what
22 happened in Mexico City has anything to do with the
23 statute of limitations on his case, because they were
24 available.

25 They were living here, he was here. I can

1 understand a date where somebody living in El Salvador
2 couldn't bring a lawsuit in El Salvador until after the
3 Peace Accord, I can understand the reasoning there, but
4 this case was not brought in El Salvador.

5 THE COURT: So you would say as you did the other
6 day, you believe --

7 MR. KLAUS: At the latest it would be the '89.

8 THE COURT: When the gentlemen moved to Florida?

9 MR. KLAUS: When they came to Florida, '89. That
10 is like a buying a piece of property. It is recorded, it
11 is available. If Professor Mauricio wanted to pursue a
12 claim against General Vides, he could have done it.

13 THE COURT: Let me stop you. Is that the essence
14 of the argument?

15 MR. KLAUS: That is the essence of my argument.
16 In United States, that is litigation here in the United
17 States under United States' law, both parties resided here
18 at the time. Professor Mauricio from '83 on, Generals
19 Vides and Garcia from '89 on. They were available. The
20 statute at the latest should have been tolled until '89,
21 at the latest.

22 THE COURT: Okay. Let me go back and get the
23 final word.

24 MS. VanSCHAACK: There is ample evidence in the
25 record all three Plaintiffs left family members behind in

1 El Salvador when they had to flee. There is ample
2 evidence in the record that individual human rights
3 victims and lawyers were terrified to bring cases. The
4 Defendants' own expert, Ambassador Corr, testified to this
5 effect. The fact that Professor Mauricio could have
6 initiated a suit here does not change the fact that his
7 family was in El Salvador, notwithstanding the fact that
8 the suit was brought here.

9 THE COURT: And we talked about the ability to
10 gather evidence, if there were witnesses and so on, and
11 another aspect of that is the nature of the allegation
12 deals with torture inflicted by governmental entities.
13 The fact that the entities were still in power at that
14 time, and as you pointed out in addition to that, the fear
15 of retaliation over family members and so on.

16 MS. VanSCHAACK: Indeed, many of the documents on
17 which Plaintiffs rely have not been declassified until the
18 1990's. All of the evidence to form the basis of the suit
19 has been available.

20 THE COURT: I am not sure the declassification
21 issue is one that The Court -- I understand, and I think
22 we all agree in a practical sense in terms of the way the
23 case has been tried, now and the Ford case having access
24 to the relevant documents at the time was critical,
25 because other than that, what you are dealing with is the

1 recollections and testimony as to people, as to what
2 happened to them, and a large part of the case certainly
3 has been availability of this wealth of information.

4 I am concerned about going too far in that
5 direction because, you know, governments have all kinds of
6 things, and I think we all know one of the characteristics
7 of all governments is that they keep that information
8 close to the vest, and with the passage of time, Freedom
9 of Information Act, and other acts, information becomes
10 available, but I don't know that The Court can look at
11 that.

12 MS. VanSCHAACK: Given the nature and extent of
13 repression in El Salvador I think it is unreasonable to
14 the victims to bring a suit anywhere --

15 THE COURT: My inclination is, this is not a
16 legal defense, The Court has ruled that equitable tolling
17 did take place, and I base that on facts that I don't
18 think are disputed. The facts are that the U.N. Peace
19 Accord did not take place until '92, that family members
20 were present in El Salvador, gathering of evidence,
21 seeking -- the fear of reprisal were legitimate
22 considerations that would allow The Court to toll that.

23 Now, that is very significant. I don't want to
24 make a judgment that is, number one, going to take away
25 from the jury something the jury should have, or that

1 would in any way jeopardize any verdict that is recovered.

2 And I would like to ask you, if you would, on
3 both sides to take a second look at this. If it is a jury
4 issue, it needs to be presented to the jury, but my
5 inclination is there is no disputed fact here, and that
6 looking at the facts that are not disputed, I believe as a
7 matter of law, that The Court can rule that the statute
8 has been equitably tolled at least until '92.

9 And as I said before, I think an argument could
10 be made among reasonable people that it ought to be later
11 than that, but certainly the time of the U.N. Peace
12 Accord, I think is an appropriate time to begin the
13 statute running.

14 Now, I might also say the facts on the other side
15 is not disputed. That is, I think everybody agrees
16 General Garcia and General Vides did come to the United
17 States in 1989, for the purpose of the judgment as a
18 matter of law, we have the exact dates, and we agree, it
19 is without dispute, both parties agree when Professor
20 Mauricio moved to the United States. If I am wrong in
21 that regard, the statute has run and it is over and gone.
22 The appellate court could look at that as well.

23 If I am wrong that the events I look at equitable
24 tolling, they are there, I don't think equitable tolling
25 becomes a jury issue. There might if there was a

1 question, did these events occur. That is not the
2 question we are dealing with here. The events occurred,
3 the question is, what is the legal ramifications of it. I
4 have ruled as a matter of law that the equitable -- it has
5 been tolled.

6 This is not a legally cognizable defense under
7 the facts of this case, I will put that in the record. I
8 will go back and revisit it, but I think the defense
9 position is clear, and obviously, that is clear for the
10 defense.

11 Are there any other matters we need to talk to
12 about the jury instructions? I will try to get a final
13 draft. Are we in striking is distance of a final draft?

14 MS. VanSCHAACK: We have a few things.

15 THE COURT: Do you want to put them off or do
16 them now? Would it make sense to give you a final draft?

17 MS. VanSCHAACK: There is one ministerial thing
18 we need to point out now.

19 THE COURT: What is that?

20 MS. VanSCHAACK: With respect to the language in
21 the third paragraph, failure to prevent or punish.

22 THE COURT: I don't have my copy here. Go ahead.

23 MS. VanSCHAACK: We removed the "and", added
24 extrajudicial killing. I think it is an oversight?

25 THE COURT: Is it back.

1 MS. VanSCHAACK: The version I am looking at does
2 not include those changes, just in the third paragraph.

3 THE COURT: I think it is an oversight. Let me
4 take a look at it.

5 Anything else?

6 MR. KLAUS: Are you looking at The Court's fourth
7 draft?

8 MS. VanSCHAACK: I am.

9 THE COURT: I thought I made the changes. If
10 they are not, I will go back and take another look.

11 MR. KLAUS: Paragraph three.

12 THE COURT: Failure to prevent or punish.

13 MS. VanSCHAACK: Fail to take all necessary and
14 reasonable measures to prevent should read acts of torture
15 and/or extrajudicial killing.

16 THE COURT: What does it read now?

17 MS. VanSCHAACK: It says the acts of torture.

18 THE COURT: Yes, should be changed.

19 MS. VanSCHAACK: In the second to last line there
20 is failing to investigate or failing to submit the matter,
21 which should read such abuses, something more general, and
22 doesn't imply that it is the actual acts.

23 THE COURT: Maybe it matters. Yes, I agree.

24 Okay.

25 MR. GREEN: Whenever we are ready for a nonjury

1 instruction matter.

2 THE COURT: Okay. Does anybody have any major
3 problems in the jury instruction area? We will get
4 another draft tomorrow and try to go through it.

5 MR. KLAUS: No.

6 MS. VanSCHAACK: We have a few suggested
7 additions to the language. We've talked about adding an
8 instruction on de facto command in addition to de jure
9 command given the nature of the defense in the case. We
10 can talk about it now or provide sample language.

11 THE COURT: Why don't you do the sample language.
12 If there is a view that in this case -- are you applying
13 it to the events regarding the Plaintiffs, or events in
14 general?

15 MS. VanSCHAACK: Events regarding the Plaintiffs.
16 There seems to be a suggestion being made that the
17 individuals who detained and tortured the Plaintiffs were
18 not actually under the command of the Defendants. In
19 other words, maybe they were death squad members, maybe
20 they were leftists guerillas, who knows --

21 THE COURT: I hear you. Why don't you develop
22 that language, and we will pass it out, and in the
23 meantime, I will try to get you a complete draft of where
24 we are and we can work on that.

25 MR. GREEN: One nonjury instruction matter. The

1 other day during General Garcia's direct defense
2 introduced Exhibit 49. Apparently -- that was the speech
3 that was broadcast over the Salvadoran radio and
4 television stations.

5 I have a list today, and it is kind of confusing
6 being offered through General Garcia. Apparently looks
7 like there are 15 new exhibits that weren't offered on
8 direct that defense is going to attempt to offer on
9 redirect and it doesn't seem appropriate that they could
10 do that without Plaintiff being able to cross examine them
11 concerning those exhibits.

12 THE COURT: Is that the intent of the defense?

13 MR. KLAUS: My problem the other day, when we
14 compiled exhibits, we put them in a notebook, and I hadn't
15 marked them individually. It was a notebook of newspaper
16 articles. So The Court said you wanted them marked
17 individually, so I had to take and mark them individually.
18 I don't have a problem if they want to cross them
19 regarding these articles again.

20 THE COURT: Does that satisfy you?

21 I think the fundamental problem is the objection
22 that something is outside the scope of cross examination.

23 MR. GREEN: Correct.

24 THE COURT: I wasn't aware that you essentially
25 gave up putting in some exhibits.

1 MR. KLAUS: No. I didn't give up. You mean the
2 other day, I put it off.

3 THE COURT: Let's go back for a second. What
4 happens is, the party who calls a witness elicits
5 testimony and may well introduce exhibits. The other side
6 gets an opportunity to cross examine. Now, if you have
7 exhibits that have never surfaced until redirect, the
8 Plaintiffs get cut off, and the way a plaintiff normally
9 guards against that is to object that something is beyond
10 the scope of cross examination.

11 Now, I hear what you are saying, and I suppose
12 the remedy is to allow the Plaintiff to recross on those
13 exhibits, but I am hopeful we are winnowing things down
14 rather than opening things up. And also, I assume defense
15 in trying to structure its cross examination, assume that
16 that was it. It is tough to start over again.

17 MR. GREEN: That is my concern exactly, if we are
18 talking an isolated exhibit.

19 THE COURT: Are there many.

20 MR. GREEN: There are 16.

21 MR. KLAUS: There are newspaper articles, they
22 don't go beyond the scope of cross. He is asking him,
23 what did you do, did you do anything, you didn't do
24 anything, this is what he did. These were suggested by
25 their expert of things he should do. He gave speeches.

1 THE COURT: Okay. Let's take it one step at a
2 time. If there is something that defense -- the
3 Plaintiff, rather, has not had a chance to examine, I will
4 give the Plaintiffs the right to do that. I don't want
5 anybody getting caught not being able to examine on
6 something.

7 MR. KLAUS: He had all of these exhibits.

8 THE COURT: I understand, but there is no reason
9 for the Plaintiff to talk about them if they weren't in
10 evidence. This is sort of unusual. I understand why you
11 are doing this, because I did ask you to number all of
12 these exhibits, and I do have a copy of your amended
13 exhibit list.

14 I want to come back here. If there is a document
15 that the Plaintiff has not had a chance to talk about,
16 they have to have that opportunity?

17 MR. KLAUS: I don't have any objection to them.

18 THE COURT: All right.

19 MR. KLAUS: I will give them the exact exhibits
20 in the order that I will be questioning so they are not at
21 any disadvantage.

22 THE COURT: Is it too early in talking about
23 scheduling in terms of what our expectations are? Today
24 is Monday. Looks like we will begin -- I hope we will
25 finish General Garcia in the morning and begin General

1 Vides tomorrow.

2 MR. GREEN: I don't know how long they expect for
3 General Vides.

4 THE COURT: What is your sense, Mr. Klaus?

5 MR. KLAUS: I will probably finish before the end
6 of the day, and he could probably start his cross of
7 General Vides before the end of the day.

8 THE COURT: You are talking about if that were to
9 happen, how does that fit with your schedule. The next --

10 MR. GREEN: If I conclude General Vides' cross
11 tomorrow, who would be the next -- they indicated they
12 might want to call a Plaintiff.

13 THE COURT: Are you going to call anybody else?

14 MR. KLAUS: I will probably call Dr. Romagoza
15 briefly and probably Ms. Gonzalez briefly.

16 THE COURT: I think it is too early to see where
17 we are. I am having some problems because of the next
18 case coming up, and having to fly people in from New
19 Mexico.

20 MR. GREEN: My sense, Judge, if they are going to
21 call two of the Plaintiffs briefly, and then we would
22 possibly call Professor Garcia for 20, 25 minutes in
23 rebuttal, and Professor Karl for probably 45 minutes,
24 maybe 60 minutes in rebuttal. So I believe that --

25 THE COURT: Does it still look feasible that we

1 would do final argument on Thursday?

2 MR. GREEN: Yes, Your Honor, and hopefully we can
3 finish a couple hours early on Wednesday.

4 THE COURT: That would be great if we could do
5 it.

6 MR. GREEN: One housekeeping matter on closing.
7 I indicated to you that I thought I would need
8 three hours. Mr. Stern and I have been discussing
9 dividing up the initial part of the closing argument in
10 such a way that we could reduce the overall time that
11 would be requested so we could do Plaintiffs' closing,
12 Defendants' closing, and jury instructions on Thursday.

13 THE COURT: Do you think you can do it in two
14 hours?

15 MR. GREEN: Almost, two hours and 15 minutes.

16 THE COURT: That is fine. You can divide it any
17 way you like.

18 MR. GREEN: We divide initial argument, and I do
19 rebuttal.

20 THE COURT: Who is going to speak in the opening
21 portion of the final argument?

22 MR. GREEN: I am, unless Mr. Stern overrules me.

23 THE COURT: But I thought you said you were going
24 to do rebuttal.

25 MR. GREEN: I am, but we want to do -- since

1 Mr. Stern has much greater facility with trial graphics, I
2 would like him to address those --

3 THE COURT: You can do anything you like, no
4 problem at all. I don't think that is a problem.

5 MR. GREEN: I go 45 minutes, Mr. Stern 45
6 minutes, Mr. Klaus whatever time he gets, and I plan on 45
7 minutes in rebuttal. That will be a total of two hours
8 and 15 minutes. 105 minutes -- 35 minutes.

9 THE COURT: 135 minutes.

10 That is not a problem, that is a reasonable
11 request, and I would grant that to both sides, and you can
12 use whatever amount you would like, however you feel
13 comfortable with it, okay?

14 Just for thinking purposes, and your planning
15 purposes, sounds like we are going to try to have final
16 argument on Thursday. I will try tomorrow morning to have
17 for you what will be a fifth draft that will incorporate
18 the fourth. I hope with the corrections you mentioned
19 that I thought had been made, and I must have slipped up
20 on that, and then we will use that as a basis for making
21 any other stylistic changes, or including anything else,
22 and we can kind of go from there.

23 We need to talk about the verdict form and maybe
24 if you have a draft of that, that would be helpful, and we
25 can pass that out and maybe tomorrow or the next night we

1 will talk about that.

2 MR. GREEN: We already have one and we will fine
3 tune it based on how we decide to proceed.

4 THE COURT: My suggestion would be that we should
5 have an individual verdict form for each Plaintiff as to
6 each Defendant.

7 I realize, I think Professor Mauricio has an
8 action only as to General Vides. I may have this wrong.
9 We talked about that. But I suggest we need to have a
10 verdict form as to each Plaintiff and as to each Defendant
11 so that these things are very, very clear.

12 Okay.

13 MR. GREEN: Yes, we do have.

14 THE COURT: Good. Let's stop and we will
15 reconvene tomorrow morning at 9:30.

16 The Court is in recess.

17 (Thereupon, trial was recessed at 5:45 p.m.)

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I N D E X

WITNESSES FOR THE DEFENDANT

	Direct	Cross	Redirect	Recross
EDWIN CORR	1860	1921	1990	
JOSE GARCIA		2006	2025	

