

1 testified as follows:

2 THE CLERK: State your name and spell your name for
3 the record.

4 THE WITNESS: My name is Blaise Salvatore
5 Mangiavillano, spelled M-a-n-g-i-a-v-i-l-l-a-n-o. I'm also
6 known by the name of Salvatore Mangiavillano, last name
7 spelled the same. I'm also known by Salvatore, the last name
8 misspelled, M-a-n-g-i-v-i-l-a-n-o. And I go by the street
9 name of "Fat Sal." After entering the Witness Protection
10 Program, I now live under an assumed name.

11 MS. ARGENTIERI: Judge, may I inquire?

12 THE COURT: Yes.

13 DIRECT EXAMINATION

14 BY MS. ARGENTIERI:

15 Q Sir, how old are you?

16 A Forty-seven.

17 Q What's your date birth?

18 A September 29, 1964.

19 Q Who else shares your date of birth?

20 A BF.

21 Q Did you gesture to someone there?

22 A Yes.

23 Q To who?

24 A Frank Guerra, sitting in the between the two gentlemen
25 there, wearing a white shirt and I believe a black sport

1 jacket.

2 MS. ARGENTIERI: The record will reflect that the
3 witness has identified the defendant.

4 THE COURT: Yes, the record will so reflect.

5 BY MS. ARGENTIERI:

6 Q What if any crimes did you commit with the defendant?

7 A I was involved in drug sales with him. I was also
8 involved in stolen cars with him, some attempted bank
9 burglaries.

10 Q What if any statements if the defendant make to you about
11 his involvement in murder?

12 A He told me as was he was involved in a murder in an
13 underground garage on Staten Island.

14 Q What if anything did the defendant tell you about the
15 reason why he killed a person in the underground garage?

16 MR. MCMAHON: Judge, object to leading.

17 MS. ARGENTIERI: What if anything?

18 THE COURT: Overruled.

19 BY MS. ARGENTIERI:

20 Q What if anything did the defendant tell you about the
21 reason he killed the individual in the underground garage?

22 A They killed a guy because he was messing around with
23 Allie Boy's wife.

24 Q And who was Allie Boy?

25 A Allie Boy Persico was, at the time, incarcerated. He

1 held a high ranking position within the Colombo crime family.

2 Q What involvement did you have with the defendant in drug
3 dealing?

4 A In the drug dealing, he would supply me with cocaine that
5 was given to him by Teddy Persico.

6 Q Sir, where were you born?

7 A Buenos Aires, Argentina.

8 Q What nationality were your parents?

9 A Italians.

10 Q From where in Italy?

11 A Sicily.

12 Q At what age did you come to the United States?

13 A My parents brought me here when I was eight years old.

14 Q You said you came with your parents?

15 A That's correct.

16 Q What was your status when you immigrated here?

17 A I entered the United States as a lawful permanent
18 residents.

19 Q When you immigrated to the United States, where did you
20 live?

21 A I lived in -- first in the Sunset Park section of
22 Brooklyn, and then we moved over to Bensonhurst, Brooklyn.

23 Q What did your parent do for a living?

24 A My dad was road builder and my mom was a seamstress.

25 Q How far go did go in school?

1 A Eighth grade.

2 Q What happened then?

3 A I dropped out and just started stealing full time.

4 Q Where did you go to middle school?

5 A Junior high school, Shallow.

6 Q When did you first begin committing crimes?

7 A About the age of 13.

8 Q And at the age of 13, what crimes were you committing?

9 A Mostly stealing car radios and cars, stealing change out
10 of cars, and it escalated to stealing cars.

11 Q And who did you steal cars with as you grew older?

12 A As I grew older, numerous individuals, one of them, my
13 partner for a long time was John Parlagreco, Salvatore Fusco,
14 Teddy Persico, Frank Smith. BF stole cars with me, Anthony
15 Ferrera, and numerous other people, also.

16 Q And as a teenager, what other crimes were you committing?

17 A As a teenager?

18 Q Yes.

19 A I got into other stuff like burglarizing banks and
20 selling drugs, selling marijuana, selling cocaine.

21 Q Going back to when you stole cars, when you first started
22 stealing cars, what were you doing with them?

23 A We were stealing them, selling them to other individuals
24 that would dismantle them and alter the VIN numbers in them.

25 Q And then as time went on, did that change?

1 A Yes. We started dismantling the cars ourselves and we
2 also were changing the VIN numbers in the vehicles all the
3 time.

4 Q Now, when you dismantled the cars yourselves, what were
5 you doing with the parts?

6 A Selling them to body shops that ordered them or junkyards
7 that we had connections with them, that would buy everything
8 from us.

9 Q Why did you start doing that as opposed to selling the
10 cars whole?

11 A It was more money.

12 Q And then you were talking about changing VIN numbers.
13 Can you explain to the jury how that works?

14 A I would buy a vehicle that was wrecked, that was beyond
15 repair. I would buy that vehicle.

16 The vehicles have a VIN number in the windshield
17 there. It's called a visible VIN number. If you get pulled
18 over by the cops, they look at the VIN number and make sure it
19 matches the registration and stuff, that it's not a stolen
20 car.

21 They also have a door sticker. The driver's door's
22 got a sticker, and there's also hidden numbers on the engine
23 block and firewall in the chassis of vehicle.

24 What we would do is we would take out the ones in
25 the windshield, the door sticker mostly and some other minor

1 stuff, and go steal the same exact car and switch them from
2 the wrecked vehicle into the stolen car, so the vehicle
3 appeared be a legitimate car, where we have a title for it and
4 all.

5 Q Is there a street name for what that is?

6 A Tag jobs.

7 Q And you said that as a teenager, you started committing
8 bank burglaries?

9 A That's correct.

10 Q With regard to the bank burglaries you committed as a
11 teenager, what were you doing?

12 A We would dismantle the night depository boxes outside of
13 banks that stores, commercial establishments would drop their
14 money bags and their receipts at the end of the day, they
15 would drop them into the box right outside. It's a night
16 depository box. We learned how to dismantle them. We
17 dismantled them and fished the bags out of the boxes.

18 Q And who were you burglarizing banks with as a teenager?

19 A As a teenager, it was John Parlagreco, Scott Reback and
20 Salvatore Fusco.

21 Q Did Scott Reback have any nicknames that you're aware of?

22 A Scottie the Jew.

23 Q How many banks did you burglarize as a teenager?

24 A About four or five of them.

25 Q How did you first get the idea to do that?

1 A Sal Fusco approached me, and he had been told by I
2 believe Joe Brewster, Joe De Domenico, a made member of the
3 Colombo crime family.

4 Q I'm now going to show you some photos. Showing you
5 Government Exhibit 156 in evidence. Who is that?

6 (Indicating.)

7 A (Examines photograph.) That's Teddy Persico, Jr.

8 Q What if any -- when did you first meet Teddy Persico?

9 A I believe around 15, 16.

10 Q And from then on, what was your relationship with him?

11 A We committed crimes daily.

12 Q What if any nicknames did you have for Teddy Persico?

13 A Pee-wee.

14 Q Why did you call him Pee-wee?

15 A He resembled Pee-wee Herman.

16 Q AS a teenager, what was your understanding of how Teddy
17 Persico was in organized crime?

18 A His uncle was the boss of the Colombo crime family. His
19 other uncle was a high-ranking member of the family. His
20 cousin was a captain in the family. And his father was a made
21 member of the family.

22 Q Showing you Government Exhibit 175 in evidence. Who is
23 that? (Indicating.)

24 A (Examines photograph.) That's Frank Smith.

25 Q What crimes did you commit with Frank Smith?

1 A Stole cars with him.

2 Q At what age?

3 A From about 13.

4 Q What if any relationship did he have with Terry Persico,
5 Jr.?

6 A He hung around Teddy all the time, and he was involved in
7 the stolen cars with him, and he wind up being on record with
8 him.

9 Q What time period?

10 A After Teddy got made, I would say '85.

11 Q When you say "made," can you explain to the jury what you
12 mean?

13 A He was inducted into the family. He basically went
14 through the ceremony to become an inducted member of the
15 Colombo crime family.

16 THE COURT: What does "on record" mean?

17 THE WITNESS: On record?

18 THE COURT: Yes.

19 THE WITNESS: On record means that basically, the
20 boss, the captain of the family knows that that individual is
21 with the made member of the family. So he is becoming an
22 associate of the family.

23 BY MS. ARGENTIERI:

24 Q And can you just explain to the jury what it means to be
25 an associate in organized crime?

1 A You have the protection of the guy that you're with from
2 other criminals, basically. So you're with him on record.
3 You answer to him and any criminal activity you're involved
4 with, you let him know, and he is supposed to pass it up the
5 ladder, and you supposed to kick in money to him also.

6 Q Showing you Government Exhibit 125. Who's that?
7 (Indicating.)

8 A (Examines photograph.) That's Salvatore Fusco, Jr.

9 Q What crimes did you testify you committed with Sal Fusco,
10 Jr.?

11 A I stole cars with him and I burglarized banks with him.

12 Q And what connection did he have with organized crime when
13 you were a teenager?

14 A His grand father was a made member. His father was a
15 made member. His Uncle Richie was a made member. His Uncle
16 Duckie was an associate. And he later became a made member.

17 MS. ARGENTIERI: Judge, it has come to my attention
18 that Government Exhibit 125 was not in evidence, so I would
19 move in it now.

20 MR. MCMAHON: No objection.

21 THE COURT: Received.

22 (Government's Exhibit 125 received in evidence.)

23 MS. ARGENTIERI: I'm sorry.

24 THE COURT: 125.

25 MS. ARGENTIERI: Judge, may I approach?

1 THE COURT: Yes, you may.

2 BY MS. ARGENTIERI:

3 Q I'm showing the witness Government 124 for
4 identification. Do you recognize that person? (Indicating.)

5 A (Examines photograph.) Salvatore Fusco, Sr.

6 MS. ARGENTIERI: The government moves to admit 124.

7 MR. MCMAHON: No objection.

8 THE COURT: I'll receive Government Exhibit 124.

9 (Government's Exhibit 124 received in evidence.)

10 MS. ARGENTIERI: May I publish it to the jury,
11 Judge?

12 THE COURT: Yes.

13 BY MS. ARGENTIERI:

14 Q Who did you say that was?

15 A Salvatore Fusco, Sr., also known as Buzzo.

16 Q And how is he related to Salvatore Fusco, Jr.

17 A His father.

18 Q What was his position in organized crime?

19 A He was a made member at the time.

20 Q Of what family?

21 A Of the Colombo family.

22 Q Showing you -- may I approach?

23 THE COURT: Yes.

24 MS. ARGENTIERI: I'm showing the witness Government
25 Exhibit 160 for identification.

1 BY MS. ARGENTIERI:

2 Q Who's that. (Indicating.)

3 A (Examines photograph.) That's Scottie the Jew.

4 Q What -- did you know his last name?

5 A Reback.

6 MS. ARGENTIERI: The government moves to admit 160.

7 THE COURT: Any objection?

8 MR. MCMAHON: No, Judge.

9 (Government's Exhibit 160 received in evidence.)

10 MS. ARGENTIERI: May I publish it, Judge?

11 THE COURT: Yes.

12 (Exhibit published.)

13 BY MS. ARGENTIERI:

14 Q That's Scottie Reback?

15 A That's correct.

16 Q And what crimes were you committing with Scottie Reback
17 in the 1980s?

18 A Stealing cars, bank burglaries.

19 Q What if any relationship did he have with Teddy Persico,
20 Jr. at that time?

21 A At that time, he didn't really. He was just a criminal
22 partner.

23 Q Showing you Government Exhibit 130A in evidence. Who is
24 that? (Indicating.)

25 A (Examines photograph.) That's BF.

1 Q The defendant?

2 A Yes.

3 Q What if any other nicknames did he have?

4 A "The Cripple."

5 Q Why was that?

6 A Because he had a bad motorcycle accident and he hurt his
7 hands. He almost died. And he would be called that, like if
8 someone didn't want nobody to know who we were talking about.
9 He wouldn't be called that to his face. It was like a side
10 thing. We didn't nobody to know who you were talking about,
11 when there was other people around, it was just like in
12 between very limited people.

13 Q Okay. Okay Government Exhibit 152B in evidence. Who's
14 that? (Indicating.)

15 A (Examines photograph.) That's Allie Boy Persico.

16 Q And how is he related if at all to Teddy Persico, Jr.?

17 A That's his uncle -- I'm sorry. It's his cousin.

18 Q And what position in the 1980s did Allie Boy hold in
19 organized crime, to your knowledge?

20 A He was a captain in the family.

21 Q What if any relationships did he have to the boss of the
22 family at that time?

23 A He was the son.

24 Q Who was his son?

25 A Allie Boy.

1 Q Allie Boy was the son?

2 A Was the son of Junior Persico, the boss of the family.

3 Q In the 1980s, how often would you see Teddy Persico, Jr.?

4 A Daily.

5 Q And when you were a teenager, what crimes did you commit
6 with Teddy Persico, Jr.?

7 A I stole cars.

8 Q And as you were grew older?

9 A Cocaine.

10 Q And in addition to selling cocaine, what else were you
11 doing to make money from drugs?

12 A We were extorting drug dealers.

13 Q Can you explain to the jury how you and Teddy Persico,
14 Jr. began selling cocaine?

15 A Teddy couldn't work for his dad no more, and he started
16 working for this other trucking company. When he started
17 working for this other trucking company, there was this John
18 Faso -- Faso and John Silvestri. They were a little bit
19 older. They were worked for the same trucking company. They
20 approached Teddy and they told him they would give him kilos
21 of cocaine for a very cheap price.

22 And that night, Teddy came back from work and he
23 came and seen me, and he told me that -- what had just
24 transpired. He wanted to maybe rob this Faso and John
25 Silvestri -- not John Silvestri, Carlo Silvestri. And then we

1 decided that we would go into the business.

2 He asked me if I could move something, because I had
3 a guy that I was basically fronting money to be in the cocaine
4 business at that period. His name was Meatball. And he asked
5 me if I could sell any of the cocaine. I told him yeah, I
6 could. And he was -- he wasn't fully aware of it. He had an
7 idea. I was fronting Meatball the money, so he could be in
8 the drug business. And he got this other, Victor DiPiazza
9 that wanted to go into the business, wanted Teddy to protect
10 him and put him into the business of selling cocaine.

11 Q What was your relationship with Teddy Persico in the drug
12 business, in the cocaine business?

13 A Basically like almost like a partnership. I would get it
14 at cost and resell the stuff that he was getting from Faso and
15 Carlo Silvestri.

16 Q And who was selling cocaine for you?

17 A At that time, Meatball was selling cocaine for me. Later
18 on, he had Mike Marolla sell cocaine for me. He also had this
19 Leo the Stomach selling cocaine for me. I don't know his last
20 name. And Anthony Logello was also selling cocaine for me.

21 Q Who was selling cocaine for Teddy?

22 A Victor DiPiazza.

23 Q When did your business start together?

24 A I would say around 1983, '82, '84, sometime around there.
25 It was in the eighties.

1 Q What did you continue until?

2 A Until Teddy got arrested.

3 Q And do you recall approximately what year Teddy Persico
4 was arrested?

5 A About 1987.

6 Q As time went on, who else was working for your drug
7 organization?

8 A BF.

9 Q And how did that come about?

10 A When Teddy got made, right around the time he was getting
11 made and he already had established a weight business.
12 Basically, he was selling them by the ounces. He would break
13 a kilo into ounces and distribute the ounces.

14 So for him not to get his hands and be faced up on
15 the street all the time giving the cocaine, he decided he was
16 going to hire BF to work for him and to sell the cocaine to
17 the customers that he already had, the ounces.

18 Q And you said that when it was when Teddy got made. When
19 approximately was that?

20 A I would say around 1986.

21 Q When you say made, what do you mean?

22 A He was inducted into the crime family. He went through
23 the ceremony.

24 Q And how did you first learn that Teddy Persico had been
25 inducted into the Colombo crime family?

1 A He told me.

2 Q What did he tell you?

3 A I seen him one night, and he asked me if heard the good
4 news, and I told him, no, I didn't hear no good news. He says
5 the good news is, I got straightened out, meaning he became a
6 made member of the family. He went through the formal
7 induction into the family.

8 Q Are there rules in organized crime?

9 A Yes.

10 Q What are these rules about drugs?

11 A Not allowed to sell drugs.

12 Q So what was your understanding of why Teddy Persico
13 needed to involve BF in the drug organization?

14 A Because he didn't want nobody to know that he was selling
15 drugs, because you really not allowed to sell drugs. At that
16 time, it was an enforced thing. If you get caught selling
17 drugs, you could get killed. You're breaking one of the
18 rules. There is -- the punishment for it is death, basically.

19 Q Was that rule enforced all the time?

20 A No, not all the time.

21 Q When did you first meet the defendant?

22 A I would say around 1984, '83, around that time.

23 Q What were the defendant's responsibilities in the drug
24 organization?

25 THE COURT: Could counsel come up to the front,

1 please?

2 (Sidebar begins.)

3 (Continued on the next page.)

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1 THE COURT: This is not --

2 MR. MCMAHON: Charged crime.

3 THE COURT: -- this not a charged crime?

4 MS. ARGENTIERI: Right.

5 THE COURT: Racketeering?

6 MR. MCMAHON: Banks, none of these are, bank
7 robberies --

8 MS. ARGENTIERI: It goes to the relationship with --

9

10 THE COURT: I know, yes. I know. You've got to
11 alert me that these things are coming.

12 MS. ARGENTIERI: I apologize.

13 THE COURT: Because I know there's a drug part in
14 here. I'm going to give the limiting instruction.

15 MS. ARGENTIERI: Also Judge, the next part that he
16 is going to testify about are the bank burglaries.

17 THE COURT: Yes?

18 MS. ARGENTIERI: And so the limiting instruction, I
19 think would also be appropriate there.

20 THE COURT: Yes. All right.

21 MR. MCMAHON: The record will reflect that I made an
22 objection before trial, and I still stand by that, to all to
23 the 404(b). We made the argument before trial.

24 THE COURT: I don't recall this being part of the
25 argument before trial.

1 MR. MCMAHON: The bank burglaries --

2 THE COURT: The bank burglaries? I don't.

3 MS. ARGENTIERI: And the drugs.

4 MR. MCMAHON: And the drugs would be part of it.

5 THE COURT: Okay. And I did rule on those as crimes
6 committed as part of the enterprise or the conspiracy. All
7 right. Thank you.

8 (End of sidebar conference.)

9 (Continued on the next page.)

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1 (In open court.)

2 THE COURT: Members of the jury, as indicated to you
3 before, there is a list of charged racketeering acts that are
4 alleged to have been committed by this defendant.

5 Now you're hearing about other bad acts attributed
6 to the defendant, that are not part of the racketeering acts.
7 You can consider these acts as proof of the charged
8 enterprise, and that it existed and the defendant's membership
9 in it; however, you cannot consider this testimony as proof of
10 the charged racketeering acts. All right?

11 MS. ARGENTIERI: May I proceed, Judge?

12 THE COURT: Yes.

13 BY MS. ARGENTIERI:

14 Q I think the last question I asked you were what the
15 defendant's responsibility for yours and Teddy Persico's drug
16 organization?

17 A He basically received the kilos of coke from Teddy or he
18 would break them up and sell them in ounces.

19 Q What does it mean to break up the cocaine?

20 A To package it up. A kilo is a thousand grams. So now
21 you take that thousand grams and you break it up in ounces,
22 into 27 grams each ounce, and you bag it up and resell it like
23 that.

24 Q And where were you storing the drugs after this defendant
25 became involved?

1 A BF was storing them in his house.

2 Q Where did he live at that time?

3 A I believe on 79th Street and 12th Avenue.

4 Q When if ever did you go to BF's house to go get drugs?

5 A Every couple of days.

6 Q Do you know who lived there with him?

7 A His mom, his dad and his sisters.

8 Q How much was the defendant being paid for his role in the
9 drug organization?

10 A I remember about five hundred dollars a week.

11 Q And how much approximately were you and Teddy Persico
12 making off the drug business per week?

13 A I was making anywheres from five to 7,000 a week. Teddy
14 was probably making that much or more.

15 Q And you said at some point, you extorted other drug
16 businesses. What did you do?

17 A We threatened them with physical force and physical
18 violence if they didn't pay us money on a weekly basis.

19 Q And which specific businesses did you and Teddy Persico
20 extort?

21 A It was one guy, his name is Scooby. There was another
22 guy went by the name of Brother. I don't know his last name.
23 There was another, Rickie. I don't know his last name. And
24 also -- there was -- Lee Farmer, he give \$300 a week. He
25 wasn't being extorted. We give him the spot to run us the

1 spot. He would give us \$300 a week from the spot.

2 Q What was your understanding why you and Teddy Persico,
3 Jr. were receiving \$300 from the spot?

4 A Because me and Teddy took the spot from the guys that had
5 it gave it to Lee.

6 Q How did is it that you and Teddy Persico were able to
7 extort these other drug dealers in the neighborhood?

8 A Threatened them with physical violence.

9 Q You said that you shut down someone named Scooby?

10 A That's correct.

11 Q How did that come about?

12 A It basically started that Lee Farmer put us onto him.
13 And we grabbed his workers. His workers at the time were
14 running a beeper. There was two guys, Fat John and I can't
15 remember the other guy's name right now -- Ribsi. Ribsi, his
16 name was Ribsi, went by the name Ribsi. His partner was Fat
17 John. They were running the beeper for the Scooby.

18 THE COURT: Wait a minute. They were running --

19 THE WITNESS: They were running a beeper, a beeper
20 business. A pager.

21 THE COURT: Thank you.

22 THE WITNESS: A pager is an old instrument that you
23 would call and you would punch in the phone number that you
24 were at and it would pop up on a digital display screen, so
25 you could call the number back.

1 BY MS. ARGENTIERI:

2 Q And I think the question is more what was the pager being
3 used for, what kind of business?

4 A They were selling small quantity of cocaine, quarter
5 grams, half grams, eight balls and grams of cocaine off this
6 beeper. So basically I grabbed them and told them that they
7 had to pay money, a thousand dollars a week. And if they
8 didn't, I would take their beeper on them.

9 Q And what happened next?

10 A I called them a couple of days later. They told me they
11 worked for this guy Scooby. I told them that I wanted to
12 speak to Scooby and that I would keep the beeper until Scooby
13 showed up to come to talk to me. And Fat John said he would
14 go get Scooby, and Ribsi, he stood with me with the beeper.

15 Q And how did you learn where they hung out, on what
16 corner?

17 A Anthony Russo had their number, and Anthony Russo called
18 them for me. Lee Fama told me that Anthony Russo probably had
19 the number and Anthony Russo called them for me.

20 Q Who is Anthony Russo?

21 A Anthony Russo is from -- from the neighborhood. He was.
22 Hanging around Maple Lanes, he hang around the Famas when he
23 was younger.

24 Q And you said he hung around where?

25 A The Famas.

1 Q And what specific location I think you said?

2 A Maple Lanes.

3 Q What was that?

4 A A bowling alley on 16th Street and -- either 16th or
5 15th Avenue. I don't recall right now.

6 Q I'm showing you Government Exhibit 167 in evidence; who
7 is that?

8 A That's Anthony Russo.

9 Q Showing you Government Exhibit 119 in evidence; who is
10 that?

11 A That's Lee Fama.

12 Q Showing you Government 120 in evidence; who is that?

13 A I'm sorry, that's Lee Fama.

14 Q Okay.

15 Going back to Government Exhibit 119.

16 A That's Gary Fama.

17 Q Okay.

18 After you found out from Anthony Russo where these
19 individuals hung out, what did you do next? You testified you
20 took their beepers. What happened after that?

21 A Fat John came back with a thousand-dollar payment and he
22 told me Scooby would be contacting me.

23 Q And then what happened next?

24 A Scooby contacted me and I made arrangements with him to
25 give me a thousand dollars every week.

1 Q And who did you share that money with, if anyone?

2 A Me and Teddy split it, \$500 apiece.

3 Q With regard to Lee Fama, how did Lee Fama first end up
4 paying you and Teddy Persico, Jr.?

5 A Lee Fama used to have this spot on 79th Street, I believe
6 79th Street and 20th Avenue. He would sell dime bags of weed
7 there, 10-dollar pieces of pot, like little bags with \$10
8 worth. At the time, they were \$10.

9 And Greg Scarpa, Sr. who was also a made member of
10 the Colombo family had a whole crew around him. He sent for
11 Lee Fama and he told Lee Fama that he wanted Lee to be in his
12 corral, basically he wanted Lee to be around him so he could
13 pay him money every week; not on an extortion basis, but to
14 put him on record with him.

15 And Lee disregarded him. On a couple of occasions
16 they sent for him. And Lee never wound up going there to meet
17 him, this Greg Scarpa was a serious individual and --

18 Q Who was Greg Scarpa, Jr.'s father?

19 A Greg Scarpa, Sr. Greg Scarpa, Sr. is the one that sent
20 Junior to go and get Lee Fama. When they went to look for Lee
21 Fama they wind up finding Gary Fama. And they found Gary
22 Fama, they chased him down in the street and beat him half to
23 death with baseball bats.

24 Q How did you first learn that Lee Fama needed your
25 protection?

1 A I brought Teddy to Manhattan, to the MCC, the
2 Metropolitan Correction Center, and he went upstairs to go
3 visit his Uncle Junior.

4 Q What happened next?

5 A When he came down he told me we got to go find Lee Fama
6 and he told me what had happened, what had transpired with
7 Greg sending these guys over to -- and they grabbed Gary and
8 they beat him half to death.

9 Q And at that time who is his Uncle Junior?

10 A His Uncle Junior was the boss of the family.

11 Q After you had that conversation with Teddy Persico, what
12 happened next?

13 A We went and found Lee Fama and basically Teddy told me to
14 stay with Lee and make sure nothing happens to him. And he
15 couldn't go back to the spot on 79th Street anymore. And we
16 explained that to him, that the spot was Greg's now, they
17 couldn't go back there no more, leave it alone, it was a done
18 issue.

19 So Lee told us that he knew about these other spots,
20 that we could get in these other spots and he would show us
21 all these spots that -- where the pot dealers were working out
22 of, and that's exactly what happened.

23 Q And did you and Teddy get Lee Fama a spot?

24 A Yes.

25 Q And what's your understanding of who worked that spot for

1 Lee Fama?

2 A Well, Lee Fama ran it and from time to time Anthony Russo
3 would run the issues there at the spot.

4 Q What do you mean by run the issues?

5 A He would give the dealers on the spot 25 bags or ten bags
6 at a time, I don't know what his issues were. Usually they
7 were either ten bags at a time or 25 bags at a time. And
8 they're called issues. So if they're ten bags, you wrap them
9 up in a brown paper bag and you give the dealer working the
10 spot the issue with the ten bags. If there's 25 bags, there's
11 25 bags in there, they're dime bags. And you keep on
12 supplying the guy actually making the sales on the street.

13 Q How much did Lee Fama pay you and Teddy Persico related
14 to that spot?

15 A \$300 a week.

16 Q You testified that in the 1980s, Teddy Persico told you
17 that he was inducted into the Colombo crime family?

18 A That's correct.

19 Q At some point after that, did your status with him become
20 more official?

21 A I wound up on record with him.

22 Q And can you tell the jury how that came about?

23 A It just basically happened. You know, he told me that
24 from now on that I was on record with him and that's how it
25 was.

1 Q And what did that mean, in terms of -- of organized
2 crime?

3 A That I was protected by him from other organized crime
4 figures and from other criminals.

5 Q And at that time who else, if anyone, was in
6 Teddy Persico -- was around Teddy Persico or on record with
7 him?

8 A At that time? I don't know if it was at that time but BF
9 wound up around him and Lee Fama wound up around him.

10 Q What, if any, other relationships do you have for your
11 family to organized crime?

12 A My uncle's a made member of the Gambino family.

13 Q What are the other families?

14 A There's the Colombo family that you've been hearing
15 about, there's the Gambino family, there's the Lucchese
16 family, there's the Genovese family, they're also referred to
17 as the West Side, and there's Lucchese family.

18 Q In organized crime are there rules?

19 A Yes, there's a lot of rules.

20 Q What are the rules?

21 A There's numerous rules. One, not to sell drugs. Another
22 one, not to cooperate with law enforcement. There's, you
23 you're not allowed to have facial hair, no mustache or
24 anything like that. And you have to present yourself in a
25 respectful manner. You're not allowed to kill any law

1 enforcement officers. There are several rules.

2 Q In the 1980s, did you have discussions with Teddy Persico
3 about businesses his family was associated with?

4 A Yes.

5 Q And what did he tell you about what businesses his family
6 had relationships with?

7 A Well, he worked for his father at Dacs Trucking. They
8 were partners with Fat Nicky the Pig, Nicky Atkins. Dacs
9 Trucking was a roll-off container company. Nicky Atkins was a
10 made member of the Lucchese family. They were partners there
11 with him.

12 They also had a furniture store on 18th Avenue,
13 between 85th and 86th Street that his father was at all the
14 time. And they had a carpet store, I believe on 82nd Street
15 and 18th Avenue, that his brother Danny ran. They also had a
16 limousine office -- a limousine service on 11th Avenue, I
17 believe around the vicinity of 66th Street and 11th Avenue in
18 Brooklyn also.

19 Q Do you know what the name of that limousine company was?

20 A I believe it was Romantique.

21 Q And did you go there in the 1980s?

22 A Yes.

23 Q And when you went to the limousine business who was
24 there?

25 A It was usually the kid John DiLeo, Teddy's father was

1 there, and at one point Michael Persico started being there.

2 Q And who was Michael Persico?

3 A That's Teddy's cousin.

4 Q How is Michael Persico related to Allie Boy Persico?

5 A That's his brother.

6 Q You mentioned a furniture store. Do you recall the name
7 of the furniture store?

8 A No, not really.

9 Q What, if any, businesses did Teddy Persico tell you he
10 had with his cousin Michael?

11 A He had started a coffee business called Pers Coffee.

12 Q Showing you Government Exhibit 154 in evidence; do you
13 recognize that person?

14 A Yeah, that's Danny Persico, Teddy's brother.

15 Q Showing you Government Exhibit 157 in evidence.

16 A It's blurry.

17 Q One second. Let's see.

18 A I can tell it's Teddy's father.

19 Q Okay. And what is his name?

20 A His name is Teddy also.

21 Q And who is Teddy's mother?

22 A Pat.

23 Q Do you know her maiden name?

24 A No.

25 Q Did there come a time when members of your drug

1 organization were arrested?

2 A Yes.

3 Q And when was that?

4 A Around 1987.

5 Q Who was arrested?

6 A Gary Fama, Lee Fama, Teddy Persico, the guy Scooby, Fat
7 John, Frank Smith, and Teddy, and BF was also arrested.

8 Q What, if any, discussion did you have with the defendant
9 about his arrest?

10 A BF was arrested and they let him go because supposedly
11 they arrested him under the wrong name. I believe they
12 arrested him under the name of Glenn Guerra and his real name
13 is Frank Guerra. And basically they had him in DEA
14 headquarters in Manhattan sitting outside the cell on a chair,
15 when there was around 20 guys inside the cells. So they was
16 like, "What's going on here, BF?"

17 And all of a sudden the agents told him that he was
18 free to go. And supposedly he was free to go because they had
19 arrested him under the wrong name, Glenn Guerra. They had
20 gone to the sister -- to the house and rang the bell. They
21 asked the sister who's the male that drove the white Lincoln
22 outside, and the sister told them my brother but she never
23 told them his name. He went outside, they arrested him. And
24 that's what happened. They wound up arresting him under the
25 wrong name supposedly.

1 Q And so he was released?

2 A That's correct.

3 Q Did you later have discussions with the defendant and
4 others about the circumstances underlying the arrest of Frank
5 Smith?

6 A Yes, I did.

7 Q What did they tell you?

8 A BF and Lee Fama made a sale to an undercover agent and a
9 confidential informant I believe his name is Donald, I don't
10 know his true name, when they made this sale, Lee Fama had
11 been the one that hooked up the whole -- the whole
12 transaction. And he told the FBI agent or DEA, whatever he
13 was, that he was going to get the stuff from his friend
14 Frankie. And he went to get it from his friend Frankie, he
15 went to get it from BF, and they arrested Frank Smith and
16 charged Frank Smith for making that sale.

17 THE COURT: Again, members of the jury, this is
18 testimony about an uncharged crime and it is not proof of the
19 racketeering acts charged in the indictment. And you may
20 consider them as proof of the charged enterprise and
21 defendant's membership in it.

22 Q What, if anything, did the defendant tell you about when
23 he believed he was observed making the sale?

24 A The agent was in the car with them and he was in the car
25 with them afterwards. It later came out when Frank Smith went

1 to trial that Lee Fama handed Bobby Tarantola money through
2 the window of the car. The car that Bobby Tarantola was
3 driving was Frank's -- was Eddie Carini's car that he had
4 bought from Frank Smith that was still registered under Frank
5 Smith's mother's name.

6 So either the informant or the DEA, whatever they
7 were, thought that partial payment of that drug money was
8 being handed off to Frank Smith when it wasn't even Frank
9 Smith driving that car, it was Bobby Tarantola.

10 Q After Teddy Persico was arrested by the DEA, how, if at
11 all, did your status in organized crime change?

12 A I had a problem with several Gambino guys within days of
13 his arrest at a nightclub called Pastels. I slapped one of
14 them, I punched another one in the face and basically had led
15 to the next day I went to track one of them down, he was
16 standing in front of a Johnny Gambino, a captain in the
17 Gambino family, in front of his place, in front of his social
18 club. I had approached him and asked him to come around the
19 corner and he wouldn't come around the corner with me. So I
20 decided to punch him in the jaw right there.

21 And when I hit him, a bunch of guys emptied out of
22 the cafe, specifically one, his name was Carlo, they called
23 him Carlo the boxer. He was a Sicilian that had just come
24 over from Sicily they were going to sponsor him to box, Johnny
25 Gambino.

1 And he asked the Sicilian who I was, and I answered
2 him back to come around the corner and I would show him who I
3 was, the Sicilian. And at the same time, I lifted my shirt to
4 expose a gun in my pants, meaning basically come around the
5 corner and let me shoot you.

6 Q And then what happened?

7 A And there was another guy there, another guy named Carlo.
8 He told me that Lorenzo Mannino who was an associate of Johnny
9 Gambino at the time, and basically we had a relationship with.
10 He told me that Lorenzo Mannino wanted to speak with me. I
11 told him all right, Lorenzo knows where to find me. Tell him
12 to come and find me.

13 Q And then when was the next time you heard about this
14 dispute?

15 A I think the next morning.

16 Q Who did you hear about it from?

17 A My uncle.

18 Q What happened?

19 A Lorenzo Mannino knew who my uncle was and he told Johnny
20 Gambino and Johnny Gambino reached out to my uncle and asked
21 him if I was with him or I was with the Colombos. So my uncle
22 came to my house to find out what was going on and basically I
23 explained to him what had happened.

24 Q And at that point after you had explained to your uncle
25 what had happened, what happened next?

1 A He asked me who I was with, and I told him I was around
2 Teddy and stuff like that. And he told me that you can go and
3 speak to the Colombos, he would send out word to them and tell
4 them that basically he pulled me from them, to the Gambino
5 family.

6 And I told him there was no need for that, that I
7 would speak to Teddy when he was released on bail, if he got
8 bail, and it would go from there. I would ask Teddy to
9 release me.

10 Q And did Teddy get released on bail?

11 A Yes, he did.

12 Q And did you meet with him?

13 A Yes, I did.

14 Q When you met with Teddy Persico, what, if any, discussion
15 did you have with him about altering your status?

16 A I told him I -- I told him what had happened and I told
17 him, you know, my uncle wanted me to be over there with him
18 and if he would release me. And he told me, he says, you're
19 my friend, you can do whatever you want, you make your own
20 choice.

21 Q And what did you chose to do?

22 A To go over to my uncle, to go over with the Gambino
23 family.

24 Q So from that time of that conversation on, what family
25 were you associated with?

1 A With the Gambino family.

2 Q Why did you decide that at the time?

3 A Because it was -- my blood was there, Teddy was going to
4 go to prison. Teddy's father really didn't like none of us,
5 and I really didn't want to be around the Colombos because of
6 that reason. I have felt comfortable with Teddy. I really
7 didn't feel comfortable with his father and stuff like that.

8 Q After that discussion, who were you officially around in
9 the Gambino family?

10 A I was around my uncle from -- my uncle who answered to
11 Joe Arcuri from the uptown Manhattan group.

12 Q What was Joe Arcuri's position in the Gambino family?

13 A He was a captain.

14 Q What happened to Teddy Persico's case?

15 A Teddy Persico went to trial and got convicted.

16 Q And after he was convicted, did you go visit him in jail?

17 A Yes, I did.

18 Q How often do you -- did you visit him?

19 A Twice a year.

20 Q And what were the different facilities you went to see
21 him in?

22 A Cocksackie and Sullivan.

23 Q What, if anything, did Teddy Persico tell you about how
24 he paid his legal bills?

25 A He borrowed the money from his cousin on a juice loan.

1 Q What, if anything, did he say about -- can you explain to
2 the jury about what -- what is a juice loan?

3 A A juice loan is basically high a interest rate loan that
4 you get without collateral. The only collateral you have is
5 either your word or your body. He borrowed \$100,000, I
6 believe at one point from his cousin.

7 Q And in a juice loan, what amount do you pay per week?

8 A He was paying 1 percent a week.

9 Q Which is how much on 100,000?

10 A A thousand dollars a week.

11 Q And on a juice loan, if you pay a thousand dollars a week
12 for many weeks, how much money do you still owe on the
13 original loan?

14 A \$100,000, the full loan.

15 Q What, if anything, did Teddy Persico tell you about who
16 was paying the juice on his loan while he was this jail?

17 A BF.

18 Q Directing your attention to the 1980s, did you attend a
19 wake for the Carini brothers?

20 A Yes, I did.

21 Q Who were the Carini brothers?

22 A The Carini brothers were two childhood friends of mine
23 that we used to hang out with on a daily basis. The Carini
24 brothers were around Joe Waverly.

25 Q Who was Joe Waverly?

1 A Joe Waverly at the time was a member of the family. He
2 was -- he was a made member of the crime family, of the
3 Colombo family.

4 Q Showing you Government Exhibit 105 --

5 MS. ARGENTIERI: I'm sorry. Judge, may I approach?

6 THE COURT: Yes.

7 Q Who is that?

8 A That's Joe Waverly.

9 MS. ARGENTIERI: Government moves to admit 105.

10 MR. McMAHON: No objection.

11 THE COURT: I'll receive Government's 105.

12 (Government's Exhibit 105 received in evidence.)

13 Q Do you know what his name is, Mr. Waverly?

14 A His true name? No.

15 MS. ARGENTIERI: May I publish to the jury, Judge?

16 THE COURT: Yes.

17 Q So you said you attended the wake for the Carinis?

18 A That's correct.

19 Q Who else attended that wake?

20 A There was -- specifically it was me and Teddy were there,
21 and Frank Smith was there.

22 Q At that time, what was the status of Teddy's Persico's
23 case with the DEA?

24 A He was out on bail.

25 Q And when did this wake occur in relation to the arrest?

1 A I believe within days, maybe a week or so afterwards.

2 Q And what happened at the wake?

3 A At the wake Frank Smith was supposed to get killed with
4 the Carini brothers. Frank Smith never made the meeting. So
5 Joe Waverly had told them that these other guys had killed him
6 and he wanted to talk to Teddy -- he wanted to talk to Frank,
7 he wanted to take Frankie with him. Teddy intervened and he
8 told me, he says go outside, stand outside, I'm going to bring
9 Joe Waverly out and old man Jimmy. Jimmy I believe was Jimmy
10 Angelino, a captain in the family at the time.

11 Q Stop for a second, let's go back.

12 What, if any, discussion did you have with Teddy
13 Persico about why he believed the Carinis were killed?

14 A Because they had killed a judge by accident. They were
15 supposed to kill the judge's son who was a federal prosecutor,
16 and instead of killing the federal prosecutor, they killed the
17 judge's son -- they killed the federal prosecutor's father who
18 was a judge.

19 Q So what, if anything, did Teddy Persico tell you about
20 why he believed Joe Waverly killed the Carinis?

21 A To silence them. It was a conversation not just between
22 me and Teddy, it was a conversation between Frankie too, all
23 three of us.

24 Q And what did Frank Smith tell you about his participation
25 in the judge murder?

1 A He participated in the murder. So he believed that
2 that's why they killed them two and he was also supposed to
3 die that day. He was supposed to meet with them too.

4 Q And at the wake, what, if anything, did Teddy Persico
5 tell you that Joe Waverly had asked?

6 A For Frankie to go with him, to go get these other guys
7 that he was blaming for killing the Carini brothers.

8 Q And what was your concern and Teddy Persico's concern at
9 that time?

10 A That he wouldn't listen to Teddy and maybe try to do
11 something stupid.

12 Q What do you mean he wouldn't listen to Teddy?

13 A He wouldn't listen to Teddy. Frankie Smith -- Teddy was
14 going to claim Frank Smith being on record for him because
15 Allie Boy had stood up for him when Frank Smith had a beef
16 with Greg Scarpa, Sr. So basically Teddy had a claim on Frank
17 Smith. Joe Waverly had no claim on him. And he was going to
18 tell Joe Waverly that Frank Smith was with him and he wasn't
19 going nowhere with him, bottom line.

20 Q And what was your understanding of what Teddy Persico was
21 trying to do by claiming Frank Smith?

22 A Save Frank Smith's life.

23 Q Who was Teddy Persico afraid was going to kill Frank
24 Smith?

25 A Joe Waverly.

1 Q On the night of this Carini wake, what, if anything, did
2 Teddy Persico ask you to do with regard to Joe Waverly?

3 A He told me he was going to go outside with them, for me
4 to stand outside, I had a gun, and if Joe Waverly got stupid
5 to shoot the both of them in the back of the head.

6 Q You said to go outside with "them." Who were you and
7 Teddy Persico going to go outside with?

8 A With Joe Waverly and Jimmy Angelino, old man Jimmy.

9 Q What was your understanding of why you and Teddy Persico
10 were going outside with Joe Waverly and this man Jimmy?

11 A So Teddy can have a conversation with him and basically
12 claim Frankie and say that Frankie was on record with him and
13 not to tell Frankie he's going nowhere no more with him.

14 Q And when you say Frankie, who are you referring to?

15 A Frank Smith.

16 Q And what did he ask you to do if Joe Waverly got stupid?

17 A To shoot both of them in the back of the head.

18 Q Were you armed that night?

19 A Yes, I was.

20 Q Did you agree to do that?

21 A Yes, I did.

22 Q What happened when you went outside with Joe Waverly,
23 Jimmy and Teddy Persico?

24 A I went outside before them, Teddy positioned their backs
25 towards me and Teddy basically had a conversation with them.

1 And Joe Waverly left kind of mad but he left, he didn't do
2 nothing stupid.

3 Q And what was Frank Smith's position in organized crime
4 after that?

5 A He was on record with Teddy.

6 Q At some point did you become aware of a conflict within
7 the Colombo family?

8 A Yes, I did.

9 Q When did you become aware of that?

10 A I believe around 1991.

11 Q And at that point what was your status in organized
12 crime?

13 A I was an associate of the Gambino family.

14 Q Why was it important, if at all, for you as an associate
15 of the Gambino family, to understand what was happening with
16 the Colombo crime family?

17 A It was important to every other person that frequented --
18 that's around organized crime because the heat was coming
19 down, they were shooting each other in the street and the heat
20 was coming down on everyone. And specifically myself, a lot
21 of people didn't know I was over with the Gambino family and
22 they could have targeted me because they knew I was Teddy's
23 friend.

24 Q When you say the heat was coming down, can you just
25 explain to the jury what you mean?

1 A Law enforcement was actually pulling people over in the
2 middle of the street, you know, everybody that they -- they
3 figured was associated or if you look like you were associated
4 to organized crime, they would pull you over in the middle of
5 the street, sometimes pull your pants down in the middle of
6 the street, check if you had any guns, check the cars if there
7 was any guns in the cars. They would raid social clubs where
8 there was gambling going on and, you know, search the whole
9 place, see if there was any guns there, and stuff like that.
10 Law enforcement was coming down hard on everyone.

11 Q What was your understanding of who the conflict was
12 between?

13 A It was a guy that -- Vic Orena, who I believe is Teddy's
14 father's cousin and Teddy's Uncle Junior.

15 Q And what position did Vic Orena hold, if you know, in the
16 Colombo family at the start of the war?

17 A He was the acting boss of the family.

18 Q And what position at the start of the war did Teddy's
19 Uncle Junior hold?

20 A He was the official boss of the family.

21 Q Where was Teddy Uncle Junior at the time the war started?

22 A He was in federal prison serving a large sentence. I
23 don't know exactly what he was sentenced to.

24 Q What was your understanding of what the two sides were
25 fighting for control of?

1 A Of the family.

2 Q And what did that mean?

3 A They're fighting over the rackets, like who controls the
4 rackets, the boss -- it's like a pyramid, everything goes
5 up to the boss. So there's legal businesses, there's
6 extortion businesses of major industries, there is a lot of
7 stuff going on. And the boss, the money, the money is made
8 and it gets kicked up towards the boss. So they were
9 fighting. Vic Orena wanted to be the boss of the family, he
10 didn't want to be no more the acting boss.

11 Q During this war, did you visit Teddy Persico in jail?

12 A Yes, I did.

13 Q And where was he incarcerated during that time period?

14 A I believe in the Sullivan Correctional Facility.

15 Q What, if anything, did Teddy Persico, Jr. tell you about
16 the war when you visited him?

17 A That them guys were trying to kill his father.

18 Q Teddy Persico, Sr.?

19 A That's correct.

20 Q What, if any, message did he pass to you?

21 A A couple of Vic Orena's guys had gotten arrested and
22 Frank Smith was incarcerated with them. He had -- he was --
23 he was -- he had a case going on in the federal government at
24 the time. And Frank -- Teddy had heard that Frankie was
25 sitting down playing cards with one of them, and he was

1 surprised he wasn't stabbing them. He said, I can't
2 understand why he's not stabbing them. You get a message to
3 him, I want him to stab them.

4 Q And what was your understanding of why Teddy was upset
5 that Frank Smith was playing cards with guys on the other side
6 of the war?

7 A Teddy basically told him it was the opposite way around
8 Teddy would have stabbed -- if somebody was trying to kill
9 Frank Smith's father, Teddy would have stabbed the shit out of
10 him in prison.

11 Q During the war, what, if any, discussions did you have
12 with the defendant about his status?

13 A About his status in the war?

14 Q Yes.

15 A He was still continuing on his way. He was trying to
16 finish up a sentence.

17 Q With who? Who did you have that discussion with?

18 A With Teddy.

19 Q What, if any, discussion did you have with BF during the
20 war about what he was doing?

21 A He was actively out seeking guys to hurt them.

22 Q What did he tell you?

23 A Oh, basically BoBo was one of their targets. He was --
24 he was one of their major targets. They were out there every
25 day. On another occasion they wanted to kill Chris Barrett.

1 Q And who was BoBo?

2 A BoBo, his name was Louis Malpeso.

3 Q And what was his -- and what side of the war was he on?

4 A He was on the Vic Orena side.

5 Q And who, if anyone, did the defendant say that he was
6 going out with?

7 A He was out there with Ferrara and Bobby Tarantola and
8 Frankie Blue Eyes.

9 Q What is Frankie Blue Eyes name?

10 A Sparaco.

11 Q Showing you Government Exhibit 182 in evidence. Who is
12 that?

13 A That's Bobby Tarantola.

14 Q Where did you see him during the Colombo war?

15 A Bobby?

16 Q Yeah.

17 A He was always with BF and Ferrara.

18 Q Is there anyplace specifically you would see them?

19 A Yes, Ferrara had a glass shop on 65th Street.

20 Q Showing you Government Exhibit 121 in evidence; do you
21 recognize that person?

22 MR. McMAHON: What number is this?

23 A No, I don't recognize him.

24 MS. ARGENTIERI: Oh, I'm sorry, it's 121.

25 Q Showing you Government Exhibit 178 in evidence; who is

1 that?

2 A That's Frank Sparaco.

3 Q And you said his nickname was Blue Eyes?

4 A Correct.

5 Q What, if anything, did BF tell you about who he was
6 reporting to during the war?

7 A They were reporting to Carmine Sessa and Teddy, Big
8 Teddy.

9 Q And when you say Big Teddy, who are you referring to?

10 A Teddy Persico, Sr.

11 Q You said that the defendant told you he was targeting
12 BoBo.

13 A That's correct.

14 Q What was your understanding of why the defendant was
15 targeting BoBo?

16 A BF and Ferrara got pulled over outside of BF's house one
17 day. BF and Ferrara had been partners in a bagel store. And
18 somebody walked in the bagel store and killed a 15-year-old
19 kid inside the bagel store. They were there to kill BF or
20 Ferrara, and they wound up killing this young kid, a
21 15-year-old kid.

22 And when they got pulled over outside their house by
23 the FBI, the FBI told them that they were close to making an
24 arrest on the murder of this 15-year-old kid that got killed
25 in that bagel store. They said it was a father and son team.

1 So they assumed it was BoBo and his son that did it.

2 Q What was the name of the defendant's bagel store called?

3 A Wanna Bagel.

4 Q And who did he own it with?

5 A With Ferrara, him and Ferrara were partners.

6 Q When the defendant told you about this incident in the
7 bagel store, how, if at all, did you offer to help him?

8 A When they told me him and Ferrara didn't even have a gun
9 to protect themselves, and I went to my house and gave Ferrara
10 a gun so he could protect himself. They were in a war,
11 neither one of them had a gun.

12 Q You said that the defendant had also targeted at one
13 point someone named Chris Barrett?

14 A That's correct.

15 Q And what side of the war was Chris Barrett on?

16 A Chris Barrett was also on the Vic Orena side.

17 THE COURT: Again, members of the jury, this
18 conversation is about uncharged crimes and they are not proof
19 of the charged racketeering acts that are in the indictment,
20 and they may be considered by you only as proof of the charged
21 enterprise, that it existed and the defendant's membership in
22 it.

23 Q I'm sorry, which side was Chris Barrett on?

24 A On the Vic Orena side.

25 Q And what, if any, discussion did you have with the

1 defendant about targeting Chris Barrett?

2 A Oh, we were driving down 13th Avenue, him and Ferrara
3 wanted to jump out of the car, and I stopped them because
4 Chris Barrett was with Paulie Rizzuto. Paulie Rizzuto --

5 THE COURT: Don't talk so fast.

6 A -- he was a young kid --

7 THE COURT: You're talking so fast.

8 THE WITNESS: I'm sorry.

9 THE COURT: All right. She's taking down what
10 you're saying.

11 A Paulie Rizzuto was in the car, so if they were to have
12 shot Chris Barrett, they would have also shot Paulie Rizzuto.
13 Paulie Rizzuto was a young kid. He was around 19 years old.

14 Q Sir, let's try to slow it down one sentence at a time.
15 You said you were driving down the street with who?

16 A With BF, Ferrara and Tommy Dono.

17 Q When were you driving down the street, who, if anyone,
18 did you see?

19 A We seen a car parked by Chris Barrett's house with -- the
20 kid Paulie Rizzuto's car was parked outside Chris Barrett's
21 house.

22 Q Who, if anyone, was in Paulie Rizzuto's car?

23 A Chris Barrett.

24 Q At that time what, if anything, did the defendant and the
25 others present say?

1 A BF and Ferrara, they said that they wanted to get out of
2 the car so they can kill Chris Barrett.

3 Q And at that point what did you say?

4 A I told them no, the kid Paulie is like 15 years old,
5 leave him alone.

6 Q What was you concerned was going to happen?

7 A That they were going to kill the kid Paulie.

8 Q And did anything else happen that day?

9 A No. They kept on telling me that there was a list Chris
10 Barrett had gotten caught with. And on the list was Goo's
11 name. Goo is BF's childhood friend and he's also Sally
12 Fusco's brother, and he knew I was close to Sally Fusco so he
13 figured that they would pump me up to help them hurt this
14 Chris Barrett because he was targeting Goo, Goo being Joe
15 Fusco.

16 Q So when the defendant told you that Chris Barrett was
17 found with a list, what was your understanding of what the
18 list was?

19 A Like a hit list.

20 Q And there were names on it?

21 A Yeah. The one name that I know about was Joe Fusco. Joe
22 Fusco was a civilian. He's not a criminal. He had nothing to
23 do with no crimes or nothing. He's Sal Fusco's younger
24 brother.

25 Q You testified that the defendant told you about a murder

1 he committed of a man in a garage in Staten Island?

2 MR. McMAHON: Objection.

3 A That's correct.

4 MR. McMAHON: Can we not lead?

5 THE COURT: Well, I mean, I'll allow this because he
6 did say that to move to that area, and then don't lead.

7 MS. ARGENTIERI: Okay.

8 Q When was the first time that you discussed with the
9 defendant that garage in Staten Island?

10 A We were outside the body shop, the glass shop, Anthony
11 Ferrara's glass shop, it was me BF and Tommy Dono.

12 Q Approximately what year did that conversation occur?

13 A I don't know. It was 91, '92. It was during the war,
14 during the time the kid got killed in the bagel store, it was
15 right around that time.

16 Q And what happened during that discussion?

17 A BF had -- he was worried that he had driven into this
18 underground garage with his sister's car and they had seen the
19 cameras there. And he was -- he was worried that the cameras
20 were recording and he asked me.

21 Q Now, what was the address of the building he was asking
22 you about?

23 A I don't know the address.

24 Q Where was it located, generally?

25 A On Richmond Hill Road right by Richmond Avenue, off the

1 Richmond Avenue.

2 Q In what borough?

3 A In Staten Island, New York.

4 Q And were you familiar with that apartment building?

5 A Yes, I was.

6 Q How?

7 A Dominic Carbonaro, Goo Goo Guns, he lived in the
8 building. His niece lived in the building. And there was
9 some girl that I used to fool around with that lived in the
10 building also.

11 Q And can you describe the building that the defendant was
12 asking you about; what does it look like?

13 A There are two apartment buildings facing each other on
14 either side and then the underground garage is right in
15 between the buildings. Like in the parking lot, you drive
16 down into like a basement type pf garage for the both
17 buildings.

18 Q When the defendant told you he was worried about the
19 cameras, what was your understanding of what he was concerned
20 about?

21 A That the cameras were recording and they had gone down
22 into the garage area with his sister's car and maybe the plate
23 number got taken off the car or something like that.

24 Q What, if anything, did he say to you at that time about
25 why he had gone into the garage?

1 A They were looking for this guy to kill him.

2 Q What was your understanding of who "they" was? Who did
3 he go into the garage with?

4 A Him, Ferrara was standing there, and Bobby Tarantola and
5 Frank Sparaco.

6 Q And what did you tell the defendant about the cameras?

7 A I told the cameras [sic] that I didn't know if they
8 recorded. But I did know like if you turned to a certain
9 channel on the television, that you could see the cameras in
10 the garage.

11 Q And when you say turn to a certain channel, you could see
12 the camera. Where would you be if you could look at that on
13 television?

14 A Inside the girl's apartment or Goo Goo's apartment, or
15 Goo Goo's niece's apartment. You could flip the channel on
16 the TV and you could see the garage. There was another
17 channel for the doors and stuff like that, but I didn't know
18 if they were recording.

19 Q If you lived in the apartment building, you could see the
20 camera on television?

21 A That's correct.

22 Q What, if anything, did the defendant tell you about the
23 person he was trying to kill?

24 A At that point I don't believe he told me anything.

25 Q Did you have a subsequent conversation with the

1 defendant?

2 A Yes, I did.

3 Q Approximately how long after the first conversation?

4 A I would say about a week later.

5 Q And where did you have this discussion with the defendant
6 about a week later?

7 A At the same glass shop.

8 Q And who was there when you had this discussion?

9 A Tommy Dono and Ferrara.

10 Q During that discussion what, if anything, did the
11 defendant tell you?

12 A That they banged the guy in the garage, they got him the
13 night before. Like we got the guy last night, we banged him
14 last night.

15 Q And when the defendant told you we banged the guy last
16 night, what was your understanding of what he was saying?

17 A That they killed the guy.

18 Q What was your understanding of who was involved in the
19 murder?

20 A My understanding was Ferrara was definitely involved in
21 the murder, he was standing right there. I knew he stood with
22 Sparaco every day and I knew he stood with Bobby Tarantola
23 every day. They were out there at that time trying to kill
24 guys during the Colombo war.

25 Q What, if anything, did the defendant tell you about who

1 they killed?

2 A They killed this guy that owned the nightclub, I believe
3 the name of the club was Hedges at the time or one time or
4 another it was named Hedges.

5 Q What was Hedges?

6 A It was like a nightclub/restaurant/bar on Hylan Boulevard
7 on Staten Island.

8 Q What, if anything, did the defendant tell you about why
9 they killed this individual?

10 A He was fooling around with Allie Boy's wife.

11 Q What was Allie Boy's wife's name?

12 A Tori.

13 Q Are there rules in organized crime about fooling around
14 with someone's wife?

15 A I think there's a rule basically in life, at all, like,
16 you know. But organized crime, of course, we get killed.

17 Q You get killed for what?

18 A For fooling around with somebody's wife.

19 Q When, if ever, did you have a discussion with the
20 defendant about radios?

21 MR. McMAHON: Judge, I object to leading. It's --
22 she's putting words in the mouth of the witness. I object.

23 THE COURT: Well, I mean, I will allow her to move
24 from one area to the other.

25 Q When, if ever, did you have a discussion with the

1 defendant about radios?

2 A Walkie-talkies, you mean, and police scanners?

3 Q Did you have a discussion with him about walkie-talkies
4 and scanners?

5 A Yes, I did.

6 Q When did you have that discussion?

7 A Right around the same time.

8 Q And what, if anything, did you and the defendant discuss
9 about walkie-talkies and scanners?

10 A They had some stolen money orders and there was a company
11 in Maine that would advertise in the back of this book that
12 was published with all the police frequency numbers in the
13 book. This company I believe it was in Maine. It was on the
14 back of the book that they sold walkie-talkies and they sold
15 police scanners and stuff like that.

16 BF and Ferrara were going to order from that company
17 and pay the UPS guy with stolen money orders when the scanners
18 and walkie-talkies showed up.

19 Q What make or model of these walkie-talkies did you
20 discuss with the defendant, if any?

21 A I believe they were Motorolas.

22 THE COURT: Now, members of the jury, again, this is
23 an uncharged crime and I caution you that this is admitted not
24 for proof of the charged racketeering acts and you may not
25 consider this testimony as proof. You may only consider it as

1 proof that the charged enterprise existed and the defendant's
2 membership in it.

3 MS. ARGENTIERI: May I, Judge?

4 THE COURT: Yes.

5 Q When, if ever, did you learn that Teddy Persico, Sr. was
6 arrested?

7 A Right after he was arrested, maybe a day after, maybe
8 that same day.

9 Q And in what time period was Teddy Persico, Sr. arrested?

10 A I would say around 1992.

11 Q And who, if anyone, was Teddy Persico, Sr. arrested with?

12 A With Frankie Sparaco and Carmine Sessa.

13 Q I'm going to show you a picture in evidence. Showing you
14 Government Exhibit 151. Do you know who that is?

15 A Yeah, that's the kid John Pappa.

16 Q When, if ever, did you meet him?

17 A I met him by Matera's house, John Matera's house.

18 Q And when you met him, who else was present?

19 A I think BF was there, Ferrara. There was a bunch of guys
20 there when he was there.

21 Q In what time period did you see John Pappa?

22 A I think he -- I think during the war, after the war,
23 mostly after the war, like he started hanging around them.

24 Q And when you saw John Pappa on those occasions, who was
25 he with, if anyone?

1 A He was always in the company of BF and Ferrara and John
2 Matera.

3 Q Directing your attention to the early 1990s, what, if
4 any, criminal activity were you involved in with the
5 defendant?

6 A In the 1990s?

7 Q Yes.

8 A We attempted to burglarize a bank with him. And we
9 attempted to set up a phony night depository box at another
10 bank with him.

11 THE COURT: Members of the jury, I'm, again,
12 cautioning you that this is a limiting instruction. The
13 testimony regards uncharged crime which you may not consider
14 as proof of the charged racketeering acts.

15 Q And you had previously testified you were also involved
16 in stolen cars with the defendant?

17 A That's correct.

18 Q And when was that?

19 A Probably around that time also I dealt with him in stolen
20 cars.

21 Q And when you dealt with the defendant with stolen cars,
22 who else was involved?

23 A It was always Ferrara and BF. Ferrara and BF were always
24 like involved in everything. And Tommy Dono was probably
25 involved, most of the times also.

1 Q What did you do with stolen cars and the defendant?

2 A I don't remember exactly. I believe we tagged a car or
3 two and that was it.

4 Q With regard to the attempted bank burglaries, how did you
5 first get involved with those crimes with the defendant?

6 A They approached me, Ferrara and BF approached me.
7 Ferrara had a combination to a safe of a night depository box
8 on a bank on 86th Street and 21st Avenue.

9 THE COURT: Who had that?

10 THE WITNESS: Ferrara.

11 THE COURT: Thank you.

12 Q And what was your understanding of why they approached
13 you?

14 A Because they knew I was involved in burglaries and stuff
15 like that.

16 Q Were you successful in burglarizing banks?

17 A Numerous.

18 Q And when they approached you, what did they tell you
19 about the information that Ferrara had?

20 A That he had the combination to the safe.

21 Q Where was the bank located?

22 A 21st Avenue and 86th Street.

23 Q And what did you do, if anything, with regard to that
24 bank burglary?

25 A We went there to help them burglarize it.

1 Q Who went there?

2 A It was me, Necky, Tommy Dono, BF, Ferrara, and Chris
3 Paciello also known as Chris Ludwigsen.

4 Q What is Necky's real name?

5 A Anthony Lattanzi.

6 Q What was the plan with regard to the bank you were going
7 to burglarize?

8 A The plan would be that BF and Tommy would be lookouts. I
9 had this special police radio that I could call calls over. I
10 could speak over their frequency and I would call a call-over,
11 a phony, you know, police needs assistance on the other side
12 of the precinct, like 3 miles away from there, around 3 miles
13 away from there.

14 At the same time, Chris -- Chris would cut the phone
15 lines and Ferrara and BF -- Ferrara and Necky would pop open
16 the basement door. They would go into the basement and
17 Ferrara was supposed to open up the combination on the safe,
18 he had the combination to it, and they would empty out all the
19 bags at a night depository box.

20 Q How much money did you expect to take from this bank?

21 A I believe there was a figure thrown like \$250,000.

22 Q What happened on the night you attempted to burglarize
23 the bank?

24 A Necky popped the door open and let it shut again.

25 THE COURT: And what?

1 THE WITNESS: And let it shut again.

2 THE COURT: Okay.

3 Q And then what happened?

4 A So they were trying to pop the door open. It was just,
5 it was just they wasted too much time. By this time, like I
6 had phoned the police -- the phony police call. So even
7 though Chris had cut the phone lines, the police dispatcher
8 wouldn't dispatch that call over because there was an
9 emergency of a police that needed assistance. Until they
10 figured out that it was a phony call, the call would not come
11 over from the alarm company that there was a bank alarm going
12 off. But by the time Necky tried too many times to pop the
13 door open, he couldn't get the door open again. So we called
14 it off, we backed off the bank.

15 Q What, if any, discussion did you have later with Ferrara
16 about that bank burglary?

17 A I never had a conversation with Ferrara about that bank
18 robbery again.

19 Q Did you ever learn whether they were able to burglarize
20 that bank?

21 A Yes, John Matera told me.

22 Q What did John Matera tell you?

23 A That they got it.

24 Q At around the same time what, if any, other plans did you
25 have with the defendant to burglarize other banks?

1 A I don't remember burglarizing any other banks. The only
2 other thing I remember was we were going to set up a phony
3 night depository box in a bank.

4 Q And can you explain to the jury what the plan was with
5 the phony depository box.

6 A Me and Necky went to a construction site in Manhattan on
7 Canal Street and I paid the security guard \$500 to let me and
8 Necky steal the night depository box of the bank they were
9 building.

10 We stole the box, the actual real box off the wall.
11 We unscrewed it, took it with us, and we left with it. BF and
12 Ferrara got this other guy to build an enclosure for it that
13 we put the box in.

14 So the plan was that we would take that box and put
15 it inside of a bank on 65th Street and 18th Avenue, and put a
16 sign on the box, the original box, not to use the one outside
17 no more and use the one inside the vestibule which would be
18 our phony box, and all businesses would drop the money into
19 our box.

20 Q Did what bank did you plan to try that with?

21 A It was Citibank on 65th Street and 18th Avenue, between
22 65th and 64th.

23 Q And who else was involved in that plan?

24 A Me, Tommy Dono, BF, Anthony Ferrara, and Necky.

25 Q And what happened with regard to the bank on 65th and

1 16th Avenue?

2 A We were never able to get the box out of the van because
3 it was pouring and raining that day, but there was just too
4 many people kept on walking back and forth.

5 We never got the opportunity. It was heavy, the
6 box, to actually bring it over and put it in the bank. And it
7 just winded up getting too late and we just went about our
8 business. We left it.

9 Q What, if any, plans did you have with the defendant with
10 regard to a different bank?

11 A We talked about doing that to a bank in Danbury,
12 Connecticut.

13 Q And who did you discuss that with?

14 A With Ferrara, BF, Necky, and Tommy Dono.

15 Q And what were you planning to do with regard to the bank
16 in Connecticut?

17 A The same thing as the Citibank, put the night depository
18 box inside the vestibule in the ATM room and put a plastic
19 thing to direct the people to deposit inside, inside in our
20 night depository box.

21 Q When, if ever, did you go to see that bank?

22 A Oh, I don't -- maybe it have been around the same time
23 after we pulled off the Citibank one that we realized that
24 there was just too many people walking back and forth, that we
25 couldn't do it right after that.

1 Q Who did you go to see the bank in Connecticut with?

2 A With Ferrara, BF, Necky, and Tommy.

3 Q Did you ever carry out the plan regarding that bank?

4 A No.

5 Q What happened?

6 A Necky got killed.

7 Q Can you just remind the jury of what Necky's real name
8 is?

9 A Anthony Lattanzi.

10 Q When, if ever, did you want to kill the defendant?

11 A Not too long after that.

12 Q Why?

13 A Because he went back and told Necky -- Necky was an
14 associate of the Gambino family. He was associated to
15 Nicky Corozzo's crew, the Canarsie crew. And Nicky -- one of
16 Nicky Corozzo's guys, Mike Yannotti, sent for me. When I went
17 to go meet Mike Yannotti, Mike Yannotti told me, he says, them
18 guys, BF and Ferrara, you think they're your friends, they
19 ain't your friends. They just came back here and told us that
20 you killed Necky.

21 Q After you heard that, what did you do?

22 A I got angry.

23 Q And what did you want to do?

24 A I wanted to kill BF.

25 Q Why?

1 A Because he went back and told these guys that I killed
2 Necky.

3 Q What was your understanding of why that would be bad for
4 you?

5 A These guys, if they really believed BF, they would have
6 killed me.

7 Q After you learned that information from -- was it from
8 Mike Yannotti?

9 A That's correct.

10 Q What happened next with regard to your desire to kill the
11 defendant?

12 A With that situation right there, I went to visit Frank
13 Smith one day.

14 Q And at the time that you went to visit Frank Smith, where
15 was he incarcerated?

16 A I believe it was the Shawangunk State Correctional
17 Facility.

18 Q Why were you going to see Frank Smith?

19 A I was going to see Frank Smith because it was -- stuff
20 was going to pop if I killed BF, you know. Teddy was going to
21 get mad and stuff was going around.

22 Q What discussions did you have with Frank Smith?

23 A When I get there, Frank Smith tells me he got a letter
24 from this girl, Suzzie Girl, Anthony's wife, Necky's wife,
25 telling her -- telling him in the letter that I killed her

1 husband.

2 Q And after he told you that, what, if anything, did you
3 say?

4 A That I was going to kill BF.

5 Q Do you know Suzzie Girl's real name?

6 A No.

7 Q And after you told Frank Smith that you wanted to kill
8 BF, what, if anything, did he say?

9 A He said please don't do nothing to BF, BF told my
10 parents, my mother that he's going to come forward for me, he
11 was going to say it was him that made the sale and not me. He
12 says please don't do nothing to him, I'm begging you.

13 Q Did you agree?

14 A Of course.

15 Q At that time what sentence was Frank serving?

16 A A fifteen years to life sentence.

17 Q What did you do next?

18 A I stopped it. I mean, basically that was it. It was
19 done.

20 Q What, if anything, did Frank Smith ask you to do for him?

21 A He asked me to kill Joe Waverly for him.

22 Q At that time?

23 A It was the same day.

24 Q The same Joe Waverly that you testified about earlier?

25 A That's correct.

1 Q And at the time that Frank Smith asked to you kill Joe
2 Waverly, who was Joe Waverly in the Colombo crime family?

3 A At that time, he might have been an active captain. He
4 was definitely a made member. He might have been an acting
5 captain at that time.

6 Q What did Frank Smith tell you about why he wanted you to
7 kill Joe Waverly?

8 A Because guys were being arrested for the war crime, what
9 was being called a war crime, for killing each other in the
10 street or shooting each other. There were guys cooperating
11 every day, new guys cooperating, and they were just telling on
12 each other. You know, 13 guys got arrested, 15 guys. So he
13 thought Joe Waverly would be arrested. And if Joe Waverly
14 would be arrested, he thought that Joe Waverly would tell on
15 him for killing the judge.

16 Q Did you agree to kill Joe Waverly?

17 A Yes, I did.

18 Q And thereafter did you try to kill Joe Waverly?

19 A Yes, I did.

20 Q What did you do?

21 A I -- Joe Waverly frequented this boatyard in the
22 Bensonhurst section of Brooklyn, off the Shore Parkway by
23 Caesar's Bay, by the old Caesar's Bay. And he had a boat
24 docked in there, right up in front. It was simple, I could
25 actually pull in the boatyard and shoot him while he was on

1 his boat without a problem. I thought.

2 When I went to the boatyard, it was either the
3 telephone company or Con Edison had taken over the front part
4 of the boatyard and they put a security guard in the front so
5 I couldn't just drive in and shoot Joe Waverly no more.

6 Q Did you ever kill Joe Waverly?

7 A No.

8 THE COURT: All right, let's stop right here. We'll
9 take our lunch now.

10 Members of the jury, please remember my admonitions.
11 Do not discuss the case. Keep an open mind.

12 (Jury exits courtroom at 12:59 p.m.)

13 THE COURT: All right, we'll have our lunch hour
14 until 2:00.

15 (Luncheon recess.)

16 (Continued on the next page.)

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1 A F T E R N O O N S E S S I O N

2 2:14 p.m.

3 THE COURT: Now, before we bring the witness in, we
4 had some discussion about recordings and then the witness came
5 in and we stopped.

6 Does the government intend to offer any recordings
7 during the testimony of this witness, Mr. Mangiavillano?

8 MS. ARGENTIERI: No.

9 THE COURT: Okay. So we can discuss the recordings
10 after.

11 MR. McMAHON: There is an issue, however, Judge.

12 THE COURT: Yes.

13 MR. McMAHON: The --

14 THE COURT: Oh, your client. All right, Mr. Guerra
15 is here.

16 (Defendant enters courtroom.)

17 MR. McMAHON: Your Honor, the government elicited on
18 direct examination that -- that this witness had a motive to
19 kill my client and took some steps along the road to kill my
20 client.

21 THE COURT: Yes.

22 MR. McMAHON: I cannot think of a stronger basis for
23 fabricating testimony than that you hate a person so much that
24 you want to kill them.

25 THE COURT: Yes.

1 MR. McMAHON: I believe that the desire of
2 Mr. Planning manage to kill my client because my client
3 supposedly ratted him out to his Gambino associates is Brady
4 material. The United States Attorney's Office at no time ever
5 advised me of that -- of that old set of facts which they had
6 elicited on direct, and it is not contained any of the 3500
7 material. I believe that is a deliberate act of doing that
8 and -- and I would like some explanation from the government
9 as to why this wasn't disclosed as Brady material in the
10 Brady/Giglio letters.

11 MS. ARGENTIERI: Shall I respond, Judge?

12 THE COURT: Yes.

13 MS. ARGENTIERI: I don't -- I don't, first of all,
14 agree that it's Brady material, Judge. I don't think it goes
15 to whether or not Mr. Guerra is guilty of a crime.

16 It is Giglio material and it was disclosed in
17 3500BSM17. There are notes talking about the fact that this
18 witness discussed killing the defendant.

19 I also elicited it on direct. Mr. McMahon has not
20 started his cross-examination yet. He's going to have ample
21 opportunity to explore that, and a motive for this witness
22 lie. And I don't see that any prejudice has been adduced.

23 MR. McMAHON: It's in 3500 where?

24 MS. ARGENTIERI: 3500BSM17, page 2. Yes, those are
25 notes.

1 MR. McMAHON: Judge, they take the notes of these
2 particular -- the purpose of this -- they do interviews in
3 handwriting --

4 THE COURT: Is it there?

5 MR. McMAHON: I don't know, Judge. I did not see --

6 THE COURT: Well, look. I mean, you do have the
7 chance to cross-examine this witness.

8 MR. McMAHON: I intend to.

9 THE COURT: I understand that.

10 MR. McMAHON: Okay.

11 THE COURT: Yeah. I mean, if you want to look to
12 see if it's there.

13 MR. McMAHON: Judge, I don't have the notes with me.
14 I have the 302s with me.

15 MS. ARGENTIERI: I'm happy to show him the rule.

16 MR. McMAHON: Yes, I'll be happy to look through it.
17 And whether it's buried in the notes, Judge, I still
18 think they have an obligation to put it in a Giglio letter.
19 They tell me if somebody gets \$2,000 in commissary money or
20 something like that. But they don't have typed up in a report
21 or they don't put in a Giglio letter that their cooperating
22 witness had a desire and a motive to kill my client.

23 I just think case law is clear that you can't just
24 bury it in, you know, hundreds of pages of material especially
25 handwritten. But now I will look at the document.

1 MS. ARGENTIERI: Judge, I just want to say that I'm
2 not aware of any case that says that it needs to be in a
3 Giglio letter. It has to be provided. It was provided and
4 now it's now been elicited on direct. So, again, I'm just not
5 sure what the prejudice is to this defendant when his counsel
6 has not even begun cross-examination.

7 THE COURT: Yes.

8 MR. McMAHON: Judge, there is a reference, a barely
9 legible reference to the second part of that, not as to any
10 reason why he would want to kill Guerra.

11 THE COURT: Well, you'll get an opportunity. I
12 think what you want to know is that he wanted to kill Guerra.

13 MR. McMAHON: Yes, but not as to why he wanted to
14 kill him.

15 THE COURT: Okay. Are we ready to bring the witness
16 in?

17 MS. ARGENTIERI: Yes, Judge.

18 THE COURT: All right.

19 (Witness resumes the stand.)

20 MR. McMAHON: Judge, before the jury comes in, I'm
21 sorry, I'd like to know why an agent of the FBI is sitting
22 between the jury and the witness.

23 THE COURT: You don't have to know.

24 MR. McMAHON: Well, I object to it.

25 THE COURT: Overruled.

1 MR. McMAHON: The witness is not in the witness
2 protection program, Judge. And no other witness would be
3 allowed to have an FBI agent sitting there creating the
4 impression that this guy needs protection. I object to it.

5 THE COURT: No. I don't think he's there for that
6 reason.

7 MR. McMAHON: Then why is he there?

8 THE COURT: And I don't think the jury is going to
9 believe that.

10 MR. McMAHON: Why is he there, Judge.

11 THE COURT: Sit down Mr. McMahan, please. Thank
12 you.

13 (Jury enters courtroom at 2:23 p.m.)

14 THE COURT: Please be seated.

15 The record will reflect that the jurors are all
16 present. The defendant is present as well as counsel, all
17 counsel. Mr. Mangiavillano is still on the stand, still under
18 oath.

19 MS. ARGENTIERI: May I inquire, Judge?

20 THE COURT: Yes.

21 BY MS. ARGENTIERI:

22 Q Sir, prior to the break, you testified that you visited
23 Frank Smith in prison?

24 A That's correct.

25 Q After you visited Frank Smith in prison, did you go to

1 see Teddy Persico, Jr.?

2 A Yes, I did.

3 Q What was the purpose of your trip to see Teddy Persico,
4 Jr.?

5 A Just basically a social visit.

6 Q What, if any, discussion did you have with Teddy Persico,
7 Jr. at that time about the Defendant BF?

8 A I told him that Frankie told me that BF was going to come
9 forward and implicate himself in the drug sale.

10 Q And what, if anything, did Teddy Persico say to you at
11 that time?

12 A Tell Frank Smith to shut his fucking mouth and stop
13 crying.

14 Q What else did Teddy Persico say about why he didn't want
15 the defendant to come forward?

16 A Because he was giving him \$500 a week and Frank Smith
17 wasn't going to give him anything.

18 THE COURT: Please, there's a pronoun here and I
19 don't know to whom it refers.

20 Q Can you just -- I'm sorry, Judge, can I just have his
21 answer read back. I didn't quite hear it to ask to follow up?

22 THE COURT: Yes.

23 Can you read that answer, please.

24 (Requested portion read.)

25 Q Who was giving who \$500 a week?

1 A BF was giving Teddy \$500 a week and Frank Smith wasn't
2 going to give him nothing.

3 Q How many banks have you burglarized in your life?

4 A In excess of 30.

5 Q Have you done so using some sophisticated means?

6 A Yes, I have.

7 Q Can you tell the jury about some of the means you've used
8 to burglarize banks?

9 A Use special tools, special gaffs and stuff like that,
10 fishing gaffs. One time we also attempted to use a remote
11 control drill to drill through the outside of a bank in Queens
12 into the night depository box.

13 THE COURT: What are gaffs?

14 THE WITNESS: A fishing gaff. It's like a pool with
15 a hook on it.

16 Q How much money have you made in your life burglarizing
17 banks?

18 A A lot of money.

19 Q Can you estimate for the jury?

20 A I can't.

21 Q What did you spend the money you made on?

22 A Living on it, gambling, guns, cars.

23 Q What other crimes have you participated in over your
24 lifetime, other than the ones you've testified about?

25 A Armed bank robbery, conspire to commit murder --

1 THE COURT: What was that?

2 THE WITNESS: Conspiracy to commit murder.

3 THE COURT: Thank you.

4 A Credit card fraud, insurance fraud, and probably a
5 battery of other crimes that I can't recall right now.

6 Q Have you ever been engaged in physical violence?

7 A Yes, I have.

8 Q And what kinds of physical violence did you engage in?

9 A Physical assaults.

10 Q Was anyone ever seriously hurt?

11 A Seriously hospitalized?

12 Q Injured. Yes.

13 A Injured, probably.

14 Q When were you arrested?

15 A I've been arrested numerous times.

16 Q In the '90s when were you arrested?

17 A In 1995, I was arrested in the state of Delaware for a
18 bank burglary.

19 Q And what happened with your case?

20 A I was sentenced to 18 months in federal custody.

21 Q Did you plead guilty or go to trial?

22 A I pled guilty.

23 Q Were you guilty?

24 A Yes, I was.

25 Q You said you were sentenced to 18 months?

1 A That's correct.

2 Q While you were serving your 18 months, what, if any,
3 prison rules did you break?

4 A I stole food, I assaulted another inmate. And that's
5 about it.

6 Q After you served your sentence, what happened to you?

7 A I was deported.

8 Q Where were you deported to?

9 A Buenos Aires, Argentina.

10 Q What is your understanding as to why you were deported to
11 Argentina?

12 A Because I committed that bank burglary. That bank
13 burglary was classified as an aggravated felony. So if you
14 commit an aggravated felony, no matter how long you've been in
15 this country and how many children you have or who you're
16 married to, you're automatically deported. There's no
17 fighting it, no -- there's no relief from it.

18 Q Did you stay in Argentina?

19 A For about six months.

20 Q What, if any, crimes did you commit while you were
21 overseas?

22 A In Argentina I bribed a government official for a
23 driver's license.

24 Q And why did you do that?

25 A I just didn't feel like taking the test.

1 Q Where did you go after you left Argentina?

2 A I went to Italy.

3 Q Why did you go to Italy?

4 A Because I basically didn't really speak Spanish that well
5 and the culture, the Spanish, the Latin culture was never
6 instilled in me. And I figured that I could live in Italy and
7 I could live more comfortable there.

8 Q And how long did you stay in Italy?

9 A I stayed there for about six months.

10 Q And after you stayed in Italy for six months, where did
11 you go?

12 A I went to Canada.

13 Q Did you go there legally?

14 A Yes, I entered legally.

15 Q And when did you first go to Canada?

16 A The first time I went was day before -- I believe it was
17 the day before Thanksgiving of '98.

18 Q And what did you do while you were in Canada?

19 A I visited all my family. My family took a train up there
20 and spent Thanksgiving day with me.

21 Q And after you saw them, where did you go?

22 A I went back to tally.

23 Q Did you ever return to Canada?

24 A Yes, Christmas Eve of '98.

25 Q And how did you enter Canada on Christmas Eve of 1998?

1 A I entered with my Italian passport and I was given a
2 six-month visa to stay in Canada.

3 Q How long did you stay in Canada?

4 A About nine months, ten months.

5 Q Did you overstay your visa?

6 A Yes, I did.

7 Q What, if any, crimes did you commit while you were in
8 Canada?

9 A I was involved in some stolen car stuff there, some phony
10 titles from the Canadians that I would ship back to people in
11 the United States. And I also conspired to burn down a
12 factory.

13 Q Can you explain to the jury what your plan was with
14 regard to burning down the factory?

15 A There was a soda factory, a manufactured soda syrup that
16 they sold the soda syrup to the bars and -- all the bars in
17 Canada. There was only one company in Canada that does this.
18 And through the whole nation of Canada, all the bars, the
19 nightclubs, they all have this, they all buy the soda syrup
20 from this company.

21 So me and my old friend Angelo Ciancio, we came back
22 with a scam, if we burned down a soda factory and we used a
23 company from Brooklyn to box the syrup and buy the syrup from
24 them, we could make a large profit. And we looked into it and
25 all that and it was worth it. So we were about to burn down

1 the factory.

2 Q Did you do it?

3 A No.

4 Q When you were committing the crime with the cars --

5 A Right.

6 Q -- were you doing that in association with any criminal
7 group?

8 A Yes.

9 Q What criminal group?

10 A The 'Ndrangheta, the Canadian -- the Canadian mob from
11 Calabria.

12 Q When, if ever, did you return to the United States?

13 A I would say around September of 1999.

14 Q How did you return to the United States?

15 A I launched a jet ski at a public boat launch on the
16 Canadian side of Niagara River, I rode that jet ski over to
17 the American side public boat launch, I docked it and I walked
18 up the dock and I got into my car and I drove back to
19 Brooklyn.

20 Q You road a jet ski over the Niagara River?

21 A Correct.

22 Q Was that a legal way to enter the country?

23 A No.

24 Q How is it that there was a car waiting for you on the
25 other side?

1 A A member of the 'Ndrangheta drove my car across into the
2 United States legally and parked it by the dock.

3 THE COURT: Do you know how to spell that?

4 THE WITNESS: I believe it's N apostrophe
5 D-R-A-N-G-A-T-A. And I'm guessing. I know the N and the
6 apostrophe.

7 THE COURT: All right.

8 THE WITNESS: So please don't hold me to that.

9 Q When you returned to the United States, where did you go?

10 A I went back to Brooklyn.

11 Q And when you returned to the United States, what did you
12 do to make a living?

13 A I worked a couple of days for my brother at his pizzeria
14 in Queens, and I still kept on messing around with them titles
15 from Canada.

16 Q Was that illegal?

17 A Yeah.

18 Q What specifically were you doing with the titles?

19 A We were getting these blank titles that we could fill in
20 the VIN number from a car that was in Canada into it and
21 basically register the cars in the state of Florida or even
22 the state of New York. But the guys I was dealing with, they
23 were in the state of Florida. They would make the VIN plate
24 up like I explained earlier and put it into the stolen car and
25 had the title and go right up to DMV and register it like they

1 owned it.

2 Q At the time that you returned to Brooklyn, did you resume
3 your association with organized crime?

4 A Yes, I did.

5 Q At that time who were you around?

6 A I was around Huck, Thomas Carbonaro.

7 Q What was Huck Carbonaro's position in organized crime?

8 A He was a made member from the Gambino family from Big
9 Louie Vallario's crew.

10 Q Shortly after you returned to Brooklyn, what, if
11 anything, were you asked to do by Huck Carbonaro?

12 A He asked me to help him find and kill Sammy Gravano.

13 Q Can you explain to the jury who Sam Gravano is?

14 A Sammy Gravano's true name is Salvatore Gravano. He
15 cooperated, I believe, around 1991 against John Gotti. He was
16 the second in command of the Gambino family. He was the
17 underboss of the Gambino crime family. And he cooperated.

18 Q What was his nickname?

19 A Sammy the Bull.

20 Q Is cooperating with the federal government against a
21 rule?

22 A Yes, it is.

23 Q What rule?

24 A The mob rule, criminal code. It's punishable by death.
25 That's the only way it's punishable.

1 Q By the way, do you have a tattoo somewhere on your body
2 that deals with that rule?

3 A Yes.

4 Q What tattoo do you have?

5 A I have death before dishonor tattooed across my back.

6 Q And when did you get that tattoo?

7 A I don't remember; I was a kid.

8 Q And what was your understanding of what that meant when
9 you got that tattoo?

10 A That I basically would die before I cooperated with the
11 US Government or any law enforcement agency.

12 Q Did you -- did you agree to murder Sammy the Bull?

13 A Yes, I did.

14 Q What, if anything, were you told about what benefit you
15 would receive for killing Gravano?

16 A I would become an inducted made member of the Gambino
17 family.

18 Q Who told you that?

19 A Huck.

20 Q Was that something that you --

21 THE COURT: I'm sorry. Excuse me, I don't
22 understand it when you say are you. What's the name, Huck?

23 THE WITNESS: Huck.

24 THE COURT: Huck.

25 THE WITNESS: H-U-C-K, I believe. Like Huckleberry

1 Finn.

2 THE COURT: Yes, thank you.

3 A And that's his nickname.

4 THE COURT: All right, thank you.

5 Q Who told you would get inducted if you killed Gravano?

6 A Huck.

7 Q Was that something you wanted?

8 A No.

9 Q Not at that time?

10 A No.

11 Q Why?

12 A I didn't want to become a made member. I didn't want a
13 lifetime prescription to -- I didn't want to be in the mob, I
14 wanted to make money, I wanted to be rich. I didn't care
15 about being in the mob. I didn't need nobody's protection. I
16 protect myself; I have my own guns.

17 Q So why did you agree?

18 A Because if I disagreed, then they would kill me basically
19 because I know about a conspiracy to kill the biggest
20 informant in the country.

21 Q What, if anything, did Huck say to you about what benefit
22 he would receive?

23 A He would be bumped up to captain in the family.

24 Q And what is your understanding of what benefit it is to
25 be a captain in an organized crime family?

1 A Like I said earlier, the soldiers -- the associates kick
2 up to the soldiers, the soldiers all kick unto the captain.
3 So now the captain would have a lot of guys around him kicking
4 up money, monetary values up to that captain. And then he
5 kicks up a share to the boss. So it's a higher ranking
6 position, it's a more prestigious position.

7 Q At the time that you agreed to kill Mr. Gravano, had he
8 already testified?

9 A Yes, he had.

10 Q What was your understanding of why you were being asked
11 to kill him? What had happened?

12 A Pete Gotti gave the order to kill him because he was out
13 on the news telling the newspaper and the news that if
14 somebody from Brooklyn came to get him, he would send back a
15 lot of body bags back to Brooklyn. So basically he cooperated
16 and then he was slapping everybody in the face saying yeah,
17 I'm here, come and get me.

18 Q After you agreed to carry out the murder, can you briefly
19 explain what steps you took to carry it out?

20 A We drove to Arizona the first time because this newspaper
21 article said that he was living in Arizona. Huck's wife was
22 still in contact with Gravano's wife and she knew that she was
23 living in Arizona, she knew she that owned a pizza restaurant
24 in Arizona that she brought for her son. And they had the
25 address to the wife's house. But nobody ever said Sammy was

1 living there. But this newspaper article said that Sammy was
2 living in Arizona out in the open. So me and Huck drove to
3 Arizona and inquired.

4 Q Stopping you there for a second. Why did you drive?

5 A We didn't want to take the planes and get seen in the
6 airport or have our names like tied into Arizona.

7 Q And prior to leaving New York, did you get any type of
8 fake identification?

9 A Yeah. We both got boater's licenses through some
10 connections that I had in the DMV in New Jersey.

11 Q After you arrived in Arizona, what steps did you take to
12 carry out your plan?

13 A The first thing we did, we went and traded in the New
14 Jersey state boater's licenses under the fictitious names.
15 Huck went and got a driver's license in the state of Arizona
16 in Phoenix. I went and got a permit in the state of Arizona
17 in Flagstaff, using an address in Flagstaff, Arizona, which is
18 like about, I don't know, 150 miles from Phoenix.

19 Q Why did you do that?

20 A Get the licenses?

21 Q Yeah.

22 A So now we could rent cars and we could also travel back
23 and forth under these names.

24 Q So after you got the licenses, what did you do?

25 A Then we started looking around and scouting the area.

1 Q How did you did about trying to locate Gravano?

2 A Well, the first thing was that we went to the library
3 because I had never read the article and I wanted to see if we
4 could read the article. We figured we could get the newspaper
5 in the library. But meanwhile, they already had installed
6 computers.

7 So I went on the newspaper's website inside the
8 library and Googled the name -- not Googled, but searched
9 within the new newspaper, the name Gravano. And the first
10 thing that came up on the search engine was an application for
11 a business license.

12 When you apply for a business license, in New York
13 you have to advertise it and I guess in the state of Arizona
14 you have to advertise it also. And this application said the
15 person's name, which was Debra Gravano, Sammy's wife, is on
16 this application. Karen Gravano, which was Sammy's daughter,
17 was on this application. Gerard Gravano, which is Sammy's
18 son, was also on the business license. The business name was
19 Marathon Pools.

20 Sammy the Bull when he was second in command in the
21 Gambino family, he made his money through a company named
22 Marathon Construction. So basically he went to Arizona and
23 opened up a pool company with the same name. And his wife had
24 never told no one about this pool company and that she
25 owned -- she told everybody about the pizza place but never

1 told no one about the pool company. And she didn't know
2 nothing about the construction business, but Sammy the Bull
3 was a construction professional.

4 And the equipment that was there, there was a lot of
5 money there, so we knew that we found him because we wind up
6 going to the address and looking and looking at the place.

7 Q Did you conduct surveillance?

8 A We did.

9 Q And after you found Gravano, what was your plan to kill
10 him, specifically?

11 A Well, it was kind of hard to park there. You couldn't
12 actually park there without being seen there. So there was
13 two different things we spoke about; one was to sniper him
14 from 300 yards away, that was the closest anybody could hide
15 somewheres, by his office, and the other way would be is
16 parking a stolen car with a directional bomb right next to his
17 car, either by his wife's restaurant, which was in a shopping
18 plaza, or buried by his office, the construction office that
19 he had.

20 Q And how -- how did you get guns to use in this -- to use
21 in this murder conspiracy?

22 A The guns, we got them as we were leaving Arizona that
23 first time, we were coming back to New York to get guns and to
24 set everything up and to get surveillance equipment so we
25 could surveil him. As we were leaving Arizona, I drove past

1 this flea market with all tents in it. And one of the tents
2 said guns and ammunition on it. So I told Huck to hit the
3 brakes and park the car.

4 Q What did you do then?

5 A I walked into the tent and I bought a .357 magnum, a .38
6 action and a 12-gauge shotgun.

7 Q What did you do with those guns?

8 A We took them and put them inside a storage facility.

9 Q Where were you going at that time?

10 A We were driving to California so we could fly out of
11 California.

12 Q To go back where?

13 A Back to New York.

14 Q You also mentioned using a directional bomb.

15 Who was going to build the directional bomb?

16 A I was.

17 Q What training did you have to build such a bomb?

18 A I didn't have no training at all. Just being a
19 mechanical and understanding how mechanics work.

20 Q And had you previously had discussions with someone who
21 told you how to do it?

22 A I had a conversation with a guy that told me he had these
23 things that he used to sell them. It was my cellmate in the
24 Hotel Louisiana.

25 Q Did you actually build that bomb?

1 A No. I got the materials to build it, though.

2 Q Approximately how many trips did you make to Arizona to
3 further this plan to kill Gravano?

4 A There was a second trip.

5 Q Who did you go on that second trip with?

6 A Me and Huck.

7 Q And what happened on that second trip?

8 A We flew back to California where we had the car parked in
9 a storage facility. We got in the car and we drove back to
10 Phoenix, Arizona where we would rent one of them short-stay
11 motels with like a kitchen and everything in it so we wouldn't
12 have to be going out to restaurants and stuff.

13 I walked into the hotel to check in and I told the
14 woman at the desk that I wanted a room. The woman at the desk
15 told me like in a conspiratorial manner, she said, I can't
16 tell you this but the FBI is having a convention here and we
17 don't have any rooms available, all we have is a smoking room.

18 I was like oh, Jesus Christ, I can't have a smoking
19 room. And Huck is listening to me. And I'm a smoker at the
20 time. I smoked like two packs of cigarettes a day back then.
21 But me and Huck looked at each other and we knew it was time
22 to go.

23 Q Did you stay someplace else?

24 A Yeah, we stayed in another hotel for a day.

25 Q Did you kill Gravano?

1 A No, we didn't.

2 Q Why not?

3 A He got arrested as we was making plans to go back there a
4 third time after we leave the -- left the FBI from their
5 convention, because we came back to New York after that.

6 Q After he got arrested, what, if any, discussions did you
7 have with Huck about trying to kill Gravano in prison?

8 A We spoke about maybe sending him a letter bomb addressed
9 from the US Marshals Service because we knew he was in witness
10 protection program and US Marshals Service handles the witness
11 protection program.

12 Q And did you do that?

13 A No. They said, no, there's probably x-ray machines that
14 will pick it up.

15 Q Who told you that there was going to be an x-ray machine
16 that would pick it up?

17 A Eddie Garofalo.

18 Q Who is Edward Garofalo?

19 A Made member of the Gambino crime family from Big Louie
20 Vallario's crew. He's also Salvatore Gravano's
21 brother-in-law.

22 Q When did you get arrested again?

23 A I got indicted about June of 2000.

24 Q And at that time what were you indicted for?

25 A Bank burglaries and conspiracy to commit bank burglary.

1 Q From what time period?

2 A From 1995 prior to me going to jail.

3 Q Were you immediately arrested?

4 A No.

5 Q Why not?

6 A The FBI didn't know where I was.

7 Q And how did you eventually end up in custody?

8 A I surrendered myself.

9 Q Approximately what month, if you recall, did you
10 surrender yourself?

11 A I would say around July, August, maybe.

12 Q And what happened to your case?

13 A I ultimately pled guilty to it.

14 Q What crimes did you plead guilty to?

15 A Conspiracy to commit bank burglary, and I pled guilty to
16 a superseding indictment of illegal reentry into the United
17 States of America after being deported.

18 Q And what is an illegal reentry?

19 A It's coming back to the country illegally, like the way I
20 entered with the jet ski.

21 Q Did you remain in custody on that charge?

22 A Yes, I did.

23 Q At some point were you rearrested or recharged in another
24 case?

25 A December 11th of 2001, I got charged with a racketeering

1 conspiracy that involved interstate transportation of stolen
2 money and bank robberies, attempted bank robberies.

3 Q And what -- what was the lead charge in the indictment?

4 A It was a bank robbery.

5 Q Okay. Was it a racketeering charge?

6 A Yes, it was.

7 Q And what was the racketeering enterprise that you were
8 charged with being associated with?

9 A New Springville Boys.

10 Q And what are the New Springville Boys?

11 A It was a group of guys from Staten Island that I guess
12 called themselves the New Springville Boys.

13 Q And what kinds of crimes did the New Springville Boys
14 commit?

15 A They're drug dealers and they were involved in some bank
16 burglaries.

17 Q Had you committed some bank robberies with members of
18 this -- of that enterprise?

19 A Yes, I had.

20 Q When did you decide to cooperate with the government?

21 A Around June of 2002.

22 Q Why did you decide to cooperate with the government?

23 A After I was indicted in December of 2001, a couple of
24 weeks later Huck sent me -- finally he sent me a money order
25 two years after I had been incarcerated for \$50 in a Christmas

1 card. So it was like basically slapping me in the head.
2 Because I got indicted, you send me \$50. A couple of weeks
3 after that, a lawyer shows up. And Huck had sent her there to
4 tell me to plead guilty.

5 Q What about that made you want to cooperate?

6 A The lawyer telling me to plead guilty?

7 Q Yes.

8 A That I started to get nervous if these guy were going to
9 cooperate against me because they were starting to get
10 arrested too.

11 Q Who were you worried specifically was going to cooperate?

12 A Well, a couple of days after the lawyer visit, I went
13 downstairs and Eddie Garofalo was in bullpen. He had just
14 come in. And he was scared to death. I figured that Eric
15 Garofalo would flip and cooperate about the Gravano
16 conspiracy.

17 Q What involvement had he had with the Gravano conspiracy?

18 A Well, he was involved. He knew about the letter bomb and
19 stuff like that. We discussed that. And he was involved with
20 it. So he was aware that I was involved in it, that me and
21 Huck were out there trying to do it.

22 Q Was there anyone else you were worried was going to
23 cooperate?

24 A Yes.

25 Q Who?

1 A Frank Smith.

2 Q And why were you concerned that Frank Smith was going to
3 cooperate?

4 A Frank Smith wrote me a letter and he told me he's telling
5 on everybody and he didn't care about nobody.

6 Q And why did that concern you?

7 A Because he would tell about the conspiracy to kill Joe
8 Waverly.

9 Q That you previously testified about?

10 A That's correct.

11 Q And at the time that were you thinking about cooperating,
12 what was Joe Waverly's position in the Colombo family?

13 A I believe he was an acting boss.

14 Q Did that concern you?

15 A Yes, it did.

16 Q Why?

17 A I wasn't worried about law enforcement, I was worried
18 about if this guy finds out that I tried to sneak him -- I
19 didn't have permission to kill Joe Waverly. Frank Smith was
20 no one to give me position to kill him. And basically that's
21 punishable by death. So I would be in prison and either I'd
22 have to stab a lot of Colombo guys or I'd get stabbed by a
23 Colombo guy because of Joe Waverly's position within the
24 family. Somebody would try to score points with him.

25 Q What did you decide to do?

1 A I decided to cooperate and tell them myself.

2 Q Do you begin meeting with the government?

3 A Yes, I did.

4 Q During those meetings, what, if anything, did you tell
5 the government?

6 A I told them about all the crimes that I committed.

7 Q When did you plead guilty?

8 A To which indictment?

9 Q Well, when was the next time that you pled guilty?

10 A I pled guilty, I don't remember exactly when I pled
11 guilty, maybe in August or September of 2002, to the
12 racketeering conspiracy indictment that I was charged with.

13 Q And at that time were you meeting with the government?

14 A I was.

15 Q Did you plead guilty pursuant to a cooperation agreement?

16 A No, I did not.

17 Q Why not?

18 A I was -- I had feared for the safety of my family. My
19 family was still living Staten Island, New York. And if I had
20 pled guilty pursuant to a cooperation agreement, it would be
21 known right away that I was cooperating with the government.
22 And I was afraid somebody might try to hurt my family and I
23 was still in population in the prison. So I decided to wait
24 off the plea to the cooperation agreement afterwards.

25 Q And did you later plead guilty again?

1 A Yes, I did.

2 Q Pursuant to a cooperation agreement?

3 A Yes, I did.

4 Q What crimes did you plead guilty to at that time?

5 A I pled guilty to the conspiracy to kill Joe Waverly and
6 also a conspiracy to kill Sammy Gravano.

7 Q Were those crimes you told the government about?

8 A Yes, they were.

9 Q What is your understanding of your obligations under the
10 cooperation agreement?

11 A Tell them about every crime that I have ever committed,
12 be truthful and honest, and also of any other crimes that
13 other persons committed.

14 Q What is your understanding of what the government agreed
15 to do for you?

16 A They agreed to file a letter, a 5K1 letter stating if I
17 kept to the agreement, that I kept to the agreement and that I
18 fully cooperated with the government.

19 Q What, if any, other promises has the government made to
20 you?

21 A That they would also sponsor me to be able to live in the
22 United States legally.

23 Q At the time that you pled guilty to the cooperation
24 agreement, how many different cases did you have pending?

25 A Two.

1 Q How much time were you facing?

2 A All together, about 75 years.

3 Q Have you testified on behalf of the government?

4 A Yes, I have.

5 Q Have you also provided information that's been used to
6 free innocent people?

7 A Yes, I have.

8 Q Can you tell the jury about that?

9 A One of my friends Vinnie Carini who I testified about
10 their funeral earlier, Vinnie Carini killed a guy. And when
11 he killed this guy, his cousin Carmine Carini was arrested for
12 it, he was tried for it, and he was convicted for it.

13 How I knew this is Vinnie Carini told me he killed
14 the guy. I want to testify for Carmine Carini that he was
15 there innocently, that the guy that he was convicted of
16 killing, he actually didn't kill him, Vinnie Carini killed
17 him.

18 Q Did you receive a 5K letter?

19 A Yes, I did.

20 Q Have you been sentenced?

21 A Yes, I have.

22 Q What was the most serious crime that you committed?

23 A All my crimes were serious.

24 Q What, if any, benefit do you hope to receive by
25 testifying here today?

1 A I've already received my benefits.

2 MS. ARGENTIERI: No further questions.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. McMAHON:

6 Q Mr. Mangiavillano, you've testified about numerous
7 conversations with Frank Guerra, Little Anthony Ferrera, Bobby
8 Tarantola. Is that correct, sir?

9 A No.

10 Q You didn't testify to that a few minutes ago and this
11 morning?

12 A Not with Bobby Tarantola, with Ferrera and BF.

13 Q Okay. And in those conversations my client admitted that
14 he murdered Devine. Is that correct, sir?

15 A I don't know the guy's name he murdered.

16 Q Okay. But somebody in garage at this place?

17 A That's correct.

18 Q And would you tell the jury why it is that when the
19 government showed you a picture of Anthony Ferrera, that you
20 weren't able to recognize it?

21 A Last time I seen Anthony Ferrera was 1995 or '94.

22 Q Right. You sure it's because that you don't know the
23 guy?

24 A No, I know the guy.

25 Q Does that look like BF Guerra in that picture there?

1 Does that look like the guy that's sitting over there?

2 THE COURT: What?

3 A No, that looks like him when I knew BF.

4 Q Yeah. And you were able to recognize this picture of
5 Frank Guerra; is that correct?

6 A That's correct.

7 Q And you're not able to recognize a picture of Anthony
8 Ferrera?

9 A No.

10 Q This is a guy you've had, what, hundreds of conversations
11 with him, hundreds?

12 A Known him since I'm 16 years old.

13 Q Sixteen years old. And you had all these conversations
14 and whenever you saw BF, you saw Anthony Ferrera; is that
15 correct, sir?

16 A That's correct.

17 Q It's not a bad picture. Now that I told you that it's
18 Anthony Ferrera, does that kind of refresh your recollection?

19 A It don't look like him.

20 Q Don't look like him.

21 But you recall the government showed that you
22 picture a little while ago?

23 A Yes.

24 Q And did they show you the name tag that they had to go
25 with it?

1 A No.

2 Q Okay. Now, you mentioned that you wanted to kill Frank
3 Guerra; is that correct, sir?

4 A That's correct.

5 Q And the reason why you wanted to kill Frank Guerra was
6 because he supposedly told your buddy, Mike Yannotti that --
7 well, what was it? Why don't you tell the jury again. Why
8 did you want to kill Frank Guerra?

9 A Because he told Mike Yannotti that I killed Anthony
10 Lattanzi.

11 Q And Anthony -- what's the guy's name, Anthony what?

12 A Lattanzi. Necky.

13 Q Necky is his name?

14 A That's correct.

15 Q And he told Mike Yannotti that you killed Necky?

16 A Correct.

17 Q And because Frank Guerra told Frank Yannotti that, you
18 wanted to kill BF?

19 A That's correct.

20 Q Well, let me start by asking you: Did you kill Necky?

21 A No.

22 Q You and Necky used to hang out, sir?

23 A Yes.

24 Q You and Necky did home invasions, sir?

25 A No.

1 Q No?

2 A No.

3 Q You and Necky didn't do a home invasion on Staten Island
4 of a pot dealer by the name of Freddie Braguzzi (phonetic)?

5 A No.

6 Q Do you know that pot dealer named Freddie Braguzzi on
7 Staten Island?

8 A Yes.

9 Q And did you go into this guy's house, tie up his wife and
10 sexually assault her?

11 A No.

12 Q Did that happen to his wife at his house?

13 A Not that I know of.

14 Q Not that you know of.

15 You didn't go in there with Necky and sexually
16 assault her?

17 A No.

18 Q And Mr. Freddie Braguzzi found out about it and killed
19 Necky, did he not?

20 A That's the reason Necky got killed.

21 Q Well, you didn't mention that on direct examination. You
22 left that out of the whole story.

23 A I'm telling you now.

24 Q You're telling me now after I ask you about it.

25 A You asked me and I'm answering. I have told the

1 government about it ten years ago.

2 Q Oh, but they didn't see fit to bring that out on direct
3 examination?

4 A I don't know, sir. I just --

5 MS. ARGENTIERI: Objection.

6 A -- answer the questions that I'm asked.

7 Q Don't you think the jury would have wanted to hear the
8 whole story?

9 MS. ARGENTIERI: Objection.

10 THE COURT: Sustained.

11 Q You just answer the questions that you're asked; is that
12 correct, sir?

13 A That's correct. You ask me the question, and I answered
14 it to you.

15 Q Okay. Now -- and you were answering the questions pretty
16 fast. Do you remember the court reporter having trouble
17 keeping up with you?

18 A I guess.

19 Q It's because everyone of those questions you've been
20 answering before; is that correct, sir?

21 A Yeah, for ten years.

22 Q But not all of the questions are like focused on Frank
23 Guerra for ten years, are they?

24 A No.

25 Q You testified at four previous trials, didn't you?

1 A I believe it's five.

2 Q So this is your sixth trial?

3 A That's correct.

4 Q So you pretty much have the drill down pat?

5 MS. ARGENTIERI: Objection.

6 THE COURT: Sustained.

7 Q Would you describe yourself as a professional witness?

8 MS. ARGENTIERI: Objection.

9 A No.

10 THE COURT: I'll allow the witness to answer that.

11 Q Pardon me?

12 A No, sir.

13 Q Did you get any training from the FBI agents about how
14 best to testify, how to maximize your effect?

15 A No.

16 Q For example, did they -- anybody, any agent or prosecutor
17 tell you that when you're answering the question, look at the
18 jury?

19 A No.

20 Q Nobody told you that?

21 A No.

22 Q By the way, you can move the microphone in front of your
23 face so that everybody can hear.

24 So nobody told that you?

25 A No.

1 Q And how about when you walked into the courtroom and
2 introduced yourself, I think somebody asked you to state your
3 name and you gave a little bit after speech.

4 A I gave my true name, the names that I've known by. I've
5 been through the drill, like you said, six times, so I know
6 what to say.

7 Q You get brought to court by an agent?

8 A Yes.

9 Q Is that the gentleman seated to your right?

10 A No.

11 Q Is it a different agent?

12 A Yes.

13 Q Is it one of the agents that's like sitting here in
14 courtroom listening to the things that go on?

15 MS. ARGENTIERI: Objection; relevance.

16 THE COURT: Yes.

17 MR. McMAHON: The relevance --

18 THE COURT: Sustained.

19 MR. McMAHON: Judge, can we go to side bar?

20 THE COURT: No. No.

21 Q Did anybody --

22 MR. McMAHON: All right.

23 Q Did anybody tell you that I made an opening statement
24 about the garage where Michael Devine was shot?

25 A No.

1 Q Did anybody tell you about the opening statement?

2 A No, sir.

3 Q Okay. And did anybody tell you that I said in the
4 opening statement that there's no garage attendant in that
5 garage?

6 A Okay.

7 Q Did anybody tell you anything about that?

8 A No.

9 Q Did you talk to any prosecutors or agents before you
10 testified today? When was the last time you talked to an
11 agent or prosecutor?

12 A A prosecutor?

13 Q Yeah.

14 A I don't know. A couple of days ago.

15 Q Did you talk to a prosecutor yesterday at all?

16 A No.

17 Q Did you talk to a prosecutor last night?

18 A No.

19 Q And this morning before you testified, did you?

20 A No.

21 Q You did a prep session when? When was your last prep
22 session?

23 A I haven't done no prep sessions.

24 Q You talked to the prosecutor a couple of days ago?

25 A Yes.

1 Q And how long was that meeting?

2 A A couple of hours, two hours.

3 Q And morning, afternoon, evening?

4 A It's -- afternoon. I don't remember exactly. It was
5 afternoon, I believe.

6 Q This is two days ago. You don't remember when it was?

7 A I didn't say it was two days ago, you're saying it was
8 two days ago.

9 Q Did you say a couple of days ago?

10 A Yeah.

11 Q Does a couple mean two to you or does it mean 200 --

12 MS. ARGENTIERI: Objection.

13 MR. McMAHON: I want to know how many --

14 THE COURT: Just a moment.

15 A It could be two, three, it could be --

16 THE COURT: Just a moment.

17 THE WITNESS: I'm sorry.

18 THE COURT: I'm talking, you have to stop.

19 He can ask that question. Overruled.

20 A It could be two, three, four, a couple of days ago. I
21 didn't say two days ago.

22 Q Was it over the weekend?

23 A Yes.

24 Q Today is Wednesday?

25 A Yes.

1 Q So it was Saturday or Sunday?

2 A Yes.

3 Q And it was a few hours?

4 A Two to three hours.

5 Q Two to three hours.

6 And how many people were present?

7 A Two.

8 Q Who were they?

9 A An agent and a prosecutor.

10 Q Which agent?

11 MS. ARGENTIERI: Objection.

12 THE COURT: Yes, sustained.

13 MR. McMAHON: Judge, I'd like to know if it's an
14 agent sitting in court.

15 THE COURT: Sustained.

16 Q Is it an agent sitting in court without giving us the
17 name?

18 A Yes.

19 MS. ARGENTIERI: Judge, can we just have a side bar
20 about this line of inquiry?

21 THE COURT: Yes.

22 (Sidebar begins.)

23 (Continued on the next page.)

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1 MS. ARGENTIERI: I would like an offer of proof as
2 to where this is going because I don't think that these
3 questions are really appropriate. You asked if he was given
4 any information --

5 THE COURT: What did I tell you about talking to
6 Mr. McMahon.

7 MS. ARGENTIERI: I'm sorry.

8 THE COURT: I am the person who makes the rulings.

9 MS. ARGENTIERI: I'm sorry, Judge. I don't
10 understand where this is going and he asked the question
11 whether he was providing information --

12 THE COURT: Yes, I don't either.

13 MR. McMAHON: Can I tell you where it's going?

14 THE COURT: Yes.

15 MS. ARGENTIERI: He said -- I'm sorry, he's just
16 suggesting that there's something inappropriate about meeting
17 and I don't understand his basis.

18 MR. McMAHON: I am -- let me do more than suggest.
19 I believe categorically that this witness has been told the
20 contents of my opening statement.

21 MS. ARGENTIERI: Based on what?

22 MR. McMAHON: Because I'll tell you, Judge, I have
23 3500 material in which this witness, the FBI writes a report
24 and they say Sal told them that Guerra, when he -- he had a
25 conversation with Sal and he told them that he went to the

1 garage and he thought his car was seen by the garage
2 attendant, not cameras.

3 THE COURT: Well, cross-examine --

4 MR. McMAHON: Judge, let me finish.

5 THE COURT: No. Cross-examine him on that.

6 MR. McMAHON: I was setting that up.

7 THE COURT: No, but you don't need to talk about
8 agents. You know --

9 MR. McMAHON: But who's going to give him
10 information if it's not the agent?

11 THE COURT: Look, I kept Mr. Mari out of this. I
12 want to keep the people who are part of this case out of it.
13 And, you know, I don't want you trying to suggest the
14 prosecutors are doing things here. You can cross -- No.

15 MR. McMAHON: Somebody gave him that information,
16 Judge. Somebody did give him that information.

17 THE COURT: You can ask him, you got it, you can ask
18 him didn't he say it.

19 MR. McMAHON: Okay.

20 (Sidebar concluded.)

21 (Continued on the next page.)

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1 (In open court.)

2 Q Now, you testified on direct examination about there --
3 about a conversation with Mr. Guerra, about cameras in the
4 basement of the garage where the guy was killed. Is that
5 correct, sir?

6 A Yes.

7 Q And he was concerned about him having been seen by
8 cameras; is that correct, sir?

9 A He was concerned about the car being seen by cameras.

10 Q That's correct?

11 A Right.

12 Q Now, do you remember discussing this subject ten years
13 ago with two agents of the FBI?

14 A Yes.

15 Q And do you remember telling the agents of the FBI ten
16 years ago that BF told you he drove his car into the
17 underground garage and the garage attendant saw him?

18 A No.

19 MR. McMAHON: May I approach the witness, Judge?

20 THE COURT: Yes, you may.

21 Q 3500BSM-8, page 1. Read that paragraph to yourself, sir.

22 A Okay.

23 Q Did you read that paragraph, sir?

24 A Yes, I did.

25 Q Does that refresh your recollection, Mr. Mangiavillano?

1 A No, it does not.

2 Q It does not refresh your recollection that on July 1st of
3 2002, that you told two FBI agents that BF was concerned that
4 the garage attendant saw him?

5 A I never said that.

6 Q You never said that?

7 A That's correct.

8 Q The agents misheard you?

9 A Possibility.

10 Q Nobody told you just recently that I made an opening
11 statement that there is no garage attendant?

12 A No.

13 Q You're not looking to help out the case a little bit?

14 A No.

15 Q Not trying to solve a little problem of the missing
16 attendant?

17 A No.

18 Q You wouldn't lie, would you, sir?

19 A All I have to do is tell the truth, sir.

20 Q Okay. Like you told the FBI ten years ago?

21 A Exactly.

22 Q So why did you tell them this?

23 A I didn't tell them that.

24 Q So the FBI is lying?

25 A I don't know. You got to ask them.

1 MS. ARGENTIERI: Objection.

2 MR. McMAHON: Your Honor, I would offer the contents
3 of this paragraph in evidence as a prior inconsistent
4 statement.

5 THE COURT: Any objection?

6 MS. ARGENTIERI: Yes. Judge, if we could approach.

7 THE COURT: Yes.

8 (Sidebar begins.)

9 (Continued on the next page.)

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1 THE COURT: Yes.

2 MS. ARGENTIERI: Judge, the witness has never seen
3 this before. He didn't type up the statement. It's what an
4 FBI said he said at a debriefing. I mean, if you look at the
5 notes underlying that 302, it's -- I don't know what the agent
6 would say because I haven't asked him but he doesn't say
7 anything about a garage attendant. And because this is not
8 actually the statement of the witness, it's a summary prepared
9 by someone else that he's never seen. He's never had a --

10 MR. McMAHON: He hasn't seen that either. Judge,
11 this is a 302 --

12 THE COURT: I'm going to send the jury out.

13 (Sidebar concluded.)

14 (Continued on the next page.)

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1 (In open court.)

2 THE COURT: Ladies and gentlemen, we're going to
3 take our afternoon recess, 15 minutes.

4 Please remember my admonitions. Do not discuss the
5 case. Keep an open mind.

6 (Jury exits courtroom at 12:01 p.m.)

7 (Continued on the next page.)

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1 MS. ARGENTIERI: Judge, we have the document. If
2 you would like, I could pass a copy up.

3 THE COURT: Yes.

4 MS. ARGENTIERI: (Handing.)

5 THE COURT: (Peruses document.)

6 MS. ARGENTIERI: (Hands to Mr. McMahon:)

7 THE COURT: Mr. McMahon, have you had an opportunity
8 to view the report?

9 MR. MCMAHON: Yes, Judge. And a number of things
10 come to mind immediately. First of all, I'm assuming since it
11 was handed to us at the time that it was, that the CHS, the
12 Confidential Human Source being referred to is Mr.
13 Mangiavillano.

14 THE COURT: Ms. Argentieri?

15 MS. ARGENTIERI: That is correct.

16 MR. MCMAHON: Secondly, the person who prepared the
17 report or who was present during the events that led up to the
18 report is the Case Agent, Chase Adams -- Chance Adams, who is
19 sitting at the government's table, which would sort of beg the
20 question as to why this document was not produced earlier.

21 Third, I note that the apartment complex is listed
22 as being located on Richmond Hill Road, which is a very major
23 street on Staten Island. This particular apartment building
24 is on Essex Avenue, which is obviously a different street.

25 So I don't know why he has it wrong, but I do know

1 this, Judge: On direct examination when he testified about
2 this building, he was asked where it was. And he said, "I
3 don't remember the street." And I think that that's, you
4 know, at the moment, I just made a note of it, but now, when I
5 see that they have it as the wrong street in this report, that
6 suggests to me, Judge, that he was -- that he said he didn't
7 remember the street because he was told he had it wrong in
8 this report.

9 THE COURT: Okay. I mean, okay. So --

10 MR. MCMAHON: Well, what did he --

11 THE COURT: That's what you believe.

12 MR. MCMAHON: Judge, this is last November.

13 THE COURT: Yes.

14 MR. MCMAHON: This last August. Last August, he had
15 no problem telling Agent Chance Adams that it was on Richmond
16 Hill Road. Now that he finds out it's on Essex Road or Essex
17 Street, he says in his direct, "I can't remember." And they
18 don't produce the report. So --

19 THE COURT: Ms. Argentieri?

20 MS. ARGENTIERI: Judge, I believe -- and the court
21 reporter can confirm this -- that he testified that it was
22 near Richmond Hill Road. I think that was his testimony
23 today, and it's consistent. This document is consistent with
24 his testimony here today.

25 THE COURT: The question is why didn't the

1 government turn over this lengthy report prior to today?

2 MS. ARGENTIERI: The U. S. Attorney's Office did not
3 turn over this one-page report because we simply did not know
4 it existed, and that is honest truth. I was told about it as
5 we broke by the case agent who happened to be here. She ran
6 back to the office to get it and provided it.

7 MR. MCMAHON: Can Agent Adams explain why this
8 report wasn't turned to the U. S. Attorney's Office.

9 MS. ARGENTIERI: I don't know, Judge.

10 THE COURT: I'm asking Ms. Argentieri.

11 MS. ARGENTIERI: That, Judge --

12 THE COURT: That's whose obligation it is to turn it
13 over to you -- the government. All right.

14 So it's late being turned over to you.

15 MR. MCMAHON: (Confers with Mr. Mari.)

16 I'm prepared to go forward now, Your Honor.

17 THE COURT: All right.

18 MR. MCMAHON: I do think, Your Honor, that
19 everything has to be taken in context. I do believe, Judge,
20 that the agents are telling the cooperating witnesses what our
21 defense is. I believe, Judge, that this bolsters my argument
22 that this witness was told about the garage attendant and
23 there being no garage attendant. My client is charged --

24 THE COURT: This report bolsters your argument?

25 MR. MCMAHON: Yes.

1 THE COURT: What does it say about that garage
2 attendant?

3 MR. MCMAHON: No, Judge. It's a different piece.
4 It's a slightly different piece. We know that the garage is
5 on Essex Road or Essex Avenue. So that's not consistent with
6 the information he gave the agent.

7 THE COURT: He testified that he believed it was
8 located on Richmond Hill Road in Staten Island, this witness
9 did.

10 MR. MCMAHON: I don't recall that, Judge.

11 THE COURT: Well --

12 MR. MCMAHON: If Your Honor recalls that he said
13 Richmond Hill Road --

14 THE COURT: Yes.

15 MR. MCMAHON: Okay.

16 MS. ARGENTIERI: Judge --

17 MR. MCMAHON: He did not, in this interview, unless
18 of course he's accusing the agents of misquoting him, he did
19 not indicate any hesitation. He said flatly, "It was located
20 on Richmond Hill Road." Now it's not. So what caused him
21 between this report and his testimony to become equivocal
22 about where it is, other than being told by the agents?

23 And what caused him to change his testimony about
24 security attendants, and that is because in the 302, Judge,
25 Ted Otto and Cindy Peals simply told him that Guerra said

1 there was a security attendance there.

2 THE COURT: Yes. The government has agreed you can
3 call that agent, because this witness says, "I didn't tell him
4 that."

5 MR. MCMAHON: All right. Your Honor, Cindy Peals,
6 the person who told Ms. Argentieri -- and I don't mean to
7 point at her -- about the existence of this report is the
8 coauthor of the report. She is also the coauthor of the Ted
9 Otto report, which we're dealing with.

10 THE COURT: Yes.

11 MR. MCMAHON: So we don't have to wait and worry
12 about Ted Otto, because Cindy Peals is obviously in the
13 hallway here somewhere. So I would like the government -- I'm
14 putting them on notice -- I intend to call her as a witness.
15 I don't want her going on vacation between now and next
16 Tuesday.

17 THE COURT: She can go on vacation if there is
18 another witness who can testify.

19 MR. MCMAHON: Ted Otto or her, one or the other.

20 MR. MARI: We want both.

21 MS. ARGENTIERI: The one thing I wanted to note,
22 Judge, is that to the extent that defense counsel is arguing
23 that this opens the door as to the government giving
24 information, the defense counsel was arguing that this witness
25 was informed about these security cameras based on his

1 opening. And I just want to note for the record that this
2 report is a summary of a debriefing that occurred on
3 August 16th, 2011, and it was written up on November 10th,
4 2011. So it flatly contradicts that theory.

5 MR. MCMAHON: It doesn't contradict the theory,
6 Judge, that in terms of his testimony, what they did was
7 they --

8 THE COURT: You're making this up out of whole
9 cloth. The witness has testified that that didn't happen.

10 MR. MCMAHON: And Judge, he is a killer, a bank
11 robber, a 40 year criminal. Why should we not believe him?

12 THE COURT: If you have some other evidence that it
13 did happened, you can present it.

14 MR. MCMAHON: Yes. All I have is the testimony of
15 trusted and revered FBI agents. I'll stack them up against
16 Blaise Salvatore Mangiavillano any day.

17 THE COURT: Well, the government has agreed that you
18 can call that witness.

19 MR. MCMAHON: Thank you, Judge.

20 THE COURT: All right. We'll bring the witness.

21 (Witness resumes the stand.)

22 THE COURT: All right. We'll bring the jury in.

23 (Jury enters.)

24 THE COURT: Please be seated.

25 Let the record reflect that all of the jurors are

1 present. The defendant is present, counsel,
2 Mr. Mangiavillano -- Mr. Mangiavillano -- sorry --

3 THE WITNESS: That's correct.

4 THE COURT: -- is present, and still under oath.

5 MR. MCMAHON: Thank you, Judge.

6 CROSS-EXAMINATION

7 BY MR. MCMAHON:

8 Q I believe that the last question and answer on direct
9 examination was whether you have already received or already
10 got the benefits of your cooperation agreement, and you
11 answered yes, is that correct, sir?

12 A That's correct.

13 Q Do you have a visa?

14 A Yes, I do.

15 Q So they have provided you with a visa to stay in this
16 country permanently?

17 A I really don't want to talk about that. That's got to do
18 with Wit Sec. I really don't want to identify anything that's
19 got to do with Wit Sec.

20 Q Well, you don't get to make that decision. Judge Townes
21 makes the decision.

22 THE COURT: Well, I've made the decision. I'm not
23 going to allow you to question him -- that would reveal things
24 about the witness.

25

1 BY MR. MCMAHON:

2 Q Is it a renewable annual visa?

3 A Again, sir, I'm not going to answer that question. It's
4 got to do with Wit Sec.

5 THE COURT: I'm not -- come on up.

6 (Sidebar begins.)

7 (Continued on the next page.)

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1 MR. MCMAHON: He testified in a trial in the
2 Southern District last year. I think it was Judge Scheindlin,
3 that the visa is annually renewed, and it's the government
4 that has to renew it each year. That's obviously relevant
5 on --

6 THE COURT: Would you stipulate to that?

7 MS. ARGENTIERI: I believe -- I think -- I'm not --
8 I'm not sure. I'm embarrassed to say that I'm not sure
9 exactly what his status is of the visa, but I would certainly
10 stipulate --

11 THE COURT: You find out and we'll find out.

12 MS. ARGENTIERI: I would certainly stipulate that it
13 is a benefit he received, that we sponsored him for the visa.
14 Without a sponsor for him, he wouldn't have gotten it.

15 MR. MCMAHON: The question is this, because I intend
16 to go into the fact they he has a continuing obligation to
17 testify. And if the visa is renewable every year, they're
18 keeping him on a one-year leash.

19 MS. ARGENTIERI: I don't know.

20 MR. MCMAHON: He said that in Judge Scheindlin
21 testimony.

22 MS. ARGENTIERI: I just don't know, Judge.

23 THE COURT: Well, can you find out?

24 MS. ARGENTIERI: Can I find out? Yes.

25 THE COURT: All right.

1 MS. ARGENTIERI: Would you show me the part of the
2 testimony? Just one second.

3 MR. MCMAHON: (Complies.)

4 THE COURT: Uh-hum (affirmative response).

5 (Pause in proceedings.)

6 MS. ARGENTIERI: I haven't been able to confirm it
7 with the FBI, but Mr. McMahon has shown me testimony where he
8 answered questions quite similar to that, about whether or not
9 he had a renewable visa, whether it needs to be renewed every
10 year. Maybe we could just say without saying what --

11 MR. MCMAHON: Is it a renewable annual visa?

12 THE COURT: You said he was no longer in witness
13 protection?

14 MR. MCMAHON: Yeah. That's what he said.

15 MS. ARGENTIERI: No.

16 THE COURT: No, he didn't.

17 MR. MCMAHON: I think he did.

18 THE COURT: He said he was. He said, because I'm in
19 witness protection, then he gave his little speech. He said,
20 I'm in witness protection. I have another identity.

21 MS. ARGENTIERI: He has another identity from being
22 in the program.

23 MR. MCMAHON: He's no longer in the program?

24 THE COURT: He's not in witness protection.

25 MS. ARGENTIERI: He's not in the program, but he is

1 still using his identity from the program. That's why he
2 doesn't want the go into it, because once you get your
3 identity, you can leave, but --

4 THE COURT: You can.

5 MS. ARGENTIERI: -- you can leave the program with
6 your new identity. When he said that, he meant he was using
7 his program identity and he wasn't willing to reveal --

8 MR. MCMAHON: I think, why, Judge, they make it
9 seem --

10 THE COURT: Do me a favor. Give me the list of
11 questions that you want to ask him.

12 MR. MCMAHON: I just want to ask him, is your visa
13 to stay in the country renewable annually or is it permanent.

14 THE COURT: And that's all you want to ask?

15 MR. MCMAHON: On this subject, yeah.

16 THE COURT: And then you'll move on?

17 MR. MCMAHON: Yes. Because that's what he said. I
18 was surprised when he told me that he got a visa. I want to
19 know, is it a permanent one.

20 THE COURT: Okay. So I'll direct him that he is to
21 answer this question, but --

22 MR. MCMAHON: One question.

23 THE COURT: -- you are assuring me that's what
24 you're asking going to ask?

25 MR. MCMAHON: On the subject matter of his

1 immigration, absolutely.

2 THE COURT: All right.

3 (End of sidebar conference.)

4 (Continued on the next page.)

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1 (In open court.)

2 THE COURT: Mr. Mangiavillano, listen to the
3 question. I will tell you whether you can answer it.

4 THE WITNESS: Okay.

5 THE COURT: All right.

6 BY MR. MCMAHON:

7 Q Is your visa to remain in the country permanent or
8 renewable annually?

9 THE COURT: You may answer.

10 A It's renewable.

11 THE COURT: All right?

12 A But not annually.

13 BY MR. MCMAHON:

14 Q More than annual, less than permanent?

15 A Exactly.

16 Q Okay. And that comes from the government?

17 A U. S. Marshal Service.

18 Q They're part of the United States government?

19 THE COURT: Well.

20 MR. MCMAHON: I'll move on. Okay.

21 BY MR. MCMAHON:

22 Q Now, in terms of benefits, so that's a continuing benefit
23 that you hope to retain, is that correct, sir?

24 A That's right.

25 Q You don't want to go back and be deported again to

1 Argentina, do you?

2 A No.

3 Q And you don't want to live in Argentina?

4 A No.

5 Q And that's where your citizenship is, Argentinean?

6 A I have dual citizenship.

7 Q Italy?

8 A That's correct.

9 Q Now, you also said in connection with your -- the fact
10 that you received -- already got the benefits, are you aware,
11 sir, that -- that you have a continuing obligation to testify
12 if they asked you to?

13 A I made a deal ten years ago. That's the deal I made to
14 testify.

15 Q Okay. And there's no time limit? It doesn't expire, is
16 that correct, sir?

17 A No, it doesn't.

18 Q All right. And they have -- you signed a plea -- a
19 cooperation agreement in 2002, is that correct, sir?

20 A That's correct.

21 MR. MCMAHON: May I approach the witness, Your
22 Honor?

23 THE COURT: Yes, you may.

24 MR. MCMAHON: Show him what's been marked as
25 Defendant's Exhibit K for identification.

1 (Shows document to Ms. Argentieri.)

2 MS. ARGENTIERI: (Nods head affirmatively.)

3 THE COURT: Defense Exhibit K?

4 MR. MCMAHON: (Handing.)

5 THE COURT: Do you have a J?

6 MR. MCMAHON: Yes, J was marked for identification,
7 is that 302 report from 2002. So I've marked it for ID.

8 THE COURT: And K?

9 MR. MCMAHON: This is -- K is a cooperation
10 agreement.

11 THE COURT: Thank you.

12 BY MR. MCMAHON:

13 Q Do you recognize that document, sir?

14 A That's correct.

15 Q And is that your signature on the last page?

16 A (Examines document.) Yes, it is, sir.

17 Q That is your cooperation agreement?

18 A Yes, it is.

19 MR. MCMAHON: Judge, I offer that in evidence. In?

20 THE COURT: Any objection?

21 MS. ARGENTIERI: No, Judge.

22 THE COURT: I'll received Defense Exhibit K.

23 (Defendant's Exhibit K received in evidence.)

24 MR. MCMAHON: (retrieves document.)

25

1 BY MR. MCMAHON:

2 Q Now, Mr. Mangiavillano, if I could just spend a couple of
3 minutes talking about this agreement. I assume you've ready
4 carefully and discussed it with your lawyer back in -- when
5 was this, 2002?

6 A To be honest with you, my lawyer really wasn't that good
7 of a lawyer.

8 Q Oh, but, you know, Sal, you're a bright guy. I'm sure
9 you ready it yourself.

10 A I really didn't. I had to back to population. I have to
11 be honest with you.

12 Q So you didn't really read it, the most the important
13 document you're ever going to sign in your entire life, and
14 your lawyer was no good and you really didn't read that
15 carefully?

16 A You put my trust in him, and obviously, I shouldn't have.

17 Q Why, you don't like the agreement?

18 A Definitely not.

19 Q What?

20 A Definitely not.

21 Q By the way, the "Death Before Dishonor" tattoo on your
22 back, do you know who else has that tattoo on their back?

23 A Yeah, couple guys, Beck has it.

24 THE COURT: What's that name?

25

1 BY MR. MCMAHON:

2 Q Johnny Papa?

3 THE COURT: What's the last name?

4 A Beck, B-E-C-K. His last name, I don't know if I'm
5 spelling it correctly, it's Fiseku, F as in Frank, I as in
6 India, S as in Sam, E as in Eddie, K as in King and U as in
7 union.

8 Q Your buddy, Johnny Papa also has that on his back?

9 A Johnny Papa wasn't my buddy, sir.

10 Q Do you whether he has it on his back?

11 A No, I do not.

12 Q Anyway, turning to the first page of the agreement, which
13 is in evidence as Defense Exhibit K, paragraph one talks about
14 you previously pled guilty on July 17th to racketeering, and
15 this cooperation agreement followed. There was a time lag
16 between the plea and cooperation, is that correct, sir?

17 A Correct.

18 Q That's because you wanted to relocate your family, is
19 that correct, sir?

20 A Well, yes.

21 Q That's yes or no.

22 A Yes.

23 Q Okay. And you pled guilty on the 17th and the agreement
24 is August 9th, a couple weeks later?

25 A That's correct.

1 Q All right. And you pled guilty to RICO, racketeering
2 conspiracy?

3 A Right.

4 Q Correct, sir?

5 A Correct.

6 Q And in paragraph two, you waived the defense of statute
7 of limitations, is that correct, sir?

8 A That's correct.

9 Q Now, do you understand when you have a deal with the
10 government, you tell them all the crimes you did and then you
11 get coverage for it, is that right, sir?

12 A I don't understand the question.

13 Q Which part don't you understand?

14 A The coverage part.

15 Q Okay. Now, coverage means that you can't be prosecuted
16 for the other crimes that tell them about. You get coverage
17 for those crimes. Now do you understand it?

18 A Yes.

19 Q You've never heard the word "coverage" before in the
20 context of plea agreements?

21 A Coverage in a plea agreement or coverage of relevant
22 conduct is something that the government knows about and is
23 going to tell the judge and the PSR is going to tell the
24 judge. It's relevant conduct. You're going to get sentenced
25 for it.

1 Q So you could tell the government about a hundred crimes
2 and they make you plead to let's say two or three, is that
3 correct, sir?

4 A That's correct.

5 Q And then they agree not to prosecute for the other 98, is
6 that correct, sir?

7 A You're going to be sentenced by the judge.

8 Q I understand that, but try to answer my question instead
9 of the ones that you want to talk about, okay?

10 A Okay.

11 Q So you agree to plead to two counts, let's say, but the
12 other 98 crimes that you did, you're not going to plead to, is
13 that right, sir?

14 A That's correct.

15 Q Okay. However, if you violate the agreement, they could
16 prosecute you for the other 98 crimes, is that correct?

17 A That's correct.

18 Q And even if it's ten or 20 years later -- and normally,
19 the statute of limitations is wiping it out -- you're agreeing
20 in the agreement, you're waiving the defense of statute of
21 limitations? Isn't that what this is about?

22 A I didn't even know that.

23 Q Okay. Your lawyer didn't tell you?

24 A No.

25 Q By the way, on page two of this agreement, there are some

1 initials. Do you know whose those initials are?

2 A (Peruses document.) I see mine there, ADA. I don't know
3 if that's from the U. S. Attorney's Office -- Greg Andres,
4 maybe.

5 Q Okay.

6 A I don't know whose would be on there. I know mine are on
7 there. I can't say who else's are on there.

8 Q At least we know you were on this second page, reading
9 this thing?

10 A That's correct.

11 Q And changes were made to it, is that right, sir?

12 A That's right.

13 Q Now, on page three of the agreement, it talks about some
14 of the things that you have to do. And you have to give them
15 documents, attend meetings, things like that, is that correct,
16 sir?

17 A That's correct.

18 Q And then on page four of the agreement, it talks about
19 some additional obligations that you have. And subparagraph D
20 is that you agree to testify wherever they ask you to testify,
21 is that correct?

22 A That's correct.

23 Q And there is no time limit on that?

24 A That's correct.

25 Q Now, subparagraph F says that you're supposed to pay back

1 taxes to the Internal Revenue Service for the ten-year period
2 from 1990 to 2000? That's because you cheated on your taxes,
3 sir. Do you see that part of the agreement?

4 A It says that I agree to cooperate fully with the IRS.

5 Q Yeah.

6 A That's what it says.

7 Q For the purpose of putting in correct returns and paying
8 the money that you actually owe?

9 A Yeah, the IRS agent put in my returns for me.

10 Q Oh, they filled out the returns for you?

11 A Yes, they did.

12 Q For all of that criminal income that you earned?

13 A Yes, he did.

14 Q Who was that?

15 A I have no idea. I don't know his name.

16 Q What, some IRS agent came and said, here, "I got a return
17 prepared for ten years. Sign it and we'll send it in"?

18 A He basically sent it into my lawyer. My lawyer sent it
19 to me. I signed it. I sent it back in. And that's how it
20 happened.

21 Q Did you read those returns that you signed?

22 A Yeah.

23 Q How much income was declared for those ten years that you
24 had not previously declared?

25 A I think he put down like a million and change, something

1 like that.

2 Q Of undeclared income?

3 A Yeah.

4 Q And I'm curious. What was the tax bill on a million and
5 change undeclared income, failure to file penalty and
6 interest? What was your tax bill?

7 A I believe the tax bill was a million and change, a
8 million dollars, something like that.

9 Q Okay. And how much of that million have you paid down,
10 sir?

11 A Zero.

12 Q And there is nobody out there locking you up for not
13 paying your tax bill?

14 A The IRS agent never sent back an agreement to make up a
15 monthly payment.

16 Q A payment plan?

17 A Yeah, a payment plan. He never sent it back.

18 Q Okay. So, you know, what's a million amongst friends?

19 A What's that?

20 Q What's a million amongst friends?

21 MS. ARGENTIERI: Objection.

22 THE COURT: Sustained.

23 A A lot of money.

24 BY MR. MCMAHON:

25 Q It is.

1 So you owe a tax obligation of more than a million
2 dollars, and you have not paid so much as a single penny since
3 1995, is that correct, sir?

4 A Yeah, that's correct.

5 Q And in fact, they have been giving you money?

6 A That's correct.

7 Q Why don't they just deduct that money and put it into the
8 tax coffers instead of giving it to you?

9 MS. ARGENTIERI: Objection.

10 THE COURT: Sustained.

11 BY MR. MCMAHON:

12 Q Ever put in money when you were in jail in your
13 commissary?

14 A That's correct.

15 Q Giving you money for relocation, a couple hundred
16 thousand?

17 A I don't know how many. Hundred thousand? I didn't get
18 no money to relocate.

19 Q Well, you were aware, sir, that the government has spent
20 166,000 -- (peruses document) in excess of \$166,000 in
21 connection with you?

22 A I don't know the figure.

23 MR. MCMAHON: May I approach the witness, Your
24 Honor?

25 THE COURT: Yes.

1 BY MR. MCMAHON:

2 Q (Handing.) Take a look at the highlighted portion, sir,
3 at paragraph A.

4 A (Peruses document.)

5 Q 166,000 and change?

6 A Yeah, for operational security and other expenses related
7 to me.

8 Q Okay. That's what I asked you.

9 A Right.

10 Q And the -- that million or more that you made from your
11 criminal activity, bank robberies, et cetera, none of that is
12 left over to pay your tax bill or anything?

13 A That's a long time ago.

14 Q But none of it's left over?

15 A None.

16 Q All gone?

17 A Zero.

18 Q Do you have a job, sir?

19 A Yes, I do.

20 Q And you're earning a salary?

21 A Yes.

22 Q But you're not paying any of that salary to Uncle Sam?

23 A No.

24 Q And nobody here is -- nobody at the government table has
25 asked you to do that?

1 MS. ARGENTIERI: Objection.

2 THE COURT: Yes. Sustained.

3 BY MR. MCMAHON:

4 Q Well --

5 THE COURT: You don't pay taxes?

6 THE WITNESS: Yeah, of course. Now, I do.

7 BY MR. MCMAHON:

8 Q But not on your past tax bill?

9 A No. That's what you're talking about, the past tax bill?

10 Q Yeah.

11 A Yeah. No, I don't pay that.

12 Q Do you consider that a continuing benefit, that you don't
13 to have pay your tax bill.

14 A No, not really. I don't look at it that way.

15 Q As far as you, it's just a paper debt?

16 A I'm sorry?

17 Q As far as you're concerned, it's just a piece of paper?

18 It's an agreement you signed. The jury looks at it, like they
19 made you pay your taxes, but not paying anything, right?

20 A No.

21 Q And also, going back to this cooperation agreement, the
22 government reserves the right to meet with you and debrief you
23 without your attorney being present, is that correct, sir?

24 A That's correct.

25 Q And when you have -- how many debriefing sessions did you

1 have with the government?

2 A Lots of them. I don't know how many.

3 Q Fifty?

4 A Probably more.

5 Q All right. And there is never a court reporter in there,
6 is there?

7 A The first one, my lawyer was taking notes, I believe, and
8 the agents were taking hand notes.

9 Q But I mean in terms of a neutral court reporters. You
10 see the person sitting to your left?

11 A No.

12 Q Court reporter like that?

13 A No.

14 Q No videotapes?

15 A No.

16 Q Now, is your lawyer present in court now, sir?

17 A Not that I see. I don't see him.

18 Q When was the last time you saw your lawyer?

19 A About three years ago.

20 Q So any legal matters are handled by the United States
21 Attorney's Office?

22 A No, by my lawyer.

23 Q The guy you saw three years ago?

24 A Yes.

25 Q Is it the same one that you had for this agreement?

1 A Yes.

2 Q So you haven't fired him or anything?

3 A No, not yet.

4 Q Now, the agreement also provides that to get the 5(k)
5 letter, you have to do a number of things like cooperate
6 fully, but you also have to provide substantial assistance, is
7 that correct, sir?

8 A That's correct.

9 Q Now, you understand, sir, that you could be truthful in a
10 hundred different meetings, but if what you say doesn't help
11 them, you're not going to get a letter? You understood that,
12 did you not?

13 A No, I don't understand the question at all.

14 Q Okay. Well, this part of the agreement, which is
15 paragraph seven -- this is an important part of the agreement
16 because you wanted to get the 5(k) letter, is that right, sir?

17 A (Peruses document.) Yes, that's correct.

18 Q Okay. All right. Now, there's two things that you have
19 to do to get the 5(k) letter, according to this document. One
20 is you have to testify truthfully and give them all the
21 information they want and stuff. And the other part is that
22 what you give them has to be substantial assistance. Do you
23 see that language there?

24 A Yes, I got a 5(k)(1) letter with substantial assistance
25 on it.

1 Q Okay. What I'm saying is, you got the 5(k) letter a
2 couple years after this?

3 A Um, yeah. I believe I had the 5(k) letter three years
4 ago.

5 Q Right. So a long time after that?

6 A That's correct.

7 Q You had to work a lot long time to get the letter, is
8 that correct, sir?

9 A I guess.

10 Q So they have that -- all I'm asking about is this
11 agreement. So it's not just truthful testimony. You have to
12 help them?

13 A Truthful testimony, truthfully help them. You can't make
14 up stories. They're asking me the same questions ten years
15 later.

16 Q Who decides if you're telling the truth?

17 A Who decides if I'm telling the truth?

18 Q Yeah.

19 A I guess the people that debrief me hundreds of times.
20 They know I'm telling the truth.

21 Q Yeah? You think so?

22 A (No response.)

23 Q Well, what I want to know is, do you think the jury
24 decides if you're telling the truth?

25 A In this case, yes, the jurors are the ones that are going

1 to decide whether I tell the truth in this case.

2 Q So you think the 5(k) letter depends on whether the jury
3 decides if you're telling the truth?

4 A No, not this jury.

5 Q No, not no jury.

6 You want to look and see what the agreement says
7 about who decides? On page six, the agreement says -- and I'm
8 sure you understood that -- "That a good faith determination
9 by the office" -- the prosecutors office -- "and a good faith
10 assessment as to the value and truthfulness of your
11 testimony."

12 They decide if you're truthful. They decide if it's
13 substantial assistance -- just them, and their decision as to
14 whether you're being truthful and their decision as to whether
15 it is substantial assistance is binding on you. That's what
16 it says, right?

17 A Right.

18 Q Okay. So they get to make those decisions. So if you
19 had truthful testimony that helped out Frank Guerra, you
20 wouldn't be getting a substantial assistance letter, would
21 you?

22 A I had truthful testimony that helped Carmine Carini and I
23 got it.

24 Q Yeah, but Carmine Carini wasn't the subject of a federal
25 prosecution, was he? It's a state case, right?

1 A Doesn't matter.

2 Q It does matter.

3 THE COURT: Wait. Two people are talking.

4 BY MR. MCMAHON:

5 Q Okay. How many federal defendants have you testified on
6 behalf of, sir?

7 A None.

8 Q And you have been testifying for how many years?

9 A I'd say roughly eight years.

10 Q Okay. And when you say that your testimony is truthful,
11 is that like you don't remember telling Agent Otto and Agent
12 Peals that Frank Guerra said the garage attendant saw his car?

13 A I never satisfied that.

14 Q Okay. Are you as sure that you never said that as you
15 are about my client's conversations about the Devine murder?

16 MS. ARGENTIERI: Objection.

17 THE COURT: No, I'll allow the witness to answer it.

18 A I'm a hundred percent sure that I never said that.

19 BY MR. MCMAHON:

20 Q Okay. Are you as sure that you never said that to Agent
21 Peals and Agent Otto as you are that my client said he had
22 something to do with the Devine murder? Are you that sure?

23 A Yes.

24 Q Okay. Agent Peals was in the courtroom before. Did you
25 see her?

1 A No, I did not.

2 MS. ARGENTIERI: Objection.

3 THE COURT: Mr. McMahon, would you stop?

4 MR. MCMAHON: I'm sorry.

5 BY MR. MCMAHON:

6 Q Now, are you receiving any money now from the government
7 in any stipend.

8 A No.

9 Q And you're not in the Witness Protection Program any
10 longer?

11 A That's none of your concern.

12 Q Well, Judge Townes will make that determination.

13 THE COURT: Well --

14 MR. MCMAHON: Whether he is or he's not, he can say,
15 Judge.

16 THE COURT: Well, come up to the front.

17 (Sidebar conference.)

18 (Continued on the next page.)

19

20

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25

1 THE COURT: Why are you doing this? You know he's
2 scared of these people.

3 MR. MCMAHON: I don't believe that, Judge, for one
4 second.

5 THE COURT: I do believe it.

6 MR. MCMAHON: I don't believe it for one second.

7 THE COURT: I believe it.

8 MR. MCMAHON: I just want to know if he's in the
9 program or not.

10 THE COURT: And why?

11 MR. MCMAHON: Because that's a benefit, if he's in
12 the program.

13 MS. ARGENTIERI: But you've already got out the fact
14 that he's sponsored for the program. He's established the
15 benefit. He doesn't want people to know where he is.

16 MR. MCMAHON: I didn't ask where he is.

17 MS. ARGENTIERI: Under the circumstances --

18 THE COURT: You wanted to know whether he is in
19 witness protection?

20 MR. MCMAHON: That's your decision, Judge.

21 THE COURT: I'm not going to ask him to answer that.

22 MR. MCMAHON: Exception noted.

23 THE COURT: All right.

24 (End of sidebar conference.)

25 (Continued on the next page.)

1 (In open court.)

2 BY MR. MCMAHON:

3 Q Mr. Mangiavillano, you were friends with the Famas?

4 A Yes.

5 Q Lee and Gary?

6 A Yes, and Danny.

7 Q And Danny Fama?

8 Were you friends with Anthony Russo?

9 A Not really.

10 Q Just know him a little bit?

11 A Yeah, I flew him a long time, just hello and goodbye.

12 Q But you were able to recognize his picture, sir?

13 A Oh, I've been seeing Anthony since I'm about 13 years
14 old.

15 Q Well, how long have you been seeing Mr. ferrara?

16 A Just about 16.

17 Q All right. So that's a long time. How old are you now?

18 A Forty-seven.

19 MR. MCMAHON: Is this in evidence, by the way.

20 (Indicating.)

21 MS. ARGENTIERI: (Examines photograph.) Yes, it is.

22 MR. MCMAHON: Can I put it up?

23 MS. ARGENTIERI: Sure.

24 MR. MCMAHON: Judge, I get to put something on the
25 board.

1 (Publishes exhibit.)

2 BY MR. MCMAHON:

3 Q Gary Fama, do you know whether or not the Famas are good
4 friends with Anthony Russo?

5 A I know Anthony from hanging around the Famas.

6 Q Okay. That's right.

7 Now, were you aware, sir, that Gary Fama and Anthony
8 Russo beat somebody to death in a full moon, outside a club?

9 A No.

10 Q You didn't know that?

11 A No.

12 Q You know the club L'Amour's in Brooklyn?

13 A Yes.

14 Q Okay. And you didn't hear about these two beating
15 somebody to death?

16 MS. ARGENTIERI: Objection.

17 THE COURT: Yes. Sustained. You have asked and
18 it's been answered.

19 BY MR. MCMAHON:

20 Q All right. Now, I think you said that you have been at
21 Mr. Guerra's house when he lived with his parents?

22 A That's correct.

23 Q And you met his mother? She was a seamstress like your
24 mother?

25 A I don't know what she did for living.

1 Q But you met her?

2 A Yes.

3 Q And you know his father was an electrician?

4 A No, I didn't know what he did for a living.

5 Q Did you meet his father?

6 A I don't remember meeting his father.

7 Q Now, you've described -- I think we have a picture of
8 this -- before I leave the cooperation agreement, paragraph
9 nine, the bottom of page six and the top of page seven, the
10 agreement says that, "Should the office" -- again, U. S.
11 Attorney's Office -- decide that you failed to cooperate or
12 given incomplete or false or misleading testimony, or
13 committed other crimes, et cetera, you will not be released
14 from your plea of guilty, but they're released from all of
15 their obligations under the agreement."

16 Now, you remember that being in there, is that
17 correct, sir?

18 A Yes.

19 Q So that means -- and I think you gave an estimate on
20 direct examination that the time you were looking at was maybe
21 75 years if you didn't get the 5(k) letter?

22 A That's correct.

23 Q So basically, if you don't get that 5(k) letter, not only
24 do you get maybe the 75 years, but they could also prosecute
25 you for the other crimes you didn't plead guilty to?

1 A I most of them are statute of limitations barred.

2 Q But you waived that, remember, on the first page of the
3 agreement?

4 A On just one crime. Didn't I waive it on just one crime?

5 Q No, you waived it on everything. That's the beauty of
6 it?

7 A I had a great lawyer.

8 Q Now it's their standard agreement. If you want to be a
9 rat, this is what you got to sign up for.

10 A Correct.

11 MS. ARGENTIERI: Objection.

12 THE COURT: Yes. Sustained.

13 BY MR. MCMAHON:

14 Q So they've pretty much got you over the barrel?

15 MS. ARGENTIERI: Objection.

16 MR. MCMAHON: I'll move on, Judge.

17 THE COURT: Thank you, Mr. McMahon.

18 BY MR. MCMAHON:

19 Q Now, you have described a whole bunch of other crimes
20 that you did, and some of which you did with Mr. Guerra, you
21 said, when he was much younger and you were much younger, is
22 that correct, sir?

23 A That's correct.

24 Q Drug dealing and stuff like that, bank burglaries?

25 A That's correct.

1 Q And you're aware, sir, that he was prosecuted in the
2 Southern District and did seven years in jail?

3 A I don't know how much time he did.

4 Q But you know he was prosecuted and he did jail time?

5 A I knew he was in jail, but I don't know how much time he
6 did.

7 Q Okay. And you did five years, sir?

8 A I served a five-year sentence, that's correct.

9 Q Okay. For all the stuff you did?

10 A No, I had served an 18 month sentence prior.

11 Q In Delaware?

12 A In the federal government?

13 Q By the way, did you do any time in Argentina or Canada or
14 any of those other countries where you committed crimes?

15 A No, sir.

16 Q How about some of the other states where you committed
17 crimes?

18 A No, sir.

19 Q So it's the 18 months and the five years?

20 A That's correct.

21 Q Now, you were talking about your drug business, you and
22 Teddy Persico?

23 A That's correct.

24 Q That's Teddy Persico, Jr.?

25 A That's correct.

1 Q And you were making a lot of money on that drug business,
2 is that right, sir?

3 A That's correct.

4 Q You were making five to 7,000 a week?

5 A That's correct.

6 Q That's, you know, that's like 300 grand per year?

7 A Right.

8 Q Cash?

9 A Cash.

10 Q Just from that one drug business?

11 A Yes.

12 Q Okay. And Frank was paid five hundred dollars a week?

13 A That's correct.

14 Q So you were making like ten or 12 times more per week
15 than he was?

16 A That's correct.

17 Q He was basically what, a schlepper?

18 A I wouldn't say a schlepper.

19 Q For five hundred dollars a week, you could have gotten
20 somebody off the street to do that, could you?

21 A I guess that's what Teddy did.

22 Q Okay. And is that because he had had the motorcycle
23 accident and he couldn't work anymore?

24 A That's correct.

25 Q And he was an electrician before he had the accident?

1 A I don't really know what he did for a living before that.

2 Q Okay. So your memory of him when he was legitimately
3 employed, you don't have any memory of that?

4 A I know him from the street. I don't know him from work.

5 Q But he basically couldn't work in his critical situation?

6 A You're right a hundred percent.

7 Q Now, I think you mentioned that even though you were with
8 the Gambinos, that you were trying to keep knowledgeable about
9 what's going on in the Colombo war?

10 A Yes.

11 Q And it was a lot of press. You talked about there being
12 a lot of heat from the cops. There was a lot of newspaper
13 articles, is that right?

14 A Sir, I was on the street every day of that background. I
15 knew what was going on in the street. Newspaper articles lie
16 all the time. You read the papers, it's the opposite of what
17 happened.

18 Q Okay. But bodies were dropping?

19 A That's correct.

20 Q Okay. And law enforcement was stepping up the heat, is
21 that correct?

22 A That's correct.

23 Q And so it really wasn't in organized crime interest to
24 have this war going on, is that right?

25 A That's right.

1 Q And is it correct, sir, that there were a lot of young
2 kids like craze Johnny Papa that were out there murdering
3 people?

4 A That's correct.

5 Q Now, I think you said that you were still talking to
6 Frank while the Colombo war was going on?

7 A Up to a point.

8 Q Okay. And then it became a point where actually, you had
9 an argument with some friends of his and then you didn't hang
10 around with him very much?

11 A No, I never had an argument with him.

12 Q With friends of his?

13 A No.

14 Q All right. But I think you said at some point, you
15 didn't have much contact with him any more? When was that
16 point?

17 A After the situation with Necky.

18 Q With Necky?

19 A Necky.

20 Q When was that?

21 A I don't remember exactly when it was.

22 Q Try to give me a year, a month, whatever -- what have you
23 got?

24 A I would guess like 93, around there, 92, summer time,
25 around there.

1 Q Okay.

2 A After Mike Ginardi came to me and told me that, that was
3 it.

4 Q So -- and then you really didn't have any contact with
5 him because you wanted to kill him?

6 A Yes.

7 Q Okay. But when you were talking to him, I think you said
8 that you could remember him telling you things like he was out
9 looking to the shoot at Orena people, is that correct, sir?

10 A They were looking at all different guys that were around
11 Orena, trying to kill him.

12 Q He mentioned BoBo and Chris Barrett?

13 A Yeah. Chuckie, BoBo.

14 Q Okay. All I'm asking you about, did you say BoBo and
15 Chris Barrett?

16 A Right.

17 Q Okay. But the amazing thing is that you found out that
18 he's going out there and he doesn't have a gun, is that
19 correct, sir?

20 A No, that was right after the bagel store murder, after
21 they killed the kid in his bagel store. That's when he didn't
22 have a gun, I said.

23 Q That's when he was trying to kill BoBo and Chris Barrett?

24 A No. I think that at BoBo, he shot at the air, it was
25 because, like I said the FBI told him it was a father and son

1 team, and him and Ferrera suspected that it was BoBo and his
2 son.

3 Q So he wanted to kill them after the bagel store killing?

4 A Right.

5 Q According to you?

6 A Right.

7 Q He's going out, looking to kill, except he doesn't have a
8 gun?

9 A No. I give him a gun. I gave him a gun -- I think it
10 was the day of the bagel store murder. That's why I gave him
11 a gun.

12 Q Oh, you knew the bagel store murder was coming down?

13 A No.

14 Q After the murder?

15 A Right after the murder that day.

16 Q But he was going around looking at people. You said,
17 "What's he going to do, wave his finger at them?"

18 A No, he had guns afterwards.

19 Q Oh, he had a gun afterwards?

20 A Yeah.

21 Q Aren't you aware, sir, that he can't shoot a gun with his
22 hand?

23 A I didn't say he was shooting.

24 Q Oh, so then the fact that he had a gun or didn't have a
25 gun doesn't matter, because he was not shooting?

1 A Right.

2 Q You didn't -- doesn't matter whether you gave him a gun
3 or not?

4 A I gave Ferrera the gun, because I knew BF probably
5 couldn't shoot a gun.

6 BY MR. MCMAHON:

7 Q And Ferrera is the guy that you've known since you were
8 16, but don't recognize this picture?

9 A That's correct.

10 Q So you know that Frank isn't shooting anybody and he
11 didn't shoot anybody then?

12 A That's correct.

13 Q But you still say that you had this conversation because
14 the government wants you to say that, is that right, sir?

15 A That's wrong.

16 Q Totally wrong?

17 A Totally wrong.

18 Q And so I think you just mentioned just again now and I
19 think you mentioned it on direct examination, that the FBI
20 tipped terra as or Frank off to the fact that they were close
21 to arresting the murderers of the kid in the bagel store?

22 A That's correct.

23 Q All right. Now, by the way, I think you said the name of
24 the store was "Want a Bagel"?

25 A That's correct.

1 Q That was Frank's business?

2 A It was Frank's and BF's -- it was Frank's and Ferrera's.

3 Q And it was a legitimate bagel store?

4 A Yes.

5 Q It wasn't a front for drugs or gambling or whatever?

6 A No.

7 Q A bagel store?

8 A Bagel store.

9 Q Some crazy people came in and shot the young kid that
10 worked there behind the counter?

11 A That's correct.

12 Q Killed him?

13 A They killed him.

14 Q All right. And at some point thereafter, the FBI tipped
15 offer Ferrera that they were close to making an arrest on that
16 murder, is that correct, sir?

17 A I believe they tipped off the both of them when they came
18 out of their house, BF and Ferrera, when they came out BF's
19 house.

20 Q But you weren't there, were you?

21 A They told me -- they both told me.

22 Q Who, the FBI or BF and Ferrera?

23 A No, BF and Ferrera told me.

24 Q When did they tell you that?

25 A Back then.

1 Q Back then? Back when, '91, '92, '93, '94?

2 A It could have been any of those years. I don't remember
3 exactly when it was, but it was the day after the FBI pulled
4 them out was the day they told me.

5 Q Okay. And then do you know whether or not the FBI -- was
6 this that rogue FBI agent that was tipping off people?

7 A I don't know who it was. They didn't say the agent's
8 name.

9 Q But you know who I'm talking about?

10 MS. ARGENTIERI: Objection.

11 THE COURT: Yes. Sustained.

12 BY MR. MCMAHON:

13 Q Anyway, the fellow -- what's BoBo's name?

14 A Louis Malpeso.

15 Q Did Malpeso get killed?

16 A No.

17 Q And the other guy, Chris Barrett?

18 A No.

19 Q And did you mention somebody named Goo-goo?

20 A Yeah, Goo-goo Guns.

21 Q Goo-goo who?

22 A Guns.

23 Q Who is Goo-goo Guns?

24 A Dominick Carbonaro.

25 Q And Dominick Carbonaro is who?

1 A He's -- I don't know if he's still alive. I know his
2 bother's dead, Frank Carbonaro. He was an associate of the
3 Gambino family, it was his brother.

4 Q Is Dominick Goo-goo Guns Carbonaro related to Hawk
5 Carbonaro?

6 A No, he has not.

7 Q Now, you mentioned that you visited Teddy Persico in
8 jail?

9 A That's correct.

10 Q You were pretty close to Teddy Persico?

11 A That's correct.

12 Q You were very close to Teddy Persico?

13 A That's correct.

14 Q And basically, you and he were partners in a drug
15 business and other activities, is that correct, sir?

16 A That's correct.

17 Q And when you told him that you wanted to kill Frank
18 Guerra and that you had talked about it with Frank Smith, what
19 did Teddy tell you?

20 A I never told Teddy I wanted to kill Frank Guerra.

21 Q Well, didn't you say that after you talked about killing
22 Frank Guerra with Frank Smith, that you went to see Teddy
23 Persico?

24 A Yes.

25 Q And yet you described the situation -- oh, you described

1 the situation where Mr. Guerra was going to exculpate
2 Mr. Smith?

3 A That's correct.

4 Q Okay. And Mr. Persico told you what?

5 A Told Frank to keep his fucking mouth shut and do his time
6 like a man.

7 Q Okay. Now Frank Smith, this is the guy who called --
8 didn't he had the judge's -- the prosecutor's father, killed
9 the judge?

10 A Right.

11 Q And the reason that Persico said that, according to you,
12 was that BF -- Frank Guerra -- was giving Persico five hundred
13 dollars a week, is that correct, sir?

14 A No. That's not totally the reason. He said that that
15 was one of the reasons.

16 Q Well, that's what you said on direct?

17 A Yeah.

18 Q You didn't say any other reason. This is only reason you
19 gave.

20 A Well, that reason, yeah, but that was the only reason
21 Teddy gave me.

22 Q All right. Okay, but you didn't, on your direct
23 examination --

24 A You're right.

25 Q -- after lunch give any other reason other than that

1 reason?

2 A You're correct.

3 Q Okay. Now -- and that Smith wouldn't be giving him any
4 money, so he didn't want -- he didn't want the situation where
5 his five hundred dollars a week wasn't coming in, is that
6 correct, sir?

7 A Right.

8 Q Mr. Persico was in jail at this time?

9 A Yes.

10 Q And are you aware, sir, that there are commissary records
11 as who gives money and much how much they give?

12 A Yes.

13 Q Are you aware, sir, that those records show that
14 Mr. Guerra gave maybe two hundred dollars over 18 years?

15 A Okay.

16 (Pause in proceedings.)

17 BY MR. MCMAHON:

18 Q Now, as you said, you testified in a number of trials?

19 A Right.

20 Q And one of the trials that you testified at was at Peter
21 Gotti's trial?

22 A That's correct.

23 Q And at the time that you testified at the Peter Gotti
24 trial, you were still in jail, is that correct sir?

25 A Yes.

1 Q And that's one of the things that the prosecutor brought
2 out during your direct examination in the Peter Gotti trial,
3 is that correct, sir?

4 A That I was still in jail?

5 Q Yes.

6 A Yeah.

7 Q And is it correct, sir, that the day or two days after
8 you testified at the Peter Gotti trial, the prosecutors went
9 into the judge, and asked for you to be released on bail?

10 A I got released on bail, but the prosecutors didn't put in
11 that motion. My lawyer did.

12 Q Uh-huh (affirmative response)?

13 A And he put it in way before that.

14 Q Did the prosecutors come into court two days after you
15 testified in the Peter Gotti trial --

16 A I think it was the next day.

17 Q It was the next day? I take it back. They waited 'til
18 the next day, right after you suggested to the jury about how
19 you were being punished by still being in jail?

20 MS. ARGENTIERI: Objection. He didn't say anything
21 --

22 MR. MCMAHON: The very next day.

23 BY MR. MCMAHON:

24 Q The very next day?

25 THE COURT: Sustained.

1 BY MR. MCMAHON:

2 Q -- on December 3rd --

3 THE COURT: Mr. McMahon, I just said sustained.

4 MR. MCMAHON: I'll rephrase it.

5 THE COURT: All right.

6 BY MR. MCMAHON:

7 Q On December 3rd, 2004, in this building, did your lawyer
8 and a prosecutor go jointly to a judge and ask for you to be
9 released on bail?

10 A And I was there myself also, yes.

11 Q And you were release on bail?

12 A Right.

13 Q The day after you testified in front of a jury?

14 A You're right.

15 Q And none of those people on the jury knew you were
16 getting out the next day, did they?

17 MS. ARGENTIERI: Objection.

18 THE COURT: Sustained.

19 MR. MCMAHON: Judge, I'm going to a new area. Would
20 this be appropriate to break for the day.

21 THE COURT: Yes, I think so.

22 Members of the jury, we're going to take our evening
23 recess. Please remember my admonition. Do not discuss the
24 case. Keep an open mind. 9:30.

25 (Jury exits.)