

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

2 -----x

3 UNITED STATE OF AMERICA,

4 versus

10 CR 00147(SLT)

5 FRANCIS GUERRA,

6 Defendant.

U.S. Courthouse
Brooklyn, New York

7 -----x

8 June 12th, 2012
9 9:30 a.m.

10 TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL

11 BEFORE THE HONORABLE SANDRA L. TOWNES,

12 UNITED STATES DISTRICT COURT JUDGE

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1 (In open court; outside the presence of the jury.)

2 THE CLERK: All rise.

3 THE COURT: Be seated, please. Good morning.

4 MR. MCMAHON: Good morning.

5 THE COURT: Good morning. Are we ready to bring the
6 jury in?

7 MS. ARGENTIERI: The government is, Judge.

8 MR. MCMAHON: We're ready, Your Honor.

9 (Jury enters.)

10 THE COURT: Please be seated. Good morning,
11 everyone.

12 JURORS: Good morning.

13 THE COURT: Let the record reflect that all of the
14 jurors are present. The defendant is present and counsel.

15 Ms. Argentieri or Mr. Lifshitz?

16 MR. LIFSHITZ: The government calls Dr. Jonathan
17 Arden, Your Honor.

18 (Witness sworn.)

19 THE CLERK: Please have a seat.

20 THE WITNESS: Thank you.

21 MR. LIFSHITZ: Good morning, sir. Could you please
22 state and --

23 THE COURT: That's what I was going to say.

24 MR. LIFSHITZ: Sorry, Your Honor.

25 THE COURT: But you can follow his instructions.

1 Please state your full name and spell it.

2 THE WITNESS: My name is Dr. Jonathan,
3 J-O-N-A-T-H-A-N, middle initial L. Last name is Arden,
4 A-R-D-E-N.

5 THE COURT: Thank you.

6 MR. LIFSHITZ: May I inquire, Your Honor?

7 THE COURT: Yes, you may.

8 MR. LIFSHITZ: Thank you.

9 DIRECT EXAMINATION

10 BY MR. LIFSHITZ:

11 Q What do you do for a living, sir?

12 A I'm a physician and in particular, I'm a forensic
13 pathologist.

14 Q Where do you work?

15 A I currently work from offices in Virginia, McClean,
16 Virginia, near Washington, DC.

17 Q Did you ever work full time as a medical examiner?

18 A Yes, sir. For about 20 years, I did.

19 Q In which cities?

20 A I worked in four different government offices as a full
21 time medical examiner. I spent a little less than two years
22 in Suffolk County on Long Island. I spent three years as an
23 assistant medical examiner for the state of Delaware. I then
24 spent nine years working for the Office of the Chief Medical
25 Examiner for the City of New York, then I was Chief Medical

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1 Examiner in Washington, DC for about five and-a-half years.
2 That's my full time government service. I have other -- a few
3 other government appointments and my current employment, as
4 well.

5 Q In what period did you work for the Office of the Chief
6 Medical Examiner in New York City?

7 A From the spring of 1989 until spring of 1998.

8 Q What positions, if any, did you hold in that office?

9 A When I began there, I was called a deputy medical
10 examiner. About five months or so later, I was promoted to
11 the title of Deputy Chief Medical Examiner. Several years
12 after that, I was made Acting First Deputy Chief Medical
13 Examiner. A few years after that, they made me officially the
14 First Deputy Chief Medical Examiner, which is the title I held
15 when I left.

16 Q Generally speaking, what is the primary role of the New
17 York City Medical Examiner's Office?

18 A The Office of Chief Medical Examiner for the City of New
19 York is the government entity or agency that is charged under
20 the law with the investigation and certification of certain
21 types of deaths.

22 The types of deaths that the medical examiner's
23 office handles include, first of all, all deaths that we
24 collectively call violent deaths. A violent death simply
25 means any death when any kind of injury either causes the

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1 death or contributes to causing the death. Doesn't matter
2 what kind of injury, how the injuries occur. It basically
3 means any and all deaths related to injuries.

4 The Office of Chief Medical Examiner also gets
5 involved in deaths that are sudden, unexpected, unexplained --
6 for instance, people who die in public, people who die outside
7 of medical care.

8 And then there are a few other categories -- just to
9 be complete -- that the Medical Examiner is charge with
10 investigating: The deaths that might have public health
11 concerns, deaths of people in government custody, but
12 basically, it's the violent and the sudden unexplained deaths
13 that comprise most of their case load.

14 Q Is the Office of the Chief Medical Examiner in New York
15 City part of the police department?

16 A No, absolutely not. The Medical Examiner is not part of
17 the police or the prosecution or any other part of law
18 enforcement. In fact, the Medical Examiner is a unit within
19 the Department of Health.

20 Q And was that the case in January 1992?

21 A Yes.

22 Q What is your educational background?

23 A I attended college for two years at Johns Hopkins
24 University in Baltimore, and then for two years at the
25 University of Michigan, where I received my Bachelor of

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1 Science degree in 1976.

2 I then attended -- graduated from the University of
3 Michigan Medical School, where I received my -- I'm sorry. My
4 MD, my Doctor of Medicine degree in 1980.

5 I followed that with two special training programs
6 that you frequently hear called residencies. First was a
7 three-year program in the field of anatomic pathology. That
8 took place at the New York University Medical Center in New
9 York City.

10 And I then attended one additional year of training
11 in the field of forensic pathology. That took place at the
12 Office of the Chief Medical Examiner for the State of
13 Maryland. That's located in Baltimore.

14 Q Are you licensed to practice medicine?

15 A Yes, I'm currently licensed to practice medicine in five
16 states.

17 Q Is New York one of those states?

18 A Yes, sir.

19 Q As a doctor, what if any, speciality do you have?

20 A My primary or original speciality, my general field is
21 pathology, particularly anatomic pathology and my
22 subspecialty, the area in which I particularly practice, have
23 done so since 1983, is forensic pathology.

24 Q Are you familiar with the term "board certification"?

25 A Yes, sir.

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1 Q What does it mean?

2 A Each of the medical specialities in this country has a
3 governing board. For people like me, that's the American
4 Board of Pathology.

5 Each of those governing boards puts together
6 standards for education and training, and if you fulfill the
7 standards, graduate from medical school, take the proper
8 residency training, et cetera, and if you document all this in
9 application form with a fee, they then allow to you sit for an
10 examination in the particular fields, your speciality, your
11 subspecialty.

12 If you then pass the examination, you have
13 demonstrated your accomplishment or competency in that field
14 and they actually certify that. They literally give you a
15 certificate that officially recognizes that degree of
16 competency and proficiency.

17 Q Are you board certified?

18 A Yes, I'm board certified in both anatomic and forensic
19 pathology.

20 Q General speaking, what does a forensic pathologist do?

21 A Forensic pathologists are the physicians who usually work
22 in a medical examiner's office. In some parts of the country,
23 it's a coroner's office. But they're the physicians who
24 perform the basic functions that I described for the medical
25 examiner's office.

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1 In other words, they are the professionals who
2 participate in and they make use of the investigation into
3 those kinds of deaths. They are the physicians who perform
4 the post-mortem examinations on the decedents. So they
5 literally examine the body, including performing the autopsy,
6 which is the most detailed examination we have.

7 And then the forensic pathologist takes the various
8 sources of information, the investigation, the examination
9 that he or she performs, sometimes additional studies, such as
10 laboratory studies, and brings them all together and arrives
11 at the conclusions as to basically what happened to that
12 person, what diseases or injuries did the decedent have, and
13 of course, then makes the ultimate decision or opinion, which
14 is what was the cause and manner of death.

15 Q Approximately how many autopsies have you performed?

16 A I've personally performed nearly 3,000 forensic
17 autopsies.

18 Q Have you ever held any appointments to teach?

19 A Yes, sir.

20 Q Where were those appointments and what did you teach?

21 A I had academic appointments here in New York City, both
22 at the State University of New York Medical School in
23 Brooklyn, what people commonly call Downstate, and
24 simultaneously at the New York University Medical School.

25 At the time that I was working for the Medical

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1 Examiner's Office here, my appointments were under the title
2 of Clinical Assistant Professor. I had a similar
3 appointment -- excuse me -- appointment in the George
4 Washington University School of Medicine when I was working in
5 Washington, DC.

6 Q Have you ever published articles in the field of forensic
7 pathology?

8 A Yes, I have been an author on a small list of articles in
9 pathology, forensic pathology.

10 Q Have you ever testified in court as an expert?

11 A Yes, sir.

12 Q Does that include federal court?

13 A Yes, sir. I've testified in federal courts in several
14 different jurisdictions and a number of state courts.

15 Q Have you ever been qualified as an expert in forensic
16 pathology in those cases?

17 A Yes, sir.

18 Q About how many time have you been qualified as an expert
19 in forensic pathology?

20 A Earlier in my career, I didn't keep exact accounting of
21 how many autopsies or how many appearances I made in court,
22 but it's in the neighborhood of five hundred to six hundred
23 court appearances as an expert in my entire career.

24 MR. LIFSHITZ: Your Honor, the government offers
25 Dr. Jonathan Arden as an expert in the field of forensic

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1 pathology.

2 MR. MCMAHON: No objection.

3 THE COURT: Yes. He is received as such.

4 BY MR. LIFSHITZ:

5 Q Now, generally speaking, what is the purpose of an
6 autopsy?

7 A An autopsy is a thorough medical examination of the body
8 after death. The purpose is to observe and document the
9 abnormalities, in other words, the effects of diseases and/or
10 injuries in that body, and then to arrive at conclusions, what
11 we call diagnoses, as far as what diseases and/or injuries are
12 affecting that body. And frequently, the purpose of the
13 autopsy is to make the ultimate conclusion, in other words,
14 what caused the death of that person.

15 Q Are there different steps or stages taken in conducting
16 an autopsy?

17 A Yes, sir.

18 Q What are those steps?

19 A The autopsy begins with an external examination. You
20 approach the body from the outside, and you observe and
21 document the findings on that body. That includes whatever is
22 normal, whatever is unique or identifying of that person:
23 Height, weight, hair color, tattoos, scars, things like that.
24 And of course, it also includes any abnormalities that are the
25 indicators of diseases or injuries in or around that body.

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1 The autopsy then continues with an internal
2 examination of the body. The body is actually opened. The
3 various organs and tissues are removed and medically
4 examined -- again, both for their normal features. What do
5 they weigh? What do they look like? And for their abnormal
6 features, in other words, the evidence of disease or injury.

7 The autopsy may be further extended, if necessary.
8 You can process tissues, so that you can look at them under
9 the microscope if you need to. You can submit samples or
10 specimens from the autopsy and have them tested in the
11 laboratory, which is a common procedure in forensic autopsies.

12 You can remove items of evidence. There may be
13 photographic documentation. There may be x-ray documentation
14 in an autopsy. And then the final step is issuing the report
15 and making the conclusions.

16 Q What documents, if any, are typically generated when an
17 autopsy is done?

18 A Well, first and foremost, an autopsy report is
19 documented -- I'm sorry, is generated -- because this is how
20 you memorialize or document what the findings and conclusions
21 were. So under normal circumstances, especially in a forensic
22 autopsy setting, there is an autopsy report.

23 Again, in a forensic setting, very commonly, almost
24 always there will be a laboratory report, a toxicology
25 laboratory report, which is then another document that gets

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1 generated relative to the autopsy. The autopsy itself
2 generally produces those documents.

3 Now, the Medical Examiner's Office keeps a case file
4 that will have other documents that relate to the death and
5 the autopsy in the sense that the office has to show the
6 investigation performed, what information it received.
7 They'll be some intake document that says when the death was
8 reported and so on. They'll be identification documents in a
9 Medical Examiner case file to identify the decedent,
10 specifically.

11 Q And what, if anything, was done with those documents when
12 you worked at the New York City Chief Medical Examiner's
13 Office?

14 A Those documents were all kept in the usual course of
15 business in a unique and separate case file for each of the
16 individual cases. So they would be kept, filed in a secure
17 location by the Office of Chief Medical Examiner.

18 Q Are there any file numbers used in connection with files
19 of the Chief Medical Examiner's Office in New York City?

20 A Yes, each death report, each case, therefore, each
21 autopsy receives a unique case number that identifies that
22 case or that autopsy and no other.

23 Q Is that known as the Medical Examiner File Number?

24 A File Number or Case Number; yes, sir.

25 Q Are you also familiar with something called a Lab Number?

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1 A Yes.

2 Q What is that?

3 A In some medical examiner's offices, in including the
4 office here in New York City, the toxicology laboratory also
5 produces its own independent number, because they have their
6 own set of files of the lab -- the lab work. And so, the Lab
7 Number is another unique identifier for specimens in the lab
8 work of the particular case in New York City.

9 Q By the way, are you being compensated for your testimony
10 here today?

11 A I'm being compensated for my time and my expertise. I
12 don't want to buy into I'm being paid for my testimony, if you
13 know what I mean. Yes, I'm being compensated for my
14 appearance here, because I no longer live in the area. I no
15 longer work for the city government. So, yes, as a expert and
16 a witness, I'm being compensated.

17 Q Directing your attention to January 25th, 1992, were you
18 working at the Office of the Chief Medical Examiner in New
19 York City?

20 A Yes, sir.

21 Q What, if anything, did you do that day?

22 A I was working, and that was a Saturday, and so I was
23 performing autopsies in the Medical Examiner's Office in
24 Brooklyn, at the Kings County Hospital.

25 Q Do you recall any particular autopsy you performed?

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1 A Yes, sir.

2 Q Which was that?

3 A The autopsy on Michael Devine.

4 Q Now, at that time, January 1992, what autopsies were
5 conducted in the Brooklyn office that you referred to a moment
6 ago?

7 A At that time, the Brooklyn office was handling the case
8 material from Brooklyn and from Staten Island.

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

11 THE COURT: Yes, you may.

12 MR. LIFSHITZ: Thank you.

13 BY MR. LIFSHITZ:

14 Q And I'll approach with Government's Exhibit 51, 52 and
15 52A. (Handing.)

16 Dr. Arden I've handed you what's been marked
17 Government Exhibit 51. Do you recognize this document?

18 A (Peruses document.) Yes, I do.

19 Q What is it?

20 A What you have handed me is government's 51, is a
21 photocopy with -- each page has the raised seal, so this is a
22 certify copy of the Medical Examiner case file related to the
23 autopsy on Michael Devine, includes multiple documents as I
24 described in general terms earlier about what would be in that
25 file, particularly the autopsy report, the toxicology report,

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1 the identification documents and then notes and diagrams that
2 I made, and then some general documents that are part of the
3 file, reflecting the intake process, the investigation.

4 Q Dr. Arden, I'll hand you Government Exhibit 52A. Do you
5 recognize this document? (Handing.)

6 A (Peruses document.) I do.

7 Q What is it?

8 A 52A is a single-sided photocopy of the body diagram with
9 notes that I made as part of the autopsy on Michael Devine,
10 which is also part of 51.

11 Q Is the copy marked 52A a fair and accurate copy of the
12 diagram that's part of Exhibit 51?

13 A Yes, sir.

14 Q Now, let me show you Government Exhibit 52. Do you
15 recognize this? (Handing.)

16 A (Peruses document.) I do.

17 Q What is it?

18 A Fifty-two that you're showing me now is an enlarged
19 poster-sized version of that body diagram that you have
20 previously just now handed me as 52A. So this is an
21 enlargement that's been mounted, I guess for demonstration
22 purposes.

23 Q Is it a fair and accurate enlargement of Exhibit 52A?

24 A Yes, sir.

25 MR. LIFSHITZ: Your Honor, the United States offers

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1 Government Exhibits 51, 52, and 52A into evidence.

2 THE COURT: Any objection?

3 MR. MCMAHON: None.

4 THE COURT: I will receive Government's Exhibits 51,
5 52 and 52A.

6 MR. LIFSHITZ: Your Honor, may I publish 52A on the
7 easel before I walk back to the podium?

8 THE COURT: Yes.

9 (Exhibit published.)

10 BY MR. LIFSHITZ:

11 Q Dr. Arden, what file number or numbers were associated
12 with the autopsy of Michael Devine?

13 A The file number for the autopsy for Michael Devine is
14 R92-102. And since you asked me about laboratory numbers, the
15 laboratory number from the toxicology laboratory associated
16 with the analysis done on the specimens from the autopsy of
17 Michael Devine is 518/92.

18 Q In anticipation of testifying here today, have you
19 reviewed any materials?

20 A Yes, sir.

21 Q What materials are those?

22 A Actually, I reviewed the Medical Examiner case file,
23 which is Exhibit 51. I have also reviewed the photographs
24 that were taken as a part of the autopsy on Michael Devine.

25 Q Turning now to that autopsy, do you have an opinion based

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1 on conducting that autopsy and your review of the file
2 concerning the cause of death of Michael Devine?

3 A Yes, sir; I do.

4 Q What is your opinion?

5 A My opinion is that the cause of death of Michael Devine
6 was gunshot wounds to the head and torso, with brain injuries.

7 Q Were you able to determine how many times he was shot?

8 A Yes, I was.

9 Q How many times?

10 A He was shot seven times.

11 Q Were you able to determine where he was shot?

12 A In terms of which parts of his body?

13 Q Exactly.

14 A Yes, I was.

15 Q And what did you determine?

16 A Mr. Devine had, as I said, a total of seven gunshot
17 wounds. Four of them were to the head. One was to the chest.
18 And two of them were in the area of the groin and right thigh.

19 Q Do you have an opinion as to which of those gunshot
20 wounds, if any, caused his death?

21 A Yes, I do.

22 Q And what is your opinion?

23 A Although each of them did cause some degree of injury,
24 three of the four gunshot wounds to the head caused injury to
25 the brain, and those actually really are the fatal gunshots.

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1 Q What, if anything, did you first observe when you
2 conducted the autopsy of Michael Devine?

3 A Well, my first observations were some of the general
4 findings of seeing an adult man and, you know, a quick picture
5 of size and shape and appearance. As far as something
6 specific, the first observations that I made were some of
7 those gunshot wounds that I just characterized briefly.

8 MR. LIFSHITZ: Your Honor, at this time, I would ask
9 permission for Dr. Arden to step down, so he may refer to
10 Government Exhibit 52 on the easel.

11 THE COURT: Yes, you may.

12 MR. LIFSHITZ: Sir, can you step down from the
13 witness stand?

14 THE WITNESS: Yes, sir. (Complies.)

15 Thank you, Your Honor.

16 BY MR. LIFSHITZ:

17 Q Now, using the diagram marked Government Exhibit 52, can
18 you please explain where Devine suffered the gunshot wounds
19 you described, and please describe those gunshot wounds.

20 A I will describe them just for the record in the same
21 order they're described in the autopsy report contained in
22 government's 51, which is simply an order that I chose in
23 order to be able to describe them and talk about which one is
24 which. I'm not implying anything about the order in which
25 they were received. This is just to keep things organized.

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1 And so the first four that I would like to describe
2 to you are the gunshot wounds to the head. The first one is
3 in the left lower rear of the head.

4 Q Are you referring to the image on the right side of the
5 board?

6 A Yes. And again, for the record, fifty -- is this 52?

7 Q Fifty-one.

8 A Sorry, 52, the poster-sized diagram in front of me here.

9 You can see as to your left, the forward view of the
10 generic person, and to your right, the rear view of the
11 generic person.

12 So let's start with the rear view on your right and
13 I'm pointing to the left lower rear of the head. In effect,
14 you can see there's a line going from where I'm pointing to
15 some notations on the upper right here that says "GSW," my
16 shorthand for gunshot wound.

17 Anyway, the first gunshot wound that I will describe
18 for you is in the left lower rear of the head. There was an
19 entrance wound there with some area of gouging and scraping,
20 what we call abrasions surrounding it. Abrasion is the single
21 most characteristic feature of an entrance gunshot wound.

22 And arising from that point and continuing inward,
23 when I performed the internal examination, there's a short
24 pathway under the skin into the deepest part of the scalp,
25 going upward and a little bit to his right -- just generally

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1 indicating with my pen here from the entrance point. And
2 it -- the wound pathway terminates in the deepest part of the
3 scalp on the outside of the skull bone, where I then
4 discovered a small caliber flattened bullet, flattened from
5 its impact on the outside of the skull. I retained that
6 bullet as a piece of evidence.

7 And, in fact, just to summarize, all of the bullets
8 or fragments that I recovered were handled in our standard
9 way. Some of them were marked by me and they're put into
10 specific kinds of envelopes and there's writing on the
11 envelope such as that you can identify -- I can identify those
12 projectiles as bullets individually, as what I recovered from
13 this autopsy.

14 So the first gunshot wound really only burrows under
15 the skin and ends up outside the skull bone.

16 Now, the next three that I'll describe for you
17 collectively are the ones that I referred to a few moments ago
18 as being truly the fatal gunshot wounds.

19 And you'll have to bear with me a little bit here,
20 because the diagram that you're looking at, 52, has a forward
21 diagram and a rear diagram, and ideally a side view would be
22 the best one of the left side of the -- around the ear.

23 But you'll see that I made notations here
24 (indicating), with a line coming from the area of the left ear
25 on the rear-facing right side of the diagram. I've scribbled

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1 in here in my doctor handwriting, GSW with a little S. That
2 means gunshot wounds.

3 You'll see there's numerical notations, two sets of
4 numerical notations, which tells me that what I was writing
5 here is that there are two gunshot wounds entering the body in
6 the area of the left ear. One of them actually comes in just
7 immediately in front of the attachment of the left ear lobe.
8 The other gunshot wound actually goes in through the ear lobe
9 itself. And then there's another area of kind of tearing,
10 ragged tearing of the bottom part of the ear lobe. That's
11 part of the area where those two entered.

12 You can also see on the rear diagram there's a dot
13 here that's above the left ear. So there's another gunshot
14 wound, the third entrance wound, that is a little bit above
15 and behind the ear lobe itself. So we have three gunshot
16 wounds that are entering fairly closely spaced, basically in
17 or very near the left ear.

18 As I then do the internal examination, I can follow
19 the pathways of those three bullets. And I am describing them
20 for you as I did in the autopsy report together, because the
21 three entered closely spaced, and then because of the damage
22 they do, it is not possible to separate exactly which bullet
23 follows which pathway, because there are three entrance spots
24 into the skull on the left side of the head.

25 There is an area of the brain -- is the area of the

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1 brain that's near where your temple is called the temporal
2 lobe. And that left side of the temporal lobe, which is just
3 inside from the ear, actually has a confluent area of where
4 the tissue is damaged and broken up.

5 Then from there, there is a series of three pathways
6 through the brain, going from his left to his right and
7 generally slightly upward, such that on the right side of his
8 brain -- as I'm demonstrating on my head -- I recovered three
9 deformed small caliber projectiles.

10 One of them is a little farther forward in the right
11 frontal lobe of the brain. One of them is a little farther
12 back, but also on the side of the head, basically. And then
13 one of them -- those two, by the way, reach essentially the
14 surface of the brain. Then there is one more that is still
15 inside the right side of the brain, but doesn't go all the way
16 out to the surface of the brain.

17 But I have three entrance wounds on the left side,
18 three bullets recovered on the right side, and an area of
19 damage in between them, going to his right and upward. So
20 that's the three gunshot wounds that are collectively most
21 serious and, in fact, fatal because of the damage they did to
22 his brain.

23 Moving downward on the body, I am now indicating on
24 the left side of the front-facing diagram -- and you can see
25 that I've drawn a little dot a little bit above and to the

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1 outside of his left nipple, and you see the line with my
2 cryptic notation here, "GSW." This is another gunshot wound
3 in the upper left chest, almost out to the arm pit, but not
4 quite.

5 Internally, there is a pathway of a bullet that goes
6 essentially straight cross the front of the chest wall to his
7 right, from his left to his right. And you notice that I'm
8 holding my pen such that the tip of the pen ends overlying the
9 middle, where his breast bone is. In fact, that's where that
10 bullet ended.

11 So there's a pathway of damage through the soft
12 tissue of the chest wall, which has substantial bleeding
13 around it. But that bullet only goes through the chest wall
14 soft tissues to the point overlying the breast bone, in the
15 middle, and then it stops there. And that's where I recovered
16 it.

17 And again, not the repeat all the details -- each
18 bullet is handled and marked and put into the evidence
19 envelope such that the medical examiner -- me, in this case --
20 transfers evidence such as that to the police department for
21 potential analysis.

22 Finally, in terms of the gunshot wounds, you'll see
23 that there's a bid oval here in the area of the groins and the
24 upper thighs that I have drawn. And you see four kind of
25 irregular dots -- well, three dots and one oval-shaped area

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1 that I've drawn in there at I believe one, two, three and four
2 within that big oval. The one, two, three and four -- there's
3 notes with them here in the lower left -- represent actually
4 two other gunshot wounds.

5 The hole in the left side of his groin area that I'm
6 pointing at that's labeled number one is another entrance
7 wound, and that entrance wound gives rise to a pathway with
8 bleeding associated with that bullet, goes downward through
9 the groin area into the right thigh, and ends up in the back
10 of the right thigh, where I recovered another bullet. These
11 are all similar appearing bullets, small caliber bullets.

12 You'll see that there is a notation for a number two
13 that's also drawn in the left side of the groin or genital
14 area. And actually number two is an area that represents an
15 area of tissue disruption on the top surface of the penis.

16 And in my opinion, what this represents is that when
17 the bullet came along to enter through the hole I've labeled
18 number one here, that area of the penis was adjacent to it.

19 So effectively, just for the record, I'm taking the
20 photocopies of Exhibit 51, if I fold them over in half
21 (demonstrating), you can see that if I take the tip of my pen
22 and I go in the fold of the -- between if two areas of paper,
23 I could be going into and perforating an area of the paper,
24 but before my tip of the pen -- indicating the bullet -- gets
25 in there and goes through, it's scraping along the fold of

ARDEN/DIRECT/LIFSHITZ

1 paper on the top.

2 That's what happens if you have two rolls of skin
3 next to each other and a bullet goes between them, or in this
4 case, it's the lower abdomen and the penis are next to each
5 other. But that explains how you would have that kind of
6 damage.

7 And then three and four actually give us a very
8 similar phenomenon. The hole I've indicated as number four is
9 another entrance wound that goes into the right thigh, and
10 that bullet ends up against one of the features of the upper
11 thighbone, what you call your femur.

12 And the number three that I've drawn in there like
13 an oblong is a similar area of damage on the surface of the
14 right side of the scrotum and it's the same phenomenon, that
15 the two areas of tissues had to have been close to each other,
16 the bullet goes between them and then into one of them. So
17 you have four areas of gunshot injury in this region, but it
18 really only represents two gunshot wounds.

19 Q Thank you, Dr. Arden. You may return to the witness
20 stand.

21 A (Complies.)

22 MR. LIFSHITZ: Your Honor, may I approach Dr. Arden?

23 THE COURT: Yes.

24 BY MR. LIFSHITZ:

25 Q I'm approaching with Government Exhibits 53A and 53B and

ARDEN/DIRECT/LIFSHITZ

1 53C. (Handing.)

2 A (Peruses photographs.)

3 Q Dr. Arden, showing you those Exhibits, 53A, B and C, do
4 you recognize them?

5 A I do.

6 Q What are those exhibits?

7 A These are three individual photographs that were taken of
8 some of the injuries of -- the gunshot injuries of Mr. Devine
9 during the autopsy I performed.

10 Q Do they fairly and accurately depict what you saw on
11 January 25th, 1992 during the autopsy?

12 A Yes, sir.

13 MR. LIFSHITZ: Your Honor, the government offers
14 these Exhibits 53A, B and C into evidence.

15 MR. MCMAHON: Our objection was previously noted,
16 Your Honor.

17 THE COURT: Yes. I'll receive Government's Exhibits
18 53A, B and C.

19 MR. LIFSHITZ: Your Honor, may I briefly publish
20 them on the Elmo and ask the witness some questions about
21 them?

22 THE COURT: Yes.

23 (Exhibits published.)

24 BY MR. LIFSHITZ:

25 Q Dr. Arden, I'm going to show you Exhibit 53A. Can you

ARDEN/DIRECT/LIFSHITZ

1 please explain what this picture depicts?

2 A Yes. You have published 53A on the screen. This is a
3 photograph of Mr. Devine lying on the autopsy table with his
4 face away, largely turned away from the camera such that
5 you're looking at the left ear, left cheek, left rear of the
6 head. And you can see the gunshot injuries to the ear and the
7 left rear, lower head.

8 Let me just note that the -- roughly is center of
9 the center of the photograph, slightly lower left --

10 Q (Pointing.)

11 A Yes, where your finger is there. If you move to the
12 outer area. That looks -- there you go there. Those two that
13 you just pointed to -- the first one you pointed to was -- I
14 don't know if you have the touchscreen here. Actually, I just
15 made a little red dot on the screen.

16 Q Right.

17 A The first dot is the gunshot wound in the lower left rear
18 of the head that I described first. The next dot I've just
19 put in is the one behind the ear, and I will tell you that the
20 perspective is a little difficult here. If you look at this
21 straight on from the side, that -- the one that I just marked,
22 the second one is actually behind that, a little above the ear
23 lobe.

24 Both of those two that I have just marked, you'll
25 see that there are areas of scalp around them. That's from

ARDEN/DIRECT/LIFSHITZ

1 shaving the scalp hair to see the wounds better. In other
2 words, the shaving of the scalp hair is something that I did
3 during the autopsy. When I started the examination, the hair
4 was there.

5 And then I'll put one more dot, a little above left
6 center, and you'll see that right below that dot, in other
7 words, right in the front part of the left ear, you can see
8 some red area where the tissue is disrupted and that's the
9 area of the other two gunshot wounds.

10 Q Thank you. I'm going to show you 53B, and ask you what
11 53B depicts.

12 A 53B is a medium to close-up photograph of the left arm
13 pit, left chest, shoulder area of Mr. Devine. You can see in
14 our upper left, his nipple. Kind of central lower, you can
15 see the crease of the arm pit, and then the far right lower
16 corner is where his shoulder is, just for orientation.

17 And I'll touch the screen and again, there's a red
18 dot. You can see the -- almost right in the center of that
19 photograph where the red dot is, there is a hole in the skin.
20 That's the entrance gunshot wound I described of the chest
21 wall.

22 Q Thank you. Now let me show you 53C, and ask you what
23 this exhibit depicts.

24 A 53C is the groin and genital area of Mr. Devine. And
25 I'll put lower right -- well, now put a little line.

ARDEN/DIRECT/LIFSHITZ

1 Actually, the left dot that I put in is near the entrance
2 gunshot wound that is just above and to the left of the penis.
3 You can see on the top surface of the penis.

4 I'm sorry -- the dots -- the dots are not going
5 exactly where I put my finger. I just put two dots on them,
6 right next to the disruption of the penis. And I just now put
7 another dot, upper left, right in the middle of the other
8 gunshot wound.

9 And the other area of damage -- there, I've just now
10 put two other dots that are roughly the area of the damage.
11 The second dot is the more accurate of the scrotum. In short,
12 this is the area of his genitals and the injuries I've
13 described there.

14 MR. LIFSHITZ: Thank you, Dr. Arden.

15 No further questions at this time.

16 MR. MCMAHON: No cross, Your Honor.

17 THE COURT: No cross?

18 MR. MCMAHON: No cross.

19 THE COURT: Thank you very much, Doctor. You're
20 excused.

21 THE WITNESS: Thank you, Your Honor. I'll leave
22 everything -- leaving the exhibits here.

23 MS. ARGENTIERI: Judge, the government just needs a
24 five-minute break before calling the next witness.

25 THE COURT: All right. We'll take a five-minute

ARDEN/DIRECT/LIFSHITZ

1 recess. Please remember my admonitions. Do not discuss the
2 case. Keep an open mind.

3 (Jury exits.)

4 THE COURT: All right. Five minutes.

5 (Recess.)

6 (Continued on the next page.)

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ARDEN/DIRECT/LIFSHITZ

1 (In open court; outside the presence of the jury.)

2 THE COURT: Are you ready?

3 MS. ARGENTIERI: Yes, Judge, they're bringing the
4 witness in.

5

6 THE COURT: We'll bring in the defendant. I want
7 him to take the oath in front of the jury. Please be seated,
8 we'll bring the jurors in.

9 (Jury is in the courtroom at 10:50 a.m.)

10 THE COURT: Please be seated. We'll have the
11 witness stand, please.

12 THE WITNESS: (Complies.)

13 (Witness sworn.)

14 THE COURT: Thank you.

15 THE CLERK: Thank you. Please take a seat.

16 THE COURT: Please state your full name and spell
17 it.

18 THE WITNESS: Anthony Russo, A-N-T-H-O-N-Y,
19 R-U-S-S-O.

20

21 MS. ARGENTIERI: May I inquire, your Honor?

22 THE COURT: Yes, you may.

23 DIRECT EXAMINATION

24 BY MS. ARGENTIERI:

25 Q Sir, how old are you?

RUSSO/DIRECT/ARGENTIERI

1 A 51.

2 Q What is the worse crime you've ever committed?

3 A Murder.

4 Q Who did you kill?

5 A Joey Scopo.

6 Q When did you kill Joey Scopo?

7 A 1993.

8 Q Why did you kill Joey Scopo?

9 A Because I was told to kill him.

10 Q Who participated in the murder of Joey Scopo with you?

11 A Me, Frank, BF, Eric Curcio, Johnny Sparacino and Johnny
12 Pappa.

13 Q Do you see anyone in the courtroom here today who
14 participated in Joey Scopo murder with you?

15 A Yes, I do.

16 Q Can you point the individual out identifying and article
17 of clothing?

18 MR. MCMAHON: Judge, we'll stipulate to the
19 identification of Mr. Guerra by Mr. Russo.

20 THE COURT: All right. So stipulated.

21 BY MS. ARGENTIERI:

22 Q I believe you referred to him as "Frank", "BF"?

23 A Right.

24 Q What is his full name?

25 A Frank Guerra.

RUSSO/DIRECT/ARGENTIERI

1 Q Have you been associated with organized crime in your
2 life?

3 A Yes.

4 Q What families?

5 A Gambino, Colombo.

6 Q When were you first associated with the Colombo crime
7 family?

8 A 1988.

9 Q Until when were you associated with the Colombo crime
10 family?

11 A Until my arrest on January 20th, 2011.

12 Q What different positions did you hold within the Colombo
13 crime family?

14 A An associate, a made member, an acting captain.

15 Q At the time that you committed the Scopo murder what was
16 your status in organized crime?

17 A Associate.

18 Q When you were an associate with the Colombo crime family
19 who did you report to formally?

20 A Teddy Persico.

21 Q Is there a term for that in organized crime?

22 A Term for reporting to somebody?

23 Q Yes.

24 A Yeah, "on the record" with them.

25 Q At the time that the defendant, BF, committed the Scopo

RUSSO/DIRECT/ARGENTIERI

1 murder what was his status in organized crime?

2 A Associate.

3 Q At the time that he committed the Scopo murder with you,
4 who was BF around in the Colombo crime family?

5 A BF was around Teddy Persico, Junior.

6 Q When were you an associate with the Colombo family, what
7 years?

8 A 1988 to 2011.

9 Q When did you hold the position of associate?

10 A When I was in jail with Teddy, 1988.

11 Q Until what year?

12 A Until 2009.

13 Q When were you formally inducted into the Colombo crime
14 family?

15 A Super Bowl Sunday 2009.

16 Q When you became a soldier in the Colombo crime family who
17 proposed you for membership?

18 A Teddy Boy.

19 THE COURT: I'm sorry?

20 THE WITNESS: Teddy Persico, Junior.

21 THE COURT: Thank you.

22 Q Did you call him "Teddy Boy"?

23 A Yes, I did.

24 Q Is that a nickname?

25 A Yes, it is.

RUSSO/DIRECT/ARGENTIERI

1 Q When were you an acting captain in the Colombo crime
2 family?

3 A When did I become an active captain? 2010, summer.

4 Q When you became an acting captain in the Colombo crime
5 family who were you acting for?

6 A Teddy Boy. Teddy, Junior.

7 MS. ARGENTIERI: Judge, may I approach?

8 THE COURT: Yes.

9 MS. ARGENTIERI: Showing the witness what was marked and
10 previously given to defense counsel, 226-A and 226-B.

11 THE COURT: All right.

12 Q Sir, are those fair and accurate pictures of those
13 individuals when you knew them?

14 A Yes, it is.

15 MS. ARGENTIERI: The government moves to admit them.

16 THE COURT: Any objection?

17 MR. McMAHON: No objection.

18 THE COURT: I'll receive Government Exhibits 226-A and B.

19 (Government Exhibits 226-A and B were received into
20 evidence.)

21 MS. ARGENTIERI: Judge, may I publish them to the jury?

22 THE COURT: Yes.

23 Q Showing you Government 226-A, do you recognize the
24 individuals in that photo?

25 A Yes, I do.

RUSSO/DIRECT/ARGENTIERI

1 Q Who are they?

2 A BF and Teddy Boy.

3 Q What other nicknames did you have for the defendant,
4 Francis Guerra?

5 A Called him Biff.

6 THE COURT: Biff?

7 THE WITNESS: Biff, yes.

8 Q And you said BF?

9 A BF.

10 Q And what nicknames did you have for Teddy Persico,
11 Junior?

12 A We called him "Teddy Boy." I called him Teddy Boy and I
13 had another nickname, I can't remember right now.

14 Q What nicknames did you have in organized crime?

15 A They called me a few things. They called me "The Moose,"
16 "Mussolini." Some people called me "Blockhead."

17 Q Showing you Government Exhibit 226-B, who is in this
18 picture?

19 A That's me, BF, and Anthony Strapoli.

20 Q And when this was photo taken?

21 A It was taken after I came home in 2007, I don't remember
22 the exact date.

23 Q What status, if any, does Anthony Strapoli have in the
24 Colombo crime family?

25 A He's a made member.

RUSSO/DIRECT/ARGENTIERI

1 Q How long have you known the defendant?

2 A 25, 30 years.

3 Q What was your relationship with him?

4 A He was my best friend.

5 Q When if ever did your friendship end?

6 A 2011.

7 Q What happened then?

8 A I started cooperating.

9 Q Sir, what is the purpose of organized crime?

10 A Can I get a minute?

11 Q Sure.

12 A (No response.)

13 Q Are you ready?

14 A Yes.

15 Q What is the purpose of organized crime?

16 A It's to commit crimes and to make money.

17 Q Only through crime?

18 A No, through legal businesses, too.

19 Q Are there individuals associated with organized crime who

20 make money through legitimate businesses?

21 A Yes, there is.

22 Q Can you give the jury some examples?

23 A John Stallupi, John Rosatti, Michael Persico.

24 Q How many organized crime families exist in the New York

25 City area?

RUSSO/DIRECT/ARGENTIERI

1 A Five.

2 Q What are the five families?

3 A Gambino, Genovese, Lucchese, Bonanno, Colombo.

4 Q You testified that you were on record or an associate on
5 record with Teddy Persico, Junior. What does it mean to be an
6 associate of organized crime?

7 A Being an associate means you're around a made member. He
8 puts you on record and you usually you are protected by the
9 family.

10 Q What are your obligations, if any, as an associate?

11 A Obligations is to -- well, it all depends, you know,
12 you've got associates that are earners, you've got associates
13 that are tough guys, and it's obligations to do what you are
14 told and make money.

15 Q And if you make money do you have a financial obligation
16 to the family?

17 A Sure you do.

18 Q What is it?

19 A You have to pass it up.

20 Q When you say "pass it up" if you are an associate who do
21 you give it to?

22 A You pass it up to the guy you run.

23 Q You used the term "earner," what's an earner?

24 A He's a moneymaker.

25 Q You said tough guy, what is a tough guy in organized

RUSSO/DIRECT/ARGENTIERI

1 crime?

2 A Guys going around and doing what they have to do to hurt
3 people.

4 Q What do you mean by -- hurting people?

5 A Yes.

6 Q What were you?

7 A I was an enforcer.

8 Q What does it mean to be a soldier in organized crime?

9 A It means you're not a made member.

10 Q And are there other terms for soldier?

11 A GoodFella, wiseguy.

12 Q What is the process to become a associate soldier in
13 organized crime?

14 A You have to be Italian, you have to be a male, you can't
15 have no ties to law enforcement, and if you are asked to do a
16 piece of work, you have to do it.

17 Q When you say a "piece of work" what do you mean?

18 A Kill somebody.

19 Q And if you satisfy those requirements, how does one get
20 inducted into a crime family, what is the process?

21 A You're proposed. They put a list around and they send it
22 to all the other five families.

23 Q And who would put someone's name on the list?

24 A A made member would put it on to the skipper, and he
25 gives it to the skipper and he passes it around.

RUSSO/DIRECT/ARGENTIERI

1 Q When you say "skipper" who are you referring to?

2 A The captain of the crew.

3 Q Who does the soldier report to?

4 A Caporegime.

5 Q And caporegime is another word for captain?

6 A Yes.

7 Q So you said a name is put on a list and it's passed up?

8 A Yes.

9 Q What happens to a name after it's put on that list?

10 A It goes around to the other families, so if there is a
11 problem with the person that's on it, they can talk about it.
12 Usually it just gets passed through and you get straightened
13 out.

14 Q And when you say "straightened out" what are referring
15 to?

16 A It means you become a made member.

17 Q It's another way for --

18 A Right, it's another way.

19 Q What, if any, rules exist in organized crime? Can you
20 describe to the jury the do's and don'ts?

21 A Rules? There are a lot of rules. One of the rules is
22 you don't put your hand on another made member. You don't
23 have nothing to do with the law enforcement. You can't sell
24 drugs. You can't commit a murder without the boss okaying it.

25 Q Are there rules about following orders?

RUSSO/DIRECT/ARGENTIERI

1 A Yeah.

2 Q What's the rule?

3 A About following orders?

4 Q Um-huh.

5 A You got to do what you are told.

6 Q Are there any rules about having relations with someone's
7 wife?

8 A Yeah, that's a no-no. Yeah.

9 Q That's against the rule?

10 A That's against the rules, right.

11 Q You said that associates provide money to soldiers. As a
12 soldier in organized crime, what do you have to do?

13 A Repeat that please.

14 Q As a soldier in organized crime, what do you have to do?
15 What are the obligations to the family?

16 A Well, you maintain your associates, you know, you are
17 street level, so you basically work the streets and make sure
18 that the associates are doing what they have to do.

19 Q Do you have any financial obligations?

20 A Sure you do. If you make money, you have to pass it on.

21 Q If you are a soldier, who do you pass money on to?

22 A The captain.

23 Q What are the responsibilities of a captain in an
24 organized crime family?

25 A To run the crew, the wiseguys and the associates, to

RUSSO/DIRECT/ARGENTIERI

1 maintain order in that crew.

2 Q And do they have a financial obligation?

3 A Yes, they do. Whatever money they receive, they pass it
4 up to the next person.

5 Q You said at one point that you were an acting captain?

6 A Yes.

7 Q Can you explain to the jury what that means, what's an
8 acting captain?

9 A Well, an acting captain is somebody that's acting for the
10 captain that's not around at the time.

11 Q And when you were acting for Teddy Persico, Junior where
12 was he?

13 A He was in prison.

14 Q Who do captains report to?

15 A To the underboss.

16 Q And who runs the crime family?

17 A The boss.

18 Q And is there someone else at the top of the chain?

19 A Consigliere.

20 Q What is the consigliere do?

21 A He's an advisor to the boss, basically.

22 Q When you said that the captain provides the money up, who
23 would they -- who is the person above them, who would they
24 provide that money to?

25 A To the underboss.

RUSSO/DIRECT/ARGENTIERI

1 Q Do you have any other financial obligations as a member
2 of organized crime, for example, at Christmas?

3 A Yeah.

4 MR. McMAHON: Object to leading.

5 THE COURT: No, I'll allow it. Moving to another area, I'll
6 allow it.

7 A Gifts, you've got to give a gift at Christmas.

8 Q Sure. To who?

9 A The made members would give a gift to the captain and the
10 captain would give a gift to the underboss, and the underboss
11 will do what he has to do with the gift.

12 Q At all times that you were associated with the Colombo
13 crime family who was the boss?

14 A Carmine Persico.

15 Q Does he have a nickname?

16 A "Junior". "Snake".

17 MS. ARGENTIERI: Judge, may I approach?

18 THE COURT: Yes.

19 MS. ARGENTIERI: I'm showing the witness what's been marked
20 for identification as 152-B, 156 and 157.

21 MR. McMAHON: 152-B?

22 MS. ARGENTIERI: Yes. 156 and 157.

23 Q Do you recognize the individuals in that photos?

24 A Yes, I do.

25 MS. ARGENTIERI: The government moves to admit those exhibits.

RUSSO/DIRECT/ARGENTIERI

1 MR. McMAHON: No objection.

2 THE COURT: Received Exhibits 152-B, 156 and 157.

3 (Government Exhibits 152-B, 156 & 157 were received into
4 evidence.)

5 MS. ARGENTIERI: Judge, may I publish them to the jury?

6 THE COURT: Yes.

7 Q Showing you Government Exhibit 152-B, who is that a photo
8 of?

9 A That's "Allie Boy".

10 Q Allie Boy. What's his full name?

11 A Alphonse Persico.

12 Q How, if at all, is he related to Carmine Persico?

13 A That's his son.

14 Q What's the highest position that you know him to hold in
15 organized crime?

16 A Active boss.

17 Q Showing you Government Exhibit 156 in evidence. Can you
18 see that?

19 A Yes, I can.

20 Q Who is that?

21 A That's "Teddy Boy".

22 Q What's his full name?

23 A Teddy Persico, Junior.

24 Q How is he related, if at all, to Carmine Persico?

25 A That's his nephew.

RUSSO/DIRECT/ARGENTIERI

1 Q Who is the nephew?

2 A Teddy Boy Persico.

3 Q So to be clear, Teddy Boy is the nephew of Carmine
4 Persico?

5 A Yes.

6 Q How is he related to Alphonse Persico or Allie Boy?

7 A He's his cousin.

8 Q And what's the highest position that you know Teddy
9 Persico, Junior to hold in organized crime?

10 A Captain.

11 Q And you said you were an acting captain for him?

12 A Yes.

13 Q Showing you Government Exhibit 157 in evidence, who is
14 that?

15 A That's Teddy Persico, Senior.

16 Q Did you have a nickname for him?

17 A "Uncle Teddy".

18 Q How is he related to Theodore Persico, Junior?

19 A That would be his father. That would be Teddy's father,
20 Teddy Boy.

21 Q And how, if at all, is he related to Carmine Persico?

22 A That would be Carmine's brother.

23 Q And to Allie Boy?

24 A Uncle.

25 Q And what's the highest position that you know him to hold

RUSSO/DIRECT/ARGENTIERI

- 1 in organized crime?
- 2 A Captain.
- 3 Q Where were you born?
- 4 A In Brooklyn.
- 5 Q What neighborhood did you grow up in?
- 6 A I was born downtown Brooklyn, and I grew up in Borough
7 Park.
- 8 Q Where did you go to junior high school?
- 9 A Shallow Junior High School.
- 10 Q What's the highest level of school you attended?
- 11 A Eleventh grade.
- 12 Q When did you first begin committing crimes?
- 13 A When I was young.
- 14 Q How old were you?
- 15 A 14, 15.
- 16 Q At that age what types of crimes were you committing?
- 17 A Stolen car, stealing things, you know --
- 18 Q You said stealing?
- 19 A Yeah, stealing cars.
- 20 Q Were you also robbing houses?
- 21 A Yes. When I was about 16, yes.
- 22 Q Who were you close friends growing up?
- 23 A Growing up then, Gary Fama, Danny Fama, Lee, Joey Fama.
- 24 Q Are all the Famas that you just listed related?
- 25 A Yes, they are.

RUSSO/DIRECT/ARGENTIERI

1 Q How are they related?

2 A They're brothers.

3 Q What types of crimes did you commit with the Famas and
4 others?

5 A We sold drugs.

6 Q What kind of drugs did you sell with Famas?

7 A Cocaine, pot.

8 Q As a teenager what, if any, clubs did you go to in the
9 neighborhood?

10 A Pastels, we went to Players.

11 Q What was Pastels?

12 A Pastels is a club on 86th Street or 88th Street,
13 something like that.

14 Q Who did you socialize with at those clubs?

15 A Years ago when I went out I went out with Gary Fama and
16 them and I would meet other people in the club.

17 Q Who did you regularly see in the clubs?

18 A I'd see Teddy Boy, Frank, Sallie Fusco, Frankie Smith.

19 Q When you say "Frank" are you referring to the defendant?

20 A Frank, yes, and Frankie Smith.

21 Q What other crimes did you commit as a teenager?

22 A I have a lot of crimes.

23 Q Did you possess guns for example?

24 MR. McMAHON: Judge, I'd like the witness' recollection rather
25 than the assistant's testimony.

RUSSO/DIRECT/ARGENTIERI

1 THE COURT: Well, you know, I want you to think carefully and
2 try to remember the crimes that you committed.

3 THE WITNESS: Yes.

4 THE COURT: All right.

5 BY MS. ARGENTIERI:

6 Q What types of crimes did you commit as a teenager?

7 A Robbing houses, I had guns, I started stealing trucks.

8 Q And with regard to the guns, what kind of guns did you
9 possess?

10 A I had a 38, I had an M1 carbine.

11 Q At that time, when, if ever, did you shoot at anyone?

12 A I shot at a schoolyard over everybody's head one time.

13 Q As a teenager did you ever have a legitimate job?

14 A Yes.

15 Q Where did you work?

16 A I worked in carpets. I worked in an ambulance service.
17 I worked in Hunts Point Market. I worked in construction.

18 Q When you worked with regard to the Hunts Point Market,
19 what were you doing?

20 A I was trucking fruits and vegetables.

21 Q Were you committing any crimes when you worked through
22 the Hunts Point Market?

23 A Yes, I was.

24 Q What crimes were you committing?

25 A I was selling cocaine.

RUSSO/DIRECT/ARGENTIERI

1 Q When did you first become associated with organized
2 crime?

3 A '79, '80. Maybe a little earlier, '78.

4 Q How?

5 A How? My father used to have a store on Court Street, a
6 fruit store. I used to go hang out over there. A friend of
7 his used to sell swag, stolen merchandise. I got caught
8 stealing some of the stuff off his truck and put it in my car.

9 Q And then what happened?

10 A A guy used to come by and say hello to my father every
11 day, his name was Frankie Gurenta (phonetic).

12 THE COURT: Frankie? I couldn't hear you.

13 THE WITNESS: Gurenta. "Frankie Martin" they called him.

14 THE COURT: Okay.

15 A And he asked my father if I could come around to his club
16 and hang out at his club.

17 Q And did you go and hang around his club?

18 A Yes, I did.

19 Q Where was the club located at that time?

20 A Court Street. Court and Sackett.

21 Q And at that time what, if any, discussion did you have
22 with Frankie about your association with him?

23 A Well, he told me I could do whatever I want, but I had to
24 tell him everything that I was doing. If I wanted to shylock
25 money, he would give me some money to shylock with.

RUSSO/DIRECT/ARGENTIERI

1 THE COURT: Give you some money to?

2 THE WITNESS: Give me some money to push out on the street,
3 yes.

4 Q Can you just explain to the jury what shylocking or
5 putting money out on the street is?

6 A It's lending money to people for a set amount every week
7 until they can come up with the initial payment back.

8 Q So if they pay you every week does that reduce the amount
9 they owe you?

10 A No, not at all.

11 Q After you have that conversation with Frankie, what was
12 your status in organized crime?

13 A I was an associate.

14 Q With who?

15 A The Gambinos.

16 Q Why the Gambinos?

17 A Because that's what Frankie was, he was a made member of
18 the Gambinos.

19 Q And who were you specifically responsible to in the
20 Gambino family?

21 A Frankie.

22 Q Directing your attention to the 1980's when was the first
23 time you were arrested?

24 A I believe for a gun charge.

25 Q Do you recall the approximate year?

RUSSO/DIRECT/ARGENTIERI

1 A '86.

2 Q What happened that you were arrested?

3 A I was going to drop off some drugs and I got pulled over,
4 I had a gun and drugs on me.

5 Q And what were you sentenced to?

6 A Oh, probation, five years probation.

7 Q And what were the terms of your probation?

8 A To stay out of trouble, not commit any crimes.

9 Q Did you abide by those terms?

10 A No.

11 Q How did you violate the terms of your probation on that
12 case?

13 A I just went out and started committing crimes again.

14 Q Directing your attention to the 1980's, what, if any,
15 drugs were you selling?

16 A Cocaine, pot.

17 Q What, if any, discussions did you have with the defendant
18 about his involvement in selling cocaine in the 1980's?

19 A Oh, we had discussions about it, about him selling
20 cocaine for Teddy Boy.

21 Q When you say Teddy Boy, you are referring to the Teddy
22 Persico, Junior?

23 A Yes.

24 MS. ARGENTIERI: Judge, may I approach?

25 THE COURT: Yes.

RUSSO/DIRECT/ARGENTIERI

1 MS. ARGENTIERI: I'm showing the witness what's marked for
2 identification as 130-A, 130-B, 175, 119 and 120.

3 Q Do you recognize the individuals in those photos?

4 A Yes, I do.

5 MS. ARGENTIERI: The government moves to admit them.

6 MR. McMAHON: No objection.

7 THE COURT: All right. Give me the numbers again.

8 MS. ARGENTIERI: I'll go through them slowly, Judge. It's is
9 130-A and B, 175, 119, 120.

10 THE COURT: All right. I will receive Government Exhibits
11 130-A, 130-B, 175, 119, and 120.

12 (Government Exhibits 130-A, 130-B, 175, 119 & 120 were
13 received into evidence.)

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

15 THE COURT: Yes.

16 BY MS. ARGENTIERI:

17 Q Showing you 130-A in evidence, who is that?

18 A Frank.

19 Q The defendant?

20 A Yes.

21 Q Showing you 130-B in evidence, who is that?

22 A Frank.

23 Q The defendant?

24 A Yes.

25 Q Showing you 175 in evidence, who is that?

RUSSO/DIRECT/ARGENTIERI

1 A Frankie Smith.

2 THE COURT: Is that on the summary? Is that --

3 MS. ARGENTIERI: Oh, is it being published to you? I think it
4 is.

5 THE COURT: All right. Let me see. I'm not getting anything.

6 Q Showing you Government's Exhibit 119 in evidence, who is
7 that?

8 A Gary Fama.

9 THE COURT: Gary?

10 THE WITNESS: Fama, F-A-M-A.

11 Q Showing you Government Exhibit 120 in evidence, who is
12 that?

13 A Lee Fama.

14 Q Directing your attention to 1987, were you and others
15 arrested on drug charges?

16 A Yes, we were.

17 Q Who was arrested?

18 A Me, Gary, Lee, Teddy Boy, BF. I think Frankie Smith was
19 arrested that day, Scooby was arrested. There was a bunch of
20 people arrested that day.

21 THE COURT: Did you say "Scooby".

22 THE WITNESS: Yes.

23 Q Is that a nickname for someone?

24 A Yes, Vinnie Lafaro.

25 Q What happened when you were arrested?

RUSSO/DIRECT/ARGENTIERI

1 A Well, they let me go after they realized -- they arrested
2 me as Nicky Aiello and that's not who I am, so they had to let
3 me go.

4 Q Did you ever have a conversation with the defendant about
5 what happened when he was arrested that day?

6 A Yes.

7 Q What did he tell you?

8 A Basically the same thing happened to him, they arrested
9 him as John Guardo (phonetic) they had to let him go, too.

10 Q Did you later have a discussion with the defendant about
11 why he believed Frank Smith was arrested?

12 A Yes.

13 Q And what year did you have that conversation?

14 A More than likely when I came home in '92.

15 Q What did the defendant tell you about why he believes
16 Frankie Smith was arrested?

17 MR. McMAHON: Your Honor, I object to the leading.

18 THE COURT: No, overruled.

19 A Can you ask me the question again, please?

20 Q Sure. What did the defendant tell you about why he
21 believed Frank Smith was arrested?

22 A He believed that Frank Smith -- he told me Frankie Smith
23 got arrested because he was using Frankie's car at the time
24 that he was making the sale.

25 Q Who was using Frank Smith's car?

RUSSO/DIRECT/ARGENTIERI

1 A Frank, BF.

2 Q The defendant?

3 A The defendant, yes.

4 Q And what did the defendant tell you he wanted to do about
5 it?

6 A Well, he heard through Frankie's mother that he might be
7 able to help him by taking the blame for him.

8 Q And what did he tell you he was going to do?

9 A Well, Frankie's mother approached Frankie, BF, asked him
10 to come by the house. And she told him that Frankie Smith's
11 lawyer said that if he was to take the weight and tell the
12 truth that he did it, that he could promise Frankie that he'd
13 get like four or five years in jail, so --

14 Q If the defendant came forward?

15 A If the defendant came forward.

16 Q And what did the defendant tell you he was going to do
17 before coming forward?

18 A Well, he told me that he was going to go see Teddy Boy
19 first and run it by him.

20 Q Where was Teddy Boy at the time?

21 A In jail.

22 Q And did you have a conversation with the defendant after
23 he went to see Teddy Boy?

24 A Yes, I did.

25 Q What did he tell you?

RUSSO/DIRECT/ARGENTIERI

1 A Teddy Boy basically told him the same thing I told him,
2 the lawyer can guarantee you four or five years, then help
3 your friend out, you know, it's the right thing to do. But if
4 you can't, don't do nothing, don't step forward.

5 Q And did he step forward?

6 A No, he didn't.

7 THE COURT: Let me give a limiting instruction to the jury.

8 THE COURT: Members of the jury, there is a list of the
9 alleged Racketeering Acts alleged to have been committed by
10 the defendant in the indictment. Now you are hearing about
11 alleged other bad acts attributed to the defendant. You can
12 consider this evidence as proof that the charged enterprise
13 existed and the defendants's membership in it. You cannot,
14 however, consider this as proof beyond a reasonable doubt of
15 the charged Racketeering Acts in the indictment, and we'll
16 talk more about that. I'll tell you what those are and I will
17 give you the charge on them.

18 MS. ARGENTIERI: May I proceed, Judge?

19 THE COURT: Yes.

20 BY MS. ARGENTIERI:

21 Q You said that when you came home in the 90's at some
22 point you were arrested again?

23 A Yes.

24 Q After the gun arrest?

25 A Yes.

RUSSO/DIRECT/ARGENTIERI

1 Q When were you arrested?

2 A In 1999, 2000.

3 Q I'm sorry, going back prior to that, were you arrested?

4 A '92. Before '92 or after '92?

5 Q I'm not being clear. You testified that you were
6 arrested for possession of a gun?

7 A Right.

8 Q At some point after that were you arrested again?

9 A Yes, I was.

10 Q For what?

11 A An assault.

12 Q And approximately what year were you arrested for
13 assault?

14 A '87.

15 Q And can you tell the jury what happened that you got
16 arrested for assault?

17 A Yes. I -- somebody owed me money for drugs and he was
18 hiding on me. I finally found him. And when I found him, I
19 gave him a beating. And his father came looking for me where
20 I used to hang out in the bowling alley. And to make it
21 short, he came at me, he walked out the back of the bowling
22 alley, I followed him, he didn't know I knew who he was, he
23 had a baseball bat and he came around the front of the bowling
24 alley and I grabbed the baseball bat where he hid it. I told
25 him, are you looking for me? He said yeah. And I said well,

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1 do yourself a favor, get out of here before I do the same
2 thing I did to your son. He said, do me a favor, stay away
3 from my son, here's your money.

4 Q Did you leave it at that?

5 A Yes, I did.

6 Q And then what happened?

7 A A couple of weeks later he came back looking for me.

8 THE COURT: Who is "he"?

9 THE WITNESS: The guy that I beat up, his father.

10 Q What happened then?

11 A I went after him. I assaulted him.

12 Q What did you assault him with?

13 A A car jack.

14 Q Did you hurt him?

15 A Yes, I did.

16 Q How badly?

17 A Bad.

18 THE COURT: What was your answer?

19 THE WITNESS: Bad.

20 THE COURT: Okay.

21 Q You said you were arrested for that assault?

22 A Yes, I did.

23 Q How long after the assault were you arrested?

24 A About a month.

25 Q Was anyone else arrested with you?

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1 A My brother.

2 Q What, if any, role had your brother played?

3 A My brother was just drove me there.

4 Q Drove you where?

5 A To the bowling alley where I confronted the person.

6 Q What happened to your case?

7 A I went to trial and I blew trial, I got convicted.

8 Q What do you mean blew trial?

9 A I got convicted of the crime of assault.

10 Q What was your defense at trial?

11 A Self defense.

12 Q What were you sentenced to as a result of your

13 conviction?

14 A I was sentences to four and a half to nine, and on the

15 violation of probation they gave me another one and a half to

16 three running wild, consecutive.

17 Q When you say running wild, do you mean consecutive

18 sentences?

19 A Yes, I do.

20 Q And when you say violation of probation, what case is

21 that related to?

22 A To the gun charge.

23 Q Were you incarcerated to serve that time?

24 A Yes.

25 Q Where?

RUSSO/DIRECT/ARGENTIERI

1 A In Cossackie.

2 Q Is that a state or federal prison?

3 A That's a state prison, upstate.

4 Q Approximately how long were you held in Cossackie?

5 A Around a year.

6 Q When you were in Cossackie who were you incarcerated
7 with?

8 A I was incarcerated with Teddy Boy.

9 Q For how long were you and Teddy Persico, Junior together?

10 A Just about a year maybe.

11 Q What was your relationship with Teddy Persico in prison?

12 A We were close, real close.

13 Q Who, if anyone, did you observe visiting Teddy while you
14 were away together?

15 A His family.

16 Q Do you remember who?

17 A Friends and family.

18 Q Do you -- when you say you observed friends and family,
19 who specifically did you observe?

20 A His father, his brothers, Frankie, BF, the defendant,
21 cousins.

22 Q On how many occasions did the defendant visit him?

23 A I don't remember a number. A few times.

24 Q And you said the brothers visited him?

25 A Yes.

RUSSO/DIRECT/ARGENTIERI

1 Q What which brothers visited him?

2 A His brother Shawn, Carmine, Allie Boy, Little Allie.

3 Q While you were incarcerated with Teddy Persico what, if
4 any, discussions did you have about your status in organized
5 crime?

6 A He told me that he wanted me to be around him. He was
7 going to put me on record with him?

8 Q At that time what was your status?

9 A I was around the Gambinos at that time.

10 Q What, if anything, did Teddy Persico tell you he could do
11 about that?

12 A He told me he would tell his father and the father would
13 straighten it out.

14 Q When you say "Teddy's father" who are you referring to?

15 A Teddy Persico, Senior, Uncle Teddy.

16 (Ms. Argentieri points to a headshot on the board.)

17 A Yes.

18 Q What, if any, discussions did you have with Teddy Persico
19 about what you should do upon your release from prison?

20 A When I got with his brother and go stay with his father.

21 Q When were you released from prison, what year?

22 A 1992 I was released to a work release facility.

23 Q What's a work release facility?

24 A It's where you go, they give you sometime to readjusted
25 to the street. You've got to get a job and you live in a

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1 halfway house for a couple of days and you live at your own
2 residence for a few days, but you have to have a job, you have
3 to secure a job.

4 Q Prior to your release from prison did your marital status
5 change?

6 A Prior to my release?

7 Q Yes.

8 A Yes.

9 Q Who did you marry?

10 A Michelle Fama.

11 Q What relation, if any, did she have to Gary and Lee?

12 A She's their cousin.

13 Q Did you have children together?

14 A Yes, we did.

15 Q How many?

16 A Three.

17 MR. McMAHON: Your Honor, could we get a date for the
18 marriage, a year?

19 THE COURT: Yes. What year?

20 THE WITNESS: '89, '90. I'm not sure. I think it was '89.

21 Q You testified you were released to a work release
22 program. What were the conditions that you had to abide by?

23 A That I cannot stay with felons, I cannot commit any
24 crimes, I cannot possess any weapons, and I had to secure a
25 job.

RUSSO/DIRECT/ARGENTIERI

1 Q When did you begin violating the terms of your work
2 release program?

3 A The minute I got out.

4 Q How did you first violate it?

5 A By meeting Uncle Teddy as a violation.

6 Q And what happened when you came home?

7 A Well, I met with Danny, and Danny brought me down to see
8 his father.

9 Q Who is Danny?

10 A Danny Persico.

11 Q Who is he related to?

12 A Teddy Persico.

13 Q And you said you met with Danny and he brought you where?

14 A He brought me down to see the father.

15 Q At that time what position did Teddy, Senior hold in
16 organized crime?

17 A Captain of the Colombo family.

18 Q Where did you meet with Teddy, Senior?

19 A On 11th Avenue.

20 Q Where specifically?

21 A I met him near Romantique.

22 Q What is Romantique?

23 A It's a limousine service.

24 Q When, if ever, had you discussed Romantique with Teddy
25 Persico, Junior?

RUSSO/DIRECT/ARGENTIERI

1 A I discussed it -- in jail I discussed it.

2 Q And what did he tell you about Romantique limousines?

3 A It was owned by his cousins.

4 Q Which cousins?

5 A Michael, Allie.

6 MS. ARGENTIERI: Judge, may I approach?

7 THE COURT: Yes.

8 MS. ARGENTIERI: I'm showing the witness Government

9 Exhibit 154 and 155.

10 Q Do you recognize the individuals in those photos, sir?

11 A Yes, I do.

12 MS. ARGENTIERI: The government moves to admit them.

13 MR. McMAHON: No objection.

14 THE COURT: I will receive Exhibits 154, 155.

15 (Government Exhibits 154 & 155 were received into
16 evidence.)

17 Q Showing you Government Exhibit 154, who is that?

18 A That's Danny, Danny Persico.

19 Q And who did you say he was related to?

20 A Teddy Persico, Junior.

21 Q How?

22 A They're brothers.

23 Q Showing you Government Exhibit 155, who is that?

24 A That's Michael.

25 Q Last name?

RUSSO/DIRECT/ARGENTIERI

- 1 A Michael Persico.
- 2 Q Who is he related to?
- 3 A He's related to Teddy and Danny.
- 4 Q How?
- 5 A Cousin.
- 6 Q How, if at all, is he related to Allie Boy?
- 7 A That's his brother.
- 8 Q How, if at all, is he related to Carmine Persico?
- 9 A Carmine's son, Michael is Carmine's son.
- 10 Q What status did Michael have in organized crime during
11 the time you knew him?
- 12 A He's an associate.
- 13 Q How often did you go to Romantique limousines after you
14 came home from prison?
- 15 A I went up there a few times, quite a few.
- 16 Q Who did you see when you went there?
- 17 A I used to see Michael Persico.
- 18 Q Going back to the day you met with Teddy Persico, Senior,
19 what happened during that first meeting?
- 20 A Well, he told me he was glad to see I was home, and he
21 told me to try to stay out of trouble, and if I have any
22 problems, just come see me.
- 23 Q What was your understanding of what Teddy Persico, Senior
24 was telling you in that conversation?
- 25 A He also told me that I was around him now.

RUSSO/DIRECT/ARGENTIERI

1 Q At that time who else was around Teddy Persico, Senior?

2 A All of Teddy Boy's guys.

3 Q Like who?

4 A BF, Bobby Tarantola, Little Anthony Ferrera.

5 MS. ARGENTIERI: Judge, may I approach?

6 THE COURT: Yes.

7 MS. ARGENTIERI: I'm showing the witness 178, 121 and 182.

8 Q Do you recognize these individuals, sir?

9 A Yes, I do.

10 MS. ARGENTIERI: The government moves to admit them.

11 MR. McMAHON: No objection.

12 THE COURT: Received, 178, 121, 182.

13 (Government Exhibits 178, 121 & 182 were received
14 into evidence.)

15 Q Showing you Government Exhibit 121, who is that?

16 A That's Anthony Ferrera.

17 Q What was his status in organized crime?

18 A Associate.

19 Q Showing you Government Exhibit 182, who is that?

20 A That's Bobby Tarantola.

21 Q What was his status in organized crime?

22 A Associate.

23 Q Showing you exhibit -- Government Exhibit 178, who is
24 that?

25 A Frankie Sparaco.

RUSSO/DIRECT/ARGENTIERI

1 Q What was his status in organized crime?

2 A He was an associate.

3 THE COURT: What's his last name, I'm sorry?

4 THE WITNESS: Sparaco.

5 THE COURT: Sparaco. Thank you.

6 Q Did he have a nickname?

7 A "Blue Eyes".

8 Q When you came home from prison what, if any, other
9 locations did you meet Teddy, Senior and others at?

10 A We used to go up to the candy store, Frankie's candy
11 store when I first came home.

12 Q When you stay Frankie's candy store, which Frankie are
13 you referring to?

14 A Frankie Sparaco.

15 Q Where was the candy store located?

16 A 11th Avenue.

17 Q And how often did you go there?

18 A Most every day.

19 Q When you went there who else was there?

20 A It was all kinds of people there. It was me, Bobby
21 Tarantola, Frankie, BF, Uncle Teddy.

22 Q When you said Frankie, BF, you were referring to the
23 defendant?

24 A Yes, I was.

25 MR. McMAHON: Can we have a timeframe, Judge?

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1 THE COURT: Yes.

2 Q What time frame did you go to the candy store?

3 A When I came home, '92.

4 Q Was it over a several-month period?

5 A Yes, a couple few months.

6 Q Where did you work when you came home?

7 A I was working -- Danny got me a job working with a carpet
8 company.

9 THE COURT: With what?

10 THE WITNESS: That's a carpet company. A carpet company.

11 Q Were you actually working?

12 A No.

13 Q What do you mean by that?

14 A I was supposed to go to work, but I never showed up to
15 work, I was just going down there to pick up a check once a
16 week.

17 Q Is there a term for that?

18 A No show, yeah.

19 Q At the time that you came home from prison, who was the
20 boss of the Colombo crime family?

21 A It was in disarray, they were having a war.

22 Q Who was having a war?

23 A The Columbos.

24 Q And what was the status?

25 A It was broken up into two factions.

RUSSO/DIRECT/ARGENTIERI

1 Q What was the broken up into two factions?

2 A The family, the Colombo family.

3 Q Did you discuss the war when you came home from prison
4 with members and associates of the Colombo crime family?

5 A Sure I did.

6 Q Who did you discuss it with?

7 A I discussed it with BF, Bobby, I discussed it with
8 Frankie Sparaco a lot.

9 Q What were the different factions in the war?

10 A Well, you had us, the Persico side, and then you had the
11 Orena side.

12 Q And what were the factions fighting over?

13 A Power to take over the family.

14 Q Where was Carmine Persico at the time the war was going
15 on?

16 A Prison.

17 Q And again, what side were you on?

18 A Persico side.

19 Q And you said the other side was called the what side?

20 A The Orena.

21 Q Who was on the Orena side of the war?

22 A You had Joey Scopo, you had a lot of guys on the other
23 side, most of -- half the family was on that side,
24 three-quarters of the family.

25 Q Why was it called Orena side?

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1 A He was the acting boss at the time before the war
2 started.

3 Q Who was the acting boss at the time before the war
4 started?

5 A Vic Orena.

6 Q And I'm sorry, you said -- I think I interrupted you.
7 Who was on the Orena side?

8 A Joey Scopo, "Wild Bill" Cutolo.

9 Q And what had been his position in the Colombo crime
10 family?

11 A Vic?

12 Q Yeah?

13 A He was the acting boss.

14 Q Wild Bill?

15 A I think he was a captain at that time.

16 Q Who was the running the Persico faction when you came
17 home from jail?

18 A From what I understand it was Jo Jo Russo, Chucky Russo,
19 Uncle Teddy.

20 Q What was the Jo Jo Russo' position?

21 A I think he was acting for the family, for the Persico
22 side.

23 MS. ARGENTIERI: Judge, may I approach?

24 THE COURT: Yes.

25 MS. ARGENTIERI: I'm showing the witness Government's

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1 Exhibit 113, 144, 147, 166, 168 and 174.

2 Q Do you recognize these individuals, sir?

3 A Yes.

4 MS. ARGENTIERI: The government moves to admit them.

5 MR. McMAHON: No objection.

6 THE COURT: Received Government Exhibits 113, 144, 147, 166,
7 168 and 174.

8 (Government Exhibits 113, 144, 147, 166, 168 & 174 were
9 received into evidence.)

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

11 THE COURT: Yes.

12 BY MS. ARGENTIERI:

13 Q Showing you Government's Exhibit 113, who is that?

14 A That's Wild Bill.

15 Q What was his last name?

16 A Cutolo.

17 Q And what side of the war did you say he was on?

18 A The Orena side.

19 Q Showing you Government Exhibit 144, who is that?

20 A Joe Monte.

21 Q Do you know his full name?

22 A Monteleone, something like that.

23 Q What side of the war was he on?

24 A He was on the Persico side.

25 Q What was his position in the Colombo crime family when

RUSSO/DIRECT/ARGENTIERI

1 you came home from jail?

2 A Made member.

3 Q Showing you Government Exhibit 147, who is that?

4 A That's Vic Orena.

5 Q And what side of the war was he on?

6 A On the other side, the Orena side.

7 Q And what was the highest position that he held in the
8 Colombo crime family prior to that?

9 A He was the acting boss.

10 Q Showing you Government Exhibit 166, who is that?

11 A That's "Chucky" Russo.

12 Q Do you know his real name?

13 A Anthony Russo.

14 Q Any relation?

15 A No.

16 Q What side of the war was he on?

17 A He was the Persico side.

18 Q And what was the highest position that you knew him to
19 hold in the Colombo family?

20 A He was a captain at the time.

21 Q Showing you Government Exhibit 174, who is that?

22 A Smiley.

23 Q What's his name?

24 A I don't know his real name. I only know him as Smiley.

25 Q Who is he?

RUSSO/DIRECT/ARGENTIERI

1 A He's dear friend of Michael and Allie.

2 Q When you say "Michael and Allie" who are you referring
3 to?

4 A Persico.

5 Q When you came home from prison --

6 MR. McMAHON: Judge, 168?

7 MS. ARGENTIERI: I moved it in, but I'm not going to ask him
8 about it right now.

9 MR. McMAHON: Is that 68 or 58?

10 THE COURT: 68. That's what I have on my list.

11 MS. ARGENTIERI: Yes.

12 BY MS. ARGENTIERI:

13 Q What, if any, discussions did you have with the defendant
14 about the Colombo war when you came home from prison?

15 A I wanted to know what was going on. So I wanted to be --
16 I wanted to know what's going on, because I'm hanging out
17 around everyone and there is a war going on.

18 Q What did he tell you?

19 A At that time when I came home?

20 Q Yes.

21 A He told me a few things. He told me that right now it's
22 at like a standstill.

23 Q That was as of the time you came home?

24 A At the time I came home, yes.

25 Q What, if any, acts of violence did he tell you about?

RUSSO/DIRECT/ARGENTIERI

1 A He told me about --

2 MR. McMAHON: Your Honor I object to the leading again.

3 THE COURT: Overruled.

4 A He told me about things that happened to him, that people
5 were laying on him, that he almost got killed.

6 Q What did he tell you about the incident?

7 A He told me one story that Joey Amato and a couple of guys
8 pinned him out a block from his house, they were laying on
9 him, and he -- but they never got to him. And another time --

10 Q I'm stopping you there. When you say "laying on him" can
11 you explain to the jury what you mean?

12 A Laying on a person; meaning, just lying in wait to get
13 him, to kill him.

14 Q And I interrupted you. What, if any, other incidents did
15 he tell you about?

16 A He also told me about the time that -- about the bagel
17 store. He owned a bagel store.

18 Q Who owned a bagel store?

19 A Frankie.

20 Q Who, if anyone, else did he own it with?

21 A Anthony Ferrera.

22 Q And what did he tell you happened?

23 A He told me that they went looking for him, because they
24 went in the store to kill Frankie and Anthony Ferrera, and
25 they wound up shooting a young kid working there.

RUSSO/DIRECT/ARGENTIERI

1 Q When you said "they" went in the store and were looking
2 for Frankie, who are you referring to?

3 A The other side, the Orena side.

4 Q Members of the Orena side?

5 A Yes, members of the Orena side.

6 Q What, if anything, did he tell you about who specifically
7 he believed was involved?

8 A Told me that Bobo, he thought somebody shot at Bobo's
9 son. And they were saying that it was Frankie that was
10 involved in that, that's why Bobo sent people over to get him.

11 Q And when you refer to Bobo, who are you referring to?

12 A Malpeso I think the last name was.

13 Q You used the term "him" so it may be unclear. Who did
14 the defendant tell you that -- who was the him in that
15 sentence?

16 A The him is Bobo.

17 Q And Bobo was trying to get who?

18 A Get back at Frankie and Anthony Ferrera for trying to
19 shoot at Bobo's son.

20 Q And Frankie is a reference to the defendant?

21 A Yes.

22 Q When you came home from prison, when, if ever, were you
23 asked to help?

24 A Frankie Sparaco asked me to help him with something.

25 Q When he asked you to help with something, what was your

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1 understanding of what he meant?

2 A Killing somebody.

3 Q At that time what was your understanding of who Frank
4 Sparaco was in the Colombo crime family?

5 A Frankie was dear friends with Michael and Allie.

6 Q And when you say dear friends, what position did he hold?

7 A He was an associate.

8 Q What happened next after Frank Sparaco asked you for
9 help?

10 A Frankie asked me for help in doing something, and I went
11 up to see Danny, because I was staying with Danny a lot, too.
12 And I explained to him what was going on, that Frankie asked
13 me to help him with something, and I told him I think it was a
14 piece of work, and he got upset with that. He told me that we
15 went up to the avenue to see his father.

16 Q And when you say "his father" who are you referring to?

17 A Uncle Teddy.

18 Q And when you say "up to the avenue," where did you go?

19 A 11th Avenue.

20 Q What's on the 11th Avenue?

21 A Candy store, Pop's candy store.

22 Q Did you do that?

23 A Yes, we did.

24 Q What happened then?

25 A Danny took a walk with his father and had a discussion,

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1 and later he told me that he told his father he didn't want me
2 doing anything with Frankie. And Uncle Teddy came back and
3 said, don't do nothing, you don't have to do nothing, Frankie,
4 just don't worry about it.

5 MR. McMAHON: Judge, can we clarify which Frankie?

6 THE COURT: Yes.

7 THE WITNESS: Frankie Sparaco.

8 Q What happened next?

9 A We left.

10 Q Shortly after that incident were members of the Colombo
11 family arrested?

12 MR. McMAHON: Your Honor, can we have a sidebar?

13 THE COURT: Yes.

14 (Continued on the next page for a sidebar bench conference.)

15 (SIDEBAR)

16 MR. McMAHON: Judge, I object to the leading. She is
17 providing him with a timeline. She's giving him the dates for
18 all the occurrences. He doesn't even remember the year that
19 he gets married; and yet, he's able to do this chronology
20 because she's giving him the dates.

21 THE COURT: Overruled.

22 MR. McMAHON: She is testifying --

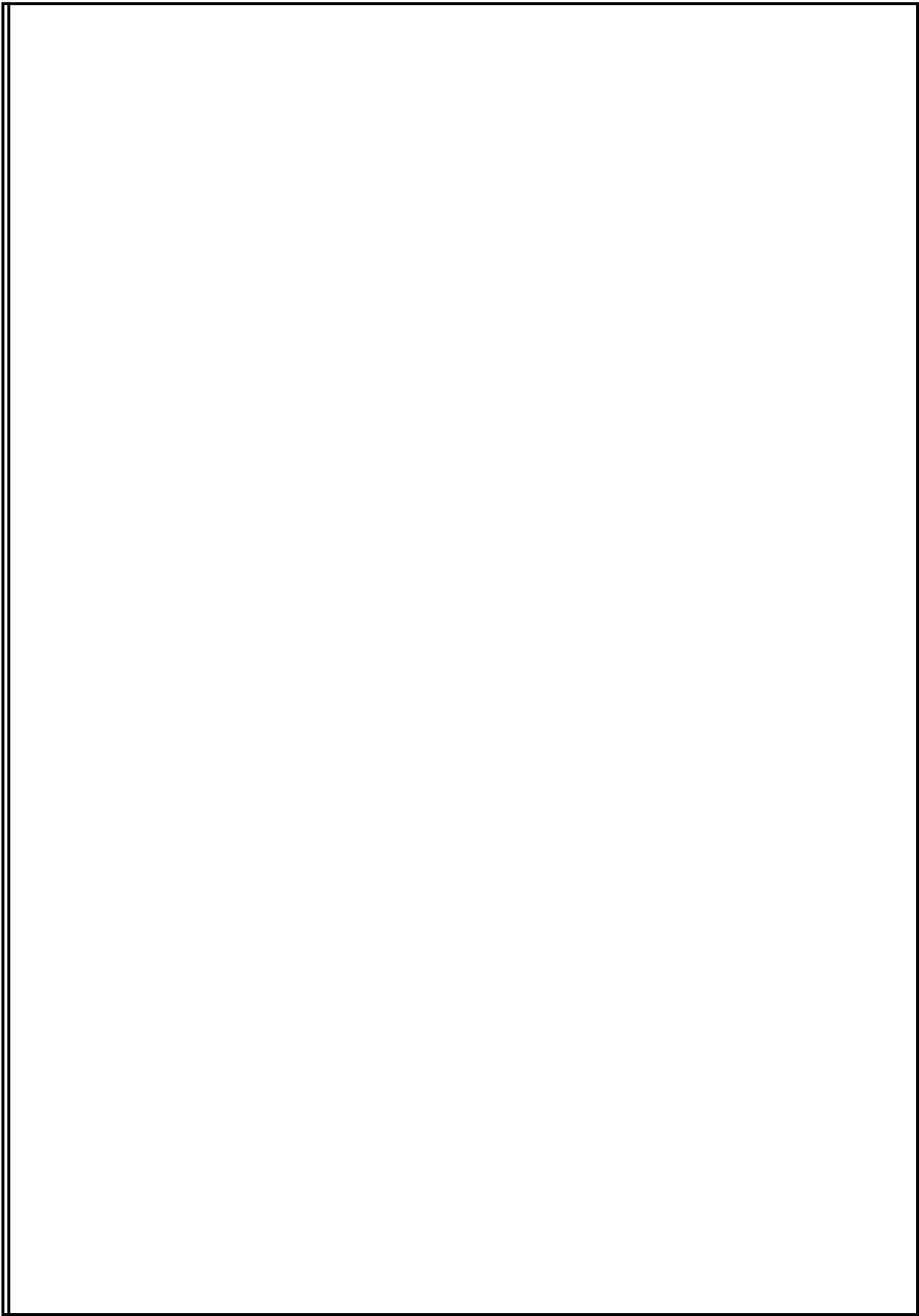
23 THE COURT: Overruled.

24 (End of sidebar bench conference.)

25 (Continued on the next page.)

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SIDEBAR

1 THE COURT: The objection is overruled.

2 MS. ARGENTIERI: Your Honor, can we have the court reporter
3 read back the last question? Sorry, I just wasn't sure what
4 it was.

5 THE COURT: We're going to take our morning break and we'll
6 come back.

7 MS. ARGENTIERI: That's fine.

8 THE COURT: We will come back. 15 minutes, I'm going to give
9 you. Please remember by admonitions, do not discuss the case,
10 keep on opened mind.

11 (Jury is out of the courtroom at 11:47 a.m.)

12 THE COURT: All right. 15 minutes and we'll start with the
13 last question. Please be seated. We'll start with the
14 question, the last question before we come back.

15 (Continued on the next page.)
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1 (Jury enters courtroom at 12:07 p.m.)

2 THE COURT: Please be seated.

3 The record will reflect that the jurors are all
4 present; the defendant and counsel.

5 Mr. Russo is still on the stand still under oath;
6 and I ask the court reporter to read the last question asked.

7 (Requested portion read.)

8 MS. ARGENTIERI: May I, Judge?

9 THE COURT: Yes.

10 BY MS. ARGENTIERI:

11 Q Can you answer that question, Mr. Russo?

12 A I didn't hear that one, please.

13 THE COURT: Can you pull your microphone closer?

14 (Requested portion read.)

15 A Yes.

16 Q And when approximately did that arrest occur?

17 A Early '93.

18 Q Who was arrested?

19 A I can tell you Frankie Sparaco, Chucky, Jo Jo, Joe Monte.

20 Q Showing you Government's Exhibit 168.

21 (Exhibit displayed.)

22 Q Do you recognize that person?

23 A I think that's Jo Jo.

24 Q Where were -- and when you say Jo Jo --

25 A Russo.

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1 Q What's the last name?

2 A Russo.

3 Q Where were these individuals incarcerated after their
4 arrest?

5 A MCC; Manhattan.

6 Q Prior to that arrest, when, if ever, did you meet with
7 the individual you identified as Joe Monte?

8 A I met him up at the candy store on 11th Avenue.

9 Q And when you met with Joe Monte on 11th Avenue -- first
10 of all, where on 11th Avenue did you meet?

11 A The candy store was on 11th Avenue between 68th and
12 69th Street.

13 Q And when you met with Joe Monte who else was there?

14 A Uncle Teddy was always there, Frankie Sparaco, me, B.F.
15 was there a lot, Bobby Tarantola, Little Anthony.

16 Q After Frank Sparaco was arrested, what, if any,
17 discussions did you have with the defendant about Sparaco and
18 his case?

19 THE COURT: And his?

20 MS. ARGENTIERI: Court case.

21 THE COURT: All right.

22 A When Frankie got arrested, he was arrested for harboring
23 a fugitive or something like that. And we heard through the
24 grapevine that Frankie was ready to take a plea for four
25 murders. And Frankie B.F. was upset over it because he was

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1 telling me this is crazy. I got to go see a lawyer because
2 this is -- this guy is copping out to murders he wasn't even
3 charged with and I committed those, a couple murders with him.

4 Q What -- Did the defendant give you additional details
5 about the murders he committed with Frank Sparaco?

6 A Yeah. He told me about Stevie. He told me about Stevie
7 and Mike Devine.

8 Q Starting first with Michael Devine. What did the
9 defendant tell you about Michael Devine?

10 A He told me that him and Frankie, Bobby Tarantola, and I
11 think FiFi, I'm not sure, that they killed Michael Devine for
12 Allie Boy.

13 Q What else, if anything, did he tell you about Michael
14 Devine?

15 A He said Michael Devine was having an affair with
16 Allie Boy's wife.

17 Q What, if anything, did he tell you about how -- what role
18 he played in the murder?

19 A He was crash car. He was outside with a radio scanner
20 just in case.

21 Q What, if anything, did he tell you about the other roles
22 that were -- the roles of the other people involved in the
23 murder?

24 A He told me that Frankie shot him. Frankie was the one
25 who killed Michael Devine.

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1 MR. McMAHON: Frankie who?

2 THE WITNESS: Frankie Sparaco.

3 Q What, if anything, did he tell you about how
4 Michael Devine as injured?

5 A He said first Frankie shot him in the groin and then he
6 killed him.

7 Q What was your understanding of why Devine was shot in the
8 groin?

9 A To let everybody know that he was -- that you don't do --
10 that you don't have affairs with other people's wife,
11 especially made members of the crime family.

12 Q You said that the defendant also told you about his
13 participation in the murder of someone you named as Stevie?

14 A Yes.

15 Q Who is Stevie?

16 A Stevie Mancuso, he was an associate of the Colombos.

17 Q What, if anything, did the defendant tell you about
18 Stevie?

19 A He told me that they killed him in the back of the candy
20 store.

21 Q And when you say "they killed him"?

22 A He told me him, Bobby and Frankie Sparaco.

23 Q And when you say "candy store" what candy store are you
24 referring to?

25 A Talking about Pop's Candy Store on 11th Avenue.

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1 Q What else, if anything, did the defendant tell you --

2 MR. McMAHON: Your Honor, could you give an
3 instruction.

4 THE COURT: Yes.

5 Again, members of the jury, there is a list of
6 charged racketeering acts alleged to have been committed by
7 the defendant.

8 Now, with regard to murder of Stevie Mancuso, that
9 is not included in the list of racketeering acts attributed to
10 the defendant. You can consider this testimony as proof that
11 the charged enterprise existed and the defendant's membership
12 in it. You cannot consider this as proof beyond a reasonable
13 doubt of the charged racketeering acts, and I will charge you
14 at the end of the case about those.

15 MS. ARGENTIERI: May I proceed, Judge?

16 THE COURT: Yes.

17 Q You testified that the defendant told you they shot
18 Stevie in the back of the candy store?

19 A Yes.

20 Q What else, if anything, did the defendant tell you about
21 that murder and how it was carried out?

22 A Well, he was telling me that they put him in a car and
23 they parked the car somewhere; he didn't tell me exactly where
24 the car was parked. He said that Frankie's crazy because a
25 week later they had to go back to find the car, actually move

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1 the car again just so they could find the body.

2 Q And when he said to you Frankie is crazy, who was the
3 defendant referring to?

4 A Frankie Sparaco.

5 Q And when he said they didn't find the body, who is the
6 "they" in that sentence?

7 A Police.

8 Q What was your understanding of what benefit the defendant
9 would receive for committing those murders?

10 MR. McMAHON: Objection.

11 THE COURT: Well, if he was told anything about the
12 defendant.

13 Q Did you have a discussion with the defendant about why he
14 committed murders?

15 A Yes.

16 Q And what did he tell you?

17 A He told -- Frankie told him that Allie ordered it.

18 Q Did you have a discussion with this defendant?

19 A Yes.

20 Q About why he would participate in murders? What benefit
21 he would get out of it.

22 A Yeah, to advance in the crime family.

23 Q And when did you have these conversations with the
24 defendant?

25 A When I came home, '92, '93.

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1 Q And you said it was after --

2 A After Frank Sparaco was arrested.

3 Q Did you have a specific discussion with the defendant
4 about why he was concerned about Frank Sparaco?

5 A Yes.

6 Q What did he tell you?

7 A He told me to trust Frankie, that Frankie was -- he
8 didn't trust Frankie's decision. He told me that Frankie
9 might have done this on his own. He didn't trust Frankie's
10 decision. He should have never got involved with Frankie.

11 Q After Teddy Persico Sr. got arrested, who did you report
12 to?

13 A Basically we just went and talked to Michael all the
14 time.

15 Q Michael who?

16 A Persico.

17 Q How did you end up going to talk to Michael after
18 Theodore Persico Sr. was arrested?

19 A Well, B.F. and Michael were friends, and I became good
20 friends with Michael and we just started seeing Michael
21 whenever we had discussions, we would talk to Michael about
22 it.

23 Q Did you have a formal relationship with Michael at that
24 time?

25 A Yes.

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1 Q And what was the relationship?

2 A Friends. Close friends.

3 Q What does that mean in organized crime?

4 A Associates.

5 Q And at that time who were you around?

6 A At that time?

7 Q Yes.

8 A The Colombos. The Persicos.

9 Q Who specifically on the street?

10 A On the street? Michael.

11 Q In your experience in organized crime, was it unusual for
12 an associate to report to another associate?

13 A Yeah. But we were reporting to Michael. Michael, his
14 father is the boss, so. . .

15 Q At some point did you become involved in the Colombo war?

16 A Yes.

17 Q When, approximately?

18 A Sometime in '93.

19 Q How did you first get involved in the Colombo family war?

20 A What happened was Michael told me to go see Eric one day
21 when I was up there talking to him. He said, Eric got this
22 plan. He got the lead on Joey. He said go see Eric, he wants
23 to talk to you.

24 Q Who is Eric?

25 A Eric Curcio, he was an associate of the Colombos.

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1 Q And who was Eric around?

2 A Persico side of the family. He was around Joe Monte.

3 Q When did you first meet Eric?

4 A When I came home. '92.

5 Q When Michael Persico told you Eric has a line on Joey,
6 what did you understand him to be saying?

7 A He was going to kill him. He wanted me to help him kill
8 him, that's what it meant.

9 Q And what does a line mean?

10 A That he knows where he is. And that he knows where he is
11 and he knows where we can get him.

12 Q And could you just refresh the jury's recollection as to
13 who Joey was?

14 A Joey Scopo was Vic Orena's underboss, maybe, at the time.
15 I don't know exactly what he was, but he was close to
16 Vic Orena, the other side.

17 Q He was on the other side of the war?

18 A Yes.

19 Q Why would you be interested in getting involved in
20 something like that?

21 A To advance in the crime family myself.

22 Q What did you hope to get?

23 A Straightened out.

24 Q That -- what does that mean?

25 A Be inducted in to be a made member.

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1 Q After you had that conversation with Michael Persico,
2 what did you do next?

3 A I went down to see Eric.

4 Q Where did you see Eric?

5 A I went down to Henry Street where Eric had a little club
6 down there.

7 Q Had you ever been to that club before?

8 A Before that day, no.

9 Q What did Eric do for a living?

10 A He had a little collision shop.

11 Q What, if any, partner did he have in that collision shop?

12 A His partner was Michael; I don't know the last name.

13 Q Over the course of your relationship with Eric, what, if
14 any, other crimes did you commit with him?

15 A Credits cards. Cocaine. Cocaine. He would give me
16 cocaine to sell.

17 Q What did you do with credit cards?

18 A I sold them for the value. If the card was worth 10,000,
19 I got ten percent for the card.

20 Q Who did you sell them to?

21 A Anybody that wanted to buy them.

22 Q You said that after you spoke to Michael Persico you went
23 to see Eric at his club. What happened during that meeting?

24 A He told me about that he had a lead on Joey, that he
25 wanted to get Joey. He wanted to know if I was interested and

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1 B.F. And I will told him I don't know about B.F., I would
2 have to talk to him about that. I said, we'll get together
3 and we'll discuss it.

4 Q What happened next?

5 A I went to talk to B.F., we had a discussion, he said no
6 problem. I told him maybe just me him and Bobby Tarantola
7 would get involved, Little Anthony, the four of us and Eric.

8 Q What happened next?

9 A And then Eric -- after we decided that we were going to
10 do this, we went to see Eric, me and B.F., and we told him
11 that we were going to do it. It was just us, that we didn't
12 want to talk about much and that Eric all of a sudden decided
13 he wanted to bring somebody else into the picture, which was
14 Johnny Sparacino.

15 Q What was your reaction to that?

16 A We didn't want to do it with him. We didn't know the
17 kid. So -- but we let him in. We let it happen.

18 Q Did you have discussions with B.F. and Bobby about
19 bringing other people in?

20 A Yes.

21 Q What was discussed?

22 A Frankie really didn't have too many concerns, it was
23 Bobby that had all the concerns. Bobby said, I did enough for
24 this family already. Now I got to do something with people I
25 don't even know. He said, this is crazy.

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1 Q When you said "Frankie," just there, were you referring
2 to the defendant?

3 A Yes, I was.

4 Q After you met with Eric and with B.F., the defendant,
5 what happened next, with regard to the plan?

6 A We started going forward. Me and B.F. went back and we
7 talked to Michael, and we were talking to him what was going
8 on. We explained to him what was going to happen, and I told
9 him I needed guns.

10 Q And what did Michael Persico say when you told him you
11 needed guns?

12 A He said not to worry, we had plenty guns. And then he
13 told Frankie that if you have Smiley's number, Smiley have
14 your number, Smiley will get in touch with you.

15 Q So just to be clear, Michael told who that Smiley would
16 get in touch with him?

17 A He told B.F. He asked B.F., you have Smiley's number,
18 Smiley have your number, Smiley will get in touch with you.

19 Q And is that Smiley who you identified in Government's
20 Exhibit 174?

21 A Yes.

22 Q What happened next with regard to the guns?

23 A Couple days later Frankie came and he had a gym bag, a
24 black gym bag and he brought it to me; we put it in my house,
25 my apartment. Inside there was a Mac-10 with a silencer and

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1 some other -- it was a, I think one or two other silencers in
2 it that were homemade, they were garbage, and I think there
3 was a pistol in it.

4 Q Who brought you those guns?

5 A Frankie.

6 Q The defendant?

7 A Yes.

8 Q What was your understanding of -- what did the defendant
9 tell you about where he got the guns?

10 A He told me Smiley just dropped them off to him.

11 Q Where did you store the guns?

12 A In my house.

13 Q Did you ever fire any of them?

14 A No, not that I remember.

15 MS. ARGENTIERI: Judge, may I approach?

16 THE COURT: Yes.

17 (Handing.)

18 MS. ARGENTIERI: Showing the witness for
19 identification 176, 167, 151, 131, 112B.

20 MR. McMAHON: 112 --

21 MS. ARGENTIERI: B.

22 Q Do you recognize the individuals in these photos?

23 A Yes, I do.

24 MS. ARGENTIERI: The government moves to admit them.

25 MR. McMAHON: No objection.

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1 THE COURT: Received. Government Exhibits 176, 167,
2 151, 131, and 112B.

3 (Government's Exhibits 176, 167, 151, 131 and 112B
4 received in evidence.)

5 Q Before the photos, what, if any, communications did you
6 and the defendant have with Teddy Persico Jr. about the
7 murder?

8 A Frankie was going up to prison to see Teddy, to explain
9 to him what we were going to do.

10 Q Where was Teddy at the time?

11 A In jail.

12 Q What, if anything, did the defendant tell you about
13 concerns Teddy Persico Jr. had about you?

14 A He had concerns about me, if I was capable of handling
15 this.

16 Q And what did you discuss with the defendant?

17 A I told him that I did something with Munchy, I committed
18 a murder with Munchy.

19 Q Who was Munchy?

20 A Munchy was a friend of all of us from Staten Island.

21 Q And when you told the defendant that you did something
22 with Munchy, what were you communicating?

23 A I ways basically -- I was lying to him about the whole
24 thing.

25 Q What were you telling him?

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1 A I was just telling him that so Teddy would just put his
2 mind at ease that I was okay with doing this.

3 Q When you say "did something," what did you want him to
4 believe?

5 A That I committed a murder.

6 Q Had you killed someone with Munchy?

7 A No.

8 Q Have you lied to other people in your life and told them
9 that you committed a murder with Munchy?

10 A Yes.

11 Q Why would you do that?

12 A That's what we do. We lie in this lifestyle. We lie,
13 exaggerate. When it's beneficial to us we tell the truth, we
14 lie.

15 Q After you received the firearms, what happened?

16 A We started going out looking for Joey and Billy.

17 Q Who is Billy?

18 A Wild Bill Cutolo.

19 Q That's someone you identified earlier?

20 A Yes.

21 Q And what side of the war was he on?

22 A He was on the other side, Vic Orena's side.

23 Q And when you say you were going out looking, what does
24 that mean?

25 A We were going out looking to kill him.

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1 Q When you first started, what were you doing on a regular
2 basis, if anything?

3 A When we first started, it was me, Frankie, B.F., Bobby
4 Tarantola, Anthony Ferrara, Johnny Sparacino, and Eric Curcio.
5 We were out on 86th Street.

6 Billy used to get his haircut once a week. I think
7 it was like once every Thursday. We used to lay on him a
8 couple of blocks away, trying to get him over there.

9 Q And when you say "lay on him," could you explain that to
10 the jury?

11 A We were sitting down in cars to have the opportunity to
12 kill him.

13 Q And what, if any -- what did you have to kill him with
14 you, if anything?

15 A We had the Mac, we had the Mac-10. We had a couple of
16 pistols.

17 Q And approximately how many times did you go lay on Billy
18 at the haircutter?

19 A A few times. I don't know exactly how many, but it was a
20 few. And we decided against it, because it was broad
21 daylight. It was too many people.

22 Q Before you decided against it, when, if ever, did you see
23 Bill Cutolo?

24 A We seen him there. We seen him -- we passed by. He had
25 too many guys with him. He always traveled with about ten

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1 guys with him.

2 Q Did you ever attempt to kill him there?

3 A There? No, not that I remember.

4 Q When you went out looking to kill Bill Cutolo, what was
5 your plan?

6 A Our plan was to kill him.

7 Q What role were you going to play?

8 A It would -- it varied. One minute I was driving, next
9 minute I was going to get out and shoot. It all depend how we
10 set up that day.

11 Q At some point in 1993 did you see Teddy Persico Jr.?

12 A Yes.

13 Q When?

14 A He came down to his grandmother's funeral.

15 Q Do you recall when approximately that was?

16 A I'm going to say between March and June of '93, I'm not
17 100 percent sure.

18 Q What was Teddy Persico's grandmother's name?

19 A I don't know.

20 Q What was his mother's name?

21 A His mother's name is Pat.

22 Q What happened on the day that you saw Teddy Persico Jr.?

23 A He came down from prison and I lived right around the
24 block. So I came down. Me, Frankie, and Bobby were in the
25 funeral polar with him and we started talking to him. He

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1 asked -- he excused his brother Danny and he sat down with me,
2 B.F., Bobby, and me, we sat down and he's telling us to end
3 this thing altogether. You got to get Joey.

4 Q Where did you live at the time of this funeral?

5 A Bay 7th Street.

6 Q Where was the funeral polar?

7 A 86th and 14th, Scarpaci's Funeral Home. 86th Street and
8 14th Avenue.

9 Q As of the date of that funeral, how long had you been
10 looking for Wild Bill and Joe Scopo?

11 A I don't know exactly. Maybe a couple of months.

12 Q Prior to that funeral, had you always surveilled
13 Joe Scopo?

14 A Yes.

15 Q How did you first find out that Theodore Persico Jr. was
16 coming to the funeral?

17 A Through his brother Danny.

18 Q And on the day of the funeral, when did you first see
19 Theodore Persico Jr.?

20 A We were all standing outside in front of the funeral
21 polar and a van pulled up, correctional van; state prison van.

22 Q What did you do, if anything?

23 A We were all standing out front and the van went around
24 the block because the -- one of the guards got out and said --
25 went inside and said he couldn't let Teddy into the funeral

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1 polar if they're all standing out front. So when that
2 happened I went home to get changed.

3 Q What had you been wearing?

4 A Shorts and T-shirt.

5 Q After you changed where did you go?

6 A I went back to the funeral polar inside the chapel.

7 Q And then when you got back to the funeral polar what did
8 you observe?

9 A I observed Teddy in the funeral polar.

10 Q And where was he?

11 A He was up near the casket.

12 Q You said you had an opportunity to speak with him?

13 A Yes.

14 Q Who was present when you first had the opportunity to
15 speak with him?

16 A Well, he was there with his family members. And then
17 when he seen me, B.F., and Bob all together, he asked if we
18 could talk. We went in the middle of the funeral polar to
19 talk.

20 Q When you said "the middle of the funeral polar," where
21 were you?

22 A In the chapel you have all these rows of seats and we
23 just sat right in the middle.

24 Q Who was present when you had this discussion with
25 Teddy Persico Jr.?

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1 A Just me, Teddy, B.F., and Bobby Tarantola.

2 Q And can you just repeat what you said that Teddy said
3 during this meeting?

4 A Teddy asked us what was going on. We told him what was
5 going on. And he told us, you have to get -- you have to go
6 after Joey. To end this war we got to get Joey, Joey's the
7 target.

8 Q What was your understanding of what he was telling you.

9 A We got to kill Joey.

10 Q Why?

11 A Because that will end this war.

12 Q Did you agree?

13 A Yes, we did.

14 Q Did the defendant agree?

15 A Yes, he did.

16 Q How long, approximately, passed between that funeral and
17 when you killed Joe Scopo?

18 A A few months.

19 Q After the funeral can you please tell the jury about your
20 efforts to kill Joe Scopo?

21 A After the funeral we -- we went out looking really a lot
22 after that because we wanted to get it done, just because it
23 was taking too long. And we laid on Joey and we got him.

24 Q Who was -- who was going out at that time?

25 A At that time when we started going after Joey again, kid

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1 Johnny Pappa came into the scene now.

2 Q And who were the other participants? Can you remind us.

3 A Yes. Me, B.F., Bobby Tarantola, Anthony Ferrera, Eric
4 Curcio, and now you have Johnny Pappa on the scene.

5 MS. ARGENTIERI: Judge, I'm going to publish those
6 exhibits to the jury.

7 THE COURT: All right.

8 (Exhibit published.)

9 Q Government Exhibit 176, who is that --

10 A John Sparacino.

11 Q Government Exhibit 167, who is that?

12 A That's me.

13 Q Government Exhibit 151, who is that?

14 A Johnny Pappa.

15 Q Government Exhibit 112B, who is that?

16 A Eric Curcio.

17 Q After the funeral, what, if any, discussions did you have
18 with Michael Persico about your efforts to kill Scopo?

19 A Well, at one time we were talking, me and Michael, and we
20 told him that we almost had Joey. We were near his house and
21 he was in a garbage can, we didn't know who was in it. The
22 guy had his head in the garbage can.

23 We were just going there to set up and we went
24 around the block, me and Frankie, and when we pulled up we
25 noticed him walking into his house and it was him. I was

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1 telling Michael we almost had him.

2 Q When you say you and Frankie were there, who are you
3 referring to?

4 A B.F.

5 Q Where did that happen?

6 A Where did what happen?

7 Q Where you saw Joe Scopo in the garbage can?

8 A His home in Brooklyn.

9 Q After you told Michael about the incident with the
10 garbage can, what, if anything, did he say to you?

11 A He said something to the effect that you got to get this
12 done, it's taking too long. You got to get it done before my
13 brother gets out.

14 Q And can you remind the jury who Michael Persico's brother
15 is?

16 A Allie Boy Persico.

17 Q And where was he at the time?

18 A In jail.

19 Q What was your understanding of why Joey Scopo had to be
20 killed before Allie Boy came home?

21 A So it wouldn't look like he had anything to do with it.

22 Q Prior to the actual evening that you murdered Joey Scopo,
23 when, if ever, did you see him on a different occasion?

24 A Joey Scopo?

25 Q Yes.

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1 A We lost touch with him for a little while. We kept going
2 by the house, he wasn't there. So we stopped for about a few
3 weeks. Eric Curcio got a lead on him again. I guess he was
4 hanging out in front of his club in Queens, and he followed
5 him home. He found out he wasn't living in Brooklyn anymore,
6 he was living in Queens now.

7 Q And is that where you murdered him, in Queens?

8 A Yes.

9 Q Prior to that when you were going out to surveil him, did
10 you ever have a close call with him?

11 A Yes.

12 Q What happened?

13 A One night me and Frankie, I don't know exactly who was
14 there. I know Eric was there. I got out of the car, because
15 we were going by his club on 101st Avenue, he had a club
16 there, Joey Scopo. So I knew he didn't know what I looked
17 like. So I just told him I'll get out of the car to buy a
18 pack of cigarettes, I'm going to look in the club to see if
19 he's in there.

20 And I just walked past his club, I turned the corner
21 I walking down, I was getting ready to light a cigarette and I
22 had a radio on me, a walkie talkie. And they told me, he's
23 right behind me. So I shut the thing down. I looked behind
24 me and I turned around and start walking back. And it was
25 Joey and this guy Sal Miciotta. Fat Sally, that's what they

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1 called him.

2 Q You said Sally Miciotta?

3 A Yes.

4 Q What was your understanding of who Sally Miciotta was?

5 A He was a made member of the Colombos.

6 Q What side of the war was he on?

7 A Orena side.

8 Q What were you using that night that you were able to
9 communicate?

10 A Walkie talkie.

11 MR. McMAHON: What was the name, Judge?

12 THE COURT: Which name?

13 MS. ARGENTIERI: Did he say a brand name or
14 something.

15 A Motorola, something like that. I don't know exactly.

16 Q Well, what brand walkie talkies did you use during your
17 efforts to surveil --

18 A Motorola.

19 Q Prior to the evening that you murdered Joe Scopo, what,
20 if anything, did Eric tell you, Eric Curcio, about how you
21 would be rewarded for the murder?

22 A He told me he was going up to visit Joe Monte, his uncle,
23 at MCC. And he said that once this is over, that me, him, and
24 Frankie, we would get straightened out.

25 Q When did you finally succeed in killing Joey Scopo?

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- 1 A In October.
- 2 Q What year?
- 3 A '93.
- 4 Q And what borough did you murder him?
- 5 A Queens.
- 6 Q What was located in Queens?
- 7 A Joey Scopo's home.
- 8 Q You said previously he was living elsewhere?
- 9 A In Mill Basin in Brooklyn. We found out that he moved.
- 10 Q How did you find out that he moved?
- 11 A Eric found out. I don't know.
- 12 Q What did you do to prepare to carry out the murder?
- 13 A We -- we -- Eric -- me, Eric, and Frankie, we took a ride
14 out there, to Queens, 110th Street. He showed us where the
15 house was --
- 16 Q Who showed you where the house was?
- 17 A Eric Curcio. We did some surveillance. And we plotted
18 how we were going to set up everything. And we were going to
19 set up the block on him, wait until he came home and kill him.
- 20 Q Who was going to participate?
- 21 A At that time it was me, Frankie B.F., Eric Curcio, Don
22 Saracino and Johnny Pappa.
- 23 Q What role were you going to play in the murder?
- 24 A I was going to drive.
- 25 Q Who were you going to drive?

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1 A I was going to drive the getaway car with the two
2 shooters in the car.

3 Q What was the plan? Who was going to be the shooters?

4 A The plan was Johnny Pappa and Johnny Sparacino. Johnny
5 Sparacino was going to have the machine gun and Johnny had his
6 own gun; he had a pistol.

7 Q What role was the defendant going to play in the --

8 A He was a crash car. He was going to stay right behind
9 us.

10 Q Can you explain to the jury what a crash car?

11 A A crash car you use it for a block so nobody can't get in
12 between us. Or if law enforcement pull up you can crash into
13 them. That was his role, so we could get away.

14 Q What role was Eric going to play?

15 A He was another crash car. He was on a block off the
16 corner.

17 Q What car were you going to drive on the night of the
18 murder?

19 A We had a stolen car.

20 Q Who had to stolen that car?

21 A Me and Frankie and -- I don't know if it was Anthony or
22 Johnny Matera. I forgot. It's one of them.

23 Q And what kind of car was it?

24 A It was a Chevy.

25 Q What color?

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1 A I think it was like a brownish.

2 Q When had that car been stolen in relation to the night
3 you killed Joe Scopo?

4 A Stolen a few weeks before.

5 Q Where were you keeping it?

6 A We kept it in the street. We were moving it. We kept it
7 in the garage for a while, Johnny Matera's garage.

8 Q What car was the defendant going to use?

9 A He was using to his own car.

10 Q Who was that car registered to?

11 A It was registered to his sister.

12 Q Which sister?

13 A Ann Marie.

14 Q What car was Eric going to use?

15 A He was using his wife's car.

16 Q What plan, if any, did you have to communicate between
17 cars?

18 A Between what plan we had between each car?

19 Q Mm-hmm.

20 A Well, I was -- we were using the stolen car to do the
21 actual murder and they were housing their cars to do the
22 blockage just in case.

23 Q How were you going to talk to each other from car to car?

24 A We had walkie talkies.

25 Q By the way, with regard to the car that was stolen, how

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1 were you able to start it?

2 A Screwdriver.

3 Q What did you do with the screwdriver?

4 A Underneath the ignition, pulled it back.

5 Q What happened first on the night of the murder?

6 A On the night of the murder we went to go set up on
7 108th Avenue, I think it is, 109th, 108th, and 110th Street,
8 on the corner. As we all got there, we were not even there,
9 maybe two or three minutes. Somebody said, there's Joey right
10 there, he just turned the corner. So we just -- we did it.
11 We moved.

12 Q And what street did Joe Scopo live on?

13 A 110th Street.

14 Q On the night of the murder, what, if anything, did you do
15 to disguise yourself?

16 A I had a P-cap on.

17 Q Can you explain to the jury what a P-cap is?

18 A It's like a french braid with a rim on it. I don't know.
19 I don't know how to describe it.

20 Q What, if any, steps had other members of the -- the other
21 people involved in the murder taken?

22 A Johnny Sparacino, he had a ski mask on, and Johnny Pappa
23 didn't have anything on.

24 Q What block did you set up on?

25 A We set up on the corner of 108th, 109th, I forgot.

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1 108th, 109th on 110th Street. Joey lived between 108 and 109.

2 Q And on what side of the street, if you're looking up the
3 block, did Joey Scopo live?

4 A If I'm looking up the block, he lived on the left-hand
5 side.

6 Q Prior to the night -- prior to that night, what, if any,
7 plan had you come up with with regard to the stolen car?

8 A Well, we had it already planned that we would drop the
9 car a couple of blocks away. It was all prearranged.

10 Q You testified that on the night of the murder someone saw
11 Joe Scopo?

12 A Yes. When we got there, we were just getting out of the
13 cars, we parked the cars on the corner, we just -- we just got
14 out. I went to light a cigarette, smoke a cigarette, and not
15 even two or three minutes into the night when we got there, I
16 think it was Eric that said, "There he is right now."

17 Q And what kind of car -- where was Joe Scopo when you saw
18 him?

19 A He was in an Ultima. He was on the passenger side front.

20 Q Could you tell if there were other people in that car?

21 A There was three people in the car all together. It was a
22 driver, Joe Scopo, and somebody in the rear of the car.

23 Q What happened next?

24 A Well, we all got in our cars, and I told Johnny Pappa and
25 Johnny Sparacino I'm not going to move until I see him put the

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1 reverse lights on, because he looked like he was ready to
2 parallel park.

3 Q Where were you seated in your car?

4 A I was the driver.

5 Q Where were the other people seated?

6 A Johnny Pappa was seated right on the side of me, front
7 passenger, and John Sparacino was in the rear passenger.

8 Q And what, if any, weapons did everyone have on them?

9 A Johnny Pappa had a handgun on him and Sparacino had the
10 Mac-10.

11 Q What happened next?

12 A We made our move. We -- I see the reverse lights go on,
13 I started creeping up, and I pulled the stolen car right up to
14 the nose of Joey's car that he was parking. So this way John
15 could open the door, he was supposed to get out and shoot.
16 Joey -- but he didn't. He shot from inside the car, he
17 emptied the gun and then Johnny Pappa jumped out of the car
18 and he started shooting.

19 Q You testified that you pulled your car up?

20 A I pulled right along side. I put the rear bumper of the
21 stolen car right up against the front of his car. This way
22 Johnny had room to open his back door.

23 Q How many rounds were in the gun that John Sparacino had?

24 A Thirty rounds.

25 Q How do you know?

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1 A I loaded the gun.

2 THE COURT: I'm sorry.

3 THE WITNESS: I loaded the gun.

4 Q You said that John Sparacino emptied the gun?

5 A Yes, he did.

6 Q What were you able to observe as he did that, if
7 anything?

8 A I seen -- when he opened the door, I turned around to
9 look. I seen Joey like jumping around in the car.

10 Q And where was he seated in that car?

11 A He was in the passenger side front.

12 Q And you said that eventually Johnny Pappa jumped out?

13 A Well, after -- after Johnny Sparacino emptied the gun,
14 John said, "What should I do?" I said, "Go. Get out."

15 He got out. At that time when he got out, I went to
16 turn again and my driver's side window blew out. And I went
17 down and my hat flew off. And I was like, what the hell is
18 going on. I heard somebody screaming in the back, which was
19 Johnny Sparacino, he was screaming, "Go. Go. Go. Go."

20 And I turned around and looked and there was a hole
21 in the back window. Somebody shot at us. And I -- I could
22 see Frankie behind me, a couple of cars back in his car. And
23 when I came back around, I was going to leave, I seen Johnny
24 Pappa standing out there like this. He was leaning against
25 something and he was shooting, and I just left.

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1 MS. ARGENTIERI: And when you said Johnny Pappa was
2 like this, just for the record, Judge, he put his hands up
3 like he was firing a gun?

4 THE COURT: Okay.

5 Q You said your window blew out?

6 A Yes.

7 Q And what did you believe had happened?

8 A Somebody was shooting at me.

9 Q And you left?

10 A Not that split second but a couple of seconds later, yes.

11 Q Who was in the car when you left?

12 A Just me and Johnny Sparacino.

13 Q Where did you go?

14 A I went to the corner, I think it was 109th, I made the
15 left, I went two blocks down, made another left where we
16 prearranged where we would park and meet. We went there,
17 parked the car and waited for Frankie to come get me.

18 Q What, if anything, did you leave in the car?

19 A We left the Mac-10 in the car.

20 Q Anything else?

21 A I think a hat. I know Johnny might have left a hat, his
22 ski mask.

23 Q Was he wearing a hat?

24 A He was wearing a ski mask.

25 Q Where did you wait?

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1 A Right on the corner, I think it was 108th, 109th Avenue.

2 Q And you testified that when you looked back, you saw
3 Frankie waiting. Were you referring to the defendant?

4 A Yes, I was.

5 Q Where was he waiting?

6 A Right before I left he was a few, maybe four cars behind
7 me.

8 Q So after you left and parked your car where did you wait?

9 A We waited on that corner, the next corner.

10 Q And what happened next?

11 A It was a prearranged place where we were going to meet.
12 What happened? Within a couple of minutes Frankie pulled up
13 with Johnny Pappa in the car.

14 Q What happened then?

15 A We got in the car and Johnny Sparacino grabbed John
16 Pappa. And he tried to whisper, but I heard exactly what he
17 said. He said, "He tried to leave. He just left you there.
18 He just left you there."

19 Q And when John Sparacino told John Pappa, "He just left
20 you there. He just left you there." Who was he referring to?

21 A Me.

22 Q And who had you left there?

23 A Johnny Pappa.

24 Q What else, if anything, was discussed in the car?

25 A Excuse me?

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1 Q What else was discussed in the car?

2 A Was discussed in the car? On the way home we were
3 discussing what happened. We discussed where we were going to
4 meet. We met on 86th Street, I think it was Bay, around the
5 block from my house on Bay Street. I don't remember.

6 Q Who was in the car when the defendant picked you up?

7 A Johnny Pappa, me, and Johnny Sparacino.

8 Q What, if any, discussion did you have with the defendant
9 about who was shooting?

10 A Yeah, Frankie -- when we got back Frankie was telling me
11 that the guy in the back seat of Joey Scopo's car got out and
12 he started running up the block, and that's where Frankie
13 noticed him. And he stopped in the middle of the block and he
14 just turned around and he started firing in back of us.
15 Frankie said it was crazy. He said, I was sitting right
16 there, he didn't even notice me.

17 Q On the night of that murder, did you see anyone else in
18 the neighborhood?

19 A Yeah, I -- but I talked to Frankie alone about that.

20 Q Who did you see?

21 A I asked him the night -- I don't know if it was that
22 night, I said, "I thought I seen Bobby Tarantola."

23 Q What, if anything, did the defendant say?

24 A I told him, "Don't lie to me. Was Bobby around the
25 area?"

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1 And he said, "Yes, he was."

2 But he said he didn't want nobody to know because he
3 was just there for me and you.

4 Q Why did you murder Joe Scopo?

5 A Because I was told to murder Joe Scopo.

6 Q What, if any, benefit did you hope to receive?

7 A To get straightened out, become a made member.

8 Q What was your understanding of what benefit the defendant
9 wanted to receive?

10 A Same thing.

11 Q When, if ever, did you learn that Eric Curcio was telling
12 people about your involvement in the Scopo murder?

13 A Right after the murder.

14 Q What happened?

15 A I don't know exactly who came first, but I think it was
16 Michael DeRosa was one of them.

17 Q Who was Michael DeRosa?

18 A He was an associate of the Lucchese family.

19 Q What happened?

20 A He was driving down my block on Bay 7th Street, he pulled
21 over, he came out, he's all smiles. He was like, "Hey, what a
22 great move you did."

23 I was like, "I don't know what you're talking
24 about."

25 He said, "What are you talking about? Eric told me

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1 everything."

2 I said, "What did he tell ya?"

3 And he told me that we were all involved in the
4 Joe Scopo murder.

5 I said, "Well, I don't know what Eric is talking
6 about. If Eric did it, he should mind his business and not
7 talk about other people."

8 And then we heard it again from Dino Calabro.

9 Q Who was Dino Calabro at the time?

10 A He was an associate of the Colombos.

11 Q What was the highest position you know him to hold in the
12 Colombo family?

13 A Captain.

14 Q When was that?

15 A 2007, '8.

16 Q What discussion did you have with Dino Calabro about the
17 murder?

18 A Me and Frankie were driving around the neighborhood one
19 day, and we see him on 75th and 20th Avenue. And we pulled
20 over to talk to him, he was a friend. And he came right out
21 and said the same thing. He said, "That was some move you
22 just did."

23 And we were like, "What are you talking about?"

24 He was like, "Joey."

25 I said, "We don't know what you're talking about."

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1 And then he said, "Eric told me everything."

2 And we said it again, "Eric's a liar."

3 Q Why did you deny it?

4 A Because you're not supposed to talk about murder once it
5 happens.

6 Q After the murder of Joseph Scopo, what, if any,
7 discussions did you have with Eric about John Sparacino?

8 A They were having a problem. They were having beef, them
9 two. I don't know exactly what they were doing. They were
10 fighting.

11 Q What did you next hear from the problem between Sparacino
12 and others involved in the Scopo murder?

13 A Eric told me -- I don't know if Frankie was there, but he
14 told us that Johnny Sparacino was telling people, he was
15 taking credit for the whole thing, and that's a problem.

16 Q Why is that a problem in organized crime?

17 A Because you don't talk about things like this, and this
18 kid is going around talking about people -- he's putting our
19 business out in the street. That's not the way you do things.

20 Q What, if any, problems is it to take credit for something
21 that you didn't do?

22 A It's not a smart thing.

23 Q Why?

24 A Because you get yourself in trouble.

25 Q What is your understanding who actually killed Joe Scopo?

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1 A My understanding?

2 Q Yes.

3 A Me and the other four people that were there that night.

4 Q What was your understanding of who actually fired the
5 shots?

6 A Johnny Sparacino.

7 Q What happened next?

8 A After what?

9 Q When did you next learn about there was an issue with
10 John Sparacino?

11 A Next issue I heard about was when Johnny Pappa came to my
12 house.

13 Q What did he tell you?

14 A He came to my house when I was living on Bay 7th. He
15 asked me if we can get him a car. I told him, "Get a car for
16 what?"

17 He said, "I need a stolen car."

18 I said, "What do you need a stolen car for?"

19 He said, "I killed Johnny Sparacino."

20 Q Did you know he was going to do that prior to that
21 moment?

22 A No.

23 Q What did you do next?

24 A I told him, I can't help you. I don't know how to steal
25 a car. Let's go see Frankie. Let's see what he has to say.

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1 Q When you say "Frankie," are you referring to the
2 defendant?

3 A Yes.

4 Q Why did you refer going to see him?

5 A Because Frankie robs cars.

6 Q What did you do next?

7 A I went to see Frankie and I told him what was going on.

8 Q Who, if anyone, was with you when you went to see
9 Frankie?

10 A Me, Frankie, and Johnny Pappa.

11 Q What happened then?

12 A We -- Frankie was a little upset that this kid was
13 getting us involved with something. But we went out and got
14 him a car.

15 Q Where did you go then?

16 A In the neighborhood. I think we got the car from
17 20th Avenue, I'm not 100 percent sure.

18 THE COURT: Stolen car. Is that what you're saying,
19 you stole a car?

20 THE WITNESS: Yes.

21 THE COURT: Members of the jury, let me remind you
22 that there is a list of charged racketeering acts alleged to
23 have been committed by the defendant. You're hearing about a
24 prior bad act attributed to the defendant. You can consider
25 that testimony as proof that the charged enterprise existed

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1 and the defendant's membership in it. You cannot consider
2 this as proof of the charged racketeering acts.

3 Q After you and the defendant and Pappa stole the car,
4 where did you go next?

5 A We went to Staten Island.

6 Q Where specifically in Staten Island?

7 A Calvin's house.

8 Q Showing you Government's Exhibit 131; who is that?

9 A That's Calvin.

10 Q Who is Calvin?

11 A Calvin is a dear friend of Johnny Pappa's.

12 Q And you said it was located in Staten Island?

13 A Yes.

14 Q When you got to Calvin's house, what happened?

15 A When we got to Calvin's house -- when we walked in,
16 Calvin was there. Me, John, Johnny Pappa and B.F., we went
17 downstairs to the basement. And when we got down there,
18 Johnny Sparacino was dead on the floor, on the carpet. He was
19 laying on the carpet.

20 Q What, if any, discussion did you have at that time?

21 A I was just in shock because I never seen -- I never seen
22 nothing like that before. And I was like, "What are we going
23 to do?"

24 Then Johnny Pappa looked at me, he says, "This guy
25 had the nerve to call you a blow job."

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1 I said, "Yeah, he did, didn't he?"

2 And I don't know who handed us a knife, but we cut
3 his penis off.

4 Q Who did?

5 A Johnny Pappa and me.

6 Q What did you do with it?

7 A We stuck it in his mouth.

8 Q What did you do next with his body?

9 A We wrapped it up in the rug.

10 Q And then what?

11 A We put it in the back of car.

12 Q Where was the defendant when all this was going on?

13 A Right next to me.

14 Q After you put it in the stolen car what did you do?

15 A We left. Me and Frankie left.

16 Q You and the defendant?

17 A Yes.

18 Q What, if anything, did anyone say in the house about who
19 actually killed Johnny?

20 A I think it was Calvin that actually shot him.

21 Q What did Calvin say?

22 A Because John told me that he wasn't there yet and Calvin
23 said he had the opportunity, he was bending over in the
24 refrigerator and he shot him while he was in the refrigerator.

25 Q After John Sparacino's murder, when was the next time

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1 that you saw Eric Curcio?

2 A A couple of days later he beeped me, and -- he was
3 supposed to be in Florida. So he beeped me, I think I was
4 with Frankie and Frankie and I took a ride up to the Avenue.
5 He told me to meet him somewhere, I forgot. I think it was
6 11th Avenue in the 70s, I'm not 100 percent sure.

7 We went out there, I met him. And I asked him,
8 "What are you doing here? I thought you were in Florida."

9 And he says, "I'm going back." He goes, "I snuck in
10 for a minute. I just wanted to tell you guys what happened."

11 I said, "What happened?"

12 He said, "I killed Johnny Sparacino."

13 I said, "You did, huh? Okay."

14 Me and Frankie looked at each other. Frankie almost
15 fell on the floor when we heard it. Then he left, and then we
16 left.

17 Q What, if any, discussion did you have with John Pappa
18 after that about Eric?

19 A We thought Johnny Pappa -- Johnny Pappa thought that Eric
20 was trying to kill him.

21 Q What did he say about that?

22 A He said, Eric, and he believes it was Dino, Fat Dino, I
23 don't know. Eric asked to meet him one day on Staten Island
24 on Bloomingdale Road, off the exit of Bloomingdale Road exit
25 in Staten Island.

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1 And Johnny Pappa went there to meet him. And he
2 says, when he got there he seen Eric, and he spotted Dino's
3 truck, like in the background behind another truck, and he
4 took off because he figured they were looking to kill him.

5 Q Who was Fat Dino?

6 A Fat Dino was an associate of the Lucheses.

7 Q Did you ever meet him?

8 A No. Not that I recall, no.

9 Q When, if ever, did you believe you saw Eric and Fat Dino
10 together?

11 A Well, Dino -- Eric came to my house one day and he was
12 talking to me. And from what John told me about the jeep that
13 he had, like a bronco, Dino. When I was talking to Eric in
14 front of my house, I noticed a bronco up the block and I
15 said -- I just caught a delusion. I said, "What are you
16 doing? You trying to get Johnny Pappa, you trying to get me
17 too."

18 He said, "What are you talking about?"

19 I said, "Is that Dino up the block in that bronco?"
20 And then as I started walking towards it, the truck backed out
21 of the block and took off.

22 Q What do you mean when you say you caught an illusion.

23 A I mean, I caught a delusion. I was paranoid. I thought
24 this kid was looking to target everybody.

25 Q When you say "this kid" who are you referring to?

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1 A Eric Curcio.

2 Q After, what happened to Eric?

3 A Eric died. Eric got kill.

4 Q Do you know by who?

5 A Not really.

6 Q After Eric died, when, if ever, did John Pappa ask for
7 your help to kill someone?

8 A I believe it was Bennie.

9 Q Who was Bennie?

10 A Bennie was a kid from downtown Brooklyn where they all
11 grew up and hung out.

12 Q Who did John Pappa approach about it?

13 A He approached me and Frankie.

14 Q When you say "Frankie," are you referring to the
15 defendant?

16 A Yes. Yes.

17 THE COURT: Let's stop here for our luncheon break.

18 Members of the jury, we will take our luncheon break
19 until two. Please remember my admonitions. Do not discuss
20 the case. Keep an open mind.

21 (Jury exits courtroom at 1:00 p.m.)

22 THE COURT: All right. We'll take our luncheon
23 break.

24 (Luncheon recess.)

25 (Continued on the next page.)

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1 (In open court; outside the presence of the jury.)

2 THE COURT: You want to talk about the exhibits that
3 are released to the press to copy, but we'll need Mr. Guerra
4 out before we do that.

5 MR. MARI: You need him out, Your Honor? You want
6 him out.

7 THE COURT: Yes.

8 MR. MARI: She wants him out.

9 (Defendant enters the courtroom.)

10 THE COURT: I indicated and I'll note for the record
11 that the defendant and counsel are present.

12 I did receive an application yesterday from the
13 Post, *New York Post*, and also a written application from John
14 Marzulli, *New York Daily News* -- did everybody receive that --
15 seeking --

16 MR. MCMAHON: (Nods head affirmatively.)

17 THE COURT: -- to copy two exhibits?

18 MR. MCMAHON: Yes, Judge.

19 MS. ARGENTIERI: The government did.

20 THE COURT: All right. And the government did not
21 object.

22 Mr. McMahon, we gave him until today --

23 MR. MCMAHON: Yes, Judge. Your Honor, my view is
24 that there is no -- I don't know of any reason why that the
25 balance between the First Amendment right of the press and the

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1 Sixth Amendment right of my client to get a fair trial, why we
2 can't strike a balance and hold -- just place a temporary
3 embargo on the exhibits 'til after the trial. The *News* and
4 *The Post* have a wide readership, as Your Honor will recall
5 from the jurors. Many of them are readers of the *News* and *The*
6 *Post*, and it just seems to me that it would be detrimental to
7 my client's right to a fair trial to have those things
8 published now, and I would ask that the Court strike a balance
9 and hold them until after the trial's over.

10 THE COURT: Well, that's denied. I mean, the courts
11 have recognized the common law right to inspect and copy
12 judicial records, and that applies to any item entered into
13 evidence in a public session of the trial, which would include
14 the two exhibits requested. So I will grant the request.

15 And if we're ready --

16 MS. ARGENTIERI: We are, Judge.

17 THE COURT: Yes, Ms. Argentieri?

18 MS. ARGENTIERI: No, I said we are ready.

19 THE COURT: Okay. We'll bring in the witness.

20 THE CLERK: I'll go get the jury, Judge.

21 THE COURT: Yes, bring the jury in.

22 (Witness resumes the stand.)

23 (Jury enters.)

24 THE COURT: Please be seated.

25 The record will reflect that all jurors are present,

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1 the defendant and counsel. Mr. Russo is still on the stand,
2 still under oath.

3 Ms. Argentieri?

4 MS. ARGENTIERI: May I inquire, Judge?

5 THE COURT: Yes.

6 DIRECT EXAMINATION (CONTINUED)

7 BY MS. ARGENTIERI:

8 Q Before lunch, you were testifying about a time John Papa
9 asked you and the defendant for help with someone named
10 Bennie. Who was Bennie?

11 A Bennie was a friend of Johnny Papa's, I think.

12 Q And what --

13 A They were both friendly at the time.

14 Q What did John Papa specifically ask you and the
15 defendant?

16 A He asked us to help him kill Bennie.

17 Q What did he tell you about why he needed your help?

18 A I don't really remember. I don't really remember.

19 Q What happened?

20 A It was a falling out between the two of them and --

21 Q When, if ever, did you have a discussion with the
22 defendant about how -- about when he went to help Papa with
23 Bennie?

24 A We were going to go look for the kid, Bennie, and I
25 wasn't around them one night -- one day. And I met up with

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1 Frankie and Johnny Papa that day, and they told me they were
2 laying on him, him, John Butera, Johnny Papa and Frankie, the
3 defendant, were laying on Bennie, and they -- Bennie spotted
4 them.

5 Q What, if anything, did Papa say about whether or not he
6 was armed when they were laying on him?

7 A He was armed. He was always armed.

8 Q Was Papa later arrested?

9 A Yes, he was.

10 Q Who, if anyone, did you discuss his arrest with?

11 A Discussed it with everybody, Frankie --

12 Q What was John papa charged with?

13 A He was charged with multiple murders.

14 Q What murders?

15 A He was charged with Eric Curcio, John Sparacino, kid
16 named Orlando and Joey Scopo.

17 Q Prior to John Papa's trial, when, if ever, were you
18 approached by the FBI.

19 A We were approached by the FBI, I think it was in '97, I'm
20 not exactly sure.

21 Q For what?

22 A They wanted the DNA from me.

23 Q You said, "We were approached." Who was approached?

24 A Well, I was approached, and they wanted DNA from me.

25 Q Was anyone else approached at that time?

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1 A They looking for Frankie.

2 Q Did you have a discussion with the defendant about it?

3 A Yes, I did.

4 Q What did he tell you?

5 A He told me, "My wife called him up to tell him that they
6 came and got me, and that he should call a lawyer. He was
7 looking for a lawyer's number. And he told me that after he
8 hung up with him, they were pulling up to his girlfriend's
9 house, and he went out to warn her.

10 Q After the murder of Joseph Scopo, did you ever have a
11 discussion with John Papa about what happened after you left
12 in the car with Sparacino?

13 A Yes, I did.

14 Q What did John Papa tell you?

15 A John Papa came to me the next day, right -- a day after,
16 two after the murder, and he told me, he said, "Did you hear
17 what John said about you?" I said, "Yeah, I did." He said,
18 "So why didn't you say anything?" I said, "Because it's not a
19 big deal. I didn't just leave. The kid panicked and I
20 panicked, too, and we left. I didn't leave there on purpose."

21 Q During that discussion, what, if anything, did Papa say
22 happened on the street after you and Sparacino left the scene?

23 A He said he got the -- he said he got into Frankie's --
24 BF's car.

25 Q What, if anything, did he tell you what happened prior to

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1 him getting into BF's car?

2 A He told me what happened. He said he was out there
3 shooting, and that somebody told him Joey Scopo threw
4 something at him. And that he also told me that he heard Joey
5 say, "If you're going to do it, do it right."

6 Q Who did Joe Scopo say that to?

7 A Supposedly Johnny Papa, that's what he said.

8 Q What, if any, discussion did you have with the defendant
9 about the trial of John Papa?

10 A That -- I don't understand the question.

11 Q Did you and the defendant talk about Papa's trial?

12 A Yeah, we did. Yes.

13 Q What did he say to you?

14 A Oh, I was -- told him that my wife -- in the beginning of
15 John's trial, my wife and Johnny Papa's girlfriend went to
16 opening arguments, and they were mentioning mine and his name.
17 So we went and told -- he told Allie Boy and Allie Boy wanted
18 to -- he told him to go get the transcripts to the case.

19 Q Why were you ordering the transcripts of the case?

20 A To see what they were saying about us.

21 Q Did you ever review the trial transcripts?

22 A Not all of them, no.

23 Q But some of them?

24 A Some of them, yeah.

25 Q When, if ever, did you observe the defendant?

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1 A I was with him when we were making copies.

2 Q After you and the defendant reviewed the trial
3 transcripts, what, if any, plan did the defendant come up
4 with?

5 MR. MCMAHON: Judge, I object to leading again.

6 THE COURT: No. I'll overrule.

7 A Um, he came up with a plan. I don't know if it was right
8 after that, but he come up with a plan saying if they come and
9 asked us questions, that we were playing Clue in my house.

10 Q Who told you that?

11 A Frankie.

12 Q What else did he say, if anything?

13 A He said if they arrested him, he would get my ex-wife and
14 his ex-girlfriend to say that we were in my apartment playing
15 Clue, and I just told him that's insane, but --

16 Q Did you explain to him why you thought it was insane?

17 A At the time, I wasn't with my wife anymore, so I told him
18 she hated me. So I don't know what she did. I don't know
19 what makes you she's going to lie for us. I also told him
20 about his girlfriend.

21 Q What about his girlfriend?

22 A His girlfriend, Cathy. He had a bad break up with her
23 and her brother was an organized crime cop. I don't think
24 she's going to lie for you.

25 Q What if any other defense witnesses did the defendant

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1 suggest?

2 A Talked about calling Johnny Papa down.

3 Q What was your response to that?

4 A I laughed.

5 Q Why?

6 A Because I said he just got convicted of it. His whole
7 defense was, he didn't do anything and now he wanted to tell
8 everybody that he did it.

9 Q On how many occasions did you and the defendant discuss
10 this potential defense?

11 A Couple times. Another time when Frankie Sparaco, when we
12 heard he was cooperating.

13 Q You said that you had gotten divorced at some point?

14 A 1995.

15 Q What happened?

16 A I left my wife for another woman.

17 Q And how many kids did you have with her?

18 A Three.

19 Q Can you just refresh everyone's recollection as to when
20 you came home in the nineties?

21 A In 1992.

22 Q At some point after that, did Allie Boy Persico come
23 home?

24 A Ninety-four, I believe.

25 Q When did you first learn that he had come home?

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1 A I knew he beat the case, because it was all over the
2 news, and then Frankie went up to visit him.

3 Q And what did the -- what did the defendant tell you about
4 where he met with Allie Boy?

5 A He met him upstate, at the farm.

6 Q What farm?

7 A The Persico farm.

8 Q Where is that farm located?

9 A In Saugerties, upstate New York.

10 Q What if anything did the defendant tell you about his
11 meeting with Allie Boy Persico?

12 A He told me he met with Allie. Allie wanted me and him
13 around him.

14 Q What was your understanding of what that meant?

15 A That we were going to answer to Allie Boy from there on
16 in.

17 Q When if ever did you see Allie Boy after he came home in
18 the nineties?

19 A I seen Allie Boy a week or two after I got home -- after
20 he came home.

21 Q Where did you see him?

22 A I don't remember. I might have seen him at Romantique.
23 I'm not a hundred percent sure.

24 Q What happened when you first saw Allie Boy?

25 A He said hello. He said he heard a lot of good things

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1 about me, that he wanted me around him.

2 Q What did you say?

3 A I said okay.

4 Q What if anything did Allie Boy say at that point about
5 the state of the Colombo family?

6 A He says that -- he said that he was going to put the
7 thing back together, the family back together, and when he
8 did, he was going to do the right thing for me and Frankie.

9 Q Who else was present when Allie Boy told you that?

10 A Just me and Frankie.

11 Q When he said he was going to do the right thing, what did
12 you understand him to be saying?

13 A Saying that he was going to helping us out, making us
14 made members of the family.

15 Q After that first meeting with Allie Boy, how often did
16 you see him?

17 A See him a lot, a few times a week, maybe more.

18 Q How often did you observe him with the defendant in that
19 time period?

20 A Him and Frankie were together a lot more than I was.
21 They were together almost every day.

22 Q When if ever again did you discuss with Allie Boy your
23 potential induction into the Colombo crime family?

24 A We had that discussion a couple times. When he first
25 came home, maybe a year or two after that, then around '96,

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1 maybe '97 again, we had that discussion.

2 Q What did he say do you in that discussion?

3 A He asked me and Frankie if we were ready for it. This
4 happened -- he asked us in Romantique at this time. I
5 remember that time.

6 Q And when he asked you if you were ready for it, what did
7 you understand him to be asking you?

8 A He asked us if we were ready to straighten up.

9 Q What did you say?

10 A I said yes.

11 Q What did the defendant say?

12 A He says, I'm ready, but if you're around, what do I need
13 it for?

14 Q What was your understanding of what the defendant meant
15 by that?

16 A He meant that as long as Allie is around, we don't need
17 it.

18 Q Why?

19 A Because we can go to him. We don't have to talk for
20 ourselves. He'll do the talking for us. He's the acting boss
21 so.

22 Q Are there rules in organized crime about settling
23 disputes?

24 A Yes.

25 Q What are the rules?

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1 A Rules are, you know, you can't sit down with a made
2 member. An associate can't sit down with a made member. You
3 have to be a made member to sit down with another made member.

4 Q Again, a sitdown is what?

5 A It's a meeting between two made members. It's like
6 the -- straighten out a beef with -- or a problem, solve a
7 problem.

8 Q And when the defendant said, what does he need it for it
9 for, what was Allie Boy's reaction?

10 A He got a little upset with him.

11 Q At that time, did you have discussions with the defendant
12 about why he didn't want to be inducted into the Colombo crime
13 family?

14 A At that time, yeah. He was saying that we got a lot of
15 heat on us, me and you. We don't need it. He's home. Let's
16 not push the issue right now.

17 Q After Allie Boy came home from jail, when if ever did he
18 ask you for help?

19 A I don't know the exact time, but maybe a year or so after
20 he came home.

21 Q What specifically did he ask you for your help with?

22 A He asked me and Frankie to help him out with the
23 Clemenzas.

24 Q Who were the Clemenzas?

25 A They're made members of the Colombo family.

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1 Q What did he say to you specifically about the Clemenzas?

2 A That he wanted to get them, kill them.

3 Q Who else was with you when he told you that?

4 A Just me and Frankie.

5 Q The defendant?

6 A Yes.

7 Q And what did you say?

8 A He said yes.

9 Q Both of you said yes?

10 A Yeah.

11 THE COURT: Now, let me stop just with the limiting
12 instruction again. You are hearing about bad acts that are
13 not listed in the charged racketeering acts in the indictment,
14 and you can consider them as proof that the charged enterprise
15 existed and defendants' membership in it. You cannot consider
16 this evidence as proof of the charged racketeering acts in the
17 indictment. All right?

18 MS. ARGENTIERI: May I proceed, Judge?

19 THE COURT: Yes.

20 MS. ARGENTIERI: Thank you.

21 BY MS. ARGENTIERI:

22 Q You said you agreed. What happened next?

23 A We took a ride down to Rao's, me, Frankie and Allie Boy.

24 Q What is Rao's?

25 A It's a famous restaurant in New York.

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1 Q Where is it located?

2 A On 114th and Pleasant Avenue.

3 Q What was your understanding of why you were going to
4 Rao's?

5 A We were going there because we were -- Allie told us that
6 they have a table there that they -- usually, they're there
7 once a week, once a month. I don't remember exactly how many
8 times a week.

9 Q And what did you and the defendant and Allie Boy do when
10 you got to Rao's?

11 A We took a ride down there and just walked around and
12 looking at, you know, scoping out what -- we were going to see
13 if we could catch him in there, if we get him when he came
14 out. We were just plotting moves.

15 Q Did you ever participate in that murder?

16 A No, never have.

17 Q In the time period when Allie Boy came home from prison,
18 what was your status with regard to your case?

19 A With regard to my case?

20 Q Were you on any type of probation or parole?

21 A Yes, I was on parole.

22 Q What was Allie Boy's status?

23 A He was on parole.

24 Q And what were the conditions of your parole at the time?

25 A You can't be around any known felons, no possessing fire

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1 weapons, any guns and stuff like that.

2 Q How were you violating the terms of your parole at the
3 time that you were meeting with Allie Boy?

4 A I was violating the parole by just being around Allie
5 Boy.

6 Q And when if ever did you become aware that law
7 enforcement knew that you were meeting with Allie Boy?

8 A I was in my house one night and Frankie Persico came by
9 my house and told me that I had a problem, and I asked him
10 what kind of problem I had. And he said that he had a message
11 from his cousin that we were caught on surveillance tape.

12 Q Who is Frank Persico?

13 A He's the cousin of the Persicos.

14 Q Which one?

15 A All of them.

16 Q Okay. And when he said his cousin had information, who
17 did you understand him to mean?

18 A Allie Boy.

19 Q Did you ever discuss that with Allie Boy?

20 A Yes.

21 Q What did Allie Boy tell you?

22 A He told me that we're going to say that your wife,
23 Michelle, your ex-wife and Michael's wife is -- they're good
24 friends, and that we're going to use that as an excuse.
25 That's why we're around. Michael brought you around to -- my

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1 ex-wife was asking Allie Boy, could you please tell him to
2 come back home. So we went with that excuse, if they ever
3 brought it up.

4 Q If who ever brought it up?

5 A The parole officer.

6 Q Did they ever bring it up?

7 A Yes.

8 Q Did you learn, in fact, that law enforcement had a copy
9 of the tape?

10 A Yes, they did.

11 Q How did you learn that?

12 A I got a copy of the tape.

13 THE COURT: The tape?

14 THE WITNESS: The videotape.

15 THE COURT: Oh, all right.

16 BY MS. ARGENTIERI:

17 Q And what was the videotape of?

18 A Me, Allie Boy, Michael talking. We were leaning across
19 the street from Romantique, leaning on the car, talking.

20 MR. MCMAHON: I'm sorry, Judge. I didn't catch who
21 was there.

22 THE COURT: Yes. Who was there?

23 THE WITNESS: Me, Allie Boy and Michael Persico.

24 BY MS. ARGENTIERI:

25 Q After Allie Boy came home from prison, when if ever did

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1 he resolve a dispute for you with another crime family?

2 A I'm sorry. Could you repeat that, please?

3 Q After Allie Boy came home from prison, what if ever did

4 he resolve a dispute for you with another crime family?

5 A At a time when we -- somebody owed me and Frankie money,
6 shylock loan.

7 Q Was there a time other than that?

8 A Yeah, couple times.

9 Q You said that you had -- you were shylocking?

10 A Right.

11 Q The mid-nineties, how did you make money?

12 A I was selling drugs, shylocking money.

13 Q Can you --

14 A Extorting people.

15 Q What is shylocking.

16 A Like you lend money to people at a percentage 'til you
17 get the initial payment back.

18 Q Is there another word for that?

19 A Loansharking.

20 Q Who were you loansharking with?

21 A Me and Frankie.

22 Q And in terms of your loansharking business, what were
23 your positions?

24 A Our position? We were associates.

25 Q Were you partners?

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1 A Yes, we were.

2 Q You also said that you were selling drugs.

3 A Yes.

4 Q Who did you sell drugs with?

5 A Me and Frankie.

6 Q And what kind of drugs were you selling?

7 A Cocaine, marijuana.

8 THE COURT: Members of the jury, again, I have to
9 remind you that the testimony concerns uncharged prior bad
10 acts, and it is accepted only with regard to proof of the
11 enterprise.

12 BY MS. ARGENTIERI:

13 Q Can you tell the jury how your loansharking business
14 worked? Where did you get your money?

15 A We would get the money from Michael Persico. He would
16 lend it to us for one point, which is one percent of the money
17 we were taking, and then we that push it out for two to three
18 points, mostly three points.

19 Q So for a one thousand dollar loan, how much were you
20 paying Michael Persico?

21 A Ten dollars.

22 Q And how much were you charging a customer on the street?

23 A Three points, which would give us \$30 a week, on that
24 thousand dollars.

25 Q How did your loansharking business with the defendant and

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1 Michael Persico begin?

2 A Me and Frankie wanted to make some extra money, so we
3 asked Michael if we could borrow money off, so we could go
4 shylocking.

5 Q Prior to borrowing the money from Michael, what if any
6 permission did you seek?

7 A Excuse me?

8 Q Prior to borrowing the money from Michael --

9 A Right?

10 Q -- did you seek permission from anyone?

11 A Well, Michael. It was Mike. We talked about Michael
12 about it. Michael gave us the advice, and he told us it's a
13 good business, but don't make it a longterm business. You
14 wind up getting hurt down the road with the money.

15 Q What was your understanding of what Michael Persico meant
16 when he said that.

17 A He was giving us advice on how to do it.

18 Q What did he mean you would get hurt by it?

19 A Meaning when you loan people, straight away, you lose
20 money.

21 Q Over what time period did and the defendant borrow money
22 from Michael and put it on the street?

23 A I'm going to say '93 to about '95, six.

24 Q And approximately how many money did you borrow from
25 Michael Persico in that time period?

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1 A A hundred, maybe a little more -- a hundred thousand,
2 maybe a little more.

3 Q And how much interest did you owe him or were you paying
4 him approximately per week?

5 A On a hundred thousand, we would give him a thousand a
6 week.

7 Q Were you -- where did you make payments when you paid
8 Michael Persico?

9 A Wherever we saw him. Most of the time, he was up near
10 11th Avenue, near Romantique. We were very close to Michael,
11 so we saw him a lot. Whenever we seen him, we gave it to him.
12 Frankie did all the money.

13 Q When you say Frankie, you mean the defendant?

14 A Yes, I do.

15 Q When you referring to Romantique, can you just refresh
16 our recollection as to what you're referring to?

17 A Romantique is a limousine company.

18 Q When if ever did you begin having a problem paying
19 Michael Persico back?

20 A Couple years after we --

21 Q What was the problem?

22 A People were not paying on time, and we were having
23 problems getting the money.

24 Q What if any discussion did you have with Michael Persico
25 about your problems getting paid?

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1 A Well, we told him that we're having problems and he seen
2 it. He wasn't getting his money. He turned around and said,
3 do whatever you got to do to get my money so we could get it
4 off the street. That way, you don't have no more problems
5 with it.

6 Q After that you had that discussion with Michael Persico,
7 did you and the defendant try to collect the money?

8 A Yes, we did.

9 Q From who?

10 A Lenny was one of them.

11 Q Who was Lenny?

12 A Lenny was a friend of Frankie's.

13 Q How much money did Lenny owe you in that time period?

14 A I'm going to say between 20 and \$30,000.

15 Q What did you do?

16 A What did we do to get it?

17 Q Yes.

18 A Me and Frankie went down to see him one day.

19 Q Where did you go see him?

20 A At his bakery on 13th Avenue. His father owns a bakery
21 on 13th Avenue.

22 Q What borough is that located in?

23 A That's Bensonhurst.

24 And we went down to confront him and I took him
25 outside and -- I told him to come out first. He didn't want

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1 to come outside with me. The only reason he came outside was
2 because Frankie was there. We went walking down -- tried to
3 walk around the block. I was a going to give him a beating.
4 We never made it around the block. And we had to get this
5 money, so he wasn't going to pay, so I pushed him into a
6 doorway, and we started hitting him.

7 Q Who hit him?

8 A Me -- and whoever it was was there with me.

9 Q Where was the defendant when you were hitting him?

10 A The defendant was right near me.

11 Q Did he participate in that assault?

12 A I wasn't paying attention to him, you know. He might
13 have, but I wasn't paying attention.

14 Q What happened next?

15 A After that, he -- somebody tried to open the door. The
16 owner of the establishment was a travel agency. He tried to
17 open the front door. When he tried to open the front door, I
18 yelled at him, and he got upset. So we just left and we just
19 walked away and went and left the area.

20 Q What --

21 A When we left Lenny over there.

22 Q When did you next hear about what happened with Lenny?

23 A Next think I heard about Lenny was maybe a day or two
24 later. Michael got in touch with me.

25 Q How did Michael get in touch with you?

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1 A I don't remember. I don't remember exactly, but I know I
2 went to see Michael and he told me not to worry about the
3 money anymore. It was being taken care of. And he was upset
4 because he told me the guy that owns the travel agency was
5 Tony Anastasio. And I said, "Who's Tony Anastasio?" He said
6 he's a made member of the Gambino family and you got to stoop
7 for him. I said I don't know what he is. So he said, "Don't
8 worry about it. It's a done deal. Taken care of already."

9 THE COURT: Could I get the attorneys to come up to
10 the bench, please?

11 (Sidebar)

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1 THE COURT: I can't tell whether this is a charged
2 racketeer act that's talking about or not.

3 MS. ARGENTIERI: This is the 404(b) on the
4 loansharking business they had together. These collections
5 are part of the loansharking they did in the nineties that we
6 include as part of the other acts evidence, that I believe the
7 court said it was admissible --

8 THE COURT: Yes, I did say it was admissible as
9 proof of the --

10 MS. ARGENTIERI: Enterprise.

11 THE COURT: -- enterprise. You know, you've got
12 John Does in the indictment, so I didn't know whether --

13 MS. ARGENTIERI: Oh, no. This wasn't a predicate.

14 MR. MCMAHON: No, it's not --

15 THE COURT: So.

16 MR. MCMAHON: -- 404(b).

17 THE COURT: The reason I'm asking -- well, I don't
18 think it's 404(b) at all. I think it's proof of the -- it's
19 other acts, but proof of the charged racketeering. I have to
20 give the --

21 MS. ARGENTIERI: Instruction.

22 THE COURT: -- limiting instruction. And I if don't
23 know --

24 MS. ARGENTIERI: Oh, I'm sorry.

25 THE COURT: That's my problem.

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1 MS. ARGENTIERI: So he is -- what I expect he'll
2 testify about, there is another collection, just those two
3 collections that they did, that are related to the
4 loansharking business.

5 THE COURT: That's coming in up next?

6 MS. ARGENTIERI: It's this one and then I had
7 planned to ask him about the other one.

8 THE COURT: So should I wait and charge it at the
9 end about the two that are uncharged?

10 MR. MCMAHON: No, I think -- Your Honor, first of
11 all, I renew my objection to it coming in at all.

12 THE COURT: Yes?

13 MR. MCMAHON: No, I think Your Honor should give it
14 on each a limiting instruction.

15 THE COURT: Okay. I'll do that now. Thanks.

16 (End of sidebar conference.)

17 (Continued on the next page.)

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1 (In open court.)

2 THE COURT: Members of the jury, again, I want to
3 remind you that there is a list of charged racketeering acts
4 alleged to have been committed by the defendant. You're
5 hearing now about a charge, a prior bad act which is not
6 charged in the indictment.

7 And again, I charge you that you can consider this
8 act as proof that the charged enterprise existed and the
9 defendant's membership in it, but not as proof of the charged
10 racketeering acts in the indictment. All right?

11 You may continue.

12 BY MS. ARGENTIERI:

13 Q You testified that after you met with Michael Persico,
14 you went to collect from another individual that owed you and
15 the defendant money?

16 A Yes.

17 Q Who else did you collect from other than Lenny?

18 A There was guy name Tony that used to work for me at my
19 car service.

20 Q And what happened with regard to Tony?

21 A Tony owed me -- I don't know exactly. I think it was
22 seventy-five or 80,000 to both me and Frankie. And one day,
23 he was working with my car service, the next day I didn't see
24 him. He wasn't there for two weeks. I found out where he was
25 working and I went to confront him at his job about paying the

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1 money.

2 Q Did you go by yourself or with anyone else?

3 A Me and Frankie and Bobby Tarantola.

4 Q What happened when you went to confront him?

5 A Well, I went inside and told Tony, the old man, that I
6 needed to get my money back. And he -- so he was like
7 everybody else: I'll pay you when I got it. I'll pay you
8 when I got it. So I hit him.

9 Q What happened then?

10 A He reached out to somebody to help him with the money,
11 and they got in touch with me.

12 Q Who got in touch with you?

13 A First it was first -- it was Butchie, Big Louie's
14 brother.

15 Q And who is Big Louie?

16 A Excuse me. First, it was Sally Cutaia said something to
17 me about it.

18 Q Who was Sally Cutaia?

19 A He's a member of the Lucchese family.

20 Q After that, what happened?

21 (Continued on the next page.)

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1 Q After that, what happened?

2 A After that, this guy Tony C from the Genovese family
3 reached out to us, and me and Frankie went to go meet him at
4 the diner on Kings Highway in Brooklyn.

5 Q What happened when you and the defendant met with Tony C?

6 A He was trying to tell us that the guy was a bum, he
7 didn't have no money, and, you know, he's good friends with a
8 friend of his, and we don't want to see him get hurt, so he
9 can't pay everything, but I can give you \$2,500. And me and
10 Frankie told him, no, we can't accept that.

11 Q Why couldn't you accept the 2,500?

12 A First of all, it's not our money. And second of all we
13 gave him 8,000; I can't accept 2,500.

14 Q What do you mean it wasn't your money?

15 A It wasn't my money to make that decision, it was
16 Michael's money.

17 Q After that meeting what happened next?

18 A Well, we just got up and left the diner, and we went back
19 up to the avenue to see Allie Boy and told him what happened.
20 When he heard what the guy said to us, he got upset and he
21 told Frankie, you can't touch Tony right now. Tell him to
22 come back up here. So we went back up to the diner with
23 Allie.

24 Q And then what happened?

25 A Allie sat down with him and told him about the situation.

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1 They had a discussion and said this kid can't accept 2,500;
2 it's my brother money. You cannot abuse people like that. He
3 said, the guy a bum, he can't pay the money, he's broke, he
4 ain't got it. And he said, no problem, he got up and he said
5 break his head every time you see him and that was it, we
6 left.

7 THE COURT: All right. Again, members of the jury, this
8 testimony regards bad acts attributed to the defendant and
9 others that you can consider as proof of the charged
10 enterprise and defend its membership in it. You cannot
11 consider it as proof of the Racketeering Acts charged in the
12 indictment.

13 MS. ARGENTIERI: May I, Judge?

14 THE COURT: Yes.

15 BY MS. ARGENTIERI:

16 Q When, if ever, did you go to collect money from an
17 individual named Santos?

18 A I went to see Santos, I went to see Santos at his house,
19 me and Frank.

20 Q What time period?

21 A Excuse me?

22 Q In what time period?

23 A Around the same time as all of that.

24 Q How much money did Santos owe you?

25 A I don't remember the exact number; 3,500, 5,000; I'm not

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1 sure. It was a long time ago.

2 Q What happened?

3 A Well, I approached him a few times. This time I went to
4 see him and I rang his doorbell. When he was coming down the
5 stairs, I was leaning on the -- I was leaning on the steps on
6 the stoop, and there was a brick, there was a loose brick on
7 his steps, so I confronted him with the brick.

8 Q Did he pay his money?

9 A No.

10 Q Directing your attention to the 90's, what, if any,
11 legitimate businesses did you own?

12 A In the 90's I had the car service, I had a little
13 luncheonette with my cousin.

14 Q With regard to the car service, who spent time at that
15 car service daily?

16 A My father and brother.

17 Q At the time that you owned the car service, did you
18 become involved in buying stolen video games?

19 A Yes.

20 Q What happened?

21 A My father came to me with this -- he told me that he had
22 a guy that had stolen, like, little Game Boys or something,
23 and they wanted to know if I wanted to buy them. So I told
24 him, let me check it out, let me see if I can reach out and
25 get it.

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1 Q What happened next?

2 A What happened next was I went down to see Michael and I
3 told him the situation, I told him I'd like to buy them. And
4 he told me let me look around, let me check into it first.

5 Q Prior to that, when, if ever, did you meet with the
6 individual that approached your father?

7 A I met with Spider, that's what they called him and he
8 told me he had these games and he stole them from Jersey. He
9 had a truckload and he wanted 75,000 for the load. And I said
10 okay, I'll let you know in a couple of days.

11 Q When, if ever, did you see a sample of the games?

12 A He brought a sample to my shop, to the car service.

13 Q And what kind of games were they?

14 A Like, little handheld video games.

15 Q And you testified that you went to see Michael?

16 A Yes.

17 Q Where did you go see Michael?

18 A At Romantique.

19 Q What did you discuss with Michael?

20 A I showed him the games, I told him this is what I want to
21 do, I want to pick them up and buy them. I asked him for the
22 money and he said let me check into it first, I might have
23 someone that might be interested in this. And he got back to
24 me in a couple of days later.

25 Q What did he tell you?

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1 A He told me to go to 18th Avenue, go see him, and he's
2 going to give you the money to buy them, and he's also going
3 to buy the rest of these, he's going to buy them off you.
4 He'll give you the money, the buy money and then he'll give
5 you the rest after you bring it to him.

6 Q After you had that conversation with Michael Persico what
7 did you do next?

8 A I set up everything that was supposed to happen. I told
9 my father to get the rental. The kid Spider told me to get
10 the games back and forth, so I told my father rent the Ryder
11 truck. And I told Frankie and Scottie and Little Anthony
12 about where we're going to put them. I asked Michael where to
13 put them, and he told me to put them in the bus company, the
14 garage. So I had them all go to the garage on Coney Island,
15 the bus company.

16 Q You said you had your father rent a truck?

17 A Yes.

18 Q What was the plan for the truck?

19 A The truck, was to give it to Spider, Spider was going to
20 bring half the load and then go back and get the other half.

21 Q And you said you had a conversation with Michael about
22 where to put the games?

23 A Yes.

24 Q Where did he tell you you could put them?

25 A He told us we could put them in the back of the bus

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1 company's garage.

2 Q Who owned a bus company?

3 A Michael and Donna Staluppi.

4 Q Who is Donna Staluppi?

5 A It's John Staluppi's ex-wife.

6 Q You said you asked the defendant and some other
7 individuals to help?

8 A Yes.

9 Q You mentioned an individual Scottie. Who is Scottie?

10 A Scottie Reback.

11 Q Who is that?

12 A He's John Staluppi's son-in-law.

13 Q Who is John Staluppi?

14 A He's a made member of the Colombo family.

15 Q And who is Scott Reback married to?

16 A His daughter Maria.

17 Q So you asked the defendant, Scott, and someone else?

18 A And Little Anthony Ferrera.

19 Q And what did you ask them specifically to do?

20 A Well, I told them the plan. I told them the kid will
21 bring half the load. I'm going to check the load and pay him
22 half the money, and I'll direct him to Coney Island and tell
23 him where to drop it off, I'll take the ride with him.

24 Q When, if ever, did you meet with the individual that
25 Michael Persico referred you to at the video store?

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1 A I met with him the day Michael told me to go up there and
2 see him.

3 Q What conversation did you have with him?

4 A Nothing. He handed me the envelope with the money in it,
5 and that was the end of it. And he said, I'm going to take
6 the whole load off of you, and I said okay.

7 Q How much money did he provide you when he initially gave
8 you an envelope?

9 A I think it was 70,000.

10 Q What happened next with regard to the plan to get the
11 video games?

12 A Next thing happened was Spider brought the first half of
13 the load.

14 Q And what truck did he use?

15 A He used the Ryder truck my father rented.

16 Q What happened?

17 A He opened the back door as I was checking the truck and
18 seen all the Game Boys back there, whatever they were. And I
19 closed the door. I told him, come around the block to my car
20 service and I'll give you half the money, 35,000.

21 When we were walking around the block I happened to look
22 across the street, Bay Parkway, and I noticed someone was
23 pulling a big lens, like a camera into the window, and I
24 realized that they were agents. And I thought they were
25 following us, he was setting me up. So I told him, I grabbed

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1 him by the neck and I brought him into the car service.

2 Q What happened when you got him inside the car service?

3 A I made him take his shirt off.

4 Q Why?

5 A I wanted to see if he was wired up. At that point I
6 thought everything was happening, I thought he set me up.

7 Q What happened then?

8 A He got nothing on him. He had no wire on him. I told
9 him, do yourself a favor. There are all agents outside. I
10 don't know what happened, I don't know what's going on, but
11 I'm telling you right now you've got a half hour to get rid of
12 the load, and in a half hour I'm going to make my father
13 report that truck stolen, so if you still have the truck,
14 you're getting pinched. He left. I told him to get out of
15 the store because I felt I was being set up.

16 Q After that when, if ever, were you approached by law
17 enforcement?

18 A Not long after that.

19 Q For what?

20 A They wanted pictures and prints from me.

21 Q What happened with regard to the money that you took from
22 the store owner?

23 A I didn't give it back right away.

24 Q And then what happened?

25 A I was sitting on my steps in front of my house on Bay 7th

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1 Street and Michael Persico came driving down the block and he
2 asked me how I was, and I told him all right. And he said,
3 let me ask you a question: Were you planning on giving the
4 money back? And I asked him, do I have to? He said yes, so I
5 gave it back.

6 Q Directing your attention to the mid 1990's, when, if
7 ever, did you participate in a bank burglary?

8 A I participated with Frankie in a bank robbery.

9 Q Around what year?

10 A 90's, '96, '97. Between '95 and '97, something like
11 that.

12 Q Who else was involved?

13 A Me, Anthony Ferrera, Johnny Matera, Frank Guerra, and I
14 forget the kid's name from Mill Basin, I forget his name, I
15 only met him that weekend.

16 Q Who is John Matera?

17 A He was an associate of the Columbos.

18 Q How did you first get involved with the bank robbery?

19 A Well, when I came home me and Frankie were talking about
20 the bagel store that he opened. We were just bullshitting.
21 And I asked him, where did you get all this money to open the
22 store. And he was telling me he was doing boxes, safe deposit
23 boxes, drop boxes.

24 Q What do you mean by that?

25 A That they were ripping the drop boxes off the walls and

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1 they were taking the money out of them, out of the wall.

2 Q And what, if anything, did the defendant say to you about
3 how he got the idea?

4 A He got the idea, he told me he got the idea from Fat Sal.

5 Q Who is Fat Sal?

6 A He was a friend of theirs. I didn't know Fat Sal too
7 good.

8 Q What happened with regard to the -- what happened first
9 with regard to the bank burglaries that you participated in
10 with the defendant?

11 A Well, they told me they were doing it and I told them
12 next time you do it, let me come with you. And they were
13 going to do one over the weekend, the holiday weekend, I
14 forgot what weekend it was, it might have been Labor Day, I
15 don't remember. But they were building a wall, a false wall
16 with a drop box in it. And when you build a false wall with a
17 drop box in it, we walk it -- you put signs up on the outside
18 drop boxes out of order and then you walk inside where the
19 ATM's are. And once we get in there we set it up on the wall
20 and screw it in real quick and get out and spray the camera, a
21 surveillance camera. Someone would walk in with a mask and
22 spray the camera and walk out. And then we'd go back in with
23 the box and put it up against the wall. And hopefully, people
24 will see the sign on the outside wall and go in, and they did.
25 THE COURT: Again, members of the jury, there is an uncharged

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1 crime attributed to the defendant. You can consider it as
2 proof of the charged enterprise, that it existed and
3 defendant's membership, you cannot consider this evidence as
4 proof of the charged Racketeering Acts in the indictment. You
5 may continue.

6 BY MS. ARGENTIERI:

7 Q You said that you did this on a holiday weekend?

8 A Yes.

9 Q How many banks did you and the rest of the people go to
10 in the weekend?

11 A Well, we built two boxes and we were doing two banks.

12 Q Where were the banks located?

13 A In Long Island, I don't remember exactly where.

14 Q What happened?

15 A We put one up and John Matera was in the van and he was
16 going to drive to the next spot. And I forgot who I was with,
17 but we were looking at the -- making sure that -- we thought
18 someone seen us carrying that big monster into the bank, so we
19 just sat around, I think it was me and Frank, I'm not sure,
20 but I know I was there, making sure that no cops came. But
21 about five minutes later the cops came and they were walking
22 inside where the ATM was and they were looking at it and they
23 just pushed it and it fell over, so that was the end of that
24 box, but we got the last one up.

25 Q And so with regard to the other box that you installed

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1 that weekend?

2 A Yes.

3 Q Were you successful?

4 A Yes.

5 Q How much money did the group get in total from that bank
6 burglary?

7 A I'm going to say 60, 70,000.

8 Q Why did you pick a holiday weekend?

9 A Because the one where it is, you know, there were drops
10 to be made, over the weekend, more drops.

11 Q And how often did you retrieve the money inside the bank?

12 A We took turns, me and Frankie would sit out there in the
13 car or go to the restaurant and sit out there for a few hours
14 and watch. When we thought there was enough money in the box
15 and you go and pull it out and put it in a bag and walk out,
16 and then we would bring it to the hotel where we were sitting
17 and go back.

18 Q How much money did you get that weekend?

19 A I'm going to say between 13 and 15,000 each.

20 Q Each?

21 A Yeah.

22 Q In the mid 1990's, when, if ever, did you and the
23 defendant collect money for Bobby Tarantola?

24 A Bobby came to me and Frankie, he was doing things in the
25 stock market, and he found -- he had a deal with the guy that

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1 worked down in the stock market and he said the guy owed him
2 \$100,000. So he came to us and asked us -- he knew where the
3 guy was, and he wanted to know if we would help retrieve the
4 money and we told him yes.

5 Q And so what did you do next?

6 A Me, Frankie and Bobby took a ride to Long Island and we
7 waited in the parking lot of this building that -- where the
8 guy worked in and we waited for him. And he came out. And
9 when he came out, we confronted him.

10 Q What did you do specifically?

11 A Gave him a beating.

12 Q Who did?

13 A Me, Bobby and Frankie.

14 Q What happened next?

15 A Next thing that happened is that Ronnie One Arm got in
16 touch with me.

17 Q Who is Ronnie One Arm?

18 A He's a made member of the Gambino family.

19 Q What happened when Ronnie One Arm got in touch with you?

20 A He called me up early in the morning and asked me if I
21 could meet him, and I said yes, and I met him. I met him on
22 4th Avenue in Brooklyn.

23 Q Did you meet him alone?

24 A Yes.

25 Q What did he say to you?

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1 A He wanted to know, he wanted to know how my night was.
2 He said -- he asked me how was your night last night? And I
3 said my night was good, how's yours? And I said, what did you
4 call me down here for to ask me what my night was? And he
5 said, did you have a good time last night? And I said, I
6 still don't understand what you are talking about. And that's
7 when he said, there's a guy that you gave a beating to last
8 night, he's around me. And I said, I don't know what you are
9 talking about. I said, would why the blame me, say it was
10 me. He said, because when we gave the guy a beating Anthony
11 kept saying, "Ant, stop. Ant, that's enough." So I got upset
12 when Bobby said that he mentioned my name, and we already knew
13 that the individual was with One Armed Ronnie. So the guy
14 said it was like a big ape that was hitting me, so he figured
15 it was me.

16 Q Did Ronnie One Arm agree to give you the money?

17 A Ronnie said to leave him alone and the kid is with him
18 and he'll make sure that he pays the money.

19 Q Did he pay the money?

20 A Yes, he did.

21 Q How much money did he pay back?

22 A Between 50 and 100. I'm not exactly sure on the amount.

23 Q I'm sorry, I can't hear you.

24 A Between 50,000 and 100, I'm not exactly.

25 Q What was your cut?

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1 A Well, the first time we went there, I don't know if we
2 went there and got 25 or 50, I can't remember. All I know was
3 I was getting 5,000 out of that deal that day. And on the way
4 back from picking it up, me and Frankie and Bobby went and
5 picked it up from Ronnie in Queens, and I took the money and
6 left.

7 Q How much money did the defendant get that day?

8 A He got the same thing I got.

9 Q What did you do with the money you got?

10 A I went home and gave it to my girlfriend so she could pay
11 mortgage payments.

12 Q Was that a problem?

13 A Yes. It turned out to be a problem, yes.

14 Q What happened?

15 A I got reprimanded by Allie Boy.

16 Q What did he say to you?

17 A He told me who was I to take the money before he got the
18 money and whacked it up. And I told him, what's the
19 difference? And he said it's a big difference, you don't
20 touch the money until I give it to you.

21 Q Why is that?

22 A I guess because he's the boss.

23 Q What was Allie Boy's position at that time?

24 A He was acting boss.

25 Q Who were you reporting to in the Colombo family?

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1 A Him, Allie.

2 Q When, if ever, was Allie Boy rearrested?

3 A Sometime in the 90's, late 90's.

4 Q After Allie Boy was arrested, who did you report to in
5 the Colombo crime family?

6 A Me and Frankie really didn't -- well, Allie Boy got out
7 on bail, so we were around him, it's not like he was in jail.

8 Q Were you reporting to him while he was out on bail?

9 A Yes. At the time I wasn't hanging around Allie as much,
10 because of what happened with the parole, Frankie was with him
11 every day.

12 Q Directing your attention to the late 90's, what, if any,
13 involvement did you have in selling drugs?

14 A I sold drugs, yes.

15 Q What kind of drugs?

16 A Cocaine.

17 Q Only cocaine?

18 A And marijuana.

19 Q Who was involved in selling marijuana?

20 A Me and Frankie.

21 Q And what was the -- what was happening in that time
22 period?

23 A We were selling marijuana. We were selling pounds of
24 weed. We were getting it from Anthony Ferrera and John
25 Matera.

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1 THE COURT: I'm sorry, I didn't understand.

2 THE WITNESS: We were selling pounds of marijuana and I was
3 getting it from Anthony Ferrera and John Matera.

4 THE COURT: Thank you.

5 Q What other crimes were you involved in, in that time
6 period?

7 A The games.

8 Q You were also involved in games?

9 A Well, no, you know, the video games.

10 Q When, if ever, did you and the defendant collect money
11 for someone named Party Arty?

12 A Arty.

13 Q Who was that?

14 A He was Frankie's friend. He used to sell pot for
15 Frankie, cocaine for me and Frankie.

16 Q And what was his relationship with the Colombo crime
17 family, if any?

18 A He was around me and Frankie at the time, you know, he
19 was an associate just like we were.

20 Q When, if ever, did you become involved in an extortion
21 with him?

22 A What happened was he stopped selling it and he went to
23 the stock market and started making money over there, and he
24 asked me and Frankie to help him out, he was leaving, he was
25 getting fired from a company and going to another company and

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1 he wanted to take his leads with him. That was -- you know,
2 and he told me and Frankie that he's able to take these leads
3 with him, but the owner of the company was stopping him from
4 taking it. So me and Frankie went up there not knowing about
5 the leads, we went up there to confront the owner.

6 Q And who went?

7 A Me, Frankie, Bobby Tarantola, Carmine Persico.

8 Q When you say "Carmine Persico" who are you referring to?

9 A Teddy Boy's brother, younger brother.

10 Q What happened when you went to confront the owner of the
11 company?

12 A We confronted him and told him that, don't say things
13 that you can't, you know, back up, and we wound up hitting
14 him, we wound up giving him a beating.

15 Q Why did you say don't say things you can't back up?

16 A Because he was talking bad about Frankie.

17 Q What do you mean by that?

18 A He was telling Arty, you don't fuck with Frankie --
19 excuse my language -- he was telling Arty all of this. Arty
20 said, we don't care who you are, he don't care, and so we
21 basically went up there to tell him, show him.

22 Q What did you do specifically?

23 A We all hit him.

24 Q What, if anything, did you say?

25 A I told him I'd throw him out the window.

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1 Q What, if anything, did the defendant say?

2 A He said -- well, he said basically the same things like
3 that, yelling at him and screaming. And I told him, now you
4 know who I am.

5 Q What happened next?

6 A After that we found out that the FBI went up there the
7 next day.

8 Q Did you have a further disagreement with Arty?

9 A Yes.

10 Q What happened?

11 A After that Arty moved to Florida and he started working
12 down in Florida.

13 Q Prior to Arty moving to Florida what, if any, agreement
14 did you make with him?

15 A He was supposed to start making money. He was supposed
16 to pay me and Frankie once a month.

17 Q Did he pay you once a month?

18 A He paid us a couple of times, but he wasn't doing -- the
19 longer he stayed in New York, the longer he was partying, and
20 so he left New York to go to Florida.

21 Q And what happened then?

22 A When he got to Florida and once he started making money,
23 he would pay me and Frankie money, a percentage of everything
24 he would make.

25 Q Was he doing that?

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1 A No. No.

2 Q What, if anything, did you do about it?

3 A Well, me and Frankie were talking about going out there
4 one day and Eddy Garafalo came.

5 Q Stopping you for a second, who is Eddie Garafalo?

6 A He's an associate.

7 Q With what family?

8 A His father was around the Gambinos. He was good friends
9 with Teddy Boy, so...

10 Q When you say "Teddy Boy" you are referring to Theodore
11 Persico, Junior?

12 A Yes.

13 Q What happened next?

14 A Eddie was telling me and Frankie how Eddie was making a
15 ton of money and dropping our names all over the place, and he
16 wasn't doing the right thing with money. He said, you guys go
17 out there and talk to him, because he's making a lot of money.

18 Q What, if anything, did you do?

19 A Well, me and Frankie had a long discussion about going
20 out there and he said, give him another month or so and he
21 would go out there. I was going out to there see my mother
22 anyway, so I went and took a ride to see my mother with my
23 wife and kid, and I stopped by his house to say hello and I
24 confronted him.

25 Q What happened when you confronted him?

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1 A He said he would start making payments.

2 Q Did he?

3 A Yes. I think right after that he gave Frank 10,000.

4 Q Directing your attention to the late 1990's, what, if
5 any, businesses did you open?

6 A I told you, the car service and then I opened a liquor
7 store.

8 Q Who were your partners in the liquor store?

9 A Well, people lent me money, so...

10 Q Who lent you the money to open the liquor store?

11 A Michael Persico, Frank Persico, Anthony Strapoli, my
12 father-in-law.

13 Q And where was the liquor store located?

14 A Staten Island.

15 Q What, if anything, happened to the liquor store?

16 A The store wasn't doing good, so I gave it up. I gave it
17 to -- Michael told me -- I was telling him what was going on
18 with the store, it wasn't doing good. And he said, all right,
19 if you want, maybe we could give it to Carl and let Carl take
20 over the store and you can walk away.

21 Q Who is Carl?

22 A Carl is a dear friend of Michael's.

23 Q Do you know the full name?

24 A Panarella.

25 Q Did you give it to him?

RUSSO/DIRECT/ARGENTIERI

1 A Yes, I did.

2 Q In the late 1990's what, if any, discussions did you have
3 about getting inducted into the Colombo crime family?

4 A The 1990's?

5 Q Yes.

6 A I had a discussion in my liquor store with Anthony
7 Strapoli.

8 Q What did Anthony Strapoli tell you?

9 A He came by to tell me that he was going to be
10 straightened out. And then he told me him and Dino and Andre
11 were going to get straightened out.

12 Q And who is Dino?

13 A Dino Calabro, he was a made member of the Colombo family.

14 Q And what is Andre's full name?

15 A D'Apice, Andre D'Apice.

16 Q And when Anthony Strapoli told you he was going to be
17 inducted what was your reaction?

18 A I was upset.

19 Q Why?

20 A Because I felt these guys did nothing, you know, to
21 deserve what they were getting, and I felt that I deserved it.

22 Q Why did you think you deserved it?

23 A Because I killed for the family.

24 Q What, if any, discussion did you have with the defendant
25 about what Anthony Strapoli told you?

RUSSO/DIRECT/ARGENTIERI

1 A Well, after I found out, then I went to see Frankie. I
2 went down to his house and I told him what was happening. And
3 he was telling me to calm down, because I was really upset.

4 Q What happened next?

5 A Next, I found out -- the next day I was in my store and
6 Frankie and Anthony came back in and told me, how could you go
7 down there and tell Frankie? How could you tell my cousin?
8 You know, who did you tell. He said, who did you tell? Bobby
9 kept telling me about getting straightened out. And I said, I
10 don't know what you are talking about, I didn't talk to
11 anybody.

12 Q Who confronted you in that conversation?

13 A Anthony Strapoli.

14 Q And what did he say to you?

15 A He said, why did you tell anybody what I told you? And I
16 said, I didn't talk about anything. And he says, yes, you
17 did. I said, the only one I told was Frankie. And he said,
18 well, Frankie went up to see Michael, and he told Michael that
19 you were aggravated, and Michael told Allie and now Allie is
20 pissed at me.

21 Q When you say "Michael" who are you referring to?

22 A Michael Persico.

23 Q When you say "Allie" who are you referring to?

24 A Allie Persico.

25 Q Was Anthony Strapoli upset with you?

RUSSO/DIRECT/ARGENTIERI

1 A Yes.

2 Q Why?

3 A Because you're not supposed to be speaking about these
4 things.

5 Q What happened next?

6 A Next, I confronted Frankie about going up to talk to
7 Michael. And he says, I see you are upset, I didn't know what
8 to do so I went and told Mike. And I told him, why did you do
9 that, you get me in trouble, you wind up getting killed for
10 something like that.

11 Q When was the next time you talked about that with
12 someone?

13 A Well, the next time I talked about it was when Andrea
14 came by my store.

15 Q What happened when Andrea came by?

16 A He came by and said he had a message from Allie. And he
17 told me Allie said to keep your mouth shut, mind your
18 business, stay in the store, because every time you need
19 something, we're there for you, stop worrying about other
20 people.

21 Q What happened next?

22 A Next I seen Andrea in my store again and Allie was in the
23 car.

24 Q Did you meet with Allie?

25 A He called me over to the car and he told me that he

RUSSO/DIRECT/ARGENTIERI

1 wasn't going to be around for a little bit, he was going
2 Florida. And he said, do me a favor, don't talk about things
3 like that again and stop getting mad for things that you don't
4 have no control over.

5 MS. ARGENTIERI: Judge, may I approach?

6 THE COURT: Yes.

7 MS. ARGENTIERI: I'm showing the witness what's marked for
8 identification as Government's Exhibit 115 and 181.

9 Q Do you recognize those individuals?

10 A Yes, I do.

11 MS. ARGENTIERI: The government moves to admit them.

12 MR. McMAHON: No objection.

13 THE COURT: Received, Government Exhibits 115 and 181.

14 (Government Exhibits 115 & 181 were received into
15 evidence.)

16 Q Showing you Government's Exhibit 115, who is that?

17 A That's Andrea.

18 Q And to your knowledge was he inducted?

19 A Yes, he was.

20 Q What's the highest position you knew him to hold?

21 A Made member, soldier.

22 Q In the Colombo family?

23 A Yes.

24 Q Showing you Government Exhibit 181, who is that?

25 A Anthony Strapoli.

RUSSO/DIRECT/ARGENTIERI

1 Q What's the highest position you knew him to hold in the
2 Colombo family?

3 A Acting captain.

4 Q What, if anything, does Anthony Strapoli do for a living?

5 A He has a fish business.

6 Q Do you know what it's called?

7 A Ultimate Foods.

8 Q When was the next time that you were arrested?

9 A Maybe 2000.

10 Q Prior to your arrest in 2000, did you file for
11 bankruptcy?

12 A Yes, I did.

13 Q What, if any, false statements did you include on your
14 bankruptcy paperwork?

15 A About my assets; my jewelry, clothes, furniture.

16 Q You lied about the value of your assets?

17 A Yes.

18 Q What were you arrested for in 2000?

19 A Extortion and drugs.

20 Q Who, if anyone, were you arrested with?

21 A Frank Guerra.

22 Q What happened to your case?

23 A We pled out, we pled guilty.

24 Q Did you go to jail?

25 A Yes, I did.

RUSSO/DIRECT/ARGENTIERI

1 Q While you were in jail who, if anyone, put money into
2 your commissary account?

3 A When I didn't have no money, I wrote a letter to my wife
4 to give to somebody, I think to Scottie, and asking people to
5 help me with money, because I had no money for commissary.
6 And I was told down the road that there was a machine in
7 Scottie's dealership that me and Frankie get money out of a
8 vending machine, that's how they sent me money.

9 Q First of all, can you explain to the jury what commissary
10 is?

11 A Commissary is what you -- it's for your phones in jail
12 and for your foods, you can buy food and use the phones, you
13 need money for all of that, so...

14 Q And how do people put money in your commissary?

15 A They send it to you through the mail, postal money orders
16 and things like that.

17 Q And when you said your wife sent word to Scottie, who are
18 you referring to?

19 A Scottie Reback.

20 Q And what is his position in the Colombo family?

21 A He's an associate.

22 Q And you said sometime later you learned that money was
23 put into your account and the defendant's account?

24 A Yes.

25 Q Who told you about where the money came from?

RUSSO/DIRECT/ARGENTIERI

1 A Oh, when I got home Frankie told me and Scottie.

2 Q What did he they tell you about where the money came
3 from?

4 A They told me when I came home Frankie was working for
5 Scottie. And he told me that one of the machines -- all of
6 the machines were Frankie Scarpa's sons and Michael's, all the
7 vending machines in there. And he said that one of the
8 machines was designated for me and Frankie once a month.

9 Q You are saying the profit from a vending machine?

10 A Yes.

11 Q Where was the vending machine located?

12 A In Scottie's dealership.

13 THE COURT: We're going to take our afternoon recess. Please
14 remember my admonitions, do not discuss the case, keep an open
15 mind. 15 minutes.

16 (Jury is out of the courtroom at 3:19 p.m.)

17 (Continued on the next page.)

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RUSSO/DIRECT/ARGENTIERI

1 THE COURT: All right, we'll bring the jury in.

2 (Jury enters courtroom at 3:35 p.m.)

3 THE COURT: The record will reflect that the jurors
4 are all present, the defendant, and counsel. Mr. Russo is
5 still on the stand, still under oath.

6 MS. ARGENTIERI: May I inquire, judge?

7 THE COURT: Yes.

8 BY MS. ARGENTIERI:

9 Q Sir, you testified that in 2000 you were arrested?

10 A Yes.

11 Q You went to jail?

12 A Yes, I did.

13 THE COURT: You have to keep your voice up,
14 Mr. Russo. Let me see. Can you pull that over closer to you.

15 Q You were incarcerated?

16 A Yes, I was.

17 Q In state or federal prison?

18 A Federal prison.

19 Q While you were in federal prison, who, if anyone, asked
20 you about your participation in the Scopo murder?

21 A When I was in prison?

22 Q Yes.

23 A Frankie Sparaco.

24 Q Where were you incarcerated when Frank Sparaco asked you
25 about that?

RUSSO/DIRECT/ARGENTIERI

1 A I was incarcerated in Schuylkill federal prison.

2 Q And where was he?

3 A In the same unit with me.

4 Q How long were you incarcerated with Frank Sparaco?

5 A Not long. A few months. Six months; a little longer.

6 Q When he asked you about it, what did you say?

7 A When he asked me about it I told him, I don't know what
8 he's talking about.

9 Q Where did Frank Sparaco go after he left your facility?

10 A He went to -- I found out he was going to Fort Dix.

11 Q Who else, if anyone, was incarcerated at Fort Dix?

12 A B.F. was in Fort Dix.

13 Q What, if anything, did you do?

14 A I got a message. I told him that Frankie asked a lot of
15 questions and not to answer any of his questions.

16 Q How did you send a message to the defendant?

17 A I sent the letter to my friend Tuts, and Tuts was going
18 to visit him. So Tuts went up and told him.

19 Q Why did you do that?

20 A Because I didn't like the questions Frankie was asking
21 me.

22 Q What were you concerned about, if anything?

23 A Concerned about getting in trouble for murdering
24 Joe Scopo.

25 Q How?

RUSSO/DIRECT/ARGENTIERI

1 A By somebody finding out that I did it.

2 Q When were you released from prison?

3 A 2007.

4 Q On the day you were released, what did you do?

5 A The day I got released I had like 12 hours to get to the
6 halfway house, and I stopped by my house to see my wife and
7 kids. And then when I was on my way to the halfway house, I
8 stopped at the restaurant, 101, to see Frankie.

9 Q Why?

10 A To see him. Best of friends. I wanted to stop by and
11 say hello to him. He wanted to see me.

12 Q When you met the defendant at 101s, what, if anything,
13 did you discuss?

14 A We discussed a couple of things, but the first thing I
15 asked him about was Frankie Sparaco.

16 Q Why was that the first thing you asked him about?

17 A Because I was concerned.

18 Q What were you concerned about?

19 A About getting locked up for murdering Joe Scopo.

20 Q What did you and the defendant discuss with regard to
21 Sparaco?

22 A I just asked him, you know, when he was with Frankie did
23 Frankie ask him any questions about the situation and he said,
24 yes, he did.

25 Q What, if anything, did the defendant tell you he told

RUSSO/DIRECT/ARGENTIERI

1 Frankie Sparaco?

2 A He told Frankie he didn't know anything about it, that we
3 weren't on the scene, that we were in my house playing clue.

4 Q What else, if anything, did he tell you that he told
5 Sparaco about the night Scopo was murdered?

6 A I think he told me that Eric -- that he told Frankie that
7 Eric told us about it.

8 Q And when you say "Eric," who are you referring to?

9 A Eric Curcio.

10 Q When, if ever, did you learn that Frank Sparaco may be
11 cooperating?

12 A I learned in 2009.

13 Q How did you learn that?

14 A Through his brother-in-law.

15 Q Who is Frank Sparaco's brother-in-law?

16 A Anthony Stropoli.

17 Q What did you do with the information Anthony Stropoli
18 gave you?

19 A I told everybody about it.

20 Q Who did you tell?

21 A I told a Frankie, I told a bunch of people. I told Teddy
22 Boy?

23 Q Why did you tell the defendant about it?

24 A Excuse me?

25 Q Why did you tell the defendant about it?

RUSSO/DIRECT/ARGENTIERI

1 A Because he's got a problem too.

2 Q What do you mean by that?

3 A We both have a problem with Frankie. We were both with
4 him in jails. We don't know what he's going to say.

5 Q What was your understanding of why the defendant would
6 have a problem if Frank Sparaco cooperated?

7 A Because Frankie committed some crimes with him.

8 Q What crimes?

9 A Murder.

10 Q What murders?

11 A Frankie committed Stevie and Mickey Devine.

12 Q When, if ever, did you discuss Sparaco's cooperation with
13 Teddy Persico Jr.?

14 A I think it was the same day, maybe the next day.

15 Q Who was there for the discussion?

16 A Well, we met Teddy across the street from his collision
17 shop near Frankie, you know, Wheels Concept .

18 Q What --

19 A Excuse me? It's a tire shop across the street from his
20 collision shop.

21 Q What did you discuss?

22 A We discussed a lot of things. We told him that Frankie
23 was cooperating. That he gave us that information. We
24 discussed about Joey -- the Joey situation. We told him that
25 I was with him in jail, Frankie was with him in Fort Dix, that

RUSSO/DIRECT/ARGENTIERI

1 we were concerned about that. Was concerned about
2 Bobby Tarantola.

3 Q Why were you concerned about Bobby Tarantola?

4 A Because Bobby was -- Bobby wasn't around for a long time
5 and, you know, he had did a lot of things and plus he was
6 there that night, the night of the murder of Joey Scopo.

7 Q You said that you were released from prison in what year?

8 A 2007.

9 Q You said you were released to a halfway house?

10 A Yes.

11 Q Can you explain to the jury what a halfway house is?

12 A A halfway house is like a work release facility. You go
13 there -- they gave me six months. I had six more months. I
14 was approved for six months. You go there, you get a job so
15 you can get back out in society and try to come, you know, get
16 back into society. The easier way back into society.

17 So you have to maintain a job to get out. If you
18 don't get a job they'll send you back.

19 Q When you were in the halfway house after your release in
20 '07, who else, if anyone, was in there with you?

21 A When I got there Carmine Persico and Andre were there.

22 MS. ARGENTIERI: Judge, may I approach?

23 THE COURT: Yes.

24 MS. ARGENTIERI: I'm showing the witness Government
25 Exhibit 886 for identification.

RUSSO/DIRECT/ARGENTIERI

1 (Handing.)

2 Q Do you recognize the individuals in that photo?

3 A Yes.

4 Q The government moves to admit it?

5 MR. McMAHON: 886?

6 MS. ARGENTIERI: Yes.

7 MR. McMAHON: No objection.

8 THE COURT: Received.

9 (Government Exhibit 886 received in evidence.)

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

12 THE COURT: Yes.

13 (Exhibit published.)

14 Q Showing you 886. Can you identify the individuals in
15 this picture from left to right, please.

16 A That's Andre D'Apice, Carmine Persico, that's me, that's
17 Anthony Graziano.

18 Q Where was this photo taken?

19 A In the room of the halfway house.

20 Q In whose room?

21 A I think it was my room.

22 Q And Carmine Persico, is he someone you testified about
23 prior to -- during prior testimony today?

24 A Yes.

25 Q How is he related to the rest of the Persicos?

RUSSO/DIRECT/ARGENTIERI

1 A He's a cousin.

2 Q When you were in the halfway house with Andre, what, if
3 any, discussions did you have about your induction into the
4 Colombo crime family?

5 A As soon as I got there, like a day or two later,
6 Carmine -- I mean Andre came up to me, told me he had a
7 message to give me that -- the message was that Allie wanted
8 to have me straightened out. And I asked him, me and B.F.
9 Right? And he said, I only got a message for you.

10 Q At that time what was Allie Boy's position in the Colombo
11 crime family?

12 A He was -- at that time? He was in jail with the acting
13 boss.

14 Q And he was in jail?

15 A Yes, he was.

16 Q Did you have a subsequent conversation with Andre?

17 A Yes.

18 Q What did he tell you then?

19 A He told me he had to pass that message on to Dino Calabro
20 and he would get back to me. And then a couple of days later
21 he passed it on to Dino. And Dino said, not right now, it's
22 hard because there's a lot of heat on them.

23 Q What was Dino's position at that time?

24 A He was a captain of the family.

25 Q When people in organized crime talk about heat, what are

RUSSO/DIRECT/ARGENTIERI

1 they referring to?

2 A Meaning law enforcement.

3 Q When you came home from prison in 2000, how did you start
4 making money?

5 A I was working. I started loansharking.

6 Q And how did you get the money to loanshark?

7 A I borrowed the money.

8 Q From who?

9 A Anthony Stropoli.

10 Q At that time what was Anthony Stropoli's position in
11 organized crime?

12 A He was a made member.

13 Q And what was he lending you the money at, what rate of
14 interest?

15 A At first it was one and a half, and then I got him down
16 to one.

17 Q And how much were you lending it to others at?

18 A Two and a half, three.

19 Q Are you talking about interest points per week?

20 A Yes.

21 Q After you came home were you subject to any special
22 restrictions?

23 A After I got out of the halfway house?

24 Q Yes.

25 A Yes. From my -- I was on supervised release then.

RUSSO/DIRECT/ARGENTIERI

1 Q And what were the terms of your supervised release?

2 A That I can't be around any -- they told me I couldn't be
3 around any Persico and that I had to stay away from Frankie
4 and, you know, maintain a job, not get into any problems, no
5 trouble.

6 Q Is it just the defendant and the Persicos or convicted
7 felons?

8 A All convicted felons.

9 Q You said you had a job for some time?

10 A Yes.

11 Q What was your job?

12 A I was working in my neighbor's warehouse, furniture
13 warehouse.

14 Q When, if ever, did you get a job with the union?

15 A About four months later, after I got out.

16 Q What union?

17 A Local 20.

18 Q How did you get that job?

19 A Through a friend of mine, Peter.

20 Q Peter?

21 A Peter Lorell.

22 Q When you came home, how often did you see the defendant?

23 A I seen him quite a few times.

24 Q When you first came home from prison, where was
25 Theodore Persico Jr.?

RUSSO/DIRECT/ARGENTIERI

1 A He was in jail.

2 Q Did that change?

3 A Yes, he came home.

4 Q When did he come home from prison?

5 A In 2008 sometime.

6 Q When was the first time you saw Teddy Persico Jr. when he
7 came home from prison?

8 A First time I seen Teddy Boy was in Staten Island, he
9 wanted to see me and Frankie when he first got home, at
10 Patty Bombino's brother's office somewhere on Staten Island.

11 Q Who is Patty Bombino?

12 A He was Teddy Boy's mother's boyfriend years ago.

13 Q Where did you meet Teddy Jr.?

14 A Where did i meet Teddy Jr.?

15 Q Yes, when he came home from prison?

16 A Teddy brother's office.

17 Q How long had it been since you seen Teddy Persico?

18 A Last time I seen him was at the funeral.

19 Q Why didn't you visit him in jail?

20 A Because I didn't want any trouble for going up to see
21 somebody. When you're on parole you can't go see other
22 felons.

23 Q What kind of contact, if any, did you maintain with Teddy
24 Persico Jr. while he was in prison?

25 A Oh, we talked all the time on the phone.

RUSSO/DIRECT/ARGENTIERI

1 Q What, if any, contact did Teddy Persico Jr. have with the
2 defendant?

3 A What contact he had with B.F.? The same thing; phone.

4 Q When Teddy Persico Jr. first came home, what, if any,
5 discussions did you have with him about being inducted into
6 the Colombo crime family?

7 A He told me and Frankie that day that he was going to have
8 me and Frankie straightened out. But he told Frankie he was
9 having a problem with him getting straightened out.

10 Q What else did he say?

11 A He said that his cousin Allie was giving him a hard time
12 with him.

13 Q Did Teddy explain why Allie Boy was giving him a hard
14 time?

15 A Yes. He said that -- he was having a hard time because
16 when we were home and Allie asked do it for us back then, that
17 Frankie didn't want to. So he felt disrespected. Now that my
18 cousin is home you want it, but when I was home you didn't
19 want it. So he said he was having a problem.

20 Q When Teddy Persico Jr. said that, what was the
21 defendant's reaction?

22 A He was upset.

23 Q When did the term of your supervised release finish?

24 A In December '08.

25 Q At that time, what, if any, discussions did you have with

RUSSO/DIRECT/ARGENTIERI

1 Michael Persico about being inducted into the Colombo family?

2 A When I got off parole I went to see Michael. I wanted to
3 see him about opening -- going into business, construction
4 business, and I went to see him; I met him at his restaurant.
5 And he told me that, did my cousin tell you -- talk to you
6 about what my brother wants to do for you? I said, "Yes, he
7 did."

8 I said, "What about B.F.?" He says, don't worry
9 about B.F. He says, "Right now just you."

10 Q And when Michael Persico said, "Did my cousin tell you,"
11 who was he referring to?

12 A Teddy Boy.

13 Q When he referred to his brother, who was he referring to?

14 A Allie Boy.

15 Q What else, if anything, did Michael Persico say to you at
16 that time?

17 A He was telling me like, now, when it happens for you,
18 when you get straightened out, you got to act a different way,
19 you know. You can't be so quick to lose your temper. People
20 look up to you now, you know.

21 Q When was the next time that you discussed your possible
22 induction into the Colombo crime family?

23 A The next time I discussed it with Teddy Boy was at the
24 feast in Brooklyn.

25 Q Did you have a number of discussions with Teddy Boy?

RUSSO/DIRECT/ARGENTIERI

1 A I had a couple, yeah.

2 Q And you said at one point it was at the feast?

3 A Yes.

4 Q What discussion did you have with Teddy Persico about
5 being inducted at the feast?

6 A I met him at the back of the cafe. He was telling me
7 who was going to get straightened out, and then explained to
8 me who was getting straightened out. That it was me, Fat
9 Larry -- me, Fat Larry, Joe Savarese, Danny Cataldo. He said
10 some guy named John Maggio, and Mike Ferrera -- Nick Ferrera.

11 Q Did you know who Fat --

12 A And Manning.

13 Q And Manning?

14 A Yeah, Manning.

15 Q Did you say -- did you know who Fat Larry was at that
16 time?

17 A Yes.

18 Q What is Fat Larry's full name?

19 A Larry Sessa.

20 Q And who was he around?

21 A Larry?

22 Q Yes.

23 A He was around Teddy Boy.

24 Q And at the time that Teddy Persico Jr. gave you that
25 list, what, if anything, did you say?

RUSSO/DIRECT/ARGENTIERI

1 A I asked him about Frankie again. And he said, right now
2 Frankie, you know, my little cousin is upset with him, and I
3 ain't ask no more. We'll get it done, not right this second.

4 Q About did you have your next discussion with
5 Teddy Persico Jr. about being inducted?

6 A Next time I had -- when he met me on 30th Avenue with
7 Little Angelo.

8 Q Who is Little Angelo?

9 A Little Angelo is -- his brother-in-law was
10 Michael Persico. He's married to Suzzie Persico, Michael's
11 sister.

12 Q What's his full name?

13 A Angelo Espada.

14 Q How does Angelo Espada make money?

15 A He has a bunch of rides and sausage stands.

16 Q Prior to that did you ever have a meeting with
17 Teddy Persico Jr. where he showed you a list?

18 A Yes.

19 Q When was that meeting?

20 A That was when I was working one night late for the union,
21 I was on 91st Street in New York, and First Avenue.

22 Q What happened at that meeting?

23 A He just came in to -- he just happened to be in the
24 neighborhood, he wanted to see me. He came by, he showed me a
25 list of all these Gambino's that was straightened out. He

RUSSO/DIRECT/ARGENTIERI

1 wanted know if I knew anybody on the list. I told him I seen
2 a couple of guys I knew, but it didn't matter.

3 Q Was there any name on the list you recognized?

4 A Yeah, Joey Scopo.

5 Q And who was that?

6 A Junior. Joey Scopo Sr.'s son.

7 Q When you met with Teddy Persico and Angelo -- first of
8 all, where did you meet with him?

9 A It was in an restaurant on 92nd and Fifth Avenue.

10 Q And what was discussed at that meeting?

11 A He was telling me that Sunday, this Sunday coming up,
12 Super Bowl Sunday, that I had to meet at a little diner down a
13 couple of blocks away. I forgot what time. It was 9 o'clock
14 in the morning.

15 Q What did he tell you was going to happen that day?

16 A He told me we were going to get it done. We were going
17 to get it straightened out that day.

18 Q Directing your attention to that Sunday, what happened?

19 A That Sunday I went down there and I Joey Savarese and
20 Danny Cataldo. We sat there about ten, 15 minutes. Then I
21 believe it was Danny that showed up and took us from that
22 diner on Third Avenue and 86th Street to Tony's diner on New
23 Utrecht Avenue on 72nd Street.

24 Q When you say Danny picked you up, who are you referring
25 to?

RUSSO/DIRECT/ARGENTIERI

1 A Tony Persico, brother ().

2 Q After he picked up from that place what happened?

3 A We just waited there. Angelo came by, he took -- I think
4 he took Danny with him, Danny Cataldo with him. And then
5 Danny came back and picked me up. I forgot exactly where he
6 picked me up. I think it was Danny who picked me up, me and
7 Joey Savarese, and took us to the apartment.

8 Q Where was this apartment located, in what borough?

9 A In Bensonhurst. 71st Street, between 18th and
10 17th Avenue.

11 Q When you arrived at the apartment where did you go?

12 A They ushered us right into the bedroom. There was a
13 bedroom in the apartment, and we sat in the bedroom.

14 Q And who was present in the bedroom with you?

15 A It was me, Joey Savarese, Danny Cataldo, Joe Maggio,
16 Manning, Mike Ferrera.

17 Q What happened next?

18 A What happened next was Reynolds, Reynolds came in the
19 room and he said to keep it down, yous making a lot of noise
20 in there.

21 Q Had you met Reynolds prior to that day?

22 A I believe so; I'm not sure.

23 MS. ARGENTIERI: Judge, may I approach?

24 THE COURT: Yes.

25 MS. ARGENTIERI: Showing the witness Government's

RUSSO/DIRECT/ARGENTIERI

1 Exhibit 117, 138, 179C, and 109 for identification.

2 (Handing.)

3 Q Do you recognize those individuals?

4 A Yes, I do.

5 MS. ARGENTIERI: Government moves to admit them.

6 MR. McMAHON: No objection.

7 THE COURT: I have 117, 138 --

8 MS. ARGENTIERI: 109.

9 THE COURT: 109.

10 MS. ARGENTIERI: 179C.

11 THE COURT: 179C. Did you say no objection?

12 MR. McMAHON: I did, Your Honor.

13 THE COURT: All right. I will receive Exhibits 117,
14 138, 109, and 179C.

15 (Government' Exhibits 117, 138, 109, and 179C
16 received in evidence.)

17 Q After Reynolds came into the bedroom and told to you keep
18 it down, what happened next?

19 A He came back about five minutes later. He told me I got
20 to step out first.

21 Q When you stepped out, where did you go?

22 A I went into the living room area.

23 Q And who was in the living room area?

24 A It was two guys out there. And I walked out and Junior
25 Lollipop, he's the one who conducted the ceremony.

RUSSO/DIRECT/ARGENTIERI

1 THE COURT: I'm sorry, who?

2 THE WITNESS: Junior Lollipop.

3 Q Is that his real name?

4 A No, it's a nickname, but I don't know his last name.

5 Q Okay. I'm sorry, you said in the living room there was
6 Junior Lollipop and some other individuals?

7 A Yes.

8 Q And who conducted the ceremony?

9 A Junior Lollipop.

10 Q And what was his position in the Colombo family?

11 A He was a captain in the family.

12 Q Did you know at the time all the individuals in the room?

13 A I knew a couple.

14 Q What happened?

15 A What happened next was when I walked in, Junior asked me
16 if I knew why I was there. And I said, no, I didn't. You're
17 told to say that you don't know why you're there.

18 Q Was that a lie?

19 A Of course it is.

20 Q After he asked you if you knew why you were there, what
21 happened?

22 A He pointed to a table, there was a gun and knife and he
23 said to me, he said, your friend behind me has a problem. How
24 would you handle it? And I said, whatever it takes I'll
25 handle it. He said okay, no problem.

RUSSO/DIRECT/ARGENTIERI

1 Q When he said your friend behind you has a problem, who
2 was he referring to?

3 A It was referring to Teddy Boy.

4 Q Teddy Persico Jr.?

5 A Yes.

6 Q Was he present in the room?

7 A Yes, he was.

8 Q After he put the revolver and the knife on the table,
9 what happened next?

10 A After I said that I'll handle it, whatever it takes, he
11 said okay. Teddy came over and pricked my finger with a pin,
12 and Junior ripped piece of the sink and burned it, and put the
13 blood on it and he put it in my hand. And he said to me, he
14 said, we're a secret society. There's one way in, one way
15 out. He says, this family comes before anyone and anything,
16 before your own family, before your own wife and kids.

17 And if we ask you to do a piece of work, would you
18 do it? And I said yes. And he said, congratulations, welcome
19 to the family.

20 Q As of then what was your status in organized crime?

21 A Way was a made member.

22 Q After he said that, what happened next?

23 A He started introducing me to everybody in the room.

24 Q Are there rules in organized crime about introductions?

25 A Excuse me?

RUSSO/DIRECT/ARGENTIERI

1 Q Are there rules in organized crimes about introducing?

2 A Yes. You can only be introduced by another made member
3 to another made member.

4 Q What does that mean?

5 A That means that I can never go and tell a civilian that I
6 was a made member.

7 Q And at that point who did he introduce you to?

8 A He went around the room. He introduced me to -- the
9 first one was Ralph DeLeo, he introduced me to him as the
10 active boss, the active street boss. And then he introduced
11 me to Benjie, who was the underboss. And then the next one he
12 introduced me to Richie Fusco, who was consigliere. And then
13 he introduced me to Reynolds as the caporegime. He introduced
14 me to Dennis DeLucia, who was a caporegime. Teddy Boy, capo.
15 And then he introduced me to Junior Lollipop as a capo.

16 MS. ARGENTIERI: Judge, may I approach?

17 THE COURT: Yes.

18 Q Showing you Government Exhibit 123. Do you know who that
19 is?

20 A Yes.

21 Q Is it a fair and accurate picture?

22 A Yes, it is.

23 MS. ARGENTIERI: Government moves to admit 123.

24 THE COURT: Any objection?

25 MR. McMAHON: No, Your Honor.

RUSSO/DIRECT/ARGENTIERI

1 THE COURT: Received.

2 (Government Exhibit 123 received in evidence.)

3 Q Showing you Government Exhibit 117 in evidence. Who is
4 that?

5 A That's Ralph DeLeo.

6 Q What was the highest position you knew him to hold in the
7 Colombo family?

8 A He was the acting street boss.

9 Q When was the first time you met him?

10 A That day.

11 Q Showing you Government Exhibit 138. Who is that?

12 A Reynolds.

13 Q What was the highest position you knew him to hold?

14 A Caporegime.

15 Q When was the first time that you met him?

16 A I think it was that day; I'm not sure.

17 Q Showing you Government Exhibit 123. Who is that?

18 A That's Richie Fusco.

19 Q What was the highest position you knew him to hold?

20 A Consigliere.

21 Q I'm sorry. Showing you Government Exhibit 109. Who is
22 that?

23 A Benjie.

24 Q Do you know his last name?

25 A I don't.

RUSSO/DIRECT/ARGENTIERI

1 Q What -- I'm sorry. What is his nickname?

2 A They call him the Claw.

3 Q What's your understanding of why he's called the Claw?

4 A Because he used to put the claw on people for money.

5 Q Showing you Government Exhibit 179C. Who is that?

6 A D'Angelo.

7 Q After you were inducted into the Colombo crime family,
8 what happened next?

9 A We left. Me, Teddy Boy, Joe Savarese, Danny Cataldo and
10 John Maggio.

11 Q Prior to you leaving that house, were the other members
12 inducted?

13 A Oh, yeah. Yes. I'm sorry.

14 Q Where were you when the other members were inducted?

15 A I was sitting right there with the other members.

16 Q Who were the other individuals who were inducted into the
17 Colombo crime family that day?

18 A The next one it was Joey Savarese, Danny Cataldo, then
19 John Maggio, then Manning, and then Mickey Ferrera.

20 Q What was your understanding of who had sponsored
21 Joseph Savarese for induction?

22 A Teddy Boy.

23 Q What about Danny Cataldo?

24 A Same thing, Teddy Boy.

25 Q What about Manning?

RUSSO/DIRECT/ARGENTIERI

1 A Benjie put him up.

2 Q What about John Maggio?

3 A Richie Fusco.

4 Q What about Mike?

5 A I think Ralph, Ralph or Richie, either one, I'm not
6 100 percent sure.

7 Q Prior to you're leaving, what, if anything, did Richie
8 tell you?

9 A He pulled us all together and he told us that he didn't
10 want -- he didn't want us to be introduced to anybody right
11 away. He wanted us to stay low key. And that from this -- he
12 wanted us to know that this was Carmine Persico's family.
13 It's always been and it's going to always be until the day he
14 dies.

15 Q Where was --

16 A He was going to be the boss until the day he died.

17 Q Where was Carmine Persico?

18 A In jail.

19 Q Who did you leave the apartment with?

20 A I left with Joey Savarese, Danny Cataldo, Teddy Boy, and
21 John Maggio.

22 Q Where did you go?

23 A Teddy drove us down to Third Avenue to pick up our cars.

24 Q Prior to the induction ceremony, what position did you
25 believe Teddy Persico Jr. to hold in the Colombo crime family?

RUSSO/DIRECT/ARGENTIERI

1 A I thought he was just a made member until that ceremony.

2 Q What, if anything, did Teddy Persico Jr. say to you about
3 that?

4 A He told us in the car -- I was introduced to him as a
5 captain, after that he told us in the car that he didn't want
6 us telling anybody that he was a captain because he was on
7 parole and he didn't want anybody to know, especially law
8 enforcement getting wind of it. So he said he was going to
9 try to pick somebody as his acting captain. And I -- I told
10 him he should pick Anthony Stropoli.

11 Q Why did you suggest Anthony Stropoli?

12 A Because Anthony is loyal to us on the Persico side.

13 Q What, if anything, did Teddy Persico say about that?

14 A He said he didn't think that was a good choice right now.

15 Q Did you have another conversation about it?

16 A Yes. Not too long after that Teddy got in touch with me
17 and he said he got in touch with Anthony Stropoli, make
18 arrangements so I could meet the two of you and let me know
19 where and I'll meet you. So we met on Fifth Avenue and First
20 Street, at a restaurant called Song.

21 Q What happened at that meeting?

22 A Teddy came and he said that he got -- he got information,
23 his cousin was telling him that it was a good choice, Anthony
24 Stropoli would be a good choice for acting captain and he told
25 Anthony that he was going to be the acting captain and Benjie

RUSSO/DIRECT/ARGENTIERI

1 would officially tell him, but he was letting him know ahead
2 of time.

3 Q When you say "Benjie" you're talking about --

4 A The underboss.

5 Q Going back to the day of your induction after you left
6 Teddy and others, where did you go?

7 A I was on my way home. I was getting into my truck and
8 grabbed my phone, put my phone on and I was going home.

9 Q Did you leave your phone in your car?

10 A Yes, I did.

11 Q Why?

12 A Because we were told to leave our phones.

13 Q What was your understanding of why you were supposed to
14 leave your phone in the car?

15 A Because it's traceable. Phones are traceable.

16 Q Did you go straight home?

17 A No. When I put the phone on I seen a bunch of calls from
18 my wife and Frankie.

19 Q The defendant?

20 A Yes.

21 Q Prior to your induction, what, if anything, had you told
22 the defendant about the ceremony?

23 A I told him it was happening. I told him, if I'm not out
24 in a few hours, come look for me. But he called me up and --
25 and that was it. And I went to see him. He told me to come

RUSSO/DIRECT/ARGENTIERI

1 by, he wanted to really see me. He said, don't go home yet.

2 I'm at 101s Restaurant. Come by and see me.

3 Q Did you go see him?

4 A Yes, I did.

5 Q What happened when you met the defendant that day?

6 A We took a walk. He congratulated me. He was mad at
7 himself. And I asked him, what's the matter? He said, I'm
8 just pissed off. I should have did what you said. I should
9 have never denied it. They're always going to be on top of
10 us, law enforcement. I should have accepted it. You think we
11 can do this again next week. I said, "What, are you crazy?
12 It took a year for me to get done. It ain't happening."

13 I said, "Why don't you call Teddy, see what
14 happens."

15 Q When he was telling you he should have just done it, what
16 was he referring to?

17 A He was referring to getting straightened up. He was
18 upset. He got denied again.

19 Q What, if anything, did you say to Teddy Persico Jr. about
20 the defendant being upset?

21 A I told him. He said, don't worry about. He'll get it.
22 The next bunch of guys we'll get him in there.

23 Q When, if ever, did you learn that law enforcement knew
24 that you got straightened out or inducted?

25 A Not even a week later.

RUSSO/DIRECT/ARGENTIERI

1 Q How did you find out?

2 A Through Danny Cataldo.

3 Q What did he tell you?

4 A He said he went to his parole officer. And that when he
5 got there his parole officer told him. He said,

6 "Congratulations, you just ruined your life."

7 And he was like, "What are you talking about?"

8 He goes, "They just gave me a list of all guys and
9 they that you, you got straightened out by the Colombos."

10 He said, "I don't know what you're talking about."

11 Then he said, "Well, now you're on the list." And
12 he showed him on that list all the other guys that got
13 straightened out too. They found out right away.

14 Q When did you and the defendant open a business together?

15 A Sometime in '09.

16 Q What type of business did you open?

17 A A detailing and products for cars, for trucks.

18 Q What did you call the business?

19 A MCP, Maximum Car Protection.

20 Q And what were you going to Sally part of the position?

21 A Detailing items. Soaps, compounds, rags, from --
22 everything. Everything that you need for detailing cars we
23 were going to sell.

24 Q How did you and the defendant plan to finance the
25 business?

RUSSO/DIRECT/ARGENTIERI

1 A Well, we went to Scottie and we talked to him about it
2 and we also talked to Mike about it. And he said, you know.

3 Q Who did you talk to first?

4 A B.F. was talking to Scottie about trying to open up a
5 business and Scottie told him, check out some of the bills
6 that I pay. You know, look at the bills and see what we could
7 do, if it entertains around the car business.

8 Q What kind of business does Scottie run?

9 A He owns a -- dealerships.

10 Q You're referring to Scottie Reback?

11 A Yes.

12 Q What, if any, discussion did you have with
13 Michael Persico?

14 A Well, I don't think I ever had a personal conversation
15 with him. I know Frankie did.

16 Q What did Frankie tell you he discussed?

17 A Frankie told me that he discussed it with Michael and --
18 I did talk to Michael. We told him about the money and he
19 said, go see Scottie and he'll help you with the money. We'll
20 put the business together.

21 Q So what money did you use to finance it?

22 A Well, we met with Scottie and we told him what we needed.
23 We told him we needed about 75,000 to 100,000 to open the
24 business. He was like, okay. And then he was like, "But I
25 don't want to give you all the money upfront because down the

RUSSO/DIRECT/ARGENTIERI

1 road the government knows who you guys are."

2 He says, "Is there anyways you can put the money up
3 and I'll give it back to you?" So I told him I don't have any
4 money to put up right now, I just came home. And Frankie said
5 he could put up 25,000 through his wedding money that he made
6 on his wedding. So Scottie told him to use that to start and
7 I'll give you the rest.

8 Q When had the defendant gotten married?

9 A I want to say '07, '08.

10 Q Did you attend his wedding?

11 A No, I did not.

12 Q Why not?

13 A Because I was on -- I was on parole.

14 Q And who did he Mary?

15 A Excuse me?

16 Q Who did he Mary?

17 A Angela.

18 Q When you opened your business where was it located?

19 A It was on 11th Avenue, between 67th and 68th Street.

20 Q What used to be at that locate?

21 A It used to be the old Romantique Garage.

22 Q Where had Romantique relocated to?

23 A Eighty-six between 14th and 16th Avenue.

24 Q How did you end up using that space?

25 A We asked Frank.

RUSSO/DIRECT/ARGENTIERI

1 Q And who was using that space just prior to you?

2 A Angelo, his brother-in-law.

3 Q What was Angelo using it to do?

4 A He was using it to fix rides, keep stored stuff in there.

5 Q What, if any, help did you and the defendant ask Michael
6 Persico for, with regard to your business?

7 A We asked him for money.

8 Q After that did you ask him for anything else?

9 A We asked him for the garage. He gave us the garage to
10 use. Money. Oh, we asked him -- we were asking him to help
11 us with John Staluppi and John Rosati.

12 Q How did you and the defendant plan to get referrals for
13 your business?

14 A We figured this way we had friends that were in the
15 business already, that's why we wanted to go into this
16 business.

17 Q And what friends were you speaking of?

18 A So we figured we had a foundation right then and there,
19 and we figured that John Rosati and John Staluppi could help
20 us out, they own a lot of dealerships and we just go from
21 there; roll from there.

22 Q And who was John Rosati in the Colombo family?

23 A He was a made member.

24 Q Who was John Staluppi in the Colombo family?

25 A He was a made member?

RUSSO/DIRECT/ARGENTIERI

1 Q And were you referred any business by Staluppi and
2 Rosati?

3 A Rosati let us have all the source, selling all products.

4 Q What happened next with regard to getting additional
5 business from those individuals?

6 A Well, we were trying to get more business from Staluppi
7 and Michael was handling that for us. He was taking Frankie
8 and they were going out there talking to try to get us some
9 business and it wasn't progressing as fast as I wanted it to.

10 Q So what did you do?

11 A So I went to Scottie Reback and I told him. Because
12 Michael was supposed to go, and he didn't go for like a week
13 or two. And I asked him, Scottie, maybe you can help me out
14 go, see your father-in-law and ask him for -- to help us out
15 with some business.

16 (Continued on the next page.)

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RUSSO/DIRECT/ARGENTIERI

1 Q Can you remind everyone how Scottie was related --
2 Scottie Reback was related to John Stallupi?

3 A He's married to Stallupi's daughter.

4 Q What did Scottie Reback say to you?

5 A Scottie said, I'll look into and he went to see Michael,
6 and told him that I was asking him to go see his father-in-law
7 and Michael got upset with that.

8 Q How did you find that out?

9 A Little Angelo got in touch with me, came by the shop and
10 he said that, come by the Feast one night. I want to talk to
11 you tonight. Teddy wants to see you.

12 Q Did you go by the Feast?

13 A So I went by the Feast, and I met Teddy. He was in the
14 back of the restaurant, sitting in. So me, Angelo, BF and
15 Teddy Boy sat down. And I said, "What's up?" And he says, he
16 goes, "You went around my cousin's back trying to get" -- I
17 thought you can't do that. I said, "I don't know what you're
18 talking about." He says, "Did you go ask Scottie to ask
19 him" -- I said, "Yeah, like a friend. I can't ask?" He said,
20 "Nobody supposed to go near these guys except my cousin
21 Michael. And don't ever do that again. Michael's upset that
22 you went around his back. He felt I disrespected him in a
23 way.

24 Q What was your understanding of why only Michael could
25 reach out to those individuals?

RUSSO/DIRECT/ARGENTIERI

1 A Because Michael is the only one that give -- they're the
2 only ones that deal with Michael. Michael only deals with
3 them two.

4 Q Why?

5 A Because they got big money, and Michael's in business
6 with them.

7 Q What if anything did Angelo say at that point?

8 A He turn around, told me, "You should know better than
9 that. Only one, you know, we don't want nobody near these
10 guys because we don't want them in trouble because they're big
11 earners. And nobody goes near them, and you should know
12 better than to go behind my brother-in-law's back. We listen
13 to only three guys here: My father-in-law, my brother-in-law
14 and Michael." And I even made a joke. I said, "We don't
15 listen to Teddy no more?" And he goes, "No, Teddy, too."

16 Q Who is Angelo's father-in-law.

17 A Carmine Persico.

18 Q Where was he?

19 A In jail.

20 Q Who is his brother-in-law?

21 A His brother-in-law is Allie Boy.

22 Q And who was the third person you said you had to listen
23 to?

24 A Michael.

25 Q Michael Persico?

RUSSO/DIRECT/ARGENTIERI

1 A Yes.

2 Q In the 2000s, what if ever did you meet with members of
3 the Colombo crime family at a furniture store?

4 A I met with Michael with Anthony Strapoli at a furniture
5 store.

6 Q What was it called?

7 A Roma.

8 Q Where was it located?

9 A Located on 18th Avenue, between 85th and 86th.

10 Q Who owned that store?

11 A Frank.

12 Q You don't know his last name?

13 A No.

14 Q After you were inducted into the Colombo crime family,
15 when did you become aware of a dispute involving drugs and
16 someone named "Suzie Girl"?

17 A Frankie told me about it one day when I walked into the
18 shop.

19 Q Who was Suzie Girl?

20 A Suzie Girl was a friend of Frankie's from years ago.

21 Q How did they know each other?

22 A They've been friends for a long time.

23 Q What did the defendant tell you was the dispute?

24 A He said that Suzie Girl was telling him that somebody --
25 her daughter's son-in-law -- daughter's boyfriend had dealing

RUSSO/DIRECT/ARGENTIERI

1 with somebody with pot and they basically beat the kid. They
2 took his money. Said they were going to bring him pot and
3 they never did. Just outright beat him.

4 Q Who did that happen to?

5 A Suzie Girl's daughter's boyfriend.

6 Q What was the defendant asking you to do about it?

7 A Asking me to handle it, to get the money back for her.

8 So she was telling me that, a friend of ours walked in, Pooch
9 --

10 Q Who was Pooch?

11 A He's an associate of the family.

12 Q Who was he around at that time?

13 A Danny Capalbo.

14 Q What happened after Pooch came in?

15 A We were telling him who the kids were that supposedly
16 beat this kid for the money, and he said he knew them, so I
17 told him to get in touch with him, and I told him I want to
18 see them.

19 Q And how was the situation resolved?

20 A It was resolved when I met them. I told them that they
21 were going to give the money back. And it was two different
22 kids, so they gave 600 a piece. Only one kid give her 600 and
23 the other kid really never gave any money.

24 Q What specifically did you say to them when you met with
25 them?

RUSSO/DIRECT/ARGENTIERI

1 A I told them they got to give the money back or they're
2 going to get in trouble.

3 Q What did --

4 A They're going to get hurt.

5 Q And how much money did you get back after that?

6 A Six hundred.

7 Q What did you do with the 600?

8 A I gave Suzie Girl 300. I think Pooch took some, Frankie
9 took couple dollars. I'm not sure. I know he gave Suzie Girl
10 300.

11 Q What if anything did you tell the defendant about how you
12 resolved it?

13 A I told the defendant how I resolved it?

14 Q Yes.

15 A He knew how I resolved it.

16 Q How did he know?

17 A Because I told him.

18 Q What did you tell him?

19 A I told him I seen the kids, and they were going to give
20 Pooch the money. Pooch is handling it. Tell Suzie you going
21 to get her money back.

22 Q What if any other disputes were you aware of that
23 involved Suzie Girl?

24 A Um, so many, God. The time that she got slapped --

25 Q How did you find out that Suzie Girl got slapped?

RUSSO/DIRECT/ARGENTIERI

1 A Frankie told me about it.

2 Q The defendant?

3 A Yeah.

4 Q When he told you about it, what were you two discussing?

5 A We were just talking about going to see the person that
6 slapped her and I was like, I ain't getting involved in this.
7 This is getting really petty now, and I didn't get involved in
8 it.

9 Q After you were inducted in the Colombo crime family,
10 whose crew were you with?

11 A Whose crew I was with?

12 Q Yes.

13 A Teddy Boy.

14 Q And who were the other members at that time of Teddy
15 Boy's crew?

16 A Me, Joey Savarese, Danny Capalbo, Fat Larry, BF.

17 MS. ARGENTIERI: Judge, may I approach?

18 THE COURT: Yes.

19 BY MS. ARGENTIERI:

20 Q I'm showing the witness Government Exhibit 140 and 173
21 for identification. Do you recognize these individuals?

22 (Handing.)

23 A (Examines photographs.) Yes, I do.

24 MS. ARGENTIERI: Government moves to admit them.

25 THE COURT: Any objection, Mr. McMahon?

RUSSO/DIRECT/ARGENTIERI

1 MR. MCMAHON: No, Judge.

2 THE COURT: I'll receive Government's Exhibits 140
3 and 173.

4 MS. ARGENTIERI: May I publish them, Judge?

5 THE COURT: Yes.

6 (Exhibits published.)

7 BY MS. ARGENTIERI:

8 Q I'm showing you Government Exhibit 173. Who is that?

9 A That's Fat Larry.

10 Q And you said during your initial conversation with Teddy
11 Persico, he was scheduled to be inducted with you?

12 A Yeah. He got taken off the list.

13 Q How do you know that?

14 A Teddy told me.

15 Q What did Teddy Persico tell you?

16 A Told me Joe Fish put a beef in right now, so he was
17 coming off the list until we could straighten it out.

18 Q What was your understanding of who Joe Fish was?

19 A Joe Fish is an associate of the family.

20 Q Showing you Government Exhibit 140. Who is that?

21 A Tommy McLaughlin.

22 Q What's his status in organized crime?

23 A He's an associate of the family.

24 Q In the late 2000s, who did he report to?

25 A Joey Savarese.

RUSSO/DIRECT/ARGENTIERI

1 Q At some point did your position in organized crime
2 changing?

3 A Yes, it did.

4 Q How?

5 A I became Teddy's acting captain.

6 Q Where was Teddy Persico when that happened?

7 A In jail.

8 Q Who promoted you?

9 A Andrew Russo.

10 Q What was Andrew Russo's position at the time he promoted
11 you?

12 A He was the boss, acting boss.

13 Q When you were promoted to acting captain, who was in your
14 crew?

15 A Joey Savarese, Danny Capalbo, Fat Larry -- basically
16 everybody that Teddy had. They had answer to me, too, now.

17 MS. ARGENTIERI: Judge, may I approach?

18 THE COURT: Yes.

19 MS. ARGENTIERI: I'm showing the witness Government
20 Exhibit 118.

21 BY MS. ARGENTIERI:

22 Q Do you recognize that individual. (Handing.)

23 A (Examines photograph.) Yeah.

24 Q And showing you Government Exhibits 835C and 835A and
25 835E. With regard to the latter three exhibits, do you

RUSSO/DIRECT/ARGENTIERI

1 recognize those? (Handing.)

2 A (Examines exhibits.) Yes.

3 Q And what are they?

4 A They're the business cards.

5 Q Were these at some point time in your possession?

6 A Yes, they were.

7 Q Were they provided to the government?

8 A Yes, they were.

9 MS. ARGENTIERI: The government moves to admit 835A,
10 C, and E.

11 THE COURT: Any objection?

12 MS. ARGENTIERI: And Government Exhibit 118.

13 MR. MCMAHON: No objection to the picture. The
14 business cards --

15 MS. ARGENTIERI: I took it off. (Handing.)

16 MR. MCMAHON: (Examines exhibits.) No objection.

17 THE COURT: I'll receive Government Exhibit's 118,
18 835C, 835A and 835E.

19 BY MS. ARGENTIERI:

20 Q I'm showing you Government Exhibit 118. Who is that?
21 (Handing.)

22 A (Examines photograph.) That's Ambrose.

23 Q And in the late 2000s, what was his position in organized
24 crime?

25 A He was an associate of the family.

RUSSO/DIRECT/ARGENTIERI

1 Q Who was he reporting to?

2 A When teddy was home, Teddy. When Teddy went away, he was
3 to report to me.

4 Q Do you know his last name?

5 A (Shakes head negatively.) No.

6 Q What kind of business did Ambrose have?

7 A Collision shop.

8 Q What was the name of it?

9 A Cyclone Collision, Coney Island.

10 Q Showing you Government Exhibit 835A. Is that a card
11 related to Ambrose's business?

12 A Yes, it is.

13 Q Showing you Government Exhibit 835C, what is that?

14 A That's mine and Frankie's business card.

15 Q And that -- what was the name of your business?

16 A MCP, Maximum Car Protection.

17 Q And is that the address on 11th Avenue, where your
18 business was?

19 A Yes, it was.

20 Q And when it says "Frank and Anthony" in the upper
21 right-hand corner, is that you and the defendant?

22 A Me and the defendant, yeah.

23 Q Showing you 835E. What is this?

24 A That's a business card of my friends that I used to work
25 for when I first come home.

RUSSO/DIRECT/ARGENTIERI

1 Q With regards to the phone numbers on the back, do you
2 recognize any of them?

3 A (Examines exhibit.) Yeah. Yeah.

4 Q For example, do you know who the T is on the bottom?

5 A Could be Teddy. I don't know. I don't know.

6 Q Where is Teddy's friend?

7 A Teddy's friend is Walter -- the kid, Walter.

8 Q What was his status in organized crime?

9 A An associate.

10 Q What if any crimes did you commit with Ambrose?

11 A I committed a fraud with the drugs, the pills. I was
12 taking money from him.

13 Q You took money from -- related to pills?

14 A Yes.

15 Q Did you also do something with regard to your car?

16 A Yes, I did. Yeah. I totaled out my car.

17 Q Could you tell the jury what's illegal about totaling our
18 your car?

19 A I couldn't afford to pay for it, so I put it on the side
20 of the street, and he had one of his friends hit it with a
21 garbage truck.

22 So I brought it to his shop, and the adjustor came
23 and totaled the car for me, so I didn't have to pay no more.

24 Q After you totaled the car, what did you do?

25 A (No response.)

RUSSO/DIRECT/ARGENTIERI

1 Q Did you submit anything to the insurance company?

2 A Sure, I did, yeah, a false claim, I guess.

3 Q And with regard to prescription -- the prescription
4 drugs, when did you first get involved with prescription drugs
5 and Ambrose?

6 A And Ambrose?

7 Q Yeah.

8 A When Frankie told me what Ambrose came to him with the
9 scheme, that he knew a doctor that if you go to the doctor,
10 the doctor checks you out and he'll write a prescription for
11 Oxycontin.

12 Q What year was this in, approximately?

13 A Ten, 2010.

14 Q What did the defendant tell you that Ambrose wanted him
15 to do?

16 A Wanted him -- because Frankie know he had problems in
17 life after he got in the accident that he could go to the
18 doctor, and the doctor would check him and he could get a
19 prescription for Oxycontin. Once he got the prescription, all
20 he had to do is give it back to Ambrose and Ambrose would pay
21 him that -- it was like 17 to \$2,000 for the prescription.

22 Q \$2,000 for what?

23 A For the prescription that Frankie got that day.

24 Q And you mentioned something about a doctor. What did the
25 defendant tell you about the doctor?

RUSSO/DIRECT/ARGENTIERI

1 A He told me that the doctor would write a prescription as
2 soon as he checked him out.

3 Q What kind of pills did you understand the defendant was
4 going to get from the doctor?

5 A The Oxycontin, the 30 milligrams and I think eighties.
6 I'm not sure.

7 Q After he got the pills, what was he going to do with
8 them?

9 A He was going to give them back to Ambrose, give them to
10 Ambrose and Ambrose was going to sell them and he gives
11 Frankie the money for them.

12 Q And how much money was the defendant supposed to receive?

13 A Between 17 and 2000.

14 Q Did you receive a cut of that?

15 A Yeah, Ambrose gave me some of his money.

16 Q How much?

17 A It was like 300 every month for that one.

18 Q How many months did the defendant go get pills for
19 Ambrose.

20 A I'm going to say six months, maybe a few -- only a little
21 more, six months.

22 Q And did you ever go with him?

23 A Yes.

24 Q Where?

25 A Long Island, to the doctor.

RUSSO/DIRECT/ARGENTIERI

1 Q What if anything did the defendant tell you about how he
2 got the pills?

3 A How he got them?

4 Q Uh-hum (affirmative response).

5 A He went to the pharmacy, turned in the prescription and
6 they filled the prescription for him.

7 Q Did he ever tell you he had to take them?

8 A He had take them once. He was going -- every time he had
9 to go to the doctor, to see the doctor, he would take one. So
10 this way, if they gave him a urine test, he would give the
11 pill inside him, the medicine.

12 Q What if anything did the defendant tell you about how the
13 pill made him feel?

14 A He said he didn't like it. It was like being on heroin.

15 THE COURT: Let's stop. I said I would stop at 4:30
16 today.

17 Members of the jury, we're stopping a little early,
18 but please remember my admonitions. Do not discuss the case.
19 Keep an open mind. We'll begin at 9:30 tomorrow.

20 (Jury exits.)

21 THE COURT: All right. We're adjourned.

22 (Trial continued to June 13, 2012, at 9:30 a. m.)
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RUSSO/DIRECT/ARGENTIERI

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