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04/09/03 - USA v. John J. Rizzo, et al.  
Hearing re Arraignment & Detention  
Testimony of Special Agent Coxy Jenkins

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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

BEFORE THE HONORABLE MORTON SITVER, JUDGE PRESIDING

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
JOHN J. RIZZO,	)	
CAROL A. RIZZO,	)	
CHERYL A. CULLY,	)	
	)	
Defendants.	)	

CR 03-345-PHX-ROS

TRANSCRIPT OF PROCEEDINGS  
PHOENIX, ARIZONA  
WEDNESDAY, APRIL 9, 2003

DAVID M. LEE, TRANSCRIPTIONIST  
Sandra Day O'Connor Federal Courthouse  
401 West Washington Street, Spc 35  
Phoenix, Arizona 85003-2150  
(602) 322-7245

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04/09/03 - USA v. John J. Rizzo, et al.  
Hearing re Arraignment & Detention  
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1 APPEARANCES OF COUNSEL:

2 ON BEHALF OF PLAINTIFF:

3 PAUL K. CHARLTON  
4 UNITED STATES ATTORNEY  
5 PATRICK J. SCHNEIDER  
6 ASSISTANT UNITED STATES ATTORNEY  
7 CHIEF, CRIMINAL DIVISION  
8 BY: EDWARD E. GROVES  
9 ASSISTANT UNITED STATES ATTORNEY  
10 Two Renaissance Square  
11 40 North Central Avenue  
12 Suite 1200  
13 Phoenix, Arizona 85004-4408

14 ON BEHALF OF DEFENDANT JOHN RIZZO:

15 KENT & RYAN, P.L.C.  
16 BY: MICHAEL SHAY RYAN, ESQ.  
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18 45 West Jefferson  
19 Suite 220  
20 Phoenix, Arizona 85003

21 ON BEHALF OF DEFENDANT CAROL RIZZO:

22 LAW OFFICES OF BRUCE A. ALLDREDGE, P.C.  
23 BY: BRUCE A. ALLDREDGE, ESQ.  
24 245 West Roosevelt  
25 Phoenix, Arizona 85003

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I N D E X

<u>WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIR</u>	<u>RECROSS</u>
Cory Jenkins	10	43		
Cory Jenkins		48	50	

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WEDNESDAY, JUNE 13, 2001, PHOENIX, ARIZONA

2:40 P.M.

\* \* \*

THE CLERK: CR 03-345, United States of America  
versus Carol Rizzo and John Joseph Rizzo, on for detention  
hearing and arraignment.

MR. GROVES: On behalf of the United States,  
Edward Groves. Good afternoon, your Honor.

THE COURT: Good afternoon.

MR. ALLDREDGE: Good afternoon, Judge. Bruce  
Aldredge appearing and waiting for possible appointment  
for Carol Rizzo.

THE COURT: Thank you.

MR. RYAN: Good afternoon, your Honor. Michael  
Ryan pending appointment on behalf of John Rizzo.

THE COURT: Very well.

Mr. Rizzo, you previously requested that counsel  
be appointed, and I advised you that any appointment, if  
made, would be conditional upon your reimbursing the  
government for costs of representation and expenses. Do  
you wish to be appointed with that -- have counsel  
appointed with that understanding?

DEFENDANT JOHN RIZZO: Yes, your Honor.

THE COURT: All right. It's ordered appointing  
Michael Ryan -- Richard Ryan, excuse me, to represent you

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1 in this case. Richard S. Ryan.

2 Ms. Alldredge -- it's been a long day.

3 MR. RYAN: Judge, it's Michael Ryan. Did you say  
4 "Richard"?

5 THE COURT: No, I said -- you know, what I wrote  
6 down I can't read.

7 First name is?

8 MR. RYAN: Michael --

9 THE COURT: Michael.

10 MR. RYAN: -- S. Ryan, and the "S" is important,  
11 because there is other Michael Ryans who get my mail.

12 THE COURT: Okay. So I was right when I said  
13 "Michael," but that's not what I wrote down. Michael Ryan  
14 is appointed to represent Mr. Rizzo.

15 Mrs. Rizzo, the same advice to you. Do you  
16 understand, if I appoint counsel, it would be the  
17 understanding that Mr. Alldredge would represent you, but  
18 you would be required to reimburse the government for  
19 costs of representation?

20 DEFENDANT CAROL RIZZO: Yes, sir.

21 THE COURT: All right. Do you still wish to have  
22 counsel appointed?

23 DEFENDANT CAROL RIZZO: I'm sorry?

24 THE COURT: Do you want to have counsel appointed  
25 for you?

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1 DEFENDANT CAROL RIZZO: Yes.

2 THE COURT: All right. It's ordered that Bruce  
3 Alldredge is appointed to represent you, and these will be  
4 your attorneys in this case.

5 With respect to the arraignment proceedings,  
6 which we will take up next, as to Mr. Rizzo, Mr. Ryan, has  
7 the defendant received a copy of the indictment in the  
8 case?

9 MR. RYAN: I just got it myself, your Honor, and  
10 I have not gone through it. I guess he has.

11 THE COURT: Okay. So you've read over the  
12 indictment, Mr. Rizzo?

13 DEFENDANT JOHN RIZZO: Yes, sir, I've read  
14 through it, yes.

15 THE COURT: Okay. Do you want to read the  
16 indictment before we proceed with the arraignment?

17 MR. RYAN: I would waive the reading.

18 THE COURT: All right. Do you want to plead not  
19 guilty, then, to the various counts?

20 MR. RYAN: Yes.

21 THE COURT: Those counts are, for Mr. Rizzo, as I  
22 understand what's on the face of the indictment, Counts 1  
23 and 2, which are conspiracy to defraud the United States  
24 Government and perjury before a Federal Grand Jury; Count  
25 5, obstruction of justice; Counts 7, 8 and 9, willful



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1 failure to file an income tax return; Count 13 and 14,  
2 aiding and assisting in the preparation of and  
3 presentation of a false income tax return.

4 Pleas of not guilty, then, will be entered for --  
5 as I understand it, you want not guilty pleas entered; is  
6 that correct?

7 MR. RYAN: Yes, your Honor.

8 THE COURT: All right. Pleas not guilty -- pleas  
9 of not guilty will be entered as to Mr. John Rizzo.

10 Is that the defendant's true name, John J. Rizzo,  
11 Mr. Ryan?

12 MR. RYAN: Yes.

13 THE COURT: Okay. Pleas of not guilty will be  
14 entered as to each count in which defendant John J. Rizzo  
15 is charged.

16 With respect to Carol A. Rizzo, Mr. Alldredge, is  
17 that the defendant's true name?

18 DEFENDANT CAROL RIZZO: Yes, it is

19 MR. ALLDREDGE: Yes, it is, your Honor.

20 THE COURT: All right. Have you read over the  
21 indictment also, Mrs. Rizzo?

22 MR. ALLDREDGE: She's read it, Judge, and we were  
23 going over it as we got called up here.

24 THE COURT: All right. Do you want to proceed  
25 now, or do you want to wait until you've completed your

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1 review of the indictment?

2 MR. ALLDREDGE: We would like to proceed now,  
3 Judge.

4 THE COURT: Very well. Do you want to waive the  
5 reading of the indictment then?

6 MR. ALLDREDGE: We would waive the reading of the  
7 indictment and enter a not guilty plea to each of the four  
8 counts in which Ms. Carol A. Rizzo is named.

9 THE COURT: Very well. Pleas of not guilty will  
10 be entered to each of the counts in which defendant Carol  
11 A. Rizzo is charged, and those are Count 1, conspiracy to  
12 defraud the United States Government; and Counts 10, 11  
13 and 12, willful failure to file an income tax return.

14 Trial in this case is set on June 3rd of this  
15 year at 9:00 o'clock in the morning, before Judge Roslyn  
16 Silver in her courtroom on the sixth floor, courtroom 604.  
17 Defendant will have 15 days -- defendants will each have  
18 15 days to file pretrial motions.

19 Mr. Groves, is discovery going to be made  
20 available on written request?

21 MR. GROVES: Yes, your Honor. It will be made  
22 available upon request.

23 THE COURT: Very well.

24 All right. So the next matter we take up is the  
25 matter of release or detention. The government, I gather,

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1 is still requesting detention of these defendants?

2 MR. GROVES: That's correct, your Honor. We are  
3 prepared to proceed today, if the Court is inclined.

4 THE COURT: Very well.

5 All right. If you will have a seat then,  
6 Mrs. Rizzo and Mr. Rizzo and counsel, Mr. Groves will  
7 present what he has for the Court.

8 MR. GROVES: Yes, your Honor. The government  
9 would call Special Agent Cory Jenkins to the stand.

10 THE COURT: Would you come forward and be sworn,  
11 please, Special Agent Jenkins.

12 THE CLERK: Please raise your right hand.

13 CORY JENKINS,

14 called as a witness herein, having been first duly sworn  
15 by the clerk, was examined and testified as follows:

16 THE CLERK: Okay. I'll need your full name.

17 THE WITNESS: First name is Cory, C-o-r-y.

18 THE CLERK: Okay.

19 THE WITNESS: Last name is Jenkins,  
20 J-e-n-k-i-n-s.

21 THE CLERK: Okay. Have a seat in the witness  
22 chair, please.

23 DIRECT EXAMINATION

24 BY MR. GROVES:

25 Q. Would you please state for the record your current

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1 occupation?

2 A. Currently I am a special agent with the IRS Criminal  
3 Investigations unit in Phoenix?

4 Q. How long have you been so employed?

5 A. It will be three years in June.

6 Q. Did you participate last Thursday, April 3rd, in a  
7 search warrant that was conducted on a residence located  
8 at 8300 East Dixileta Drive in Scottsdale, Arizona?

9 A. Yes, I did.

10 Q. During the course of that search warrant, were items  
11 seized pursuant to that search warrant?

12 A. Yes, they were.

13 Q. Okay. Have you brought with you certain  
14 documentation that pertains to some of those items that  
15 were seized?

16 A. Yes, I have.

17 MR. GROVES: Okay. Your Honor, may I approach  
18 the witness?

19 THE COURT: You may.

20 Q. BY MR. GROVES: I've handed you a folder that  
21 contains a number of exhibits. Are they the ones you just  
22 referred to?

23 A. Yes, they are.

24 Q. Now, those exhibits that are in front of you, are  
25 they marked 1 through 16?

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1 A. Yes, they are.

2 Q. Now, do all of them pertain to the search warrant,  
3 or do some of them pertain to the search warrant?

4 A. Not all of them pertain to the search warrant.

5 Q. All right. Could you please tell us the numbers of  
6 those that do pertain to the search warrant that was  
7 conducted last week?

8 A. May I look at my notes for that?

9 Q. If you would prefer, or take a look at the exhibits  
10 themselves, and pull them out of the envelope, so we can  
11 proceed.

12 A. Okay. Exhibits 3 through 13 were obtained at the  
13 search warrant.

14 Q. Okay. Now beginning with that folder, which  
15 actually is in front of you, that is a videotape which is  
16 marked as Government's Exhibit Number 1. Was that  
17 obtained pursuant to a separate search warrant?

18 A. Yes, it was.

19 Q. And could you tell us by looking -- actually, please  
20 identify the tape, if you would, that's in front of you.

21 A. This video was seized pursuant to a search warrant  
22 on February 28th, 2001, at the residence of David  
23 Struckman.

24 Q. Okay. Was that part of a larger investigation  
25 involving Global Prosperity?

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1 A. Yes, it was.

2 Q. And on that tape, does that tape contain a  
3 presentation by the defendant, John J. Rizzo?

4 A. Yes, it does.

5 MR. GROVES: Your Honor, I would offer  
6 Government's Exhibit Number 1 at this time, and ask that a  
7 portion of that tape be played for the Court at this time.

8 THE COURT: Any objection?

9 MR. ALLDREDGE: I have no objection.

10 MR. RYAN: Well, not knowing what it is yet, I  
11 guess I don't, Judge.

12 THE COURT: Very well.

13 Mr. Alldredge.

14 MR. ALLDREDGE: No, Judge.

15 THE COURT: Very well. The Court will permit the  
16 exhibit to be received for such selected portions as are  
17 relevant to this proceeding.

18 MR. GROVES: Thank you, your Honor. I intend not  
19 to bore the Court, I know it's a long tape, but I only  
20 plan to play maybe five minutes of it at the most.

21 THE COURT: Very well.

22 MR. GROVES: Otherwise I'll submit it for review  
23 by the Court as necessary.

24 THE COURT: Very well.

25 (Whereupon a videotape was played.)

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1 MR. GROVES: I'm sorry, your Honor, I fast-  
2 forwarded.

3 MR. ALLDREDGE: Is the volume control --  
4 (Whereupon a videotape was played.)

5 MR. GROVES: Your Honor, at this point I would  
6 stop the tape. There is a second portion that's queued up  
7 that would take maybe another 30 seconds, and then I'll  
8 finish with this exhibit, if I might approach the witness,  
9 who has the queued-up second tape.

10 THE COURT: Very well.

11 (Whereupon a videotape was played.)

12 MR. GROVES: I'm sorry, your Honor, we lost  
13 the --

14 THE COURT: Right. We're trying to find it.  
15 (Whereupon a videotape was played.)

16 MR. GROVES: Unless the Court wishes to go  
17 further, I'm prepared to stop at this point.

18 THE COURT: That's fine. Stop.

19 MR. GROVES: Your Honor, with respect to the  
20 exhibits that we have for today, I know the Court's  
21 scheduling may be an issue, but I do wish to have enough  
22 time just to move real quickly through some of these  
23 exhibits, so the Court can review them with respect to the  
24 detention issue.

25 THE COURT: Very well. How long do you think

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1 that's going to take?

2 MR. GROVES: Fifteen minutes at the most.

3 THE COURT: Okay. Go ahead.

4 MR. GROVES: Thank you.

5 Q. Special Agent Jenkins, would you please take a look  
6 at Exhibit Number 2.

7 Could you please identify that document?

8 A. This is a residential rental agreement for the  
9 residence that Mr. and Mizzo -- Mr. and Mrs. Rizzo are  
10 currently residing in.

11 Q. Is this a rental agreement for the residence that  
12 the search warrant was executed on?

13 A. That's correct.

14 Q. Now this is a rental agreement, is it not?

15 A. That is correct.

16 Q. And this was obtained from where, what source?

17 A. This was received from a company called Almost Home,  
18 which is a property rental finder company. If you want to  
19 find property to rent, you give them basically what you're  
20 looking for, and they will find property that meets your  
21 criteria.

22 Q. Are there documents marked 2A, B and C that are  
23 contained within that exhibit?

24 A. Yes, there are.

25 Q. An these all pertain to the current residence of the



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1 Rizzos?

2 A. That is correct.

3 MR. GROVES: Your Honor, I would offer Exhibits  
4 2A, B and C at this time.

5 MR. RYAN: Judge, I'm going to object until I  
6 understand how this relates to the factors that a Court is  
7 supposed to weigh in determining the issue of detention or  
8 release.

9 THE COURT: Do you want to address the relevance  
10 of the exhibits?

11 MR. GROVES: Yes, your Honor. As has been  
12 discussed previously, the concern the government has is  
13 that the Rizzos are a severe risk of flight. We're  
14 talking about a multimillion-dollar scheme to defraud the  
15 United States Government over a number of years. If you  
16 take the defendant's own words, it cost the government  
17 over \$70,000,000.

18 In terms of what is known by the government, the  
19 government has bank accounts. Information shows, from  
20 this program, that a minimum of \$900,000 went into their  
21 bank account from this program, at a minimum. That's only  
22 touching the surface.

23 With respect to their lifestyle, which is an  
24 issue in terms of risk of flight, the rental agreement  
25 shows that they don't have roots in the community. They

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1 rent a home for \$4,500 a month.

2           On the rental agreement, which is included within  
3 2A, 2B and C, it has their own application and information  
4 they provided, in order to obtain the home. One of the  
5 documents, 2C, contains a letter which is in reference --  
6 this is from their real estate agent, which indicates that  
7 they supposedly own three homes; one in California, one in  
8 Vegas, and one in the Bahamas. None show on credit due to  
9 being in a trust in their business name.

10           Now, yesterday, your Honor is aware that the  
11 defense denied having any property in the Bahamas. Among  
12 the search warrant items -- and what we had mentioned  
13 before is they have a property in the Bahamas, and they  
14 have access to a great deal of money. As a result of the  
15 home in the Bahamas and the foreign bank account in the  
16 Bahamas, of which they do not need a passport to get to,  
17 to which we have detailed transportation information from  
18 air flights back and forth from the Bahamas by both  
19 Rizzos, to and from the Bahamas on a regular basis, where  
20 we know they have a foreign bank account in which two  
21 years ago, \$300,000 was seized at a Fed Ex facility that  
22 was headed to their bank account in the Bahamas.

23           The Bahamas, for these charges, your Honor, would  
24 not extradite, if they fled to the Bahamas. For tax-  
25 related offenses, the Bahamian government would not

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1 extradite them back. All they have to do is -- they need  
2 no passport. Once they leave this courtroom, they can get  
3 on a plane, go to the Bahamas where they have a home,  
4 which they denied, which we intend to prove to you that  
5 they have and offer evidence to that effect.

6 They have no roots here. The property that  
7 they've had -- in fact, to Pretrial Services they've been  
8 lying here, as the Court has been aware, over the last  
9 couple days. John Rizzo said he had no property  
10 whatsoever, and then Carol Rizzo says "Oh, by the way, we  
11 have \$65,000 worth of vehicles."

12 Well, in addition, the agents seized jewelry and  
13 cash, as I mentioned before. Over \$12,000 in cash and  
14 negotiable instruments from the home were seized during  
15 the search warrant. Nine weapons were seized. Body armor  
16 was seized. Computer information that they were searching  
17 on private information regarding myself and the special  
18 agents. The bank account information in the Bahamas that  
19 I previously mentioned. He says in his application he  
20 makes \$25,000 a month from this enterprise, which is  
21 contrary to what he told pretrial services.

22 Also from the search warrant we seized, besides  
23 the weapons and the ammunition that was seized, various  
24 identifications that did not belong to them, one of which  
25 belonged to a Commissioner of a town in Pennsylvania,

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1 Homestead, Pennsylvania, which the witness is prepared to  
2 offer to you through the exhibits that are presented here  
3 and are copied for the defense attorneys to have. It was  
4 a stolen badge, but very authentic, which was in his  
5 possession. That was stolen out of -- and we spoke today  
6 to the Commissioner who was the owner of that, who was the  
7 Commissioner at that time in 1982 when it was stolen out  
8 of his locker, and it was, surprise, surprise, found in  
9 the Rizzos' home, along with the weapons and ammunition  
10 and property. One of the agents has estimated that the  
11 jewelry that was found is worth approximately \$100,000 in  
12 diamonds and jewelry.

13           These defendants are not paupers. They have  
14 substantial means to flee the country. They have the  
15 property outside the country to go to, even though they  
16 denied it to you yesterday, and scoffed at it. In fact,  
17 they scoffed before, on Thursday, in front of Magistrate  
18 Duncan, when we mentioned that the nine weapons had been  
19 seized. To believe these defendants in terms of anything  
20 they told Pretrial Services is a serious error.

21           With respect to the presentation by the  
22 government, the government wishes to give the Court as  
23 much as possible, so that the Court has everything it  
24 needs to make a fair and reasoned decision with respect to  
25 these defendants returning here for trial, which includes

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9 the Rizzos' home, along with the weapons and ammunition  
10 and property. One of the agents has estimated that the  
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1 a charge of perjury in front of the Grand Jury, in which  
2 the defendant, John Rizzo, appeared voluntarily, after he  
3 knew he was a target, and tried to lie his way out of an  
4 indictment. Now there is probable cause, found by a Grand

5 Jury seated here in the District of Arizona, that he  
6 committed perjury and attempted to commit obstruction of  
7 justice during the course of this investigation.

8 THE COURT: Well, we're dealing with Exhibit 2A,  
9 B and C. To the extent there is an objection to 2A, B and  
10 C, it's overruled.

11 Q. BY MR. GROVES: Special Agent Jenkins, with respect  
12 to 2A, does it indicate on there what they were to pay  
13 each month for the current residence?

14 A. Yes, it does.

15 Q. And what is that amount?

16 A. \$4500 a month.

17 Q. And when does the lease expire?

18 A. The lease expires -- the lease expires on May 31st  
19 of 2003.

20 Q. And that is this year?

21 A. That is correct.

22 Q. Okay. I turn your attention to 2B, and on that  
23 application does it indicate, in the box where it lists  
24 employer for John Rizzo, what his employment was?

25 A. Yes, it does.

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- 1 Q. What is it?
- 2 A. Millennium Publishing.
- 3 Q. Does it state by him what his monthly income is?
- 4 A. \$25,000 a month.
- 5 Q. And does it provide an address of 8912 East Pinnacle  
6 Peak road?
- 7 A. Yes, it does.
- 8 Q. And is that not, from your information, a Mailboxes,  
9 Etc. address located here in the Valley?
- 10 A. I do not personally know that, no.
- 11 Q. Okay. But that is not the residence that's listed  
12 on the rental application for the current -- for the  
13 current home, is it not?
- 14 A. No, it is not.
- 15 Q. Okay. Next, turn your attention to Exhibit Number  
16 3. As you previously stated, Exhibits 3 through 13 were  
17 all seized -- are items that are copies of items that were  
18 seized during the course of the search warrant; is that  
19 correct?
- 20 A. That is correct.
- 21 Q. Okay. Would you turn your attention to item 3  
22 first, then.
- 23 Could you identify that document?
- 24 A. This document is a sales agreement between Yank  
25 Ferry (phonetic) and John Rizzo and Carol Rizzo.

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1 Q. And what is the date of that sales agreement?

2 A. 22nd day of June of the year 2000.

3 Q. Was this found in the Rizzos' current residence  
4 during the course of the search warrant that you  
5 mentioned?

6 A. Yes, it was.

7 MR. GROVES: Your Honor, I would offer Exhibit  
8 Number 3 at this time.

9 THE COURT: Any objection to the offer,  
10 Mr. Alldredge?

11 MR. ALLDREDGE: Judge, I guess I'm going to  
12 object to Number 3 on the grounds that I don't know if the  
13 government's provided any kind of indication that this  
14 purported sales agreement for this property in the Bahamas  
15 actually went through, that it was a consummated sale  
16 that's recorded in the records abstract in the Bahamas.

17 Q. BY MR. GROVES: Special Agent Jenkins, during the  
18 course of your investigation have you had conversations  
19 with agents who have been provided information from  
20 witnesses to the effect of whether the Rizzos actually  
21 have a residence in the Bahamas?

22 A. Yes, I have.

23 Q. Okay. And to your knowledge, when was the last time  
24 approximately that the Rizzos were in the Bahamas at this  
25 home?



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1 A. I believe it was in March of this year.

2 Q. Okay. And do you also have information, aside from  
3 these exhibits, that pertains to airline information that  
4 shows travel to and from the Bahamas by the Rizzos?

5 A. Yes, I do.

6 Q. Okay. And approximately how many flights have been  
7 taken by the Rizzos during the time period that you have  
8 reviewed?

9 A. The information we have shows that there were five  
10 trips, documented trips to the Bahamas within the last  
11 year.

12 Q. Okay. And were they of a -- are they the day or two  
13 variety, or longer?

14 A. No, they were -- from the information that we had,  
15 one was as long as six weeks, and as short as, I believe,  
16 three weeks.

17 Q. Okay. Do you have information from a witness as to  
18 what the reason was that John Rizzo last went to the  
19 Bahamas?

20 A. Yes.

21 Q. And what was that reason?

22 A. To fix the roof on the house from some damage.

23 THE COURT: We're talking about "the house."  
24 What house are we talking about, or what are you referring  
25 to?

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1 THE WITNESS: I understand it to be this house.

2 THE COURT: Well, what do you base that on?

3 THE WITNESS: Information and discussions with  
4 other agents.

5 THE COURT: In terms of property description or  
6 location, or how is it identified as their house?

7 THE WITNESS: In this document?

8 THE COURT: Well, yes, in this document, and in  
9 the conversations with the other agents?

10 THE WITNESS: There is a property description in  
11 this document. I do not have any direct knowledge of the  
12 property description in the recent trips, of if those  
13 trips were to the same house as this.

14 THE COURT: Well, that's what I'm trying to get  
15 at. How do you know it's the same house?

16 THE WITNESS: I do not, your Honor.

17 MR. GROVES: Your Honor, when this was brought up  
18 yesterday in court, the defendant, John Rizzo, denied that  
19 this -- as a matter of fact, he said that this had somehow  
20 fallen through, the sale to Yank Ferry.

21 THE COURT: Right, because there is a completion  
22 date that's listed here of 2001, I think, and there was  
23 \$200,000 owed.

24 MR. GROVES: Uh-huh.

25 THE COURT: As I'm just quickly going through it,

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1 it appears that there is -- no, there was a \$200,000  
2 deposit, and then the purchase price was \$420,000, with a  
3 completion date on or before the 1st of March, 2001. I  
4 don't know whether that was completed or not.

5 MR. GROVES: I'm sorry. By way of proffer, your  
6 Honor, and if need be, by additional witnesses, the  
7 government can tell you that we have at least two  
8 witnesses that know the Rizzos personally, that know that  
9 they have the home there, that have either been to the  
10 home that is theirs in the Bahamas, or have direct  
11 knowledge of that, by way of proffer.

12 THE COURT: And I'm trying to identify how we  
13 know that it's this property that you're talking about.

14 Q. BY MR. GROVES: Was this found among -- where was  
15 this found during the search warrant of the Rizzos home?

16 A. May I review my notes?

17 Q. If it will help refresh your recollection.

18 A. Actually, I do not know where this was found, other  
19 than it was in the Rizzo residence.

20 Q. Okay. And that was from the search warrant that  
21 occurred last Thursday?

22 A. That is correct.

23 Q. Okay.

24 THE COURT: Just to try and save some time, which  
25 I'm afraid we're not going to save, but anyhow, "43K" is

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1 identified in the description as the parcel or lot of  
2 land, and I don't know -- if agents were there, I don't  
3 know how they described the property, or if they were in  
4 the property, how they would describe it as being  
5 something that would be identifiable with 43K.

6 MR. GROVES: I'm sorry, Judge; what were you  
7 referring to?

8 THE COURT: Page 4 of Exhibit 3, there is -- at  
9 the bottom paragraph the description talks about "house  
10 number 43K." My question is is there something  
11 identifiable with 43K that relates to what the agents say  
12 is the location of the property that they went to, or that  
13 which they believe to be Mr. or Mrs. Rizzo's?

14 MR. GROVES: I'm sorry, your Honor. I hope I  
15 didn't misspeak, but we did not say the agents have been  
16 to the residence there.

17 THE COURT: Well, who was there then?

18 MR. GROVES: The agents -- by way of proffer,  
19 there are two witnesses that the government has spoken to  
20 who have, and have direct knowledge of --

21 THE COURT: Right. Then the witnesses, how do  
22 they identify this in a way that would allow me to  
23 conclude that that's the same piece of property that's  
24 described here?

25 MR. GROVES: The only way, your Honor, that I'm

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1 aware of at this point would be that they have a residence  
2 that -- they said they have a residence. I don't have  
3 anything more specific other than this was the property  
4 deed that was found in the home during the search warrant  
5 that would then connect the two. We do have other  
6 admissions from the Rizzos, by way of affidavit that they  
7 had submitted to the government, that they were sending,  
8 for example, the monies to their foreign bank account in  
9 the Bahamas. As far as the property's concerned, it's  
10 linked by witnesses who have either been there, or are  
11 aware of the property through the Rizzos' own admissions,  
12 but not specifically, you know, other than finding this  
13 property deed that ties it.

14 THE COURT: Well, if the witnesses provided  
15 information, somebody must have asked them where this  
16 house was. All I'm asking you is if they asked them that,  
17 what did they say?

18 MR. GROVES: That I cannot provide the Court  
19 right at this moment, your Honor. I don't have that  
20 answer.

21 THE COURT: Okay. Do you want to go ahead?  
22 Was there other objections to this?

23 MR. ALLDREDGE: No, your Honor.

24 THE COURT: Mr. Ryan, did you have an objection  
25 to this?

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1 MR. RYAN: I believe Mr. Alldredge -- excuse me,  
2 Judge, I'm getting hung up on the wires there --  
3 succinctly stated the objection, so I'll join him.

4 MR. GROVES: Our only argument, your Honor, would  
5 be that these are all items that the agent can lay a  
6 foundation for that was seized during the search warrant,  
7 3 through 13, so that any objection would not be to --  
8 would be not foundational, it would be one of relevance.  
9 I think that would be the only objection.

10 THE COURT: Well, that's exactly what I'm  
11 concerned with.

12 MR. GROVES: Okay.

13 THE COURT: I'll overrule the objection. I don't  
14 think the government has yet established that this  
15 property is currently owned by the Rizzos, but certainly  
16 there is an indication that they did have an interest in  
17 property at one time and an interest in having property in  
18 the Bahamas, and so for that purpose, the Court would  
19 admit it.

20 MR. GROVES: Thank you, your Honor.

21 With respect to Exhibits 4 through 13, which are  
22 all from the same search warrant, would the Court wish me  
23 to attempt to move them in individually, or collectively,  
24 since they are --

25 THE COURT: Well, you know, if they are pretty

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1 much identifiable, you know, by reading them, as to what  
2 they are, you can move them all in, and the defendants can  
3 make their objections, if they wish, but I don't know if  
4 they are all -- if it's self-evident on all of them what  
5 they are.

6 Q. BY MR. GROVES: Okay. Special Agent Jenkins,  
7 Exhibit Number 4, can you briefly describe that to the  
8 Court and tell us what it is?

9 A. Exhibit Number 4 is a residential rental agreement  
10 for a property that was previously rented by the Rizzos.

11 Q. And was this rented prior to the current rental  
12 residence?

13 A. That is correct, yes.

14 Q. Okay. And what was the amount of money that they  
15 paid to rent that residence?

16 A. \$3,200.

17 Q. Per month?

18 A. That is correct, yes.

19 MR. GROVES: Your Honor, I would offer Exhibit  
20 Number 4 at this time.

21 THE COURT: Do you have the same objections as to  
22 relevancy?

23 MR. ALLDREDGE: Yes, your Honor; relevancy.

24 THE COURT: Same for you, Mr. Ryan?

25 MR. RYAN: Yes, your Honor.

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1 THE COURT: The objection is overruled; Exhibit 4  
2 will be received.

3 Q. BY MR. GROVES: Special Agent Jenkins, I turn your  
4 attention now to Exhibit Number 5, which appears to be a  
5 photograph. Can you describe what that photograph  
6 depicts?

7 A. During the search warrant, when the agents had first  
8 approached Mr. Rizzo, he had told them that there was  
9 currency or money in his pants pockets that were on the  
10 floor of his bedroom. The currency in this photo was the  
11 money that was found in his bedroom, and it is \$1,051,  
12 along with credit cards. The jewelry in the photo was  
13 actually on Mr. Rizzo's person at the time.

14 Q. And what was the total amount of cash?

15 A. It was \$1,051.

16 MR. GROVES: Your Honor, I would offer in  
17 Government's Exhibit 5 at this time.

18 THE COURT: For what purpose?

19 MR. GROVES: Your Honor, this goes to the same  
20 issue of risk of flight, and means to --

21 THE COURT: Well, you've got the thousand dollars  
22 now, or the government does.

23 MR. GROVES: But that's only, your Honor, as  
24 we're arguing, the tip of the iceberg.

25 THE COURT: Well, same objection from the



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1 defendants? Unless there are other objections.

2 MR. ALLDREDGE: Yes, your Honor.

3 THE COURT: Relevance; is that correct?

4 MR. ALLDREDGE: Yes, your Honor.

5 THE COURT: Mr. Ryan, anything else?

6 MR. RYAN: No.

7 THE COURT: All right. The objection is  
8 overruled; it goes to the weight of the evidence.

9 Q. BY MR. GROVES: I would ask you next to turn to  
10 Government's Exhibit Number 6, which is also a photograph.  
11 Could you briefly describe what that photograph depicts?

12 A. This photograph shows the currency as well as  
13 negotiable instruments that were found in Mrs. Rizzo's  
14 purse at the time of the search warrant. It contained  
15 \$1,354.

16 THE COURT: Same objections, Mr. Ryan and  
17 Mr. Alldredge?

18 MR. ALLDREDGE: Yes, your Honor.

19 MR. RYAN: Yes.

20 THE COURT: All right.

21 MR. RYAN: In fact, I've looked at most of the  
22 exhibits, your Honor, and I don't see how most of them are  
23 relevant, so I would just have a standing objection to  
24 this whole --

25 THE COURT: Very well. As to Exhibit 6, the

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1 objections are overruled. Again, it goes to the weight of  
2 the evidence.

3 Seven.

4 Q. BY MR. GROVES: Seven. Would you please briefly  
5 describe 7?

6 A. Number 7 is cash and monetary instruments that were  
7 found in a white envelope in the TV room of the Rizzos'  
8 home. \$1,350 in cash was found, as well as \$7,075 in  
9 cashier's checks and money orders and checks that were  
10 made payable to the Rizzos.

11 MR. GROVES: Your Honor, I would offer  
12 Government's Exhibit Number 7 at this time.

13 THE COURT: The objections are overruled again;  
14 the exhibit is admitted.

15 Q. BY MR. GROVES: I would ask you to take a look at  
16 Government's Exhibit Number 8, which appears to be a  
17 photograph. Could you please describe what is contained  
18 in that photograph?

19 A. The items in Number 8 are nine weapons that were  
20 secured at the residence by agents.

21 MR. GROVES: Your Honor, I would offer  
22 Government's Exhibit Number 8 at this time.

23 THE COURT: The objections are overruled, again,  
24 on the grounds of relevancy, and it would be something for  
25 the Court to take into consideration, if there were

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1 release conditions that would -- that might be set in this  
2 case.

3 Q. BY MR. GROVES: I would ask the witness to take a  
4 look at Government's Exhibit Number 9, which also appears  
5 to be a photograph, and an inventory that's attached to  
6 that exhibit. Could you please describe what appears in  
7 that photograph?

8 A. In that photograph there are nine weapons. It is  
9 the same weapons that are in Exhibit Number 8. There is a  
10 Colt Defender, .45 caliber; a Lorcin .380 automatic  
11 handgun; a Smith & Wesson Model 36 handgun; a Remington  
12 pistol, a four-shot pistol; a Harrington & Richardson  
13 model 50, 20-inch shotgun; a Mossberg 500A 12-gauge  
14 shotgun; a Ruger Mini-14, model 22 -- or not "model," I'm  
15 sorry; a Savage model 110; and a Ruger Model P89.

16 Along with these weapons there was ammunition  
17 that was found for each of the weapons; for the .380 auto;  
18 .38 special. There were nine millimeter, .45 caliber, 12-  
19 gauge shells, as well as several loaded magazines found  
20 around the weapons, including a high-capacity magazine  
21 that was full of .223 bullets that would fit the Mini-14  
22 weapon.

23 Also in that picture, on the right-hand side, if  
24 you can see the white on top of that box, that is body  
25 armor.

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1 THE COURT: Has any estimate been made as to the  
2 value of these guns --

3 THE WITNESS: No.

4 THE COURT: -- or firearms?

5 MR. GROVES: Your Honor, I would offer  
6 Government's Exhibit Number 9 at this time.

7 THE COURT: It will be received for the same  
8 limited purpose previously indicated.

9 Q. BY MR. GROVES: Special Agent Jenkins, will you take  
10 a look at what has been marked as Government's Exhibit  
11 Number 10 and would you please identify that exhibit?

12 A. Exhibit Number 10 are credentials under the name of  
13 John Rizzo that's states, "Special Agent, Official  
14 Identification. The individual identified here is duly  
15 authorized as a Special Agent for The Research  
16 Foundation," as well as a badge contained with that.

17 Q. Do you have this actual badge here with you in  
18 court?

19 A. Yes, the actual badge is in the courtroom.

20 Q. Okay. And where is it?

21 A. It is with Special Agent Carver.

22 MR. GROVES: May I approach the witness, your  
23 Honor?

24 THE COURT: Yes.

25 Q. BY MR. GROVES: So for purposes of this hearing,

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1 what is contained in Exhibit Number 10 is actually a  
2 photograph, but you have in front of you the actual  
3 identification?

4 A. Yes, I do.

5 MR. GROVES: Okay. Your Honor, I would offer  
6 Government's Exhibit Number 10 at this time, and if the  
7 Court or counsel wants to look at the actual exhibit, it's  
8 available to the Court.

9 THE COURT: What's the purpose of this exhibit?

10 MR. GROVES: Exhibits number 10, 11 and 12, your  
11 Honor, also show danger to the community and risk of  
12 flight. They show identifications that the defendant had  
13 in his possession, along with weapons that he had in his  
14 possession, so that he, you know, not only would be a  
15 greater threat to the community, but also a greater --  
16 have greater ability to flee, having possession or the  
17 means to have possession of identifications that either  
18 appear to be genuine, or in the fact of -- which we'll get  
19 to -- Exhibit Number 12, which is an actual badge, a real  
20 badge that was stolen in 1982, which we'll get to in a  
21 minute.

22 THE COURT: All right. I'll overrule the  
23 objections, again, for the limited purpose of considering  
24 release conditions, if the Court does set release  
25 conditions.

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1 Q. BY MR. GROVES: Would you please take a look at  
2 Government's Exhibit Number 11. Could you briefly  
3 describe what that exhibit is?

4 A. This is a badge or official badge for John Rizzo,  
5 stating "Special Agent, Freedom From Justice."

6 Q. Do you have that actual exhibit here in court?

7 A. Yes, I do.

8 MR. GROVES: Your Honor, I would offer  
9 Government's Exhibit Number 11, and offer to the Court the  
10 actual exhibit, which is in court.

11 THE COURT: The objections are overruled, again,  
12 for the limited purpose that the Court previously  
13 indicated for the other badge exhibit.

14 Q. BY MR. GROVES: Would the witness please take a look  
15 at what has been marked as Government's Exhibit Number 12.  
16 Could you identify that exhibit?

17 A. This is a police badge for the Commissioner of  
18 Police in Honesdale, Pennsylvania.

19 Q. And Exhibit Number 12, I take it, is a photograph of  
20 that badge?

21 A. Yes, it is.

22 Q. But you have in Court, for the Court's inspection,  
23 the actual badge that was seized at the Rizzos' home?

24 A. Yes, I do.

25 MR. GROVES: Your Honor, I would offer

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1 Government's Exhibit Number 12 at this time.

2 THE COURT: The objections are overruled; this  
3 exhibit will be received.

4 Q. BY MR. GROVES: With respect to Exhibit Number 12,  
5 did you have occasion to have a conversation with the  
6 actual owner of this badge today?

7 A. Yes, I did.

8 Q. And could you briefly tell the Court the nature of  
9 and the substance of that conversation?

10 A. Today I spoke with a Mr. Harold Whipple (phonetic),  
11 who was the last Commissioner of Police for Honesdale,  
12 Pennsylvania. His term ended there in 1982. Right before  
13 his term ended, his police badge was stolen. We scanned  
14 in a copy of this and sent it to him, and he said that  
15 without a doubt, that was his badge that was stolen.

16 THE COURT: Thank you.

17 Q. BY MR. GROVES: Was he asked whether or not he knew  
18 a John Rizzo?

19 A. Yes. He did not know Mr. Rizzo.

20 THE COURT: And Exhibit 13.

21 Q. BY MR. GROVES: I next ask the witness to take a  
22 look at Government's Exhibit Number 13. Could you please  
23 briefly tell the Court what is Exhibit Number 13?

24 A. Number 13 are blank checks that were taken from a  
25 checkbook out of a checking account that is located in the

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1 Bahamas.

2 Q. And this was seized during the search warrant?

3 A. That is correct.

4 Q. And I take it this also contained a checkbook with  
5 what appears to be a balance in that account on the last  
6 page of that exhibit?

7 A. That is correct.

8 Q. And what is the balance that's actually listed on  
9 this particular account?

10 A. The balance appears to be \$33,375.

11 MR. GROVES: Your Honor, I would offer  
12 Government's Exhibit Number 13 at this time.

13 THE COURT: The same objections are overruled.

14 Q. BY MR. GROVES: And where is that foreign bank  
15 account located?

16 A. The bank account is located in the Bahamas at CIBC  
17 Bahamas, Limited, in Nassau, Bahamas.

18 Q. Okay. Next I would ask the witness to take a look  
19 at Government's Exhibit Number 14. Would you please  
20 briefly describe for the Court what that Exhibit is?

21 A. This is a Fed Ex shipping sheet that was obtained by  
22 the U.S. Customs Service in regards to a package that was  
23 sent by Mrs. Rizzo, attempting to send documents, or as it  
24 stated, "business documents," to this Bahamas. The  
25 package was opened by Customs and over \$300,000 in



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1 financial documents or in negotiable instruments were  
2 found in that package.

3 Q. And on that Fed Ex form, at the very bottom of that  
4 form where it says "business documents," at the bottom  
5 there is a box that says "Total Value for Customs."

6 A. It says zero.

7 MR. GROVES: Okay. Your Honor, I would offer  
8 Government's Exhibit Number 14 at this time.

9 THE COURT: You said "Total Value for Customs" is  
10 zero?

11 MR. GROVES: That's correct, your Honor. In the  
12 bottom corner it's --

13 THE WITNESS: It's actually right in the middle  
14 of the document, on the very bottom. Right under where  
15 there is a "1.00."

16 THE COURT: Oh, okay.

17 Q. BY MR. GROVES: And is it your knowledge that in  
18 fact over \$300,000 was found to be contained in that  
19 envelope?

20 A. Yes, that is my knowledge.

21 MR. GROVES: Your Honor, I would offer  
22 Government's Exhibit Number 14 at this time.

23 THE COURT: Exhibit 14.

24 When was Customs -- when did Customs obtain this?

25 THE WITNESS: This package was sent, I believe,

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1 in January of 2001.

2 MR. GROVES: That's correct, your Honor.

3 THE COURT: The objections are overruled; the  
4 Exhibit will be received, Exhibit 14.

5 Q. BY MR. GROVES: Special Agent Jenkins, I would ask  
6 you next to take a look at Government's Exhibit 15. Could  
7 you describe for the Court what Government's Exhibit 15  
8 is?

9 A. This is an information sheet that was provided to  
10 the Safeguard Security Residential Gate, which is the gate  
11 to their community that they live in.

12 Q. This is the current residence that they now rent for  
13 \$4500 a month?

14 A. That is correct.

15 Q. Okay. And the name that's listed on this that was  
16 provided by the Rizzos, what is that name?

17 A. Last name Rizzo-Nix, first name John, with a spouse,  
18 Carol.

19 Q. And also on that form does it not also contain who  
20 had access to the home, which was a gated community?

21 A. Yes, it does.

22 MR. GROVES: Your Honor, I would offer  
23 Government's Exhibit Number 15.

24 THE COURT: What's the purpose of this exhibit  
25 again?

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1 MR. GROVES: It shows that the Rizzos used a  
2 different name. They rented a home, they don't own  
3 property, and yet they used a false name for the current  
4 residence, which would make it impossible for law  
5 enforcement to find them.

6 THE COURT: You mean the hyphenated name?

7 MR. GROVES: Yes, your Honor.

8 THE COURT: Do you know if the name "Nix" is  
9 identifiable or was previously identifiable with either  
10 John or Carol?

11 MR. GROVES: No, your Honor, they have not used  
12 that hyphenated alias anywhere that --

13 THE COURT: I'm just asking about the name Nix,  
14 just that part of it.

15 MR. GROVES: The only Nix would be the daughter,  
16 Leslie Nix, or step-daughter, Leslie Nix.

17 THE COURT: Okay.

18 MR. GROVES: But to use, you know, the first name  
19 John, wife Carol, and last name Rizzo-Nix is incorrect.

20 THE COURT: Well, I'll overrule the objection.  
21 Again, it goes to the weight.

22 Q. BY MR. GROVES: And finally, Government's Exhibit  
23 Number 16, would you please briefly describe what that  
24 exhibit is.

25 A. This is a newspaper article from December of 1990

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1 that was in regards to a court case for Mr. and  
2 Mrs. Rizzo. This case had to do with their business,  
3 Consumer Credit Advocates, which claimed that they could  
4 provide -- or excuse me, which would promise elimination  
5 of bad credit.

6 Q. And in fact they were sued by the State of Arizona,  
7 were they not?

8 A. That is correct.

9 Q. And a settlement was -- a consent judgment was  
10 signed by Judge Marilyn Riddel of Maricopa County Superior  
11 Court on or about that date. Is that not what is  
12 represented in the article?

13 A. That is correct.

14 Q. And that article was received by an informant, was  
15 it not?

16 A. Yes, it was.

17 Q. Two days ago?

18 A. That is correct.

19 MR. GROVES: Your Honor, I would offer  
20 Government's Exhibit Number 16 at this time.

21 THE COURT: The objections are overruled; Exhibit  
22 16 will be received.

23 MR. GROVES: Your Honor, that's the extent of the  
24 evidence I'm prepared to present to you today. We can  
25 proceed by way of additional proffer, or argument,

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1 depending on the Court and the Court's calendar.

2 THE COURT: Mr. Ryan, do you wish to  
3 cross-examine Special Agent Jenkins?

4 MR. RYAN: Thank you, your Honor, yes.

5 CROSS-EXAMINATION

6 BY MR. RYAN:

7 Q. The guns that you found, were any of them loaded?

8 A. They were not loaded.

9 Q. Did it look like they had been recently fired or  
10 anything like that?

11 A. Some of them were obviously not recently fired; the  
12 other ones I could not tell.

13 Q. Did you find ammunition?

14 A. Yes, we did?

15 Q. How much?

16 A. We found several boxes of ammunition both in --  
17 around the weapons which were found in the master closet,  
18 as well as boxes of ammunition in the master bedroom.  
19 There were loaded magazines right around the gun, not  
20 ~~physically in the gun, but there was a high caliber -- a~~  
21 high-capacity magazine for the Mini-14 found right next to  
22 the gun as well that was loaded.

23 Q. Did anybody do an investigation into who stole the  
24 badge that apparently was stolen by a -- or stolen from a  
25 police commissioner?

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1 A. No, sir. We found that information less than an  
2 hour ago.

3 Q. So you don't know if Mr. Rizzo stole that or  
4 somebody else stole that?

5 A. That's correct.

6 Q. So he could have obtained the badge in a lawful  
7 manner?

8 A. What do you mean by that?

9 Q. He could have obtained the badge in a manner that he  
10 did not understand was not illegal. Someone could have  
11 sold it to him or given it to him.

12 MR. GROVES: Objection, your Honor, as to what  
13 the defendant would understand.

14 THE COURT: The objection is overruled.

15 THE WITNESS: It is my understanding that the  
16 sale of an official police badge is not legal.

17 Q. BY MR. RYAN: Mr. Rizzo is not charged with being in  
18 possession of stolen property, is he?

19 A. No, sir.

20 Q. Did you go to the Grand Jury? Did you testify at  
21 the Grand Jury?

22 A. No, sir.

23 Q. Were you aware of the Grand Jury?

24 A. I was aware, yes.

25 Q. Do you know when the Grand Jury was held?

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1 A. Where?

2 Q. When.

3 A. No, I do not know that date.

4 Q. Do you have any idea?

5 A. I know that it was recently.

6 Q. Okay. And are you aware of the fact that Mr. Rizzo  
7 voluntarily appeared at that Grand Jury?

8 A. I have been told that, yes.

9 Q. And based on your information about his travel to  
10 the Bahamas, what was the difference in time between his  
11 last trip to the Bahamas and his voluntary appearance at  
12 the Grand Jury?

13 A. I do not know that.

14 Q. Now there was some testimony about an exhibit  
15 related to the sale of a home in the Bahamas. Do you  
16 remember that?

17 A. Yes, sir, I do.

18 Q. But you don't know whether or not that sale went  
19 through; is that correct?

20 A. That is correct, sir.

21 Q. Any documents found in the search of the Scottsdale  
22 home that indicated that Mr. Rizzo owned that home in the  
23 Bahamas?

24 A. Other than that sales agreement, that was the extent  
25 of it.

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- 1 Q. Okay.
- 2 A. To my knowledge.
- 3 Q. So no utility bill statements?
- 4 A. Not to my knowledge.
- 5 Q. No escrow agreement?
- 6 A. Not to my knowledge.
- 7 Q. Do you know what The Research Foundation is?
- 8 A. No, sir, I do not.
- 9 Q. Did anybody that you know of involved in this
- 10 investigation investigate or attempt to ascertain what The
- 11 Research Foundation is?
- 12 A. I do not know that.
- 13 Q. Well, is there anything wrong with a foundation
- 14 issuing a badge like that?
- 15 A. No, not in the issuing of the badge itself.
- 16 Q. There was some testimony just now about an account
- 17 balance of \$33,000 in some Bahamian account. Do you
- 18 remember that?
- 19 A. Yes, I do, sir.
- 20 Q. Do you know what the current balance is in that
- 21 account?
- 22 A. No, sir, I do not.
- 23 Q. Do you know the account balance that we talked about
- 24 earlier, when that balance was, or the date of that
- 25 balance?



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1 A. If I may review the exhibit.

2 Q. Sure.

3 A. There does not appear to be a date on that account  
4 balance.

5 Q. Did anybody attempt to ascertain the current balance  
6 in that account?

7 A. Not to my knowledge.

8 Q. The negotiable instruments that were found, I  
9 believe that was Exhibit 14, those were received by  
10 Customs; is that right?

11 A. Yes, that is correct.

12 Q. Okay. And that was two years ago?

13 A. Yes, that is correct.

14 Q. What happened with the instruments that were seized?

15 A. They were returned to the Rizzos.

16 Q. Do you know why they were returned?

17 A. Yes, I do; because they were not proceeds from a  
18 specified unlawful activity, as U.S. Customs was  
19 investigating or looking into it as a possible money  
20 laundering transaction.

21 Q. So our government seized a citizen's money that was  
22 perfectly legitimate?

23 A. No. There is a law that you need to report when you  
24 send that much monetary transaction -- that much money  
25 outside of the United States, and that report was not

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1 filed.

2 MR. RYAN: Thank you. Nothing further.

3 THE COURT: Thank you. Mr. Alldredge, any cross-  
4 examination?

5 MR. ALLDREDGE: Thank you, your Honor.

6 CROSS-EXAMINATION

7 BY MR. ALLDREDGE:

8 Q. Good afternoon, Officer.

9 A. Good afternoon.

10 Q. Do you have any disagreement with the prospect that  
11 the Rizzos have resided in Phoenix for approximately 42  
12 months now?

13 A. I do not know the exact amount of time that they've  
14 been in the city.

15 Q. Okay. You just have information that they made --  
16 did you say five trips in the last year to the Bahamas?

17 A. I believe it is five, yes.

18 Q. And you have some information that they stayed at  
19 that house that there was a purchase agreement for in the  
20 Bahamas?

21 A. We have independent witness testimony saying that  
22 they've been there.

23 Q. Okay. With regard to the weapons you found, it  
24 looked like two of them -- from the pictures -- two of the  
25 weapons were shotguns; is that right?

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1 A. That's correct.

2 Q. And one looked to be an antique shotgun.

3 A. I would not classify it as an antique, no.

4 Q. Do you know if the -- one of them looked like a  
5 shotgun that opened or broke down sort of like a double-  
6 barrel shotgun?

7 A. That is correct. One was a single shot, 20-gauge  
8 shotgun.

9 Q. Okay. So the single barrel breaks down in the  
10 middle. Do you know if it was even operable?

11 A. It appeared to be operable; I did not fire it.

12 Q. Okay. That shotgun and the other shotgun could be  
13 consistent with hunting guns; correct?

14 A. It could be, yes.

15 Q. Okay. Some of the other weapons you found were  
16 handguns?

17 A. That is correct.

18 Q. Okay. The purchase of the -- the purchase agreement  
19 for the home in the Bahamas, did you or any other agents  
20 make contact with the purported sellers of that home, to  
21 find out about the status of it?

22 A. I did not personally. I do not know if any other  
23 agents did.

24 Q. Okay. Do you have any knowledge about the time that  
25 elapsed from the time that the Rizzos most recently got

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1 home from the Bahamas, to the time they were arrested?

2 A. Not on me. We do have information leading to that,  
3 but I do not have that in front of me, though.

4 Q. Okay. And the lease at the home on Dixileta in  
5 Scottsdale, that was a one-year lease?

6 A. If I may review the lease agreement.

7 Q. Sure.

8 A. Yes, it was a one year lease.

9 Q. Ending at the end of May of this year?

10 A. That is correct.

11 Q. Okay. I heard the prosecutor mention it, and you  
12 may not know, but Nix, N-i-x, is the last name of  
13 Mrs. Rizzo's daughter, her step-daughter -- her  
14 daughter-in-law, excuse me.

15 A. I do not have personal knowledge of that, no.

16 MR. ALLDREDGE: Okay. That's all I have, Judge.

17 THE COURT: Anything further?

18 MR. GROVES: Just briefly, your Honor.

19 REDIRECT EXAMINATION

20 BY MR. GROVES:

21 Q. Special Agent Jenkins, did you, during the course of  
22 your investigation, come to discover what, if any form of  
23 identification you need in order to travel from the United  
24 States to the Bahamas?

25 A. Yes, I did.

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1 Q. And could you please tell the Court what that is?

2 A. A passport is not needed to travel to the Bahamas.  
3 A certified birth certificate and a picture  
4 identification, such as a driver's license.

5 Q. So is it also fair to say that once you arrive in  
6 the Bahamas without the need of a passport, you can then  
7 go to wherever else that you can then get?

8 A. Yes, depending on the other country's laws as far as  
9 passports go.

10 MR. GROVES: Nothing further, your Honor.

11 THE COURT: Thank you.

12 You may step down. Thank you, sir.

13 Mr. Ryan, do you plan on presenting any  
14 testimony?

15 MR. RYAN: May I have just a moment, your Honor?

16 THE COURT: Yes.

17 MR. RYAN: Thank you.

18 (Counsel confer.)

19 MR. RYAN: We will not be presenting any  
20 testimony, your Honor.

21 MR. ALLDREDGE: Same for Mrs. Rizzo, your Honor.

22 THE COURT: Very well. Thank you.

23 Did you have more testimony you wanted to  
24 present, or make a further proffer, Mr. Groves?

25 MR. GROVES: The proffer I think I may have made,

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1 but was not in the presence of the attorneys that are now  
2 representing the defendants, since we've been through this  
3 on a couple different days, but we also proffer that, you  
4 know, contrary to what John Rizzo told Pretrial Services,  
5 we have evidence that he says that he makes \$25,000 a  
6 month with this business. He told Pretrial Services, I  
7 think, \$9,000 a month.

8 We proffered that his wife is, by his own  
9 admission, an essential part of the business, which we  
10 proffer to the Court is one of -- part of one of the  
11 largest multimillion-dollar frauds in the country. If you  
12 take his own admission, it cost the government over  
13 \$70,000,000 during the course of his involvement and  
14 participation in this scam on the government.

15 We proffer that for at least a three-year period  
16 that we're aware of, from an account that we're aware of  
17 that contained a false Social Security Number, so the  
18 government would not be able to track it -- it was an  
19 account located -- a domestic account which contained a  
20 false Social Security Number, and it was in the name of  
21 Carol Rizzo, with a false Social Security Number, with  
22 John Rizzo also on that account. Through those accounts,  
23 and also the monies that they attempted -- the \$300,000  
24 that they attempted to send overseas through Fed Ex, we're  
25 talking about over -- well, just under a million dollars

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1 in monies, and that is, we proffer, the tip of the iceberg  
2 with respect to these defendants, taking his admissions at  
3 his own words.

4 Now, that is a problem, too, for the Court,  
5 because there is a probable cause finding that he's  
6 committed perjury in front of the Grand Jury. We, from  
7 the Court's own observation -- the Court's own  
8 observation, plus his observations when he had to be  
9 admonished before Magistrate Duncan, we know that he has a  
10 problem with the truth and being faced with the truth. As  
11 a result, he is a severe risk of flight.

12 In addition to being a harm to the community, a  
13 continuing economic threat to the community, let alone a  
14 harm to the community in terms of a real threat, in terms  
15 of the access to weapons that he had with him. If he was  
16 released, he would have the ability to obtain additional,  
17 if there are not more out there, which there could be.

18 The property indication which he lists, which we  
19 can't confirm right now, because he places properties in  
20 ~~other people's names and nominees and trusts, which the~~  
21 Court has become familiar with over the last couple days,  
22 in the course of these various arraignments.

23 With respect to Exhibit Number 2C, one of the  
24 documents was provided to us from his last rental  
25 location. The representation to them when he got himself

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1 the lease, which now expires at the end of May for the  
2 current home, was that they own homes in Vegas, in  
3 California and the Bahamas. That's the representation  
4 they made, although as indicated on 2C, the Bahamas home  
5 is in a trust, so it's not in their name. There was some  
6 difficulty that the real estate agent had, because it  
7 didn't show up on their credit history.

8 Well, it didn't show up for a good reason,  
9 because by his own admission, he hasn't filed tax returns  
10 since 1988, and he's proud of it. He is a person who  
11 previously served on the bench in a limited capacity, but  
12 has blown that completely out of proportion, to the extent  
13 of getting thousands of other individuals to fall in line  
14 with a false belief that they don't have to file tax  
15 returns, and that they could move monies offshore at will,  
16 without contributing to the government and to the society  
17 that we all live in.

18 With respect to -- by way of proffer today, I  
19 also remind the Court that there are approximately \$65,000  
20 in cars out there, in addition to what was proffered to me  
21 of approximately \$100,000 in jewelry which they have, and  
22 yet they have court-appointed counsel. We've been through  
23 this before.

24 For all these reasons, for what I've proffered to  
25 the Court before in terms of the exhibits that have gone



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1 forward, the defendants cannot be trusted to return to  
2 court for trial. They have the means, they have the  
3 opportunity, and they certainly have the will, with John  
4 Rizzo having made his best and last stab at going before  
5 the Grand Jury voluntarily, where he knew he was a target,  
6 and then lying, blatantly lying to the Grand Jury, to the  
7 extent the Grand Jurors personally directed and personally  
8 found probable cause that he committed perjury in front of  
9 them as part of this.

10 Then, the third defendant, which is not before  
11 them, is also charged with perjury, trying to help and  
12 conceal their current whereabouts and residence where they  
13 currently lived, among other things.

14 I have nothing further to add at this time, your  
15 Honor.

16 THE COURT: Thank you.

17 Mr. Ryan, do you want to present any argument in  
18 this matter?

19 MR. RYAN: Yes, thank you.

20 THE COURT: Or other exhibits. You indicated no  
21 testimony, but I don't know if you have exhibits.

22 MR. RYAN: No, I'm just going to argue.

23 According to the presentence report, you know,  
24 the Rizzos have longstanding ties in the Phoenix  
25 community, dating back to as early as the early '80s, and

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1 it appears even from the various leases and whatnot that  
2 the government presented to you today, as some sort of  
3 evidence that they are a flight risk, that they've lived  
4 in Arizona continuously for the last several years.

5 I just want to make a brief comment about the  
6 Grand Jury proceedings:

7 Of course it is enormously difficult for me to  
8 make any intelligent remark about what went on in the  
9 Grand Jury, because of course, as you well know, I'm not  
10 there, and I haven't had that much time to confer with my  
11 client, you know, under the rigors and pressures of  
12 putting on a detention hearing, you know, this quickly the  
13 way we do.

14 You know, it seems to me that there are a variety  
15 of ways the Court could release the Rizzos and insure  
16 their appearance. To me, one of the most compelling  
17 things that they are going to appear is that as you can  
18 see from the presentence report, your Honor, they had  
19 charges back in '96, June of '96, that weren't resolved  
20 until November of '99. According to pretrial services,  
21 they made every appearance. It looked like those were  
22 fairly significant charges, although they were ultimately  
23 dismissed. I mean actions speak louder than words, if you  
24 ask me, your Honor.

25 Also, he did voluntarily appear at the Grand

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1 Jury. I know that the prosecution is making the point  
2 that he did so in order to mislead them in some way, but  
3 as I understand how the Grand Jury proceedings unfolded,  
4 apparently the Grand Jury didn't even itself believe it  
5 pretty quickly and went ahead and added a couple of  
6 counts. I don't know how useful that was to Mr. Rizzo,  
7 but it doesn't show that he's not going to appear for his  
8 charges.

9           The videotape that we saw I find interesting,  
10 because I don't quite understand why it was presented,  
11 except that the prosecutor made several references to the  
12 fact that Mr. Rizzo claimed he cost the federal government  
13 \$70,000,000. It's a great American pastime, your Honor,  
14 to engage in tax avoidance, and it's my understanding  
15 that's perfectly legal. What he wants you to do, or what  
16 it seems to me Mr. Groves is after is almost a judicial  
17 determination, at this point, that the Rizzos are guilty  
18 of some heinous crime against the government of the United  
19 States because Mr. Rizzo is a tax protester.

20           Now, maybe he committed these offenses, maybe he  
21 didn't. He's entered a plea of not guilty, and really,  
22 the focus here should be on what are the chances Mr. Rizzo  
23 is not going to face these charges? His past history  
24 shows that he will. Mr. Rizzo has said to me several  
25 times at counsel desk, and wants you to know that if

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1 you're worried about the Bahamas, he's willing to wear a  
2 bracelet, some sort of monitoring bracelet. He's willing  
3 to give up his passport and birth certificates and whatnot  
4 to allay the Court's fears that the Bahamas is an issue  
5 for this Court, but his history speaks louder than words.

6 You have your own Pretrial Services agency  
7 telling you, your Honor, that to his credit, he made all  
8 his appearances in his prior history. I would ask that  
9 you follow the recommendation of the Pretrial Services  
10 agency.

11 THE COURT: Thank you.

12 Mr. Alldredge.

13 MR. ALLDREDGE: Thank you, your Honor.

14 I would echo the remarks regarding Mrs. Rizzo's  
15 attendance for all proceedings in the matter that happened  
16 in the Superior Court from '96 to '99. That obviously --  
17 that obviously is an indication to the Court that contrary  
18 to what the government says, they will appear.

19 I also point out that obviously Mr. Rizzo is in  
20 the business of giving information to his clients on tax  
21 avoidance, and it sounded -- however this might apply to  
22 Mrs. Rizzo, I would ask the Court to take that into  
23 consideration, and his statements.

24 In his statements on the videotape regarding  
25 having cost the United States Government \$70,000,000 or

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1 whatever, it's difficult to ascertain whether that's  
2 factual or puffery, but I would ask the Court to take into  
3 consideration the context in which it was given. This was  
4 some sort of seminar where he's trying to sell his  
5 services, and his services are trying to help people out  
6 of tax debts. It sounded to me, anyway, your Honor, as if  
7 he wasn't saying that he personally would have owed the  
8 government that kind of money, but that's the kind of  
9 money he helped his clients avoid paying the federal  
10 government. That's a different matter entirely.

11 I didn't hear the government make a claim that  
12 the Rizzos are a danger to the community because of the  
13 weapons, and so I'll let it go at that. The Court heard  
14 that -- the two rifles or guns were shotguns, consistent  
15 with hunting-type guns. The rest were handguns.

16 It seems like the only issue, Judge, is whether  
17 or not they are a flight risk. I would ask the Court to  
18 follow the recommendation of Pretrial Services in  
19 Mrs. Rizzo's case, and release her on her own  
20 recognizance.

21 However, if the Court is not of the mind that  
22 release on her own recognizance is enough to insure her  
23 appearance, certainly another less restrictive alternative  
24 can be devised, other than incarceration in this case,  
25 such as the electronic monitoring, or some such method

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1 through pretrial services.

2 Thank you.

3 THE COURT: Mr. Groves.

4 MR. GROVES: Briefly, your Honor, Mr. Ryan just  
5 said something that, once again, is interesting; that  
6 Mr. Rizzo says that he's willing to give up his passport  
7 or whatever to stay here. Well, he told Pretrial Services  
8 he doesn't have a passport, and we certainly didn't find  
9 one in the search warrant, a passport for Mr. Rizzo.

10 With respect to the program that was offered, his  
11 premise for this M2K program was that the Sixteenth  
12 Amendment to the Constitution was never ratified, and as a  
13 result, there is no authority over anyone to pay any  
14 income taxes whatsoever, because the -- there was an  
15 entire fraud perpetrated on the country, in that the  
16 Sixteenth Amendment was never ratified. That's the  
17 premise of this particular latest scheme.

18 He also, as included in the indictment, offers  
19 opinion letters to individuals, so they can have reliance  
20 defenses when they are prosecuted, saying "I relied on  
21 Judge Rizzo, because Judge Rizzo was a Judge." From that  
22 they profited greatly. Those monies are not accounted  
23 for, and that is why we are mentioning the amounts of  
24 money that we're mentioning, because the monies are  
25 unaccounted for. Where are they? We know a tip of the

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1 iceberg where it is, but they clearly have access to a lot  
2 more money than they've let on with the Court.

3 They've been disingenuous with the Court with  
4 respect to Pretrial Services and what assets they really  
5 have, but what we do know is they have the ability and  
6 means, with or without a passport, to get to the Bahamas  
7 and get out of the country, where they have, we know, a  
8 bank account. We believe we proffered to the Court that  
9 they have property, and a residence that they go to on a  
10 regular basis.

11 MR. RYAN: Judge, I misspoke when I said that  
12 Mr. Rizzo was willing to give up his passport. That was  
13 just the heat of passion of the argument.

14 THE COURT: Well, the Court is not -- in a case  
15 of this type, the Court is not -- first of all, if there  
16 were a possibility, under the law, to detain for  
17 dangerousness, it would have to be shown by clear and  
18 convincing evidence. I think, certainly in terms of  
19 anything beyond any economic aspect of this case, there is  
20 no showing of clear and convincing evidence of  
21 dangerousness.

22 I don't believe that the Court can, in the first  
23 instance, detain an individual for economic dangerousness  
24 by itself, but can use that information in terms of  
25 constructing release conditions, provided that the

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1 individual is not a flight risk.

2 My concentration in this matter, essentially, is  
3 on the question of flight. Based on the evidence that's  
4 been presented, the Court finds, by a preponderance of the  
5 evidence, a clear preponderance of the evidence that both  
6 Mr. Rizzo and Mrs. Rizzo are flight risks. There are no  
7 conditions that would reasonably assure their appearance  
8 if they are ordered released in this case, and each of  
9 these defendants is ordered detained pending further  
10 proceedings.

11 We'll take a brief five-minute recess. Thank  
12 you.

13 THE CLERK: All rise.

14 (The proceedings adjourned at 4:10 p.m.)  
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CERTIFICATE

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I, David M. Lee, court-approved transcriber,  
hereby certify that the foregoing is a true and correct  
transcript from the official electronic sound recording of  
the proceedings in the about entitled-matter.

Dated at Phoenix, Arizona, this 17th day of  
April, 2003.

  
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David M. Lee, Transcriptionist