

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

JUDGE RICHARD P. MATSCH, SITTING BY DESIGNATION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) Criminal No. 95-110-A
)
 TIMOTHY JAMES MCVEIGH and)
 TERRY LYNN NICHOLS,)
)
 Defendants.)
)

**MOTION TO REQUIRE THE GOVERNMENT TO PRODUCE
EXCULPATORY EVIDENCE TO ASSIST
THE DEFENDANT, TIMOTHY JAMES MCVEIGH, IN
ESTABLISHING HIS CLAIM THAT HE IS NOT GUILTY
OF THE OFFENSE CHARGED AGAINST HIM IN THE
GRAND JURY INDICTMENT**

Timothy McVeigh, by and through undersigned counsel, moves this court, pursuant to the Fifth, Sixth, and Eighth Amendments to the United States Constitution to order the government to disclose all information or evidence, tangible or intangible, which is, or which may lead to evidence which is exculpatory, impeaching of government witnesses, favorable to Mr. McVeigh, or mitigating of punishment. Mr. McVeigh's request includes, but is not limited to, the general and specifically enumerated items in this Motion, whether such items are currently, or are at any future date, within the prosecutor's possession or the possession of any federal or state governmental agency.

This Motion is being filed in addition to a Motion to Produce Discovery Evidence pursuant to Rule 16.¹ The requests made in this Motion to Produce Exculpatory Evidence should not be considered as exclusive of the requests made in the Motion Pursuant to Rule 16.

INTRODUCTION AND APPROPRIATENESS OF REQUEST

By Complaint filed April 21, 1995, Timothy McVeigh was charged with a violation of 18 U.S.C. § 844(f) in connection with the explosion of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma. On August 10, 1995, an Indictment was filed charging Timothy McVeigh and Terry Nichols with one count of conspiracy to use a weapon of mass destruction, 18 U.S.C. § 2332(a); one count of use of a weapon of mass destruction, 18 U.S.C. § 2332(a); one count of destruction by explosives, 18 U.S.C. § 844(f); and eight counts of first degree murder, 18 U.S.C. §§ 1114 and 1111. On October 20, 1995, the Government filed Notice of Intent to Seek the Death Penalty against Mr. McVeigh.

The factual and legal guilt of Mr. McVeigh is very much in question. One would hardly know this from reading the repetitive, prejudicial material leaked to the press by "federal officials speaking on condition of anonymity" or "sources close to the investigation" or the frequent media use of the highly damaging fifteen seconds of film of Mr. McVeigh being walked out of the Noble County Courthouse (staged and delayed for a prime time media event). However, on the basis of the evidence as opposed to the media "play," there is a real question whether the Grand Jury, based upon "probable cause," indicted a man that the trial jury will find guilty beyond a reasonable doubt. There are no admissions or confessions by Mr. McVeigh

¹ The Rule 16 Motion will be filed within a few days.

inculcating him; he has no prior criminal record; and the defense has not been presented with any laboratory reports or physical evidence that could establish beyond a reasonable doubt that Mr. McVeigh was at the scene of the bombing at the time of the explosion or that he purchased (or otherwise acquired) any of the items which may have been used in the explosion. Mr. McVeigh has an air-tight alibi for the weekend of the "robbery" in Royal, Arkansas, the fruits of which purportedly financed the preparation of the bomb and supported the bombers.² Prior to Michael Fortier's arrest and constant interrogation by the FBI and the United States Attorney and prior to his appearances before the Grand Jury, Michael Fortier repeatedly stated to the media (CNN and *LA Times*) that Mr. McVeigh was not guilty and to his knowledge had nothing to do with the bombing. See Exhibits "23," "24" and "32."

The FBI alleges Mr. McVeigh registered under his own name at the Dreamland Motel in Junction City, Kansas (although the FBI maintains he frequently used aliases for other hotel registrations) and rented a Ryder truck from Elliott's Body Shop on Monday, April 17, 1995, using an alias. John Doe No. 2 was said to be with him when the truck was rented. However, several witnesses (including the owner of the Dreamland Motel) claim that a Ryder truck was parked in front of Mr. McVeigh's room on Sunday night, before other witnesses claimed he rented it on Monday morning. See Exhibit "27." The FBI theorizes that the "bomb" was mixed at Geary State Fishing Lake on Tuesday. While witnesses place the Ryder truck there, no witnesses place Mr. McVeigh (or Mr. Nichols) there, and no witnesses observed what was going on at the Ryder truck. Presumably the FBI laboratory will offer forensic evidence, but the

² FBI investigation confirms Mr. McVeigh was in the Kent and Akron, Ohio, areas the weekend of the robbery. He was seen by several individuals and could not have left to go to Royal, Arkansas, and return to Akron, Ohio.

credibility of that evidence may be impeached by FBI Special Agent Whitehurst's accusations that the FBI "cooked the books" in favor of the prosecution in two other high profile bombing cases. See Exhibits "3" and "4." True enough, Mr. McVeigh was arrested near Perry, Oklahoma, but the time between the arrest and the explosion is barely enough (if that) to allow for him to have been in Oklahoma City and then to have driven to where he was arrested. Other details which exculpate him are set forth in the specifications of materiality herein. This brief background is submitted only to suggest that the issue of Mr. McVeigh's guilt is open to question, not just because of the constitutional presumption of innocence but also because of the facts that are now known.

While the matter of contradictions and disputed facts leave doubt about Mr. McVeigh's guilt, the greatest indication that Mr. McVeigh is not guilty comes from two facts which are not in dispute. The first is that there has been no major terrorist activity in the world since 1968 in which dozens of persons were killed which was the result of the efforts of only two individuals; the second is that throughout the Indictment, the Grand Jury charges that the defendants conspired with "others unknown to the Grand Jury." The cryptic words, "others unknown,"³ raise significant issues for the defense of Mr. McVeigh at trial. See Exhibits 26 and 35. Are these "others" the real culprits? Are Mr. McVeigh and Mr. Nichols merely subordinates or patsies or "cutaways"? Or, are Mr. McVeigh and Nichols equally culpable with the "others unknown"? Or, did the "others unknown" constitute subordinate individuals to Mr.

³ "Unknown" to the Grand Jury does not necessarily mean unknown to the prosecution. That there is probable cause to believe others were involved has been expressly stated by the prosecution. "Obviously, by implication of the indictment, you know that the grand jury found probable cause to believe that there are others who were involved." Joseph Hartzler as quoted in the *Daily Oklahoman* on Friday, December 15, 1995, at p. 10. See Exhibit 27.

McVeigh and Nichols? Who these "others" are raises as many questions as what their role was. Were they United States citizens or foreign nationals? Did they act at the behest of persons in the United States or persons abroad? Where are they now?

The Grand Jury's assurance that "others" were involved, coupled with the magnitude of the Oklahoma City bombing, calls for the defense to explore the possibility that domestic or international terrorist organizations were involved. Conditions are ripe--both outside and inside the United States--for large scale terrorist actions against the government. These conditions, together with the low probability that two "drifters" acting alone could have planned and carried out a bombing of the sort that occurred in Oklahoma City, makes it imperative that the defense have access to the government's information in this area. See Exhibit 29.

Terrorism has become a central international preoccupation because of the coincidence of several distinct events and developments in the late 1960's. The first was the defeat of the Arabs in the Six Day War, which led the Palestinian Liberation Organization ("PLO") to terrorism as its presumed only alternative to reoccupying Palestine. The second event was the series of student revolts in Europe and the United States in 1968, which filled the heads of a number of impressionable youths with revolutionary enthusiasm; if a crowd could gather spontaneously to set fire to the Paris Bourse, what might a properly organized revolutionary vanguard achieve? At the same time, the civil rights movement in Northern Ireland revived the dormant IRA, and the senility of the Franco regime (and then its passing) permitted the creation of the ETA. The ascension to power of Colonel Moammar Khadafy in Libya in 1969 might be added to the list.

The revolutionary spirit of 1968 is a spent force in Europe, but political extremism and political violence still flourish in Latin America, Asia, and the Middle East, and certainly Palestinian nationalism, and Israeli or Jewish counter reaction is as vigorous and violent as ever.

In addition, over the last five decades the United States has become increasingly involved in a number of international political struggles. From 1945 to 1992, the United States provided military support or combat units for government or rebels in eighteen civil wars. In addition, the United States engaged in a number of short-term military actions in foreign countries such as "Operation Just Cause" in Panama in 1989, the "hijacking" off an Egyptian airliner of the Achille Lauro "hijackers," the landing of United States Marines in Lebanon and the use of off shore naval batteries to bomb the hillsides of Lebanon, the use of air attacks on Colonel Khadafy's military compound (Operation El Dorado Canyon), and the accidental or negligent destruction of an Iranian airbus in 1988. Coupled with broad political support for Israel, these activities made the United States a target for retaliation by one or more terrorist organizations abroad.

During the same period of time in this country, as the economic situation in the "rust belt" of the northeast continued to deteriorate, as the agricultural recession, and then depression, deepened, as million of Americans stagnated in income, as the cost of living increased, and the disparity between the rich and the poor appeared to grow greater, and as some individuals perceived unfair and inappropriate government preference for "minorities," and as the social fabric previously comforting millions of Americans became increasingly "frayed," the opportunities for greater political violence or domestic terrorism in this country increased. Heretofore, aside from the Civil War, such violence and/or terrorism was primarily restricted

to attacks on blacks in the south or violence incident to the labor/management struggles in the latter half of the Nineteenth Century and the first half of the Twentieth Century. However, that is changing.

Americans first became acquainted with violence as a "media event" in the various protests that centered around the Vietnam War, perhaps beginning with the 1968 Democratic National Convention. These early incidents of political violence were minor and microscopic compared to what happened at Oklahoma City.

This background information is presented to the court only because, while it is an elaboration of the obvious, it is necessary to recall because the idea that two "drifters," alone, are responsible for the carnage in Oklahoma City is, on its face, highly implausible and suspect. In fact, such violence, if by two people with limited education would, perhaps, be a first. See Exhibit 29.

The Oklahoma City bombing involved significant effort in organization, surveillance, financing, and construction, transportation, and detonation of a fairly sophisticated explosive device. The device is much larger than anything ever exploded in Northern Ireland, and its size, weight, and composition is more nearly like the bombings in Lebanon at the United States Embassy and later at the Marine barracks.⁴ The destruction of Pan Am flight 103 on December 21, 1988, was "child's play" compared to the Oklahoma City bombing if for no other reason than the size of the destructive device which brought down the plane, although it killed more people than Oklahoma City, was small, easily concealed, and easily transportable, and, in the

⁴ The magnitude of the human and physical destruction which an ammonium nitrate bomb can cause was first demonstrated on the world stage by the explosion aboard the High Flyer and the Grandcamp in the Texas City Port in 1957. See Dalehite v. United States, 346 U.S. 15.

final analysis, involved the expenditure of only a few hundred dollars to accomplish. That it took skill in constructing, just as the Oklahoma City bomb did, is without question, but the Oklahoma City bomb required much more skill, organization, and financial support, not to mention luck and avoidance of detection, than anything comparable to the Pan Am tragedy over Scotland.

So, the first indication of materiality in determining the relevance of the request is the sheer fact of the crime itself, when viewed with common sense on the one hand, and an appreciation of recent history on the other.

Mr. McVeigh has entered a plea of "not guilty." He is presumed innocent unless the jury convicts him, which can be done only if all twelve (12) jurors are satisfied of guilt beyond a reasonable doubt. Until then, he is entitled to the full resources of what the Constitution, the case law, and the statutes give him in defending his liberty and life. The government's resources in this case are overwhelming, and no amount of CJA funds could begin to match what resources the government has. Mr. McVeigh's guilt is in the hands of the government. Up to the filing of this Motion, the government, which has over 9,000 witness statements, has not produced a single exculpatory witness statement to Mr. McVeigh. The government was advised by defense counsel that it would not press for the statements until the end of November; November has come and gone. Mr. McVeigh would not have made such a concession to the government except upon the belief that the government would comply with Rule 16, which it has not.

EXCULPATORY DISCOVERY REQUESTS

Mr. McVeigh was arrested and charged by criminal complaint on April 21, 1995, and charged by Indictment on August 10. In McVeigh's Report to the Court concerning the Government's and Defendant's discovery disputes, we advised the Court at length of the local practice, precedent, standing discovery orders, and Judge Daugherty's published opinion concerning production of *Brady* material. Sufficed it to summarize it as follows:

1. obligation upon the government is to produce *Brady* material;
2. production as soon as practical after the return of the Indictment; and
3. government is held to a high standard on both timing and substance.

None of these procedures have been followed in this case.

Despite its acknowledgement of its obligation under *Brady*, oral requests made by the Defendant's counsel in discovery conferences with the government, and numerous written requests (copies of which are included in the Report), the government yet to produce a single *Brady* witness statement. The government has sought to avoid its responsibility by continually representing to the Court that it has been negotiating "in good faith" concerning reciprocal discovery. The government is courting a delay of the trial at best and a reversal of conviction at worst.

The government's obligation does not depend upon a negotiated agreement concerning discovery, nor the entry of a court order, nor, except for specific requests, a written or oral demand of the Defendant or his counsel. Reluctantly, the Defendant has concluded that he must file this motion, a Rule 16 motion, and a subsequent motion for disclosure of certain intelligence data relating to domestic and foreign terrorists. To put it bluntly, the Defendant simply does

not trust the government to honor its *Brady* obligations and believes that what the government will do will eventually shower the Defendant with a number of meaningless statements and withhold or delay production of the truly significant *Brady* material which substantiates the serious factual and legal questions as to the Defendant's guilt or may bear on mitigation.

Therefore, in an attempt to aid the Court, the Defendant has set forth a number of very specific *Brady* requests, together with specification of materiality to the defense, and, in many instances, the press or other public reports which give rise to this demand for *Brady* material. In addition, the Defendant has drafted a proposed order (attached as Exhibit "41"). Whether the Court accepts the draft order or not, the Defendant respectfully requests that the Court enter a very specific order concerning the government's obligation, time to produce *Brady* material; the extent and nature of the search for *Brady* material, and an order concerning its continuing obligation.

Mr. McVeigh requests that the following specific exculpatory evidence be furnished:

I. INFORMATION AND EVIDENCE RELATED TO GOVERNMENT'S CASE-IN-CHIEF

A. TRIAL WITNESSES, CO-DEFENDANT, CO-CONSPIRATORS, PERSONS FURNISHING INFORMATION, GRAND JURY WITNESSES

1. With respect to (1) any witnesses the government may call at trial; (2) co-defendants; (3) co-conspirators, whether indicted or unindicted; (4) anyone who testified before any grand jury concerning this case; or (5) anyone who furnished oral or written statements during the investigation of this case, the following information is requested:

- a. Names and addresses of all unindicted co-conspirators;⁵
- b. Any and all criminal prosecutions, investigations and potential prosecutions pending or which could be brought against such person,⁶ any probationary, parole, and deferred prosecution status; and any civil, tax court, court of claims, administrative, and other pending or potential legal disputes and/or transactions each government witness may have with the Government (federal or state); convictions, any pending or dismissed indictments, informations and complaints and, if any are dismissed, the reasons for such dismissal; any information concerning criminal conduct although such persons has not been arrested, indicted, or otherwise charged for such conduct.
- c. Any federal or state arrests, and the records thereof;
- d. Any federal or state prison records;
- e. Any information pertaining to whether any such person has been hospitalized for psychiatric or emotional disorders and, if so, the names of any institutions involved and the dates of any hospitalizations;

⁵ The Indictment refers throughout to "others unknown." We seek all information which may assist in identifying and locating these "others unknown." See Exhibit 26.

⁶ This request includes all grand jury investigations of this case, not just the Grand Jury sitting in the Western District of Oklahoma; likewise, all related-indictments (such as Michael Fortier) are included in this request. Defendant is aware that at least one witness was subpoenaed to testify to her knowledge before a Grand Jury sitting in Wichita, Kansas. (See Exhibit "1").

- f. Any information pertaining to whether any such person has been hospitalized for alcoholism or drug abuse, and, if so, the names of any institutions involved and the dates of any hospitalizations;
- g. Any information pertaining to whether any such person has been otherwise treated for psychiatric or emotional disorders, alcoholism, or drug abuse, and if so, any and all reports relating to such conditions (See ¶¶ e-f);
- h. Any information pertaining to whether the veracity of any such person has been submitted to polygraph, sodium pentothal, hypnosis or other veracity-probing examinations, and, if so, the full results of such examinations;
- i. All statements, notes, memoranda which indicate that one person having knowledge or purported facts of the alleged crime and scheme described in the indictment has made a statement that is inconsistent with, contradictory of, or more complete (where other details have been omitted) than the statement given by another person who had purported knowledge or facts of this case, together with any statement, note, incident, or arrest report, FBI interview summary, or memorandum of interview or report of interview from any other law enforcement agency recording a statement by a person which is inconsistent with, contradictory of, or less than complete than that person's own prior or subsequent statement, whether under oath, in writing, or orally to a third party.

- j. All statements, notes, incident or arrest reports, FBI interview summary, or memoranda of interviews or reports of interviews from any other law enforcement agency regarding eye witness accounts reporting Timothy McVeigh and/or others as being in locations other than the downtown Oklahoma City area on the morning of April 19, 1995, including those statements which implicate persons other than Tim McVeigh as being in the downtown Oklahoma City area in the general vicinity of the Murrah Building on the morning of April 19, 1995.
- k. Any information of prior misconduct or bad acts although such person has not been arrested, indicted, or otherwise charged for such conduct;
- l. Any evidence of physical infirmity (including medical records and reports) of such witness which might affect his ability to perceive or recall, or otherwise affect his credibility;
- m. Admissions of poor memory or lack of knowledge of any grand jury witness;
- n. Any information tending to show that the reputation of any such person for truth telling is questionable;
- o. The existence and identification of each occasion on which such persons have testified, been examined, or furnished a sworn or unsworn statement to or before any court, grand jury, administrative agency, or other tribunal or body and a transcript of such testimony or a copy of such statement;

- p. Any information or evidence in the possession of the government tending to show that any individuals who may be called as government witnesses have given conflicting or contradictory statements regarding their involvement in this case, the involvement of Mr. McVeigh, and/or the involvement of any alleged associate, accomplice, co-conspirator, or co-defendant.
- q. Any evidence inculcating the witness or indicating the witness' involvement in the offense charged and/or the witness' refusal to inculcate Mr. McVeigh even though the witness arguably knew or should have known information inculcating Mr. McVeigh.

2. Any information which the government has, or later obtains, that in any way indicates that any statement or testimony of a witness or other person claiming factual knowledge about the case, is false or misleading or of questionable accuracy.

3. All statements or testimony of witnesses or others which arguably have inconsistencies, either internally or externally. This should include, but not be limited to, all eyewitness accounts reporting Timothy McVeigh and/or others as being in locations other than the downtown Oklahoma City area on the morning of April 19, 1995; statements which implicate persons other than Mr. McVeigh; inconsistent statements from whatever sources known to the government of Michael and Lori Fortier, Roger Moore, Vickie Beemer and employees of Elliott's Body Shop; statements of persons who claim to have heard two or more explosions; statements of seismologists who have interpreted the recordings of seismic activity in Oklahoma City on April 19; and statements of explosive experts who dispute whether an Ammonium

Nitrate Fuel Oil ("ANFO") device, without (or even with) some additional components, could have produced the damage which occurred.

4. Names and addresses of any other persons who were believed by the government to have knowledge of facts inculcating Mr. McVeigh, but when questioned, refused or were unable to inculcate Mr. McVeigh.

5. All statements made by family members (both extended and immediate family) and acquaintances of Timothy McVeigh which relate to mitigation,⁷ exculpation or impeachment, with the corresponding notes, reports, summaries, memoranda, and 302s.

6. Any and all statements, reports, notes, memoranda, airtels, interviews or any other type of communication by individuals who were in the vicinity of the Murrah Building on April 19, 1995, between the hours of 6 a.m. and 9:30 a.m., including but not limited to the statements of persons known as Dana Bradley, Lea Mohr (or Lea Mahr) of Edmond, Oklahoma, and Gary Lewis, an employee in the Journal Record Building.

Specification of Materiality: The bombing of the Murrah Building has made the events people perceived during the morning of April 19, both before and after the bombing, remain

⁷ For purposes of this Motion, "mitigation" refers to any evidence pertaining to the background and character of Mr. McVeigh or to the circumstances of the offense which might help persuade the sentencer to impose a life sentence instead of a death sentence. *Lockett v. Ohio*, 438 U.S. 586 (1978). As such, "mitigation" is an extremely broad and far-reaching concept. To comply with the command of Brady in relation to mitigation, therefore, the government must produce any information it has obtained that might in any way assist Mr. McVeigh in presenting the case for a life sentence, including information (a) about Mr. McVeigh's life and personal history, (b) related to an assessment of his character, (c) shedding light on his psychological functioning, (d) suggesting a lesser role in the offense because of the role he played in relation to others, and (e) related to the motives or mental state that informed his participation in the offense. In addition, the government must produce any other information it has obtained that tends to diminish Mr. McVeigh's culpability.

vivid in their memories. The recall people have may or may not be accurate. The extraordinary experience of the explosion may have distorted some memories. However, it may also have helped some people remember accurately some events that they otherwise would not have remembered. From the wealth of eye witness experience that morning, the government is likely to present some eyewitnesses to describe what they perceived during the morning of April 19, 1995.

The statements of all the eye witnesses whose testimony is not presented by the government should be made available to the defense. Their accounts will differ in some way from the accounts of the government witnesses. They may contradict the government witnesses' accounts, add details that are omitted, or present wholly different observations. It is fair to assume that they will not be called as witnesses because the government does not believe they lend as much support to its case as the witnesses to be called. Because the non-called witnesses may help Mr. McVeigh rebut the government's case, they should be available to Mr. McVeigh under *Brady*. In circumstances in which, in a very real sense, all the eye witnesses have potentially useful information, this right of access is even more compelling.

Each of the named individuals has given statements to the prosecutors indicating that they saw someone else in a "getaway car" other than Mr. McVeigh, or saw someone else with Mr. McVeigh, or saw someone else getting out of the Ryder truck other than Mr. McVeigh. Specifically, Ms. Bradley claims to have seen John Doe No. 2 getting out of the Ryder truck but did not see Mr. McVeigh. Gary Lewis claims to have seen someone who appeared to look like Mr. McVeigh, but in the company of someone else leaving the parking lot in an automobile like Mr. McVeigh's but with the license tag attached. Lea Mohr (or Lea Mahr) claims to have

taken pictures of the Ryder truck and a brown pickup with Mr. McVeigh's license tag on the brown pickup. In addition, there are numerous witnesses who claim to have seen Mr. McVeigh driving the Ryder truck but showing an unfamiliarity with the downtown Oklahoma City area, or driving his own car at a time that other witnesses claim to have seen him driving the Ryder truck.

7. All statements made by Josh Nichols, Marife Nichols, Lana Padilla, and James Nichols, including any conversations between them and law enforcement agents.

Specification of Materiality: The statements by these four persons are likely to be exculpatory, in whole or in part. In press accounts, Josh Nichols and Marife Nichols have both denied the existence of any conspiracy involving Terry Nichols and Mr. McVeigh. Thus, their testimony would negate guilt on Count I and possibly negate guilt on the other Counts where there is an implied conspiracy. In addition, Marife Nichols could testify, and has given statements, of an innocent explanation for items that the government casts as incriminating, such as possession of ammonium nitrate packages which Mr. Nichols stated in an FBI interview were for sale at gun shows. Josh Nichols has claimed, perhaps facetiously, to be John Doe No. 2, but such facetious remarks could be used to impeach his credibility, because at the same time he has also opined that Tim McVeigh is guilty. Lana Padilla has written a book critical of Mr. McVeigh, although she has never in fact met him. Her testimony concerning certain items turned over to the FBI, including Terry Nichols "go for it" statement, are exculpatory or mitigating in that they suggest a greater role in the "conspiracy," if there was one, by Nichols than Mr. McVeigh. Her testimony would also support and describe an innocent use of money and coins and currency which the government casts as inculpatory. James Nichols has made numerous

public exculpatory statements, and we anticipate that he made exculpatory statements to the FBI denying any involvement by himself, his brother, or Mr. McVeigh. James Nichols was charged by Grand Jury Indictment in Michigan, but the charges were ultimately dismissed because of insufficient evidence. The failure of the charges against him would explain an innocent and non-criminal use of so-called "pop bottle explosives" (see Exhibit 32), and would negate the allegations in the government's Affidavit for Search Warrant Authority on his premises that he had planned the robbery in Arkansas and/or planned to bomb the building in Oklahoma City. See Exhibit "40."

8. Any and all information concerning reports that Mr. McVeigh was allegedly seen in the Murrah Building inquiring about enrolling his children in pre-school or day-care programs. This information should include, but not be limited to, the name and address of the witness or witnesses who gave such a report and the substance of the statement along with the corresponding reports, summaries, airtels, 302s, and other memoranda regarding this information.

Specification of Materiality: This information is sought in order to impeach eye witness identification of Mr. McVeigh, because Mr. McVeigh has never been in the Murrah Building. It is also to be used to impeach Mr. Fortier because there were early reports in the press from alleged law enforcement sources that Fortier claimed that he and Mr. McVeigh had been in the Alfred P. Murrah Building prior to April 19, 1995. These matters relate to impeachment of eye witnesses and Mr. Fortier.

9. Any and all information concerning reports that Mr. McVeigh was allegedly seen asking directions to the Murrah Building in Oklahoma City. This information should include,

but not be limited to, the name and address of the witness or witnesses who gave such a report and the substance of the statement along with the corresponding reports, summaries, airtels, 302s and other memoranda regarding this information.

Specification of Materiality: This information is sought to impeach eye witness identification and to show that Mr. McVeigh could not have been at all the places on the morning of April 19 at the times described, thereby raising the probability of massive mistaken eye witness identification.

10. Any and all information regarding any witness' inability to identify, or inconsistency in the identification of, Mr. McVeigh or Mr. Terry Nichols in any physical line-up or photo spread.

Specification of Materiality: This information is sought to impeach eye witness identification and to show that Mr. McVeigh could not have been at all the places on the morning of the 19th at the times described, thereby raising the probability of massive mistaken eye witness identification.

11. Names and addresses of all individuals who viewed physical lineups or photographic spreads, as well as a reproduction of the line-up or spread and all information, notes, memoranda, summaries, recordings, etc., related to the line-up or photo showing.

Specification of Materiality: This information is sought to impeach eye witness identification and to show that Mr. McVeigh could not have been at all the places on the morning of the 19th at the times described, thereby raising the probability of massive mistaken eye witness identification. In addition, a number of individuals who viewed physical line-ups and photographic spreads were not able to identify Mr. McVeigh. This is important defense

information ensuring that other witnesses impeach the witnesses who claim to have seen Mr. McVeigh.

12. Any and all information concerning the statements or interviews given by Mike Moroz. This should include, but not be limited to, the statements and/or interviews themselves, as well as the corresponding reports, summaries, airtels and 302s generated concerning this information.

Specification of Materiality: This witness claims to have seen Mr. McVeigh driving a Ryder truck asking for directions to 5th and Harvey (location of the Murrah Building). He also claims that a "Hispanic looking" person was in the cab of the truck with Mr. McVeigh. This statement impeaches other eye witness statements and suggests direct involvement in the crime by another person. See Exhibits 27 and 30.

13. Any and all information concerning the statements or interviews given by James Linehan, attorney, in which he identified a person who looked like Mr. McVeigh driving the car later claimed to be Mr. McVeigh's car--not a Ryder truck--near the time of the explosion. See Exhibits 30A and 30B. This should include, but not be limited to, the statements and/or interviews themselves, as well as the corresponding reports, summaries, airtels and 302s generated concerning this information.

Specification of Materiality: Mr. Linehan's testimony, if true, completely exculpates Mr. McVeigh.

14. Any and all information concerning the statements or interviews given by Jim Ferguson, an electrical employee who was located in the downtown Oklahoma City area at the time of the bombing. This should include, but not be limited to, the statements and/or

interviews themselves, as well as the corresponding reports, notes, summaries, airtels and 302s generated concerning this information.

Specification of Materiality: To impeach other eye witness alleged identifications.

15. Any and all information, including the name and address, concerning the purported bomb expert who was alleged to be two blocks away from the Murrah Building when the bombing occurred. This request also includes any statements, interviews, notes, memoranda, 302s, airtels, reports or examinations by such bomb expert and the reason for the bomb expert's proximity to the Murrah Federal Building.

Specification of Materiality: An early television report states that one of the government's key bomb experts was 2½ blocks away from the Murrah Building at the time of the explosion. If this report is accurate, this expert may contribute valuable impeaching information on the government's theory. In addition, he or she may cast some light on the allegation by some individuals that the government had prior knowledge of the bombing or may even have had some role in the bombing. Moreover, the presence of a key FBI or government bomb expert so close to the Murrah Building at the time of the explosion is material in and of itself.

16. Any and all information concerning reports of individuals who allegedly were seen running from the Murrah Building in Oklahoma City five to ten minutes before the bombing on April 19, 1995. This request includes all videotape or film of such individuals and the statements or interviews of persons who purportedly witnessed these individuals running from the building and the names and addresses of all persons who made such statements together with the corresponding 302s, reports, notes, summaries and memoranda.

Specification of Materiality: Many press reports claim that numerous witnesses saw two Middle Eastern men in and about the Murrah Building 5-to-10 minutes before the bombing and some witnesses say that they saw these men running from the building. These accounts exculpate Mr. McVeigh or suggest the possibility of other suspects.

17. Any and all information concerning the statements or interviews given or videotapes produced by Charles Key, Oklahoma legislator. This should include, but not be limited to, the statements and/or interviews themselves, the corresponding reports, summaries, airtels and 302s generated concerning this information, and copies of any video and/or audio tapes produced or generated by Charles Key.

Specification of Materiality: State Representative Charles Key has made a number of public statements offering evidence and information to impeach the government's version of how the explosion occurred and Mr. McVeigh's alleged involvement. We believe agents of the prosecution have interviewed Mr. Key or attended his press conference and obtained material from him.

B. GOVERNMENT MISCONDUCT WITH RESPECT TO ITS WITNESSES

18. Disclosures of all communications between Federal Bureau of Investigation agents or other law enforcement agents (including all federal, state, or local law enforcement officers) and parties and/or their agents and attorneys who have maintained civil actions against Timothy McVeigh, now or in the past or who have or are pursuing civil actions arising from the bombing of the Murrah Building.

Specification of Materiality: Several lawsuits have been filed against Tim McVeigh which would have offered him the opportunity to take depositions of witnesses and to issue subpoenas for the production of items which he could not get from the government. This was extremely important for the defense because certain key witnesses have not been willing to talk to defense attorneys, and there was no basis in the criminal case to subpoena them. The two most critical witnesses in this regard were Eldon Elliott and Vickie Beemer. Mr. Elliott told our investigators twice, first Mr. Reyna, and then Mr. Reed, that he had been advised by FBI Special Agent Scott Crabtree not to discuss the matter with the defense. Mr. Elliott later signed an Affidavit denying Mr. Crabtree had told him such a thing, but not denying that he had told the investigators that. Subsequently, two other key witnesses, the owner of the Mail Room in Kingman, Arizona, and Mr. McVeigh's supervisor at Burns Security in Buffalo told our investigators that they had been asked by the FBI not to speak to "anyone." So, access to these witnesses in the civil cases was extremely important. The attorneys in the civil cases were contacted by undersigned counsel, and the plaintiffs' attorneys advised that they would not dismiss the cases. Subsequently, all of the civil cases were dismissed, including one on the last working day before the deposition of Beemer and Elliott was set in Manhattan, Kansas. We believe that government agents contacted the attorneys and encouraged them to dismiss the cases. Such action would be government misconduct and would serve to impeach the testimony of FBI agents who made such admonitions and the testimony of Elliott and Beemer, who may have been aware that such advice was given to the plaintiffs.

In addition, Mr. McVeigh has alleged in a motion still pending before the court that government agents have urged certain key witnesses to avoid talking with any representative of

the defense. This information represents, if nothing more, evidence favorable to the defense with respect to that motion.

19. Any and all information concerning telephone calls or other communication from Lynn Freedman (or Freidman) and/or Mark Hill, an Arizona parole officer.

Specification of Materiality: This information may confirm government intimidation or improper influence by agents of the Bureau of Alcohol, Tobacco and Firearms against a potential defense witness.

C. **MR. MCVEIGH'S ALLEGED INVOLVEMENT IN THE "ROGER MOORE ROBBERY"**

20. All statements or interviews given by employees of the Knights Inn in Akron, Ohio, as well as the corresponding 302s, memoranda, or reports generated.

Specification of Materiality: The defense believes this information will establish Mr. McVeigh's alibi for the night of the alleged Arkansas robbery, which exculpates Mr. McVeigh from these allegations in the indictment conspiracy count. See Exhibit 33.

21. All statements or interviews of Roger Moore, from Royal, Arkansas, concerning the alleged robbery of his Royal, Arkansas, home which allegedly involved the theft of numerous weapons and other items of value.

Specification of Materiality: Roger Moore claims a robbery at his premises on a Saturday morning by a man wearing a ski mask who stole his guns, and left in Moore's automobile. Moore uses aliases and may have been an informant for the BATF. He has made contradictory statements concerning his knowledge of Mr. McVeigh and whether he thought Mr. McVeigh was involved. Press reports indicate that Roger Moore has excluded Tim McVeigh

as the perpetrator of the Arkansas robbery, thus exculpating Mr. McVeigh of these overt acts in the conspiracy count. He wrote letters to Mr. McVeigh stating Tim McVeigh was not involved in the robbery but asking for Mr. McVeigh's help. The circumstances of the robbery indicate that it may not have been a robbery. It occurred on a Saturday morning. Moore saw only one individual. This individual with presumably no knowledge of who else might be coming to the house stayed for an hour and a half, and while holding a weapon on Moore managed to tie him up with duct tape. By Moore's own description, this individual would have left by 11:00 a.m., but the County Sheriff's report (Exhibit "2") shows that the "robbery" was not reported until 1:00 p.m. The unusual circumstances of the "robbery" would indicate that it may not have been a robbery. Among the other suspicious circumstances are the facts that Moore claimed not to have the serial numbers of the weapons, and did not carry insurance on them, although he was a gun dealer.

22. Any and all reports, memoranda, follow-ups, statements, 302s, and airtels indicating that the robbery of Roger Moore, in Royal, Arkansas, was not in actuality a robbery.

Specification of Materiality: Negation of guilt; other suspects; and evidence that overt act not committed as alleged in indictment.

D. RELATED ALLEGED CRIMES AND INVESTIGATIONS

23. Any and all information concerning the Marion County quarry burglary including all reports from local law enforcement and 302s, memoranda reports, and summaries generated by the Oklahoma City bombing investigation.

Specification of Materiality: We believe the information will not show any involvement by Tim McVeigh in this crime, which allegedly produced materials needed for the bomb, and such evidence negates part of indictment.

24. Any and all information that the use of small explosives at the home of James Nichols in Decker, Michigan was not a violation of applicable laws or ordinances. This request includes, but is not limited to, the statements of neighbors and others regarding the use of these explosive devices, as well as the corresponding 302s, reports, memoranda, notes, summaries and airtels.

Specification of Materiality: Criminal charges against James Nichols were dismissed, which suggests the "pop bottle" bomb incidents, if such occurred, were not violations of the law.

25. Any and all logs and reports from surveillance by law enforcement of Timothy McVeigh, Terry Nichols, James Nichols, Mike Fortier, Lori Fortier, Jim Rosencrans or any other individuals who were subjected to physical surveillance by law enforcement on or before April 19 and the name and address of the law enforcement official(s) responsible for performance of the surveillance.

Specification of Materiality: If surveillance occurred before April 19, 1995, there may be evidence of government "complicity" to a degree.

26. Any and all information gathered from previous or on-going investigations which contain evidence relevant to mitigation, exculpation or impeachment of Timothy McVeigh.

E. THE KANSAS "EYE WITNESSES"

27. Any and all information concerning the statements or interviews given by Jeff Davis, the individual who delivered Chinese food to a room at the Dreamland Motel in Junction City, Kansas, allegedly rented to Tim McVeigh, but who states that he did not deliver food to Mr. McVeigh. This should include, but not be limited to, the statements and/or interviews themselves, as well as the corresponding reports, summaries, airtels and 302s generated concerning this information. (See ¶65).

Specification of Materiality: The government contends or has information that Mr. McVeigh was renting a room at the Dreamland Motel in Junction City, Kansas, under his own name, and that while there, he placed a telephone call to a Chinese restaurant for a delivery order. The delivery was allegedly made by Jeff Davis but Mr. Davis has claimed in interviews that he did not deliver to Mr. McVeigh. See Exhibit 30. His testimony could impeach other eye witness identifications, demonstrate the presence of other members of some conspiracy, and negate inferences that Mr. McVeigh rented or drove the Ryder truck.

28. Any and all information from the AmPride store in Manhattan, Kansas, as well as any 302s, summaries, statements or reports related to statements or interviews given by the representatives of AmPride. This should include but not be limited to the other photographs, statements, and interviews of Dick Simmons and Don Gudenkauf.

Specification of Materiality: This information may impeach eye witness identification of Mr. McVeigh and negate an aspect of the Government's theory. Simmons does not remember the defendants buying fertilizer, and Gudenkauf reports Ampride doesn't sell 70 pound bags as reported in some of these proceedings. Inconsistent with Government theory.

29. Any and all information concerning statements or information gathered from Ray Mueller in Kansas about seeing Tim McVeigh or Terry Nichols, as well as all memoranda reports, 302s, pleas, favors, and summaries derived from such interviews.

Specification of Materiality: This information is sought to impeach eye witness identification and to show that Mr. McVeigh could not have been at all the places on the morning of the 19th at the times described, thereby raising the probability of massive mistaken eye witness identification. This witness has given statements claiming to have seen Tim McVeigh and/or Terry Nichols at a certain time which is inconsistent with other evidence.

30. Any and all statements of interviews about seeing Tim McVeigh or Terry Nichols with Sherry Furman, the Manager of Boots U-Store-It in Council Grove, Kansas, as well as corresponding memoranda reports, 302s, pleas, favors, and summaries.

Specification of Materiality: This information is sought to impeach eye witness identification and to show that Mr. McVeigh could not have been at all the places on the morning of the 19th at the times described, thereby raising the probability of massive mistaken eye witness identification. This witness has given statements claiming to have seen Tim McVeigh and/or Terry Nichols at a certain time which is inconsistent with other evidence.

31. All statements and interviews of Enid Crabb and David L. Fox of Council Grove Propane in Council Grove, Kansas, as well as the corresponding reports, 302s, summaries and memoranda generated.

Specification of Materiality: This information is sought to impeach eye witness identification and to show that Mr. McVeigh could not have been at all the places on the morning of the 19th at the times described, thereby raising the probability of massive mistaken

eye witness identification. These witnesses have given statements claiming to have seen Tim McVeigh and/or Terry Nichols at a certain time which is inconsistent with other evidence.

32. Any and all documents and records from the Great Western Motel employees or guests in Junction City, Kansas, related to individuals they have seen who are suspected of being involved in the Oklahoma City bombing, as well as the statements or interviews of all employees and witnesses affiliated with the Great Western Motel along with the corresponding 302s, memoranda, reports, and summaries.

Specification of Materiality: Probable knowledge or identity of other conspirators or a different conspiracy. Sightings are inconsistent with information provided by other witnesses.

F. KARL (CARL) LeBRUN (LeBRON)

33. Any and all information concerning Carl LeBron or Karl LeBrun, an employee of Burns Security in Buffalo, New York, who was employed there at the same time as Tim McVeigh. This request includes, but is not limited to, any and all recorded conversations between LeBron and Timothy McVeigh or between LeBron and other suspected individuals or law enforcement officials, all statements or interviews given by LeBron along with the corresponding reports, summaries, memoranda, 302s, and airtels regarding this information. Further, we request the transcripts of all recorded conversations between Mr. McVeigh and LeBron and an opportunity to examine and analyze the original of each such recording. This request also includes the criminal history, rap sheet, NCIC report or any other documentation concerning the background of Carl LeBron, all contacts between Carl LeBron and law enforcement officials, whether he has ever been granted or promised by the government the

benefit of plea bargaining, as well as the exact nature of the plea bargain if it exists, any other incentive or favorable treatment provided, financial, tax or otherwise, and all reports of LeBron as an "informant" to any law enforcement agency. Specifically, we also request any information as to Carl LeBron's tape recorded conversation with Timothy McVeigh at Burns Security, the reason for the recording, and whether Mr. LeBron was acting under the authority of law enforcement or on his own in making the above recording.

Specification of Materiality: A tape recording furnished to Mr. McVeigh as part of the Rule 16 discovery indicates that Carl LeBron surreptitiously tape recorded a conversation with Mr. McVeigh in which political subjects were discussed. LeBron was a co-employee of Mr. McVeigh, and the circumstances offer no rational explanation as to why he tape recorded Mr. McVeigh. LeBron has family law enforcement connections, and Mr. McVeigh may have been the subject of law enforcement interest at the time of the taping. There is nothing on the tape that would indicate that Mr. McVeigh was suspected of any type of vandalism or other wrongdoing.

G. KINGMAN, ARIZONA WITNESSES

34. Any and all statements or interviews of Bob and Mary Hart, managers of a trailer park in Kingman, Arizona, or any other persons connected to the trailer park, as well as the 302s, statements, reports, memoranda, summaries and notes generated.

Specification of Materiality: Mitigation. Impeachment of eye witness testimony concerning sightings of Mr. McVeigh with pregnant woman; identity of other conspirators

because Government questioned these witnesses about militias and patriot organizations; impeachment of Michael Fortier and James Rosencrans concerning other crimes and character.

35. Any and all information concerning Jimmie Foley, whose name may have been used by Michael Fortier as an alias.

Specification of Materiality: This information is necessary for the impeachment of Michael Fortier who purportedly used this alias in the Kingman area (where a real Jimmie Foley lives) when involved in illegal activities there.

36. Any and all information concerning Jack Oliphant of Arizona. This information should include, but not be limited to, all contact between Mr. Oliphant and law enforcement officials, all reports, notes, summaries, memoranda, airtels, 302s and other information concerning Oliphant, and any criminal history, rap sheet, NCIC reports or any other documentation concerning the background of Jack Oliphant and whether he has ever been granted or promised by the government the benefit of plea bargaining, as well as the exact nature of the plea bargain, if it exists, any other incentive or favorable treatment provided, financial, tax or otherwise, and all reports of Oliphant as an "informant" prior to April 19, 1995 for either the FBI or the ATF.

Specification of Materiality: Mr. Oliphant has a previous arrest and conviction for a robbery of an armored car, allegedly to raise funds for "terroristic activities." He lived in the Kingman, Arizona area and was alleged to have contacts with right-wing extremist organizations who are planning physical action against government property. Jack Oliphant died approximately ten days ago. Oliphant may or may not have known any of the parties to this action, and at one time he was considered a possible suspect.

H. RENTAL AND/OR USE OF RYDER TRUCK

37. Exhibit "21," an article appearing in the *Atlanta Constitution*, April 25, 1995, reports that federal agents "also are checking on a telephone call to a Ryder Truck Rental agency in Minneapolis this month about the availability of a truck to be rented by T. McVeigh." Allegedly, McVeigh rented the truck in Junction City using an alias, but was interested in renting a truck in Minneapolis under his true name, thus suggesting the possibility that he was "framed" in Junction City, or that the identification is a case of mistaken identity.

38. Any and all information concerning the statements or interviews of individuals who claim to have seen a Ryder truck at the Dreamland Motel in Junction City, Kansas, before April 17, 1995, as well as all corresponding reports, 302s, summaries, memoranda, notes and airtels. This request includes, but is not limited to, these statements given by Lea McGown, a motel manager.

Specification of Materiality: The government claims, through statements by Vickie Beemer and Eldon Elliott to others at Elliott's Body Shop, that Mr. McVeigh rented the Ryder truck on Monday morning, April 17, 1995, accompanied by John Doe #2. However, Lea McGown claims to have seen Mr. McVeigh associated with the Ryder truck outside his room at the Dreamland Motel on the night of April 16. Her observation, if accurate, is materially exculpatory to Mr. McVeigh and impeaches the testimony of Elliott, Beemer and other employees of Elliott's Body Shop.

39. Any and all information concerning the statements or interviews of Georgia Rucker, a Real Estate agent in Herington, Kansas, who purportedly said that she saw two other vehicles along with the Ryder truck parked at Geary State Fishing Lake in Kansas.

Specification of Materiality: Impeaches the government's other witnesses who claim to have seen only a Ryder truck and a dark colored pickup.

40. Any and all information concerning the number of Ryder rental trucks in the vicinity of downtown Oklahoma City the morning of April 19, 1995. This request includes the names and addresses of all businesses who were utilizing Ryder rental trucks in the vicinity of Oklahoma City on the morning of April 19, 1995, the reason for the rental of the truck, and the reason for the proximity to the Murrah Building.

Specification of Materiality: Other suspects, impeachment of eye witnesses.

41. Any and all information concerning the measurements of Ryder trucks and whether the measurements of the truck allegedly rented by Mr. McVeigh match those of the Ryder truck reflected in the videotape from the Regency Towers Apartments.

Specification of Materiality: If the Ryder truck seen at the Regency Tower is not of the same size allegedly rented in Junction City, then the photographs from Regency Tower can be used for impeachment or to suggest the possibility of other suspects.

42. Any and all statements or interviews of individuals who claim to have seen a Ryder truck at the Dreamland Motel in Junction City, Kansas, before April 17, 1995, at 9:00 a.m., as well as all corresponding reports, 302s, summaries, memoranda, and airtels.

Specification of Materiality: Impeaches Eldon Elliott and Vickie Beemer's identification and supports Lea McGown.

I. ROUTE OF RYDER TRUCK TO OKLAHOMA

43. Any and all statements and interviews by Terry and Judy Leonard, owners of the Cattle Baron Steakhouse in Perry, Oklahoma, who allegedly viewed Tim McVeigh in their restaurant, along with all corresponding 302s, memoranda, summaries, airtels, and notes. See Exhibit 36.

Specification of Materiality. This sighting is inconsistent with other evidence. This evidence, if true, may impeach other witnesses.

44. Any and all statements and interviews of Mary Hunnicutt, a postal service employee in Mulhall, Oklahoma, who reported that she saw Tim McVeigh in Mulhall, Oklahoma, at Jackie's Farmers Store. See Exhibit 36. This request also includes all statements and interviews of any other individual who purportedly saw Tim McVeigh in Mulhall, Oklahoma, and the corresponding 302s, memoranda, notes, reports and airtels.

Specification of Materiality: May lead to suppression of illegally obtained evidence. Witness in ¶ 42 would contradict statements and other evidence including those in ¶ 43.

45. Any and all information concerning statements made by witness(s) who purportedly sighted Terry Nichols, Tim McVeigh and a third man who resembles the description of John Doe #2 on April 18, 1995, at the Santa Fe Trail Diner in Herington, Kansas. This request includes all statements made by Barbara Whittenberg, as well as the corresponding notes, summaries, memoranda, reports, statements, interviews and airtels.

Specification of Materiality: On April 18, Whittenberg claims to have seen Mr. McVeigh, Mr. Nichols, and a third person when they ate at her diner. She recalls the Arizona

license plates on the white car driven by one of the three. The other two were in a pickup truck and Ryder Truck. See Exhibit 27.

II. OTHER SOURCES OF EVIDENCE HELPFUL TO DEFENDANTS

A. INTERCEPTION OF COMMUNICATION

46. Any and all information related to interception of communication,⁸ not authorized by the Court, including wiretapping, eavesdropping, or electronic or other surveillance of the following:

- a. Mr. McVeigh, or any other Defendant or indicted or unindicted co-conspirator;
- b. Any business or offices in which Mr. McVeigh holds any interest;
- c. Any living quarters in which Mr. McVeigh holds any interest;
- d. Mr. McVeigh's attorneys, their agents, employees, or offices;
- e. Any alleged co-conspirators;
- f. The attorney/client visiting room at any prison or holding facility.
- g. Any cell or holding room where Mr. McVeigh has been held in custody.

47. Any and all communications between government intelligence agencies and third party delivery services such as Federal Express, UPS, etc., concerning the opening of mail or packages for cooperation or assistance in the bombing investigation.

⁸ This request will be the subject of a separate motion.

Specification of Materiality: Suggests that government believed or believes other suspects exist.

48. Any and all information concerning U.S. Customs seizing and/or intercepting mail destined for Timothy McVeigh.

Specification of Materiality: Suggests that government believed or believes other suspects exist.

B. GRAND JURY MATERIAL

49. With respect to any witness or evidence presented before the grand jury,⁹ the following:

- a. Any testimony by a grand jury witness inconsistent with any previous testimony or statement that person may have given;

Specification of Materiality: Impeachment.

- b. Any statements, communications, or testimony indicating bias or prejudice against Mr. McVeigh;

Specification of Materiality: Impeachment.

- c. Any testimony by a grand jury witness inconsistent with the testimony of other grand jury witnesses;

Specification of Materiality: Impeachment.

⁹ "Grand jury" means any grand jury where any matter relating to the Oklahoma City bombing was investigated, regardless of whether it is the grand jury in the Western Judicial District of Oklahoma. "Evidence" before the grand jury means not just the testimony or statements of witnesses or the depositions of witnesses heard or read to the grand jury but also includes any information gathered by subpoena issued in the name of the grand jury.

- d. Any testimony by a grand jury witness inconsistent with any previous grand jury testimony given by such witness;

Specification of Materiality: Impeachment.

- e. Any testimony of a grand jury witness or other persons, whether or not they testified before the grand jury, inconsistent with any statement, written or oral, known to the government;

Specification of Materiality: Impeachment.

- f. Any evidence, other than testimony, presented before the grand jury inconsistent with the testimony of any grand jury witness;

Specification of Materiality: Other suspects, impeachment.

- g. Any grand jury evidence, other than testimony, inconsistent with that presented at any trial or proceeding of any kind, civil or criminal, related to the subject matter of this cause;

Specification of Materiality: Other suspects, impeachment.

- h. Any grand jury evidence, other than testimony, inconsistent with any other grand jury evidence;

Specification of Materiality: Other suspects, impeachment.

- i. Admissions of poor memory or lack of knowledge of any grand jury witness;

Specification of Materiality: Impeachment.

- j. Any testimony of a grand jury witness tending to show Mr. McVeigh was not involved in the offenses charged;

Specification of Materiality: Other suspects, exculpation of guilt.

- k. Failure of any grand jury witness to inculcate Mr. McVeigh, where such witness was in a position to have known of Mr. McVeigh's involvement, if any, in the offenses charged;

Specification of Materiality: Other suspects, exculpation of guilt, impeachment.

- l. Names and addresses of all persons whom the government considered calling before the grand jury, but failed to call, and the reasons therefore;

Specification of Materiality: Other suspects, exculpation of guilt, mitigation of punishment.

- m. Any testimony or evidence before the grand jury inculcating others in the offenses charged;

Specification of Materiality: Other suspects, exculpation of guilt.

- n. Names and addresses of any grand jury witnesses invoking the privilege against self-incrimination before the grand jury; the number of times each witness invoked such privilege; and the circumstances surrounding each such invocation.

Specification of Materiality: Possible impeachment, and possible leads to other suspects.

C. EXAMINATIONS, TESTS, AND EXPERIMENTS.

50. Any conflicts, inconsistencies, or unresolved questions in the statements and/or reports of any expert witness the government is utilizing concerning the type of explosive material used to bomb the Murrah Federal Building or the manner in which it was bombed. This should include all tests done in connection with this case and the reports generated from those tests or examinations.

Specification of Materiality: Impeachment of government scientific and laboratory experts and reports, suggestion of other suspects.

51. All reports of investigations and/or laboratory reports regarding the bombing of the Murrah Building performed by governmental agencies other than the Federal Bureau of Investigation, including but not limited to: (1) Bureau of Alcohol, Tobacco and Firearms; (2) Central Intelligence Agency; (3) Criminal Investigative Divisions of the U.S. Army, Navy, Air Force, Marine Corps, Armed Forces and Department of Defense; (4) Bureau of Prisons; (5) National Security Agency; (6) Secret Service; (7) Internal Revenue Service; (8) Defense Intelligence Agency; (9) Federal Emergency Management Association; (10) General Services Administration; (11) Drug Enforcement Administration; (12) Department of Defense or any other Uniformed Services; (13) Federal Bureau of Investigation; (14) Defense Investigative Agency; (15) United States Postal Inspection Service; (16) Bureau of Intelligence and Research of the State Department; (17) United States Customs Service; (18) Passport Office of the Department of State; (19) Office for Combatting Terrorism of the United States State Department; (20) United States Department of Transportation; (21) Federal Aviation Administration; (22) Immigration and Naturalization Services of the Department of Justice; (23)

United States Marshall Service; (24) National Security Counsel; (25) Department of Defense Joint Special Operations Command; (26) Department of Defense Special Operations Agency; (27) Executive Protective Services; (28) Oklahoma State Bureau of Investigation; (29) Oklahoma County Sheriff's Office; (30) Oklahoma City Police Department; (31) Oklahoma City Fire Department; (32) Oklahoma State Department of Public Safety; (33) Oklahoma State Medical Examiner's Office; (34) Tulsa Police Department; (35) Tulsa Fire Department; (36) Noble County Sheriff's Office; (37) Noble County District Attorney's Office; (38) any other law enforcement agency in Oklahoma, Texas, Kansas, Michigan, Florida, Arkansas and Arizona; and (39) any foreign law enforcement agency, including Scotland Yard, the British Security Services, British Secret Services, any security or law enforcement agency of Italy and the Hashemite Kingdom of Jordan, and the Department of State, including Embassies and Consulates of the United States abroad, which contain conflicts, inconsistencies or unresolved questions in the analysis or integrity of specimens.

Specification of Materiality: Impeachment of government, scientific and laboratory experts, suggestion of other suspects.

52. Any information related to mitigation, exculpation, or impeachment which may be included or contained in the results, reports and opinions obtained from examinations, tests and experiments on physical items of evidence.

Specification of Materiality: Exculpation and mitigation.

53. All objects or documents germane to the bombing which contain fingerprints of unidentified or undisclosed individuals and/or fingerprints of other individuals who are or have been suspects. This request includes the names of the suspects, addresses, item finger print

latents were taken from, criminal records and/or rap sheets of the owner of the prints, and the location where the item examined was seized or obtained by government agents.

Specification of Materiality: Other suspects.

54. The identity and address of the individuals who performed any forensic analysis on materials or evidence related to this case, as well as support personnel.

Specification of Materiality: Impeachment of government reports. Special Agent Frederick Whitehurst submitted a detailed memorandum indicating misconduct by FBI Laboratory personnel in the bomb and chemical analysis section and claimed that false and perjurious testimony was offered concerning the lab results involving the defendants in the World Trade Center bombing and the trial of Walter Moody accused of the assassination of Judge Vance by letter bomb. *See Exhibits "3" and "4."*

55. Information concerning any and all polygraph examinations administered that have any relation, directly or indirectly, to this case. This includes the pre- and post-test interviews, results of the examination (oral or written), the questions asked, the name of the person who administered the examination and the reason for the polygraph examination. This request, includes but is not limited to, any polygraph examinations taken by Mike Price, Roger Barnett, Kevin Nicholas or his family members, Robert Jacks, Gary Land, Mike or Lori Fortier, and others.

Specification of Materiality: Impeachment, leads toward possible suspects. Individuals "tested" may have "failed" the polygraph examinations, but the government may have had insufficient evidence to indict that person examined.

56. The results of any psychiatric or psychological examination(s) given to any witness by any government agency or at the request of any government agency.

Specification of Materiality: Impeachment.

57. Any and all information concerning seismic data collected or analyzed related to the bombing. This should include, but not be limited to, information from the U.S. Geological Survey (Menlo Park, California) and the Oklahoma Geophysical Society and/or Dr. Thomas Holger, Dr. Ray Brown and Charles Mankin, a University of Oklahoma seismologist, as well as the notes, reports, data and memoranda generated from any meetings or forums concerning the relation of any seismic data to the bombing, along with statements or interviews of the above individuals or any other geophysicists or seismic expert consulted in the investigation of this case.

Specification of Materiality: Impeachment of government theory on type of explosive device. Reports of seismic activity appears to be inconsistent with the government's theory of one bomb, one blast. Government has offered explanation for difference, but not all geologists or geophysicists agree.

D. SEARCHES AND SEIZURES

58. Any evidence or information concerning searches and seizures, electronic or otherwise, which would arguably make such search or seizure tainted, illegal or subject to suppression.

Specification of Materiality: Evidence to support Motion to Suppress.

E. DOCUMENTS

59. Any information related to mitigation, exculpation, or impeachment which may be included or contained in any and all tax returns, tax statements or records of any kind, state or federal, of Mr. McVeigh or any alleged co-conspirator or any other person.

Specification of Materiality: Impeachment. Possible other suspects.

60. Any information related to mitigation, exculpation, or impeachment which may be included or contained in any and all negotiable instruments, whether personal checks, cashier checks, promissory notes, money orders, or otherwise, related in any way to this cause.

Specification of Materiality: Impeachment. Possible other suspects. A number of negotiable instruments including postal money orders have been listed as evidence in this case.

61. Any information related to mitigation, exculpation, or impeachment which may be included or contained in any and all currency transaction reports required by federal law which relate in any way to this cause,

Specification of Materiality: Press reports suggest federal authorities have investigated large sums of cash found with Terry Nichols which might be a violation of the currency transaction reporting laws and which may impeach his testimony should he become a government witness. This information may also tend to impeach witnesses regarding the identity of the persons who engaged in financial transactions in this case such as hotel, storage, and fertilizer payments.

62. Any and all documentary evidence of any kind not described above which in any way relates or might relate, directly or indirectly, to exculpation, mitigation or impeachment, or that might lead to evidence or information related to exculpation, mitigation, or impeachment.

63. Any and all armed service records of Timothy McVeigh, Mike Fortier, Terry Nichols, and Todd Bunting.

Specification of Materiality: Impeachment of Nichols or Fortier. Mitigation with respect to Mr. McVeigh.

64. Any and all maps, grids or charts of the downtown Oklahoma City area prepared by or for the FBI or Department of Justice or which have been seized or utilized by the Government in this case.

Specification of Materiality: Impeachment of government forensic theories and evidence concerning explosive device and its components and velocity.

65. All documents and records seized from Hunan's Chinese Restaurant in Junction City, Kansas, including the Chinese food carry out ticket signed by "Kling."

Specification of Materiality: Other suspects, impeachment. See ¶27.

66. Any and all information concerning documents and other materials related to the Herington, Kansas, storage units and/or Clark Lumber Company or Ray Mueller which relate to individuals suspected as perpetrators of the Oklahoma City Murrah Building bombing or which relate to the manufacture or execution of the bombing. See ¶ 29.

Specification of Materiality: Other suspects, impeachment.

67. Any and all information concerning documents and other materials obtained from the Mid-Kansas Co-Op in McPherson, Kansas which relate to the manufacture or explosion of the bomb or individuals suspected as involved in the bombing, as well as all the 302s, summaries, reports, and memoranda generated from statements or interviews given by representatives of the Mid-Kansas Co-op. Also, we request all information regarding other

agencies and individuals involved with the manufacture or sale of fertilizer, gasoline, diesel fuel, "racing fuel," nitro-methane, or other potential bomb components together with the 302s and reports of statements or interviews given by representatives of the above individuals or agencies. This request includes, but is not limited to, the interview of Art Ecro, an Oklahoma seller of fertilizer who purportedly sold one ton of ammonium nitrate to three Middle Eastern men who paid with cash shortly before the bombing.

Specification of Materiality: Impeachment of Terry Nichols should he serve as a government witness, evidence to support severance, other suspects.

68. Any and all evidence or information seized from the Easy Mart in Newkirk, Oklahoma. This request includes but is not limited to the results of all latent fingerprints lifted from the store, an inventory of all items seized, the results of fingerprint analysis in comparison with alleged conspirators of the Oklahoma City bombing, the statements of all witnesses taken at the Easy Mart in Newkirk, and the corresponding memoranda, reports, notes, summaries, and 302s generated from those statements. See Exhibit 36.

Specification of Materiality: Evidence of other suspects. A store employee at the Easy Mart claims to have seen a Ryder truck and a dark colored pickup at her store on April 19.

69. A copy of the Department of Agricultural pamphlet on how to make explosives to blow out tree stumps, as well as any and all memoranda reports, 302s, or interviews conducted with relation to this pamphlet.

Specification of Materiality: Negation of guilt.

70. An inventory of all the contents of storage units in Boots U-Store-It in Council Grove, Kansas, that are in any way connected to this case.

Specification of Materiality: Negation of guilt. (Inventory may reveal items were non-incriminating.)

71. Any and all records, documents, receipts, or other account papers taken from the Council Grove storage facility.

Specification of Materiality: Negation of guilt. (Inventory may reveal items were non-incriminating).

72. Any and all receipts executed, signed, or proffered by "Joe Kyle," "Jim Kyle," "Shawn Rivers," "Bob Kling," "Darrell Bridges," "Mike Havens," "Ted Parker," "Kenneth Parker," "Tim Tuttle," as well as other documents related to those names identified herein.

Specification of Materiality: Negation of guilt. Minimization of alleged role in conspiracy. (May suggest other suspects). The government has such receipts in its possession.

73. A copy of the Ranger Handbook allegedly seized from Mike Fortier's home by the Federal Bureau of Investigation, as well as the results of any laboratory tests or fingerprint analysis performed on the book.

Specification of Materiality: Impeachment of Michael Fortier. It either connects Mr. Fortier to conspiracy (which may minimize Mr. McVeigh's alleged role) or suggests innocent explanations for possessing this type of reading material.

74. Copies of all records and documents related to Timothy McVeigh maintained by and obtained from the Knights Inn in Kent, Ohio. See Exhibit 33.

Specification of Materiality: The evidence should show that Timothy McVeigh was not near Royal, Arkansas at the time of the alleged robbery of Roger Moore. See ¶¶ 21 and 22.

75. Copies of all calling card records and other telephone documents shown by the government to Kevin Nicholas.

Specification of Materiality: This evidence may reveal other suspects. In attempting to learn the identity of the persons calling, the government may have identified other suspects.

76. Copies of all phone records from Kevin Nicholas seized by the government.

Specification of Materiality: Other suspects. A phone call allegedly was placed from Kevin Nicholas' phone to a hotel in Oklahoma City in May, 1995.

77. Any and all telephone records, including but not limited to, pen registers, of Timothy McVeigh, Mike Fortier, Lori Fortier, Terry Nichols, James Nichols and any other unindicted co-conspirators or suspected conspirators of the bombing.

Specification of Materiality: Other suspects. Government has seized telephone records from numerous sources to locate or eliminate other suspects.

78. Any copy of the Anarchist's Cookbook, a book of how to make explosives, as well as any and all memoranda reports, 302s, or interviews conducted in relation to this book. The government seized one from one of the defendants or their relatives or Mike Fortier.

Specification of Materiality: Impeachment of government laboratory reports by showing bomb could not be constructed as in book shown. Impeachment of Fortier.

F. PLEA BARGAINS

79. With respect to any (1) witness the government may call at trial; (2) who testified before any grand jury; (3) co-defendant or co-conspirator, whether indicted or unindicted; or (4)

who furnished oral or written statements during the investigation of this case (hereinafter jointly referred to as "government witnesses," disclose the following information:

- a. Any plea bargain agreement entered into with the government.
- b. Any agreement granting any type of immunity or letters of non-prosecution in exchange for testimony.
- c. Any other type of consideration, monetary or otherwise, given in exchange for testimony.^{10/}
- d. Any and all threats, express or implied, direct or indirect, or other coercion made or directed against any prospective witness; any and all civil, tax, court of claims, administrative, or other pending or potential legal disputes or transactions involving any prospective witness to which the government is a party or over which the government has real, apparent, or perceived influence.

^{10/} By "consideration", Mr. McVeigh refers to absolutely anything of value or use, whether bargained for or not, that arguably could be of use or value to a witness or persons of concern to the witness, including but not limited to, formal and informal, direct and indirect, criminal, civil or tax immunity grants, assistance or favorable treatment or recommendations with respect to any criminal, civil, tax court, court of claims, administrative or other legal dispute (including immigration) with the Government (state or federal), or any other parties; payment of money or fees, such as witness fees and special witness fees, provision of food, clothing, shelter, transportation or other like benefits, placement in a "witness protection program"; informer status for the witness; and any other matter, without limitation, which could reveal an interest or bias in the witness in favor of the Government or against the defense, or act as an inducement to testify, to color testimony or to refuse to discuss testimony or facts with defense counsel.

By "consideration" or "promise of consideration," we mean not just formal written agreements, but any record of any such discussions or expression of interest in any such proposal or assistance by the witness or by the government, whether an agreement was reached or not, or whether the matter was conveyed through an attorney or representative of the witness, to some representative or arguably a representative of the government.

- e. Any and all criminal prosecutions, investigations, and potential prosecutions pending or which could be brought against each government witness; any probationary, parole and deferred prosecution status of each government witness; and any civil, tax court, court of claims, administrative; or other pending or potential legal disputes and/or transactions each government witness may have with the government (state or local).
- f. The extent and existence and identification of each occasion on which each government witness has testified before any court, Grand Jury, and any other tribunal or body, including "trial preparation" or interviews with prosecution attorneys and/or otherwise narrated the details of this investigation or the alleged facts of this case.
- g. The existence and identification of each occasion on which each government witness who is arguably an alleged informant, an alleged accomplice, alleged co-conspirator, or alleged expert has testified, been examined, or furnished a sworn or unsworn statement to or before any court, Grand Jury, administrative agency or other tribunal or body.
- h. A full and complete list of any and all threats or cautions of prosecution or any statements regarding the magnitude of penal liability made to any witness that the government intends or contemplates calling at trial, or any witness called before the Grand Jury, or any witness interviewed by the government (but who may not be called at trial), including specifically any

person who gave information arguably favorable to Mr. McVeigh, by any agent or employee of the federal government, or by a state law enforcement or prosecutorial agency working or cooperating with the government.

Specification of Materiality: Impeachment.

80. Any and all notes of the negotiating sessions by and between Michael Fortier and his lawyers and Lori Fortier and her lawyers and representatives of the United States Government, together with a copy of any immunity agreements or immunity extensions or agreements not to prosecute extended to either Michael or Lori Fortier.

Specification of Materiality: Impeachment.

81. Any and all letters of immunity, letters of non-prosecution or other information concerning plea agreements or other promises of favorable treatment between the government and Kevin Nicholas.

Specification of Materiality: Impeachment.

G. INFORMANTS

82. With respect to any informants used, or to be used, by the government in the investigation and prosecution of the cause, the following information:

- a. The identity and address of such informant;
- b. The statements of the informant, together with any reports or memoranda relating to the informant's communications to the government, that the government has or will rely on;

- c. Any information casting doubt on the informant's credibility, including but not limited to:
- (i) Criminal records, federal or state or foreign;
 - (ii) Any reported history of psychiatric disturbance, drug dependency, alcoholism, or other emotional disturbance;
 - (iii) Any reports or memoranda relating to the informant's communications to the government, or statements of the informant, that are inconsistent with any other statements made by the informant to the government;
 - (iv) Any reports or memoranda relating to the informant's communications to the government, or statements of the informant, which are inconsistent with statements of other government witnesses or reports or memoranda based on the communications of other government witnesses.

Specification of Materiality: Negation of guilt, possible prior notice by the government of threatened attack against the Murrah Building, impeachment.

83. Any information that Roger Moore is/was a government informant. (See ¶ 21).

H. "CO-CONSPIRATORS" AND OTHER "CONSPIRACIES"

84. All prior inconsistent statements of Michael Fortier and Lori Fortier, together with all statements of Michael and Lori Fortier given to the grand jury, the United States Attorney's Office or its representatives, the Federal Bureau of Investigation, the Bureau of Alcohol,

Tobacco & Firearms, or any other law enforcement agency (federal, state or municipal). Additionally, we request all 302s, reports, summaries, notes, memoranda, statement and all other information which tends inculcate Mike Fortier and Lori Fortier.

Specification of Materiality: Impeachment.

85. Copies of any and all video tapes or press interviews that Michael or Lori Fortier may have given.

Specification of Materiality: Impeachment.

86. A copy of the presentencing report of Michael Fortier and any objections to such report prepared for the sentencing for his guilty plea in this case. This includes the government's version of the offense together with all other materials submitted to the Probation Office, in case Fortier's Pre-Sentence Report has not or will not be prepared prior to trial.

Specification of Materiality: Impeachment.

87. All information (including reports, memoranda, airtels, and interviews) relating to: (1) any earlier perceived plans, plots or conspiracies discovered against the Murrah Building, including those which are alleged to have occurred in or around 1982 and 1987-1988; and (2) indicating that James Nichols, along with unnamed others, had knowledge or intent to commit violent acts against the Alfred P. Murrah Building in Oklahoma City.

Specification of Materiality: The affidavit for the search of James Nichols' house indicates that he had a picture of the Murrah Building and may have discussed blowing it up in 1987-88. See Exhibit "5" Application for Search of James Nichols' house. At the sedition trial in Arkansas, there was evidence that around 1982 there was a plan to blow up or bomb the Murrah Building in Oklahoma City. See Exhibit "6."

88. All information indicating that Roger Moore was involved in, or had knowledge of, any plot, plan or scheme to commit violent acts against the U.S. Government. This information should include the criminal history, rap sheet, NCIC reports or any other documentation concerning the background of Roger Moore, all contacts between Moore and law enforcement officials and whether he has ever been granted or promised by the government the benefit of plea bargaining, as well as the exact nature of the plea bargain, if it exists, any other incentive or favorable treatment provided, financial, tax or otherwise, and all reports of Moore as an "informant" prior to April 19, 1995, for either the ATF or FBI.

Specification of Materiality: Other suspects. Knowledge by government of conspiracy to destroy federal property through an informant, if in fact he is an informant or there is a conspiracy.

89. All information, however obtained or recorded, of any conspiracy or act by any individual or groups of individuals, either United States citizens, aliens, or foreign nationals, who planned, conspired, carried out or threatened to carry out an act of "domestic" sabotage or "domestic" terrorism, including the construction of a bomb or explosive device, against (1) property of the United States Government, (2) facilities leased or used regularly by the United States Government, (3) officers and employees of the United States Government, from the period of time of January 1, 1991, to the present, with the exception that for such acts prior to January 1, 1991 that may have been planned to be executed or carried out in the State of Oklahoma, the request is from January 1, 1981, to the present.

Specification of Materiality: There have been a number of foreign policy initiatives and military actions by the United States abroad which have incited foreign nationals, some of whom

are members of terrorist groups. In addition, there are reports of United States citizens who have planned terroristic activity against the United States. Any information that the government has that any foreign national and/or American citizen threatened a retaliatory action against United States property or employees, or that American citizens singularly or collectively engaged in such activities that clearly point to other suspects, could be exculpatory, particularly since the grand jury alleges that the Defendants acted in connection with "others" allegedly unknown to the grand jury. Other evidence that suggests that this request is material and relevant includes the following: (1) the statements by Cary Gagan concerning his knowledge of plans to blow up a federal building in a western U.S. city, which earned him a letter of immunity from prosecution; (2) a report sent out to all U.S. Marshals in March, 1995, shortly before the explosion, indicating there would be retaliation against United States' property on a massive scale for an incident at the World Trade Center; (3) the information supplied by Judge Alley to the *Daily Oregonian* to the effect that prior to the bombing, an attack against federal buildings in Oklahoma City was feared; and (4) attacks against United States' property within the United States both before the Oklahoma City Bombing (World Trade Center bombing, Amtrack Train demolition, destruction of LaGuardia Airport Communications Tower) and against United States' property abroad (recent attack in Saudi Arabia). As long as the indictment alleges that there are "others" unknown to the grand jury, these "others" can very easily include the individuals and groups identified generically in Item No. 92.

90. Identification of any person taken into custody and/or questioned by United States law enforcement sources or the law enforcement of a foreign power where such individual might have been a suspect (or was a suspect) or a subject of interest in the Oklahoma City bombing.

Specification of Materiality: Other conspiracies and suspects and suggests suspicion of foreign involvement.

91. Any and all information concerning whether a Black Hawk Helicopter was airborne within five miles of Oklahoma City on April 19, 1995.

Specification of Materiality: Other suspects. There have been some press reports that such an event occurred. This kind of aircraft is often associated with of quasi-military actions by the government against U.S. citizens, such as what occurred in Waco; government misconduct.

92. Exhibit "21" is an article from the *Atlanta Journal and Constitution* dated April 25, 1995, which quotes unnamed sources close to the investigation as saying there is substantial evidence that bombers were targeting another federal building in the Midwest that housed several law enforcement agencies. The *Atlanta Journal and Constitution* said among the telephone tips to the FBI were reports that the suspects were seen visiting federal buildings in other cities before they selected Oklahoma City. Timothy McVeigh was identified as the man who spent some time in Omaha, Nebraska, days before the bombing asking questions about a similar federal building. ". . . [T]he custodian at that building was suspicious enough to report the incident to authorities before Wednesday's bombing."

Specification of Materiality: This information contradicts other evidence that Mr. McVeigh was in Kingman, Arizona, and suggests and supports mistaken identity.

93. All information from Ryder Truck Rental or any other truck or automobile rental indicating that a T. McVeigh wanted to rent a Ryder truck, together with information of any other suspicious rentals of trucks that may relate to the Oklahoma City bombing.

Specification of Materiality: Possibility of mistaken identity; leads to other suspects.

94. All information and evidence that a conspiracy existed to target another federal building in the midwest that houses several law enforcement agencies, together with any information that Tim McVeigh was seen in any other federal building in the midwest.

Specification of Materiality. Mitigation; impeachment of government officials; inconsistent with government theory of case.

I. OTHER SUSPECTS

95. The names and addresses of any individuals consulted by the Government as experts in terrorism or counter-terrorism that have given or proffered an opinion tending to indicate that others besides those already indicted were involved in the bombing, and the reports, statements, interviews, notes, summaries, or memoranda prepared by such expert or in relation to such expert.

Specification of Materiality: Other suspects, impeachment.

96. The identities of all other domestic terrorist groups which have committed violent acts through utilization of a bomb (with components of fertilizer and fuel oil) carried in a vehicle. This request includes the location and dates of such acts and the person(s) or groups responsible.

Specification of Materiality: Other suspects.

97. Any and all information concerning previous violent acts or threats of violence committed by domestic, right-wing groups or members thereof against United States' property,

employees or citizens in the nine (9) months prior to April 19, 1995. This request includes the location and dates of such threats or acts and the person(s) or group responsible.

Specification of Materiality: Other suspects.

98. The name and address of any individual or group which has admitted knowledge of or participation in the Oklahoma City bombing. This request includes all reports from law enforcement, 302s, and corresponding memoranda.

Specification of Materiality: Other suspects.

99. Any and all information concerning calls after the bombing to the Drug Enforcement Administration reporting information or knowledge of individuals responsible for the bombing of the Murrah Building, including the name and address of any persons who made such a call and the substance of the conversation or recording, together with any 302s, statements, interviews, memoranda, summaries and airtels.

Specification of Materiality: Other suspects.

100. Copies of any and all bulletins or reports put out for automobiles or persons to be apprehended as suspects of the Oklahoma City bombing or witnesses of the bombing and the corresponding reports, memoranda, 302s, statements, and airtels generated concerning these bulletins or persons.

Specification of Materiality: Other suspects.

101. A list of the names and addresses of individuals with clearance to enter the proximity of the bomb site, as well as the applications and/or authorizations corresponding to such permits, together with any logs which reflect the comings and goings of individuals to and from the bomb scene or the downtown Oklahoma City area.

Specification of Materiality: Investigation of names will lead Mr. McVeigh to evidence relating to other explosive devices in the Building and to impeach the government's theory that a single explosive device was used.

102. Any and all information regarding the severed leg found in the Alfred P. Murrah Building, as well as other reports or documents concerning other unidentified body parts, together with any evidence of missing persons suspected as victims or perpetrators of the bombing.

Specification of Materiality: This information is related to whether there are other suspects who might have been killed in the explosion and to possible impeachment of government experts who have ruled out the severed leg as belonging to John Doe #2. The severed leg found at the Alfred P. Murrah Building cannot be identified or linked to any other victim or any known reported missing person. See Exhibit 31. One eye witness claims to have seen an individual resembling John Doe #2 exit alone from a Ryder truck--not Tim McVeigh.

103. Any and all reports of special task forces or other law enforcement groups or private organizations providing information to the government, with respect to investigations into the activities of far-right political groups or citizen militias that the government, or any agency of government, has considered as suspects in its investigation of the Oklahoma City bombing.

Specification of Materiality: Other suspects; negation of guilt to the extent Mr. McVeigh has no connection with any of these groups.

104. Any and all reports, notes, memoranda, follow-ups, statements, 302s, and airtels regarding the sighting of a dark pick-up truck alleged to have carried suspects of the Murrah Building bombing. See Exhibit 30. This should include but not be limited to the interview or

statement which resulted in the announcement of a brown pick-up as a suspected vehicle and any sketches, drawings, descriptions, or other communications regarding the individuals claimed to have been near the truck.

Specification of Materiality: Other suspects; impeachment of eye witness.

105. Any and all reports, notes, memoranda, follow-ups, statements, 302s, and airtels concerning the possible involvement in the Murrah Building bombing by individuals driving a white, 1981 Oldsmobile or a white Thunderbird.

Specification of Materiality: Like ¶ 104, ¶ 105 was also the subject of an all points bulletin of possible leads. The *New York Times* reports that a John Doe #2 type individual was driving a white automobile in Herington, Kansas, on Tuesday before the bombing on Wednesday.

106. Any and all reports, notes, memoranda, follow-ups, statements, 302s, and airtels indicating that Mike and Lori Fortier or other suspects were seen in Oklahoma within the two days prior to April 19, 1995.

Specification of Materiality: Other suspects, impeachment.

107. Any and all intelligence reports generated by a foreign government,¹¹¹ but in the possession of or available to the United States government, bearing upon the possibility of identifying suspects other than Mr. McVeigh in the bombing of the Murrah Building in Oklahoma City.

Specification of Materiality: Other suspects, impeachment.

¹¹¹ Classified and/or foreign intelligence and electronic surveillance will be the subjects of separate motions for exculpatory evidence; however, these general *Brady* requests are appropriate here.

108. Any and all information, as well as the identities of all known or suspected terrorist groups, either foreign or domestic, who claimed responsibility or took credit for the bombing of the Murrah Building. This information should include any possible motivation of the group to exact violent acts against the United States Government, any history of violence against federal property or federal employees, and the ability of such group to finance and execute a bombing. Additionally, we request the names of the eight organizations or groups which purportedly took credit for the bombing, the stated reason for the bombing and the substance of any statement or recordings, or transcripts of the conversations between the group taking credit for the bombing and the law enforcement agency receiving the report, should recordings or transcripts exist.

Specification of Materiality: Other suspects. Press reports indicate that on the day of the bombing, at least eight (8) groups took responsibility for the bombing.

109. Any and all information concerning the documents and other material obtained from the Kinko's in Manhattan, Kansas which relate to individuals suspected as perpetrators of the Oklahoma City bombing, as well as any 302s, airtels, reports, summaries or memoranda regarding statements or interviews given by witnesses related to the Kinko's.

Specification of Materiality: Other suspects.

J. JOHN DOE NO. 2 SUSPECTS

110. Any and all information concerning the sketches or drawings of John Doe #2 performed by Artist Jean Boylan, a free lance artist from Bend, Oregon, as well as Boylan's interviews with witnesses and those witness statements from which she derived the information

necessary for preparation of the composite drawing. This request includes copies of each drawing prepared, when it was prepared and what statements it was based upon. Further, we request the names and addresses of all witnesses Boylan interviewed and the substance of their statements.

Specification of Materiality: Other suspects. Impeachment of eye witness.

111. All leads and reports concerning "John Doe #2," including but not limited to, the names, addresses and statements of all persons questioned concerning John Doe #2 and all persons suspected of being John Doe #2 together with criminal background checks, FBI rap sheets, NCIC reports and any other documentation concerning those individuals' history. See Exhibits 38 and 39.

Specification of Materiality: Other suspects. Impeachment of eye witness.

112. A list prepared by federal law enforcement authorities of men who fit the John Doe description and were known to have associated with McVeigh.

Specification of Materiality: On April 24, 1995, the *Commercial Appeal* in Memphis, Tennessee, reported that law enforcement prepared a list of men who both fit the John Doe description and were known to have associated with Mr. McVeigh. See Exhibit "10." This amounts to a list of other suspects which may support evidence that Mr. McVeigh was framed or set up or that it is a coincidence that someone he knows looks like John Doe No. 2. The same article states that law enforcement believes that there are "at least four men" thought to be involved in the attack, including John Doe No. 2.

113. Any and all information related to Abraham Abdullah Ahmad, a Jordanian suspected in the bombing, including any drawing, sketch, image, fingerprint, or witness

statement concerning Ahmad which prompted Ahmad's detention. Also included in this request are the inventory and results of any searches made of Ahmad or his property, as well as the result of any polygraph test taken by Ahmad and Ahmad's statements, with the corresponding memoranda, reports, 302s generated by law enforcement. Additionally, we request all information related to the civil lawsuit brought by Ahmad.

Specification of Materiality: Abraham Abdullah Ahmad was a material witness and thought to be implicated in the bombing. See Application for Material Witness Warrant attached hereto as Exhibit "7." He was detained in London and reportedly not allowed to enter the country. He has filed a civil action against the United States.

114. Any and all information concerning Steven Colburn (or Colborn) and Dennis Kemp Malzac, including information about their arrests, and any searches or seizures performed on them or their property which indicate whether Mr. Colborn or Mr. Malzac was involved in the Oklahoma City bombing. Further, we request all statements, pleas, favors, etc., given by Colborn or Malzac and any rewards or incentives offered to Colborn or Malzac.

Specification of Materiality: Mr. Colburn, a chemist, was a suspect at one time and there were reports that Mr. Colburn's car (or truck) was seen in Oklahoma City on the day of the bombing. He was a fugitive from justice at the time he was arrested. He is presently in custody in California awaiting sentencing in federal court.

Dennis Kemp Malzac was arrested in Mohave County, Arizona, according to the *Durham Herald Sun* of May 14, 1995. See Exhibit "8." He was charged with felony arson of an unoccupied structure stemming from a bomb in Kingman, according to the Chief Deputy County Attorney. Malzac was a roommate of Steven Colburn. Colburn was described as armed,

dangerous, and trained in survival skills, and he pulled a .22 caliber revolver from his black jeans when arrested. When he was seized in 1994, he carried a knife, an SKS assault rifle, a silencer, and two loaded handguns. He failed to appear for court appearances on October 21, and listed numerous residences. He holds an undergraduate degree in chemistry from the University of California at Los Angeles. *Scripps Howard* reported that an automobile driven by him was seen passing Mr. McVeigh's car at the time of his arrest on the interstate highway.

The above facts are sufficient to indicate their relevance of any information about these subjects as possible exculpatory evidence in this case. These two men knew each other, one was capable of making a bomb, one had an automobile similar to one found near the scene, he may have been seen passing Mr. McVeigh at the time of McVeigh's arrest, he engaged in flight from prosecution, was armed, and has a background in chemistry. All information concerning Colburn and his roommate, who was charged with constructing and using a bomb in Kingman, is obviously material and exculpatory of Mr. McVeigh. Exhibit "8."

115. Any information concerning whether Josh Nichols is John Doe No. 2.

Specification of Materiality: The *St. Louis Post Dispatch*, on May 10, 1995, Exhibit "9," reported that Josh Nichols could be John Doe No. 2. If so, this is exculpatory to Tim McVeigh and would suggest that John Doe No. 2, rather than being with Mr. McVeigh was in fact with Terry Nichols. The defense has been informed by an attorney for Josh Nichols that he identified himself as John Doe No. 2 in an FBI interview.

116. All information relating to Bonard Sevenacre or Sevenackkar (phonetic spelling) described as a person who resembles John Doe No. 2 and speaks with a marked German accent. See Exhibit 34.

117. All information concerning David Delgado Iniguez, who may have been under consideration at one time, and may still be under consideration, as John Doe No. 2.

Specification of Materiality: See the *Commercial Appeal* of Memphis, April 24, 1995, Exhibit "10."

118. The defense has learned that the law enforcement forces of a Continental European power took into custody an American citizen and detained him for questioning about any involvement with the Alfred P. Murrah Building bombing when he entered that country from another continental European country, both of which are members of the European Community. The individual was described as wearing fatigues, and the arresting country's law enforcement had been informed that he might be John Doe No. 2. This incident occurred in the last week of April, 1995. Our information is that this is just one of a number of people who were questioned by foreign police powers.

Specification of Materiality: Other suspects and conspiracies and possible foreign involvement.

119. Unidentified member of Aryan Nation who provided information relating to the Oklahoma City bombing.

Specification of Materiality: On April 28, 1995, a memorandum was sent from FBI SAC Dallas, Texas, to Special Agents in reference to the Oklahoma City bombing, regarding a source in the Aryan Nation who stated he had stolen a truck to take to Idaho. The truck was to be loaded with explosives to be used against a federal judge. This individual claims that Richard G. Butler may have been involved in the explosion and that the FBI received information indicating that four (4) federal judges are targeted for explosion: Judge Daugherty

of Oklahoma City, Judge Lodge of Idaho, Judge Smith of Waco, and Judge Rodtherio of Roundup, Montana (phonetic spelling). See Exhibit 34.

120. Any and all information concerning the persons depicted in photographs referred to in a *New York Times*' article on April 29, 1995.

Specification of Materiality: The *New York Times* for April 29, 1995, Exhibit "11," reports that in Junction City, Kansas, "agents from the FBI and the Army's Criminal Investigation Division have been showing potential witnesses photographs of two other men. According to several people who have been interviewed, one photograph is of a man in his forties with long scraggly dark brown hair. The other is a formal military photograph taken during Basic Training. The photograph looks old, and the young man in it is wearing an Army dress cap, and has a chubby face, those interviewed said." Neither description fits Timothy McVeigh or any other person arrested in this case or known to Mr. McVeigh, and suggests the possibility that law enforcement believe others than those publicly identified are involved.

121. Any and all information concerning active duty soldiers and/or armed forces deserters or AWOL soldiers or enlistees who may have been suspected as perpetrators of the bombing, including the names and addresses of such individuals together with their statements, and interviews and the reports, notes, summaries, 302s, memoranda, and airtels generated.

Specification of Materiality: The FBI pursued an AWOL soldier from Fort Riley as an initial early suspect. *See Exhibits "10" and "12."* The FBI excluded David Iniguez (AWOL) and Todd Bunting, who is a soldier and was at Elliott's Body Shop in April, 1995.

122. Any and all information concerning the statements by witness(es) who have purportedly seen an individual who resembled FBI sketches of John Doe #2 in the parking lot

near the room allegedly rented by Timothy McVeigh on Saturday, April 15 at the Dreamland Motel, Junction City, Kansas. This request includes the statements and interviews regarding the above by Shane Boyd along with corresponding 302s, summaries, memoranda, reports, notes and airtels.

Specification of Materiality: Impeachment if there is no John Doe #2. Inconsistent with other evidence. Inconsistent with government's theory of case. See Exhibit 27.

123. Any and all information concerning statements by witness(es) who purportedly viewed an individual who resembled FBI sketches of John Doe #2 on Sunday, April 16 at the Dreamland Motel in Junction City, Kansas. This request includes those statements made by Connie Hood, as well as corresponding 302s, memoranda, notes, reports, summaries and airtels.

Specification of Materiality: Impeachment if there is no John Doe #2. Inconsistent with other prosecution evidence. See Exhibit 27.

124. Any and all information concerning statements by witness(es) who purportedly viewed an individual who resembled FBI sketches of John Doe #2 on Monday, April 17 at the Dreamland Motel, Junction City, Kansas. This request includes all statements made by Connie Hood and/or Donald Hood and David King, as well as corresponding 302s, memoranda, notes, summaries, reports and airtels.

Specification of Materiality: Inconsistent with government's theory of the case. Impeachment of eye witnesses identifications. See Exhibits 27 and 28.

125. Any and all information concerning statements of witness(es) who purportedly saw Tim McVeigh and another individual who resembles the description of John Doe #2 on April 17, 1995, at Cardie's Corner, a convenience store in Herington, Kansas. This request includes

all statements made by Larry Wild and the corresponding 302s, statements, interviews, summaries, notes, memoranda, reports and airtels.

Specification of Materiality: Wild reports on April 17 he saw John Doe No. 2 with Mr. McVeigh in Herington, Kansas, which suggests other suspects. Inconsistent with government's theory of case. See Exhibit 27.

K. **LEADS**

126. All information, reports, and documents following up the investigation of the 14,800 substantive leads, which resulted from 36,000 telephone calls to the FBI, and which have been "written up and sent to FBI offices around the country." The existence of these documents was made known in an *Associated Press* story dated May 5, 1995, following the Thursday regular press conference of the Attorney General of the United States, by "a federal official" speaking on "condition of anonymity" (Exhibit "13").

Specification of Materiality: Other suspects, possible impeachment.

127. All leads resulting from individuals who have filed, or expressed an interest in filing or accepting, the \$2 million reward offered by the U.S. Government or any other public or private rewards and the corresponding notes, memoranda, summaries and reports from those leads.

Specification of Materiality: Impeachment for bias, motive, and hope of gain.

128. All reports and follow-ups of reported leads resulting from phone-ins to law enforcement agencies. This should include, but not be limited to, phone-ins to the numbers

advertised to the public as hotlines, as well as all other unsolicited leads and the reports and corresponding memoranda from each of those leads.

Specification of Materiality: Other suspects, possible impeachment.

129. Any and all information from the BATF National Response Team related to the Oklahoma City bombing.

Specification of Materiality: Lead to possible other suspects.

L. **PRIOR WARNING OF BOMBING**

130. Reports, memoranda, or statements regarding the whereabouts of law enforcement officials with offices in the Murrah Building on the day of April 19, 1995.

Specification of Materiality: Evidence may suggest other suspects because of some basis to believe the prior warnings. This also suggests that if there were prior warnings that were taken seriously, at least by the BATF, there is some complicity by the government or some greater knowledge of who committed this crime.

131. The U.S. Marshal's memo referenced in the *Newark (New Jersey) Star Ledger* of March 22, 1995, concerning threats to federal buildings, and requesting stepped up security, along with any other internal reports or memoranda generated in the past two years which pertain to the escalation of security or other protective measures of federal buildings because of perceived threats by terrorism. Newspaper article concerning U.S. Marshal's memo is attached as Exhibit "14."

Specification of Materiality: Other suspects. Evidence may suggest other suspects because of some basis to believe the prior warnings. This also suggests that if there were prior

warnings that were taken seriously, at least by the BATF, there is some complicity by the government or some greater knowledge of who committed this crime.

132. All statements, reports, or memoranda referring to Oklahoma City's Murrah Building as a potential target of terrorism which were generated prior to, or contemporaneous with the bombing on April 19, 1995. This request includes, but is not limited to, the facsimile letter sent to Representative Stockman of Texas regarding domestic terrorism, as well as any reports, memoranda, airtels, or other communication and documentation regarding that lead and its follow-ups.

Specification of Materiality: Other suspects.

133. All reports concerning previous letters of immunity or leads concerning the threatened or actual bombing of federal buildings and/or terrorism activities against the U.S. government within the last two years. This should include but not be limited to all reports, memoranda, summaries, 302s, and airtels concerning the claim of Cary Gagan of Denver, Colorado that he knew of a conspiracy to bomb federal buildings in Denver or a nearby city (see Exhibit "15" (attached letter of immunity)).

Specification of Materiality: Other suspects.

134. Any and all information that on or about April 14, 1995, someone from a governmental agency contacted the Oklahoma City Fire Department regarding an upcoming potential bombing.

Specification of Materiality: Other suspects. Prior knowledge of the act and at least a degree of "complicity" with it by failure to warn the public and government employees.
Mitigation.

135. Any and all information provided by the Oklahoma Governor's Office, U.S. Attorney's Office, the FBI, and the ATF to Edye Smith and/or her family.

Specification of Materiality: Other suspects. Inconsistent with government theory of only one blast and in addition, evidence of more than one bomb--shown by the need to evacuate the area around the Murrah Building (more than once) during the first few hours of the rescue efforts.

136. Any and all information concerning sweeps for bombs at the Murrah Building in Oklahoma City conducted from April 5-22, 1995.

Specification of Materiality: Other suspects.

137. A list of names and addresses of employees of the BATF Office of the Murrah Building who were absent from the Alfred P. Murrah Building on April 19, 1995 before 9:00 o'clock a.m.

Specification of Materiality: Other suspects. Evidence may suggest prior government knowledge of possible violence based upon intelligence information and other suspects.

138. Any and all information concerning dispatch of the bomb squad of the Oklahoma City Police Department, Oklahoma County Sheriff's Department, Oklahoma City Fire Department or any other law enforcement agency to the downtown Oklahoma City area anytime during the week prior to and the morning of April 19, 1995, before 9:00 a.m. This request includes but is not limited to any information of the report or statements of Attorney Dan Adonitis of a bomb squad truck in the vicinity of the Murrah Building at around 7:30 a.m. on April 19 and reports by federal employees of a bomb truck near the parking lot of the Murrah Building the morning of April 19, 1995.

Specification of Materiality: Other suspects and prior warning of bomb threats.

Mitigation.

139. Copies of all prior warnings of violence or disturbances identifying the Alfred P. Murrah Building or the United States Courthouse as possible targets issued to any federal employees, including all information underlying such warnings. This request includes the warning directed to employees in the Murrah Building and to the United States Courthouse referenced in Judge Wayne Alley's interview on April 20, 1995 with the *Oregonian*. A copy of the *Oregonian* article is attached as Exhibit "16."

Specification of Materiality: Other suspects and prior warning of bomb threats.

Mitigation.

140. All information which contradicts other information concerning Arizona license plate LVC-646, which was supposedly on Tim McVeigh's Mercury Marquis but was seen on another automobile by witnesses in Oklahoma City. Allegedly this sighting was captured on a video tape. We seek production of all information including the video tape, which purportedly shows this license plate. (Exhibit "20," *Charleston Gazette*, April 28, 1995).

Specification of Materiality: It is reported that Mr. McVeigh was arrested in an automobile without a license plate, which furnished the basis for his stop. If in fact his car had a license plate on it, then there was no probable cause to stop him and detain him, and the fruits of the search could likely be suppressed. Alternatively, his license plate on another car could have resulted from the license plate being removed by persons unknown to Mr. McVeigh so that his car would be stopped so the other individuals could make a safe getaway.

M. GOVERNMENTAL DISPATCHES AND RECORDINGS

141. For two weeks prior to and through April 22, 1995, any and all Oklahoma City Fire Department, Oklahoma City Police Department and Oklahoma County Sheriff's Office unabridged dispatch logs and recorded phone conversations, which relate in any way to bomb threats or threats of violence against government (federal, state, or local) agents, agencies or property.

Specification of Materiality: Evidence of other suspects and prior warnings--suggesting government "complicity." Also, we believe these sources will show reports of more than one blast on April 19 and that numerous bomb threats were made on or before April 19.

142. Copies of all communications between the Oklahoma City Police Department's main station and squad units on April 19, 1995 including all points bulletins.

Specification of Materiality: Other suspects, numerous radio calls that day regarding sightings of suspects unrelated to Mr. McVeigh.

N. LAW ENFORCEMENT IMPEACHMENT

143. Any and all notes, memoranda, summaries, reports, or statements of any kind prepared by the Inspector General of the F.B.I., the Department of Justice, the Office of Professional Responsibility, Internal Affairs, or any other agency in connection with investigation(s) into allegations of misconduct of law enforcement agents directly or indirectly involved in the investigation of the bombing of the Murrah Building in Oklahoma City. Those agents include, but are not limited to: James T. Thurman, Roger Martz, and any other individual accused of any type of wrongdoing, misconduct, or violation of policy concerning the

operation of the FBI Laboratory's Scientific Analysis Section or Materials Analysis Unit or any other part of the FBI laboratory.

Specification of Materiality: Impeachment of FBI experts on the bombing. See Exhibit "3" which alleges destruction and/or manufacture of evidence by FBI agents in Moody (Judge Vance) and New York World Trade Center bombings.

144. Any and all information concerning allegations of misconduct by Department of Justice lawyers directly or indirectly involved in this case.

145. Any and all audits, internal reviews, and compliance studies and reports of the General Accounting Office or Inspector General with respect to compliance with laboratory standards, or the lack thereof, of the FBI Laboratory or any other law enforcement agency in the investigation of this case during the last three (3) years.

Specification of Materiality: Impeachment. Press report at Exhibit "4" suggests allegations of irregularities are being investigated.

146. Any and all information which evidences when the FBI learned of Tim McVeigh's detention at the Perry, Oklahoma (Noble County) Jail. This request includes all dispatch reports and reports related to the assignment of officers to the McVeigh case. Included in this request is all information as to when and how law enforcement officials learned the address of James Nichols' home in Decker, Michigan and as to the steps taken to prepare for the raid on or about April 21 of Mr. Nichols' farmhouse.

Specification of Materiality: Impeachment. Evidence for Motion to Suppress. Mr. McVeigh believes the FBI had knowledge of his presence in the Noble County Jail prior to Friday morning and orchestrated efforts to prevent his attorney from seeing him. The time law

enforcement (BATF) claims knowledge of Mr. McVeigh's presence in jail cannot be reconciled with the necessary preparation for executing the search warrant for James Nichols' house in Decker, Michigan.

O. PHOTOGRAPHS, LINE-UPS AND RECORDINGS

147. Any and all footage or photographs depicting the Ryder truck alleged to have contained the bomb, as well as any other footage or photographs depicting the downtown Oklahoma City area shortly before the bombing on April 19, 1995 and shortly thereafter.

Specification of Materiality: No photo or video contains the image of Mr. McVeigh. Moreover, reports suggest that the photos/video show two persons in the truck--not one. Other suspects. Negation of guilt.

148. The April 19, 1995, video tape from Charles Hanger's state trooper's car at the time of the arrest of Mr. McVeigh.

Specification of Materiality: The *St. Paul Pioneer Press* and the *Associated Press*, respectively, reported on May 5, 1995, Exhibits "17" and Exhibit "18," that a video tape was made from Oklahoma Trooper Charles Hanger's car showing a brown pickup truck stopped ahead of Mr. McVeigh's car when Mr. McVeigh was arrested. The first all points bulletin issued by law enforcement after the bombing was for a brown pickup and can clearly be heard on television. Other suspects.

149. A reproduction of all physical line-ups or photographic spreads which included Tim McVeigh.

Specification of Materiality: Impeachment of eye witness identification.

150. A copy of all photographs, drawings or likenesses (including film and/or video tape) and any information concerning identifications, positive or negative of those items used by law enforcement to locate additional or other suspects.

Specification of Materiality: Suggests other suspects; impeachment of some identification witnesses; supports witnesses for the defense.

151. Any and all audio and/or video recordings which captured the images or sounds of the Murrah Building explosion, as well as the names and addresses of the individuals in the possession of such information and from where it was generated.

Specification of Materiality: Impeachment of government forensic evidence and theory of only one blast and of the type of detonation.

152. Any and all video and/or audio footage from agencies or individuals associated with Southwestern Bell Telephone Company which depict the downtown Oklahoma City area from April 18 to April 20, 1995.

Specification of Materiality: Impeachment of government forensic evidence and impeachment of eye witnesses.

153. Any and all photographs taken by Tim McVeigh that were seized from the home of Bill McVeigh, including photographs of Area 51 or "Dreamland" in Nevada.

Specification of Materiality: These photographs may be helpful in mitigation, since they portray matters of interest to Mr. McVeigh.

154. All information indicating that Timothy McVeigh may have snapped a photograph of the massive explosion of the federal building as it occurred.

Specification of Materiality. The *Houston Chronicle*, April 23, 1995, (Exhibit "19") reports that Mr. McVeigh "may have taken a photograph" of the explosion. No such photograph was found on Mr. McVeigh or in his person pursuant to any search. This report suggests that while there may be a photograph, it may not have been taken from Mr. McVeigh. In addition, the *Houston Chronicle* source (from the FBI) states that Terry Nichols "may have been at the scene taking photographs." Terry Nichols seems to have an alibi for the day of the explosion, so the presence of a Terry Nichols "look alike" in Oklahoma City suggests a case of possible mistaken identity. Other people have claimed to have seen Terry Nichols, or that someone may have framed Terry Nichols, and by implication Mr. McVeigh. Finally, this information suggests that there may in fact have been another person, who is the bomber, who was at the scene.

155. Any and all information concerning photographs shown by law enforcement agents to Timothy McVeigh while he was held at the Perry, Oklahoma (Noble County) Jail including copies of the photographs and the identities of the law enforcement officials.

Specification of Materiality: Government misconduct and for Motion to Suppress.

156. Any and all video tapes or films of April 18-19, 1995, of or from the Murrah Building and/or federal courthouse parking garage. See Exhibits 30A and 30B.

Specification of Materiality: Mr. Linehan's testimony, if accurate, suggests that the yellow Mercury was driven into the parking garage the morning of April 19 at or near the time (just before) the explosion. See ¶ 13.

157. Any and all information concerning the existence of, and filmed record made by, a Wichita, Kansas, surveillance camera which and purportedly filmed the Ryder truck and/or bombing suspects on or about April 18-19.

Specification of Materiality: Impeachment of eye witness identification, other suspects.

P. OTHER CAUSES FOR EXPLOSION

158. All reports, notes, memoranda, statements, interviews, airtels, 302s, and any other information which the Government has in its possession or knows of regarding the storage of weapons, ammunition or other explosive or incendiary material in the Murrah Building on April 19, 1995.

Specification of Materiality: Impeachment; negation of government theories concerning explosive device.

159. Any and all reports of deliveries of any kind of weapons or explosive or incendiary devices to the Murrah Building in Oklahoma City and the reason for such deliveries, if any existed, as well as the names and addresses of the supplier and delivery person and the date of deliveries.

Specification of Materiality: Negation of forensic evidence of FBI lab re: bomb. Suggests government contributed to damage and cover-up (impeachment of government agents and officials).

160. All information concerning the TOWS missile and the two 2x2 boxes of explosives taken from the Murrah Building, as well as all other explosives recovered from the Murrah Building.

Specification of Materiality: Negation of forensic evidence of FBI lab re: bomb. Suggests government contributed to damage and cover-up (impeachment of government agents and officials).

161. All training explosive devices recovered from the Murrah Building.

Specification of Materiality: Negation of forensic evidence of FBI lab re: bomb. Suggests government contributed to damage and cover-up (impeachment of government agents and officials).

162. Any and all information, including reports, memoranda, notes, summaries, airtels, 302s and follow-ups concerning the existence of explosive devices found in the Murrah Building after the 9:02 a.m. bombing on April 19, 1995. This request includes all information as to what formed the basis for the warnings about additional bombs which resulted in the evacuations of the Building after the blast, but before rescue efforts were completed.

Specification of Materiality: During rescue efforts all rescue workers, investigators and media personnel were ordered to withdraw several blocks because other bombs were apparently found at the scene. Evidence of other bombs is incompatible with the government's allegations in the indictment.

Q. RESCUE AND BOMB SNIFFING DOGS

163. The names and addresses of the owners of all dogs used in the recovery of explosives or investigation of the bombing and an inventory of all items found by the dogs or analyzed by the government because of leads discovered by the dogs.

Specification of Materiality: Counsel believes that evidence of explosives other than the "truck bomb" were discovered by workers and the rescue/bomb dogs, which would be inconsistent with the government's theory. May also suggest a cover-up; impeachment.

164. Names and addresses of all the other "rescue dogs" owners and items that were found by them.

Specification of Materiality: Counsel believes that evidence of explosives other than the "truck bomb" were discovered by workers and the rescue/bomb dogs, which would be inconsistent with the government's theory. May also suggest a cover-up; impeachment.

165. Any information concerning the health of the rescue dogs since April 19, 1995.

Specification of Materiality: There are reports that the dogs are becoming ill with radiation sickness, suggesting the presence of a nuclear device, which would be inconsistent with the government's theory. May also suggest a cover-up; impeachment.

R. PRIOR BAD ACTS (404(b))

166. A log or record of every date and location in which Timothy McVeigh was stopped by law enforcement and any and all reports generated from such stops including the reason for such stop and disposition.

Specification of Materiality: Impeachment of government's theory of his whereabouts and eye witness identification.

S. MENTAL HEALTH AND MITIGATION

167. Any psychological or physiological profiles or reports derived from data collected regarding Timothy McVeigh and the original information from which the profile, if it exists, was derived. This would include but not be limited to all reports of examinations, physical or

mental, of Mr. McVeigh and scientific tests or experiments made in connection with this particular case.

Specification of Materiality: Mitigation. Press reports say the government has such profiles data. In addition, the government has subpoenaed Mr. McVeigh's psychological test from the Special Forces which was not read by the Armed Forces until April 25, 1995--nearly four years after the tests were taken.

168. Any and all information in the possession of the government concerning psychological profiles prepared by the government or law enforcement agencies or criminologists of bombers or mass murders.

Specification of Materiality: Other suspects; negation of guilt.

169. This request includes, but is not limited to, any information including psychological or psychiatric profiles or analyses in the possession of the government, tests, conclusions, or reports that:

- a. tends to show that Mr. McVeigh's capacity to appreciate the wrongfulness of his conduct or to conform conduct to the requirements of law was impaired at the time of the alleged offenses;
- b. tends to show that Mr. McVeigh was under duress at the time of the alleged offenses;
- c. tends to show that Mr. McVeigh's role in the alleged drug conspiracy was minor;
- d. tends to show that Mr. McVeigh could not reasonably have foreseen that his conduct in the alleged offenses would create a risk of death to anyone;
- e. tends to show that Mr. McVeigh had a severe mental or emotional disturbance at the time of the alleged offenses;

- f. tends to show that Mr. McVeigh's background or character may mitigate against the imposition of the death penalty;
- g. tends to show that Mr. McVeigh's family history may mitigate against the imposition of the death penalty;
- h. tends to show that any individuals who may be called as government witnesses have given conflicting or contradictory statements regarding their involvement in this case, the involvement of Mr. McVeigh, and/or the involvement of any alleged associate, accomplice, co-conspirator or co-defendant;
- i. tends to prove or reveal a bias or motive of any witness that the government intends or contemplates calling as a witness;
- j. may tend to impeach a witness at the trial, particularly but not exclusively, inconsistent statements of a witness or between witnesses.

170. Copies of all records, documents and other information concerning Bertha Terrantino, as well as statements, interviews, given by Ms. Terrantino and/or reports related to Ms. Terrantino.

Specification of Materiality: Mitigation.

T. MATTERS RELATED TO VICTIMS AND RESCUE WORKERS

171. All communications with corresponding reports and memoranda between U.S. Government officials and victims or survivors of deceased victims of the bombing of the Oklahoma City Murrah Building. See Specification of Materiality for ¶ 175.

172. All available names and addresses of individuals in receipt of donations, food, medical care or shelter provided in conjunction with the Murrah Building bombing. See Specification of Materiality for ¶ 175.

173. The names of the victims, next of kin, and their addresses (or the United States Attorney's mailing list for his Victim Newsletter). See Specification of Materiality for ¶ 175.

174. A list of the names and addresses of all agencies and individuals, whether volunteers or not, who assisted in the rescue efforts or otherwise gave aid to victims of the Oklahoma City bombing, as well as a log with the dates and times as to when these individuals assisted. See Specification of Materiality for ¶ 175.

175. Any and all information concerning victims and survivors of deceased victims of the bombing, whom the government has contemplated as encompassed within the non-statutory aggravating circumstances, together with current addresses and telephone numbers of those victims and survivors of victims.

Specification of Materiality: The federal death penalty statute, 18 U.S.C. § 3591 et seq., permits the government to submit victim impact testimony--i.e., the impact of the crime on the victims and on the survivors of deceased victims and on the survivors of deceased victims--as an aggravating circumstance. Even though the crime has plainly had an adverse impact on every victim and survivor, there are matters that, potentially, any victim or survivor might know that would be of help to Mr. McVeigh's defense. For example, some victims may have been in a position, like Dana Bradley and Lea Mohr, *see* ¶6, supra, to observe matters that tend to raise questions about Mr. McVeigh's guilt or role in the crime. Other victims may have been witnesses to prosecutorial overreaching or intimidation due to their unwillingness to accept the government's explanation for what occurred or who is responsible. *See* Exhibit "22" (referencing government's treatment of Edye Smith). Still others may have wanted to be left alone to work through their grief privately and without regard to the pending prosecution, yet

have been pursued by the government as witnesses purportedly necessary to assure the imposition of the death penalty. Since the government has thus far been unwilling to divulge any evidence such as this under its *Brady* obligations, Mr. McVeigh must be allowed access to the evidence in the government's possession concerning the victim community.

For another reason, the defense is entitled at minimum to the information necessary to enable his counsel to make informed and systematic contact with members of the victim community. One of the circumstances that works in the government's favor, quite powerfully in this case due to the number of victims, is its ability to appear to be serving the needs of the victim community. To enable the government to do this, at least three members of the prosecution team have been working full time with victims since the beginning of the case. While this has been going on, no one from Mr. McVeigh's team has been able to contact victims systematically because the defense has not had access to any systematized and complete data concerning victims. This set of circumstances contributes to the tendency of victims and members of the public to demonize the person accused. Experience has shown that if counsel for a person accused of a capital crime offers to meet with the survivors of the victim(s), a process of defusing anger and hatred can begin to occur. This process can have a positive effect on the victims' ability to come to terms with the tragedy in their lives and on the ultimate determination of the sentence for the accused should he be convicted. For these basic reasons, therefore, the provision of the victim-related data sought herein falls within the ambit of *Brady*.

III. PROCEDURAL MATTERS

176. Any and all information which is related to survivors and victims' statements pertaining to the bombing and the formation of Task Force 169, a group based in Lawton, Oklahoma.

Specification of Materiality: Task Force 169 is a civic group organized in Lawton to spearhead the community involvement in the preparation for the trial of Mr. McVeigh. Press reports suggestion that Task Force 169 would place the victims' rights first and that this task force will be used to prejudice the community from which the jury may be drawn. Item No. 31 may be considered abandoned and withdrawn if a change of venue from Lawton is granted or sustained. See Exhibit 37.

177. Any and all information related to the notification that the Government has given to the following law enforcement agencies with respect to information to be furnished to comply with *Brady, Giglio* and Rule 16: (1) Bureau of Alcohol, Tobacco and Firearms; (2) Central Intelligence Agency; (3) Criminal Investigative Divisions of the U.S. Army, Navy, Air Force, Marine Corps, Armed Forces and Department of Defense; (4) Bureau of Prisons; (5) National Security Agency; (6) Secret Service; (7) Internal Revenue Service; (8) Defense Intelligence Agency; (9) Federal Emergency Management Association; (10) General Services Administration; (11) Drug Enforcement Administration; (12) Department of Defense or any other Uniformed Services; (13) Federal Bureau of Investigation; (14) Defense Investigative Agency; (15) United States Postal Inspection Service; (16) Bureau of Intelligence and Research of the State Department; (17) United States Customs Service; (18) Passport Office of the Department of State; (19) Office for Combatting Terrorism of the United States State Department; (20) United

States Department of Transportation; (21) Federal Aviation Administration; (22) Immigration and Naturalization Services of the Department of Justice; (23) United States Marshall Service; (24) National Security Counsel; (25) Department of Defense Joint Special Operations Command; (26) Department of Defense Special Operations Agency; (27) Executive Protective Services; (28) Oklahoma State Bureau of Investigation; (29) Oklahoma County Sheriff's Office; (30) Oklahoma City Police Department; (31) Oklahoma City Fire Department; (32) Oklahoma State Department of Public Safety; (33) Oklahoma State Medical Examiner's Office; (34) Tulsa Police Department; (35) Tulsa Fire Department; (36) Noble County Sheriff's Office; (37) Noble County District Attorney's Office; (38) any other law enforcement agency in Oklahoma, Texas, Kansas, Michigan, Florida, Arkansas and Arizona; and (39) any foreign law enforcement agency, including Scotland Yard, the British Security Services, British Secret Services, any security or law enforcement agency of Italy and the Hashemite Kingdom of Jordan, and the Department of State, including Embassies and Consulates of the United States abroad. In the event the Department of Justice has not forwarded such requests, we request that they be forwarded, including one to the Bureau of Prisons and any other subsidiary law enforcement services of the Department of Justice and the Department of the Treasury, together with any intelligence task force or group.

IV. GENERAL "BRADY" REQUESTS

Any and all exculpatory information, documents, or materials, not specifically described above, including but not limited to the following:

1. All information in whatever form, source, or nature which tends to exculpate Mr. McVeigh because it suggests his innocence of this charge, raises a reasonable doubt of his guilt, or impeaches any government witness, or because it reasonably weakens or affects adversely any evidence that may be introduced against Mr. McVeigh, and all information of whatever form, source, or nature which may lead to evidence which tends to exculpate (as defined in this statement) or be favorable to Mr. McVeigh, whether by indicating his innocence, a reasonable doubt of his guilt, or his guilt of a lesser included offense, or impeaching the credibility of any potential prosecution witness or mitigating punishment.

2. Any information or evidence in the possession of the government, the existence of which is known or may become known to the government, tending to show that any individuals, including but not limited to those identified in this Motion, who may be called as government witnesses have given conflicting or contradictory statements regarding their involvement in this case, the involvement of the Defendant, and/or the involvement of any alleged associate, accomplice, co-conspirator, or co-defendant or any other person regardless of the government's view of his/her credibility.

3. Any evidence in the possession of the government, the existence of which is known or may become known to the government which would tend to show that any of the alleged participants in the Indictment were participants in separate conspiracies, organizations, enterprises, or activities not charged in the Indictment and not involving Mr. McVeigh.

4. A full and complete statement of all promises, considerations, rewards or inducements, made by the government, its prosecutors, agents or agencies to induce or encourage any individual's testimony, cooperation or provision of information, wherein the

government has agreed, either with the individual, their counsel, agent or representative, to any of the following:

- a. Not to prosecute said person for any crime or crimes;
- b. Not to prosecute a third party for any crime or crimes where the reason for not prosecuting the third party is a consideration to the person;
- c. To provide a formal grant of statutory immunity, or to provide an informal assurance that the person will not be prosecuted in connection with any testimony, cooperation, for information given;
- d. To recommend leniency or a particular sentence for any crime or crimes for which the person stands convicted or is expected to be convicted;
- e. To comply with any prior agreements although said witness may have previously violated part of their agreements;
- f. To recommend or not impose a reduction of the offense level of the person under the United States Sentencing Guidelines for acceptance of responsibility;
- g. Recommend to the sentencing authority under the United States Sentencing Guidelines a downward departure from the guidelines if that person provides substantial assistance to authorities;
- h. To recommend or not impose any downward departures of offense level reductions for the person under the United States Sentencing Guidelines;
- i. To seal any plea or plea agreement of that person;
- j. To provide favorable treatment or consideration, including but not limited to, money, expenses, subsistence, a job, a new location, a new start, etc., to the person or some friends or relatives of the person in return for that person's testimony, cooperation or provision of information;
- k. To make any beneficial recommendation, regarding the person being a state or federal agency, including but not limited to the Internal Revenue Service, the Immigration and Naturalization Service, or any other agencies;
- l. To cooperate with any state or municipal law enforcement agency and that agency's agreement not to prosecute said person for any crime or crimes prohibited by state or municipal law; or

- m. To make any other recommendation of benefit, or give any other consideration to the person, friends or relatives of said person; or
- n. To provide a statement to, or speak with, any law enforcement agency, prosecution official or court (federal, state or municipal) concerning the witness' assistance or cooperation.

5. Notice, including date, amount and method (cash or check) and purpose of any monies or funds paid to any witness, operative, or informant of the government in return for information, their services or as a reward and/or for the purported payment of expenses and/or for purported obligation of any such witness or operative or informant.

6. Any evidence or information in the possession of the government that would tend to prove or reveal or a bias or motive of any witness that the government intends to or contemplates calling at trial.

7. All evidence tending to establish or which may tend to establish that Mr. McVeigh did not intend to commit any of the acts set forth in the indictment, or did not in fact commit them.

8. Any physical evidence, information, statements, notes, or tangible objects which are evidence, or may tend to lead to evidence, that Mr. McVeigh may have a defense to the crime alleged, or may have committed an offense lesser than that with which he is charged, or that someone else may have committed the alleged crime.

9. A list of the names and addresses of persons interviewed by government agents who gave favorable evidence, testimony, or statements on behalf of Mr. McVeigh as it relates to his guilt or punishment.

CONCLUSION

WHEREFORE, Mr. McVeigh, through counsel, respectfully moves the Court to require the government to produce exculpatory evidence to assist Mr. McVeigh in establishing his claim that he is not guilty of the offense charged against him in the grand jury indictment, or if guilty, that he is not deserving of a death sentence.

DATED this 21st day of December, 1995.

Respectfully submitted,



Stephen Jones, OBA #4805
Richard Burr
Robert Nigh, Jr., OBA #011686
of

JONES, WYATT & ROBERTS
114 East Broadway, Suite 1100
Post Office Box 472
Enid, Oklahoma 73702-0472
Phone: 405/242-5500
Fax: 405/242-4556
Attorneys for Defendant
Timothy James McVeigh

Of Counsel:



Robert L. Wyatt, IV, OBA #13154
Michael D. Roberts, OBA #13764
James L. Hankins, OBA #15506
Julia A. Sims, OBA #16305
Amber L. McLaughlin,
TBA #13740980

PROPOSED ORDER
ATTACHED AT
EXHIBIT "41."

CERTIFICATE OF SERVICE

I certify that on the 21st day of December, 1995, a true and correct copy of the above and foregoing **MOTION TO REQUIRE THE GOVERNMENT TO PRODUCE EXCULPATORY EVIDENCE TO ASSIST THE DEFENDANT, TIMOTHY JAMES McVEIGH, IN ESTABLISHING HIS CLAIM THAT HE NOT GUILTY OF THE OFFENSE CHARGED AGAINST HIM IN THE GRAND JURY INDICTMENT** was mailed, by depositing same in the United States mail, first-class postage prepaid thereon, to:

Joseph Hartzler, Special Assistant
United States Attorney
Sean Connelly, Special Assistant
United States Attorney
Patrick Ryan, United States Attorney
Arlene Joplin, Assistant U.S. Attorney
Jerome Holmes, Assistant U.S. Attorney
Vicki Behenna, Assistant U.S. Attorney
Kerry Kelly, Assistant U.S. Attorney
United States Attorney's Office
210 West Park Avenue, Suite 400
Oklahoma City, Oklahoma 73102-5602
Phone: 405/231-5281

Michael Tigar, Esquire
Ronald G. Woods, Esquire
D. Kate Rubin, Esquire
20 North Broadway
Mid-America Tower, Suite 1620
Oklahoma City, Oklahoma 73102
405/236-4741
Attorneys for Defendant, Terry Lynn Nichols



TABLE OF EXHIBITS

1. Federal Grand Jury Subpoena (District of Kansas) to Darcy.
2. Garland County Sheriff's Department Report Concerning Alleged Robbery of Roger Moore.
3. Whitehurst Memo Concerning Fabrication of Evidence at FBI Lab.
4. Newspaper Articles Concerning Investigation of FBI Lab.
 - 4(A)(1) *New York Times* Article, "Team to Investigate Claims by FBI Chemists" (Lexis Format).
 - 4(A)(2) *New York Times* Article, "Team to Investigate FBI Chemists' Bias Claims" (Newspaper Format).
 - 4(B)(1) *New York Times* Article, "Outside Experts to Review FBI Crime Lab" (Lexis Format).
 - 4(B)(2) "Outside Experts to Review FBI Crime Lab" (Newspaper Format).
 - 4(C) *Washington Post* Article, "FBI Lab Audit Finds Some Discrepancies: Misconduct Allegations Are Not Corroborated."
5. Application and Affidavit for Search Warrant of James Nichols' Property in Michigan (see Paragraph 7 of Affidavit).
6. Newspaper Articles Concerning Earlier "Bombing Plots" of the Oklahoma City Federal Building.
 - 6(A) *Arkansas Democrat Gazette* (Little Rock), "Bomb Set Off CSA Flash Back Murrah Had Been Target Since '83, Turn Coat Says."
 - 6(B) *New York Times*, "Oklahoma City Building was Target of Plot as Early as '83, Official Says."
7. Affidavit for Material Witness Warrant for Abraham Abdallah Ahmed.
8. *The Herald-Sun* (Durham, North Carolina), "Report: Fugitive Not Tied to Blast; Gun Enthusiast Who Knew McVeigh Denied Bond in Firearms Case" (relates to Steven Colbern and Dennis Kemp Malzac).
9. *St. Louis Post-Dispatch*, "Second John Doe May be Nichols' Son."

10. *The Commercial Appeal* (Memphis), "Bomb Suspect's Friends Will Face Weapon Charges" (refers to list of John Doe No. 2 suspects and to AWOL soldier, David Degado Iniguez).
11. *New York Times*, "Terror in Oklahoma: The Hunt; Agents Fan Out in a Town in Arizona, Retracing the Trail of the Jailed Suspect" (concerning C.I.D. investigation).
12. *Daily News* (New York), Refers to AWOL Soldier.
13. *Associated Press* Article on Oklahoma Bombing, Concerns 36,000 Calls to the FBI From Which 14,800 Substantive Leads Were Derived.
14. *The Star Ledger* (Newark, New Jersey), "Lawmen Get Warning of Plot on U.S. Targets" (prior warning of bombing).
15. Cary Gagan Letter of Immunity (prior warning of bombing).
16. *Portland Oregonian*, (refers to prior warnings).
17. *St. Paul Pioneer Press*, "Hunt for John Doe 2 Goes On as Death Toll Rises; Workers About to Give Up Search of Building" (references OHP Trooper's video of brown pickup truck).
18. *Associated Press* Article Concerning Oklahoma Bombing, Mentions OHP Trooper Video Concerning Brown Pickup Truck.
19. *The Houston Chronicle*, "FBI: Suspect Lingered at Blast, He May Have Photographed the Fire Ball."
20. *The Charleston Gazette*, "Search for John Doe No. 2 Intensifies" (refers to Arizona license plates).
21. *The Atlanta Journal & Constitution*, "Second Bombing Plot Probed; Omaha Site Allegedly Scouted Out; New Sketch of 'John Doe 2' Prepared" (references targets of other Federal Buildings in Midwest that housed several law enforcement agencies and to calls made to Ryder Rentals in Minneapolis by T. McVeigh).
22. *Daily Oklahoman* Article, "Boys' Mother Quietly Watches Death Building Fall" (refers to government treatment of Edye Smith, a victim).
23. CNN Interview with Michael Fortier (Fortier exculpates McVeigh).

24. *L.A. Times* Article "Oklahoma City: After the Bomb; Symbol of Healing" (quoting Fortier exculpating McVeigh).
25. There is no Exhibit "25."
26. *New York Times* Article "A Puzzle Unfinished—A Special Report; Despite Oklahoma Charges, the Case is Far From Closed." (Concerns "others unknown").
- 27A. *Austin American-Statesman* Article "John Doe No. 2 Still Part of Bomb Case; Several Versions Place What Could be the Same Man in Company of McVeigh, Nichols or Both." (Connie Hood, Donald Hood, Larry Wild and Shane Boyd sightings of McVeigh).
- 27B. *New York Times* Article "Sightings of John Doe No. 2: In Blast Case, Mystery No. 1." (Hood's, Wild's, Moroz's and Whittenberg's sightings of Doe No. 2).
- 27C. KWTW News Report (Hood's sighting of John Doe No. 2).
28. *Sacramento Bee* Article "Truck is Pieced Together for Clues." (Jeff Davis' account, Whittenberg's suspect sightings, FBI interview of Doe 2 suspects).
29. *New York Times* Article "Bomb Inquiry Continues Its Hunt for Conspirators." (Government questions whether only two people could have committed the crime--possible larger conspiracy).
- 30A(1). *Dallas Morning News* Article, "Bombing Accounts are Varied." (Newspaper format). (Concerning Mike Moroz's sighting of John Doe No. 2 minutes before blast; Linehan's sighting of McVeigh in Mercury, not Ryder Truck before blast; Jeff Davis' delivery of Chinese food to person other than McVeigh at Dreamland Motel; sighting of dark pickup truck allegedly involved).
- 30A(2). *Dallas Morning News* Article, "Bombing Accounts are Varied." (Lexis format). (Concerning Mike Moroz's sighting of John Doe No. 2 minutes before blast; Linehan's sighting of McVeigh in Mercury, not Ryder Truck before blast; Jeff Davis' delivery of Chinese food to person other than McVeigh at Dreamland Motel; sighting of dark pickup truck allegedly involved).
- 30B. *L.A. Times* Article, "Tale From Attorney Could Complicate Prosecution of Oklahoma City Bomb Case." (Lexis format). (Linehan's sighting of McVeigh in yellow Mercury before blast, not in Ryder Truck).
- 31A. *Daily Oklahoman* Article, "Leg Confirmed as 169th Victim's." (Possibility of other suspects).