

The Oklahoma City Bombing Trial Transcripts

Thursday, April 24 (morning)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 96-CR-68

UNITED STATES OF AMERICA,
Plaintiff,

vs.

TIMOTHY JAMES McVEIGH,
Defendant.

REPORTER'S TRANSCRIPT
(Trial to Jury - Volume 60)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 9:00 a.m., on the 24th day of April,
1997, in Courtroom C-204, United States Courthouse, Denver,
Colorado.

Proceeding Recorded by Mechanical Stenography, Transcription
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APPEARANCES

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PROCEEDINGS

(In open court at 9:00 a.m.)

THE COURT: Good morning.

Government ready for trial?

MR. HARTZLER: Government's ready, your Honor.

THE COURT: Defense?

MR. JONES: Defendant is present and ready, your Honor.

THE COURT: Very well. In reintroducing counsel to the jurors, I'll just introduce lead counsel and then you can introduce the other participants on both sides.

MR. HARTZLER: Very well.

THE COURT: We're taking just a minute to get our jurors together. They're good people. They got here in spite of the weather, so we'll just take a minute or two to bring them in.

(Jury in at 9:03 a.m.)

THE COURT: Members of the jury, good morning.

ALL: Morning.

THE COURT: We're very appreciative of your timely arrival in spite of this spring weather. We're grateful to you.

We are ready now to begin the trial of this case, and the first thing is to ask of you that you stand and take the oath prescribed for the jury to try the case. So if you will please stand and raise your right hand and take the prescribed oath.

(Jury sworn.)

THE COURT: Please be seated.

Before we begin, we'll reintroduce the participants in the trial to you, and I will introduce lead counsel who can then introduce the others. So lead counsel for the Government is Mr. Joseph Hartzler.

MR. HARTZLER: Morning, your Honor. Thank you very much.

Morning, ladies and gentlemen. My name is Joe Hartzler. Seated immediately to my left is Beth Wilkinson.

MS. WILKINSON: Good Morning.

MR. HARTZLER: To her left is Mr. Larry Mackey.

MR. MACKAY: Good Morning.

MR. HARTZLER: To his left is Mr. Patrick Ryan.

MR. RYAN: Good Morning.

MR. HARTZLER: At the back table, behind them -- I'm not sure all of you can see -- at the first chair is one of our two case agents. This is FBI Special Agent Jon Hersley.

MR. HERSLEY: Good morning.

MR. HARTZLER: Next to him is Scott Mendeloff.

MR. MENDELOFF: Morning, ladies and gentlemen.

MR. HARTZLER: Next to Scott is Vicki Behenna, and next to Vicki is Aitan Goelman.

MR. GOELMAN: Morning.

MR. HARTZLER: And Larry Tongate. If you'll stand up, Larry. Larry is the other FBI special agent.

Thank you.

I don't expect you to remember all those names. There won't be a quiz.

THE COURT: And lead counsel for the defense is Mr. Stephen Jones.

Mr. Jones.

MR. JONES: Your Honor, members of the jury, to my right, at the head of the table is Mr. Chris Tritico.

MR. TRITICO: Good morning.

MR. JONES: Ms. Jerri Merritt.

MS. MERRITT: Good morning.

MR. JONES: Mr. McVeigh.

MR. McVEIGH: Good morning.

MR. JONES: Mr. Rob Nigh.

MR. NIGH: Good morning.

MR. JONES: Mrs. Cheryl Ramsey.

MS. RAMSEY: Good morning.

MR. JONES: And at the second table, Ms. Mandy Welch, Mr. Richard Burr, Mr. Bob Wyatt, Mr. Randy Coyne, Mr. Mike Roberts.

MR. ROBERTS: Morning.

THE COURT: Thank you.

Other people in the area are court personnel; and I'd introduce all them to you, but I'd probably forget somebody's name and that would not be good, so --

I want to also advise you that as we talked with you during voir dire about televised trials and so forth, there is a television camera in this room. It's on the back wall underneath the clock there. It has a very limited purpose and that is that under a statute passed recently by the United States Congress requiring this court to do so, I have arranged and there is being transmitted by closed-circuit television to a building in Oklahoma City, Oklahoma, the trial proceedings so that persons in Oklahoma who have, as the statute refers to, a compelling necessity to view the trial proceedings and who are unable to do so by the reason of the fact that the trial of this case was moved from Oklahoma City to Denver, Colorado, those persons have an opportunity to view the trial proceedings; and they are doing so.

I assure you that this is closed circuit, which means that it is not subject to being viewed or even copies of it made and given out to ordinary television telecasters, so it is a very limited purpose; and what it amounts to, really, is an extension of this courtroom into a room. The room is actually an auditorium-type room at a Federal Aviation Administration center in Oklahoma. There is there a judge presiding, pursuant to my direction; and the proceedings there are being viewed in an atmosphere as much as possible the same as the atmosphere of this courtroom. The judge is presiding now. That is not there for anybody's -- for any purpose other than to permit those people who couldn't be here with us in Denver to view these proceedings.

Now, also the television camera, so that you'll understand, is a fixed focus and it only gives a view the same

as the persons who are here in the courtroom have a view; and the jury, you, the jurors, are not on camera. That is a reason that we have this sort of extended part of the jury box that goes up there and that screens you off from the television camera view, so everyone there can view all that you see here in the well including the -- we call this area the well of the court -- including the witness box and the witnesses; but they do not have a view of you, and that's why we have this unusual modification of the jury box.

It also, of course, assisted, us as you recall, when you were in here for voir dire.

Now before the trial begins, I have a few preliminaries to tell you; and this is for a purpose of giving you some advance orientation, now, of what to expect as the trial proceeds.

I want to begin by reminding you of the charges in this case, that is, what we're here to try. You may remember that on March the 19th when you were among the larger groups who were at the Jefferson County Fairgrounds, I explained the background of the case and explained that the trial will be on charges that are contained in an indictment returned by the grand jury in the Western District of Oklahoma. The Western District of Oklahoma is where Oklahoma is. And the trial, then, is based on a grand jury indictment containing 11 counts. We call them counts. There are 11 charges, and each charge is a separate offense.

Charge 1 -- or Count 1 charges that Timothy James McVeigh and Terry Lynn Nichols conspired together and with others not named in the indictment to use a truck bomb to destroy the Alfred P. Murrah Building in Oklahoma City and to kill and injure the persons in it.

The Government also charged in Count 2 the use of the truck bomb as a weapon of mass destruction against the persons in the building and, Count 3, the use of a truck bomb against the building because it was owned and used by agencies of the government of United States.

The other eight counts are charges of first-degree murder, and they are charges of individual -- the murder of individual law enforcement officers. They include four agents of the United States Secret Service, two agents of the United States Customs Service, and an agent of the United States Drug Enforcement Administration and an agent of the Department of Housing and Urban Development; and the allegations in the indictment are that these persons were killed while they were engaged in the performance of their official duties as law enforcement officers.

Now, both of the defendants entered not guilty pleas to each of these charges in the United States District Court for the Western District of Oklahoma City, and subsequently the case was moved from the Western District of Oklahoma here to this court after I was assigned to the case for reasons that have already been, I think, explained in the course of the voir=20
dire proceedings.

Now, before I proceed any further with an explanation of the way in which the trial will proceed, I want to remind

each of you of certain fundamental principles here as I did in discussing with you jury service during what we called the voir=20

dire when you were being selected. I mentioned that the charges are contained in a document called the indictment from the grand jury in Oklahoma. An indictment is nothing more than a document that contains the charges that the Government intends to prove. It is not evidence of any kind against the defendant and does not, in any way, change the basic principle of our law that the defendant now on trial, Timothy James McVeigh, is presumed to be innocent of each and every charge contained in the indictment, and this presumption stays with him throughout the trial and entitles him to a verdict of not guilty unless and until the jury finds under the legal rules that are described to the jury by the Court in instructions that the evidence has established each and every element of the charge beyond a reasonable doubt.

Two -- two men were charged in this indictment. The trials have been separated because of differences with respect to the evidence, and therefore, in this trial, only Timothy James McVeigh is on trial. The trial of Terry Nichols, the other defendant, will come later.

Now, Mr. McVeigh's plea of not guilty, again, puts into dispute all of the facts alleged by the Government and calls upon the Government, through counsel, to come in and attempt to prove these charges; and again, a grand jury is nothing like a trial jury. You are here to try the case, that is to hear and determine whether the evidence is sufficient to meet the burden of proof.

A grand jury does not sit like a trial jury in a courtroom. In grand jury, proceedings there is no judge presiding, there is no defense counsel. It's a completely one-sided proceeding, and it simply is an assistance in formulating the charges. So please understand that while the indictment, as all indictments, begin -- begins with the words "The grand jury charges." That does not mean that there has been any kind of trial or charge for the sufficiency of the evidence that would in any way affect your decision.

So we start the trial, as we are today, with no evidence against Timothy McVeigh, and the presumption of innocence applies.

I went over this in some detail with each of you and I'm sure you understand it, so I am repeating it only to remind you of it here.

The trial will proceed in four stages or phases that are quite readily identifiable. We will begin, as soon as these remarks are completed, with opening statements from lawyers on each side.

Now, opening statements are by way of an introduction to what it is the lawyers expect the evidence to be in the course of the trial, so it is simply a preliminary overview for your benefit to assist you in following the evidence as it is brought in in the course of the trial as witnesses appear and testify and as exhibits are offered and received in evidence.

So please understand that nothing said by a lawyer in an opening statement is, in any way, evidence that is to be considered in the trial. It is a matter of convenience for you

considered in the trial. It is a matter of convenience for you to understand in the beginning what it is that's in issue and what it is that the lawyers expect to show you in the course of the trial.

The second phase, then, of course is the taking of evidence, and that is at the phase at which witnesses will come in here one at a time, sit at this witness box, which is right between us, and give their testimony in answering questions put to them by the lawyers in the case. It is also the evidence, the exhibits that will be offered in the course of testimony.

Normally after a witness has identified and testified about an exhibit, then it's offered and either received or not.

Now, the rules of evidence govern what can be heard and considered in trial, and these rules are applied by me as the trial judge in the case; and there will be disputes about what can be heard and considered.

It is the professional obligation of the lawyers participating in the trial to raise these issues of admissibility, and that is done by raising objections. So you'll be hearing that as one lawyer is questioning a witness, the lawyer for the opposing side may interpose an objection and state briefly what the objection is and may be referring to numbered rules.

It is not for you to consider when an objection is made that it has any significance for you until it's ruled on. And I will make these rulings, either saying that the objection is sustained, in which event the witness will not answer the question and you disregard the question.

The fact that a question is made, is put -- and an objection made and ruled on, the objection sustained means you simply disregard the question; and if the question should contain some statement that you would think of as a statement of fact, you have to disregard it because an unanswered question is not evidence in the case.

Then, if the objection is overruled, that, of course, means that I have disagreed with a particular objection; but that again does not give any particular significance to the answer. You should consider that answer even though an objection was made and overruled in the same way as you do any other part of the testimony of the witness; and do not hold it against a lawyer for raising an objection. They're here to do that. It's their professional obligation to do that, and there can be times, with exchanges about this, that can get a little heated. I'll take care of that if it happens; but, you know, that's a part of what the lawyers are here to do and it's a part of why I am here to rule on these matters.

And the rules of evidence are not all that clear, you know. Certainly they are subject to interpretation and application. They are indeed subject to judgment, and I guess that's one of the reasons that the position that I have in this case is called a judge, is because you exercise judgment with respect to these things.

Now, after all the evidence is in, then the third stage comes into play and that's closing arguments; and it is at that time that you will again hear from the lawyers directly. And, again, just as with opening statements, closing arguments are not a part of the evidence. They are efforts by

the lawyers in the case to assist you in understanding the evidence and also in understanding what the issues are for you to decide, the issues of fact as created by the evidence.

And then the last thing that happens at trial is that I tell you about the law and what we call the instructions that govern you in deciding the case. And as I've already said to you in the course of voir dire, those instructions come last, because it isn't until I've heard it all that I can tell you in detail what the instructions are; and they will be, I think, guides for you in what then happens. That's at the close of the trial and it is at that time that you take over and decide the case in your own way, in your own deliberations.

Now, it is -- a couple of things are very important. One is that you keep open minds throughout the whole thing, throughout, you know, all of the evidence and right up until I tell you to retire and deliberate in the case.

You must keep open minds. We cannot put this case on all at one time. It will indeed come in in bits and pieces; and there will be times when it will be difficult for you, perhaps, to understand a piece of evidence because you may not, at that particular moment understand why, if it is, connected with other evidence. So you have to wait for the whole thing.

And a part of doing that is to follow this instruction that at all recesses that we take in this case, even these short breaks that we have during the day and certainly over night and through the weekends, do not discuss the case with anybody, and that includes other jurors.

So after you've heard a witness here and you go back and take a break and you go back into the jury room, you know, we know there's a great tendency to want to talk about, well, what do you think about what he or she said and so forth. Don't do it. That would violate your oath; you understand that. And you understand why; that's just a little piece of the evidence and it can't be taken out of context and discussed.

Now, I'm sure you'll help us in following that. You've already shown by your arrival on time this morning that you're dedicated to your duty as jurors in this case, and we knew that in selecting you as jurors.

Finally, let me say that you are not permitted to take notes in the course of the trial, and that sometimes comes as a surprise to people in your position because as you look around the courtroom, everybody else seems to be taking notes and you wonder, Well, why is it I've got to decide the case and I don't get to take any notes and they do? Well it's a question of experience. You know, one of the things to keep in mind is that when we end up with deliberations, there will be 12 of you deciding, and it will be those collective -- the memories of each person and the collective memory that you will rely on in the course of this; and what happens, no matter who, how skilled you are in taking notes, it is very easy to miss something that's going on in the courtroom at the time. You may be two minutes behind, you know, in trying to take down notes. We didn't test you on your note-taking skills and you're not -- you know, note taking is not a part of it. What will happen is you'll hear plenty of aids from the lawyers in

the case to help you remind -- or to remind you of the evidence. So I'm sure you will find, as other injuries have, that your collective recollection just as your collective judgment will be adequate for the decision of the case.

So that gives you a general understanding of what it

is that we're going to be doing in the course of this trial, and we're going to start right in with opening statements. And because the Government has the burden of proof in the case, you will, of course, hear first from counsel for the Government.

Mr. Hartzler.

OPENING STATEMENT

MR. HARTZLER: Thank you, your Honor.

May it please the Court . . .

THE COURT: Counsel.

MR. HARTZLER: Ladies and gentlemen of the jury, April 19th, 1995, was a beautiful day in Oklahoma City -- at least it started out as a beautiful day. The sun was shining. Flowers were blooming. It was springtime in Oklahoma City. Sometime after six o'clock that morning, Tevin Garrett's mother woke him up to get him ready for the day. He was only 16 months old. He was a toddler; and as some of you know that have experience with toddlers, he had a keen eye for mischief. He would often pull on the cord of her curling iron in the morning, pull it off the counter top until it fell down, often till it fell down on him.

That morning, she picked him up and wrestled with him on her bed before she got him dressed. She remembers this morning because that was the last morning of his life.

That morning, Mrs. Garrett got Tevin and her daughter ready for school and they left the house at about 7:15 to go downtown to Oklahoma City. She had to be at work at eight o'clock. Tevin's sister went to kindergarten, and they dropped the little girl off at kindergarten first; and Helena Garrett and Tevin proceeded to downtown Oklahoma City.

Usually she parked a little bit distant from her building; but this day, she was running a little bit late, so she decided that she would park in the Murrah Federal Building. She did not work in the Murrah Building. She wasn't even a federal employee. She worked across the street in the General Records Building.

She pulled into the lot, the parking lot of the federal building, in order to make it into work on time; and she went upstairs to the second floor with Tevin, because Tevin attended the day-care center on the second floor of the federal building. When she went in, she saw that Chase and Colton Smith were already there, two year old and three year old. Dominique London was there already. He was just shy of his third birthday. So was Zack Chavez. He had already turned three.

When she turned to leave to go to her work, Tevin, as so often, often happens with small children, cried and clung to her; and then, as you see with children so frequently, they try to help each other. Little -- one of the little Coverdale boys -- there were two of them, Elijah and Aaron. The youngest one was two and a half. Elijah came up to Tevin and patted him on the back and comforted him as his mother left

on the back and comforted him as his mother left.

As Helena Garrett left the Murrah Federal Building to go to work across the street, she could look back up at the building; and there was a wall of plate glass windows on the second floor. You can look through those windows and see into the day-care center; and the children would run up to those windows and press their hands and faces to those windows to say goodbye to their parents. And standing on the sidewalk, it was almost as though you can reach up and touch the children there on the second floor. But none of the parents of any of the children that I just mentioned ever touched those children again while they were still alive.

At nine o'clock that morning, two things happened almost simultaneously. In the Water Resources Building -- that's another building to the west of the Murrah Building across the street -- an ordinary legal proceeding began in one of the hearing rooms; and at the same time, in front of the Murrah Building, a large Ryder truck pulled up into a vacant parking space in front of the building and parked right beneath those plate glass windows from the day-care center.

What these two separate but almost simultaneous events have in common is that they -- they both involved grievances of some sort. The legal proceeding had to do with water rights. It wasn't a legal proceeding as we are having here, because there was no court reporter. It was a tape-recorded proceeding, and you will hear the tape recording of that proceeding. It was an ordinary, everyday-across-America, typical legal proceeding in which one party has a grievance and brings it into court or into a hearing to resolve it, to resolve it not by violence and terror but to resolve it in the same way we are resolving matters here, by constitutional due process.

And across the street, the Ryder truck was there also to resolve a grievance; but the truck wasn't there to resolve the grievance by means of due process or by any other democratic means. The truck was there to impose the will of Timothy McVeigh on the rest of America and to do so by premeditated violence and terror, by murdering innocent men, women and children, in hopes of seeing blood flow in the streets of America.

At 9:02 that morning, two minutes after the water rights proceeding began, a catastrophic explosion ripped the air in downtown Oklahoma City. It instantaneously demolished the entire front of the Murrah Building, brought down tons and tons of concrete and metal, dismembered people inside, and it destroyed, forever, scores and scores and scores of lives, lives of innocent Americans: clerks, secretaries, law enforcement officers, credit union employees, citizens applying for Social Security, and little kids.

All the children I mentioned earlier, all of them died, and more; dozens and dozens of other men, women, children, cousins, loved ones, grandparents, grandchildren, ordinary Americans going about their business. And the only reason they died, the only reason that they are no longer with us, no longer with their loved ones, is that they were in a building owned by a government that Timothy McVeigh so hated that with premeditated intent and a well-designed plan that he

had developed over months and months before the bombing, he chose to take their innocent lives to serve his twisted purpose.

In plain, simple language, it was an act of terror, violence, intend -- intended to serve selfish political purpose.

The man who committed this act is sitting in this courtroom behind me, and he's the one that committed those murders.

After he did so, he fled the scene; and he avoided even damaging his eardrums, because he had earplugs with him.

Approximately 75 minutes later, about 75 miles north of Oklahoma City, the exact distance from Oklahoma City that you could drive in that time if you had been at the scene of the crime, the exact distance -- he was at the mile marker that you would reach between the time of the bombing and the time he was arrested if you were driving at normal speed limit. He was arrested driving toward Oklahoma City, leaving -- I'm sorry, driving towards Kansas, leaving Oklahoma City. And in his pocket at that time were a set of earplugs, the type that would be worn to protect your ears from a loud noise. And on his clothing, an FBI chemist later found residue of explosives, undetonated explosives, not the kind of residue that would detonate in the course of the explosion but the kind of explosives you would have on your clothing if you had made the bomb, which is what he did.

And the T-shirt he was wearing virtually broadcast his intention. On its front was the image of Abraham Lincoln; and beneath the image was a phrase about tyrants, which is a phrase that John Wilkes Booth shouted in Ford's Theater to the audience when he murdered President Lincoln. And on the back of T-shirt that McVeigh was wearing on that morning, the morning of bombing, the morning that he was arrested, was this phrase: It said, "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants." And above those words was the image of a tree. You'll see that T-shirt; you'll see the tree; you'll see the words beneath the tree, and you'll notice that instead of fruit, the T-shirt -- the tree on the T-shirt bears a depiction of droplets of scarlet-red blood.

Found in the police car after McVeigh's arrest was a crumpled-up business card from a military supply company. McVeigh had written a note on that card, and the card had McVeigh's fingerprint on it. And in McVeigh's handwriting, or hand-printing, really, on this card from the military supply company said, "TNT at \$5 a stick. Need more. Call after May 1."

Inside McVeigh's car, law enforcement agents later found a large sealed envelope. It contained writings and magazines from -- photocopies from magazines and from newspapers. You'll see all those documents in evidence, and they will give you a window into McVeigh's mind. And they'll enable you to see his intention, to know his premeditation, and to understand the twisted motive behind this deadly offense.

To give you just two examples of the material you will see, enclosed in that envelope were slips of paper bearing

statements that McVeigh had clipped from books and newspapers. And one of them was a quotation that -- from a book that McVeigh had copied. And it was a book that he had read and believed in like the Bible. The book is entitled The Turner=20 Diaries. It's a fictional account of an attack on the federal government which is carried out with a truck bomb blowing up a federal building and killing hundreds of people. And the clipping that McVeigh had with him on this day of the bombing talks about the value of killing innocent people for a cause. It reads -- and he highlighted this -- "The real value of our attacks today lies in the psychological impact, not in the immediate casualties."

Another slip of paper that he had in that envelope in his car bears a quotation from one of our founding fathers, one of the founding fathers who fought the British to establish democracy in America. The printed portion on that piece of paper reads, in part, "When the government fears the people, there is liberty." "When the Government fears the people, there is liberty." And hand-printed beneath those printed words, in McVeigh's handwriting, are the words -- it's printed above, and he had it like a bumper sticker, almost. He had printed beneath, "Maybe now there will be liberty."

These documents are virtually a manifesto declaring McVeigh's intention.

Everyone in this great nation has a right to think and believe, speak whatever they want. We are not prosecuting McVeigh because we don't like his thoughts or his beliefs or even his speech; we're prosecuting him because his hatred boiled into violence, and his violence took the lives of innocent men and women and children. And the reason we'll introduce evidence of his thoughts, as disclosed by those writings and others, is because they reveal his premeditation and his intent, and intent is an element of the crime that we must prove.

As McVeigh was leaving the scene moments before the explosion, a maintenance man from an Apartment building in downtown Oklahoma City near the Murrah Building, about a block or so away, walked out the front door of the building to meet his wife and nephew. His nephew was a sixth grader sitting in the back seat of the man's red Ford Fiesta out in front of the apartment building where he worked. His wife had gone inside to get him, tell him that they were there. She walked back outside with her husband and he was standing at the side of his car, holding the door for his wife, when the force of the bomb nearly knocked him off his feet.

At that moment, he was about at least more than a city block from the front door of the Murrah Building; and he heard a whirring sound, like the propeller of a helicopter, coming toward him. He pushed his wife quickly under the car to protect her as more than 250 pounds of twisted metal came crashing down onto his car. Fortunately, it landed on the hood of his car. It crushed the car, but his wife and his nephew survived.

That huge piece of twisted metal had been at the center of the bomb. The force of the explosion had sent it whirling through the air for about 200 yards or more. That

piece of twisted metal was the rear axle of a Ryder truck. It was a Ryder truck that Timothy McVeigh had rented two days before in Kansas.

As his Honor told you, my name is Joe Hartzler. My colleagues and I represent the United States of America. In this case, we'll work together as a team. I'm not going to reintroduce everyone. Over the course of the next few weeks, you'll get to know us, I believe.

As you see -- as you'll see, there was a lot of evidence against McVeigh. We'll present a lot of evidence against McVeigh. We'll try to make your decision ultimately easy. That's our goal.

There are a number of us, but we won't stumble over each other. You'll see that each of us has a different role, presenting different segments and different types of evidence. We intend to do so fairly.

When we're finished, we will have proven -- we will have proven to you beyond any reasonable doubt that Timothy McVeigh destroyed the Murrah Building and killed people inside by means of a huge fertilizer bomb built inside a Ryder truck.

As it -- as it's turned out, the bombing in Oklahoma City was the first event in a series of events that would lead each of you to be in this courtroom today as jurors; but you'll learn as jurors that the bombing was a premeditated act. It was part of a plan that McVeigh set in action long, long before April 19th, 1995. And that's why the evidence will take so much time, because we will go back, not from the beginning of time, but from a certain stage in McVeigh's life and walk through the various details of what he was doing and how it all fit into his plan to kill people in the Murrah Building.

Timothy McVeigh grew up in upstate New York; and after high school, he joined the Army. He first went to Fort Benning in Georgia, and that's where he met Terry Nichols. They served in Fort Benning in the same platoon.

After he and Nichols completed their basic training at Fort Benning, they were both sent to Fort Riley, in Kansas. They became friends, in part because they both shared a distaste for the federal government.

McVeigh's dislike for the federal government was revealed while he was still in the Army. Even at that early time in his life, he expressed an enthusiasm for this book *The Turner Diaries*. And you will hear more about that book during this trial. It's a work of fiction, like I said. It follows the exploits of a group of well-armed men and women who call themselves "patriots," and they seek to overthrow the federal government by use of force and violence.

In the book they make a fertilizer bomb in the back of a truck and they detonate it in front of a federal building in downtown Washington, D.C., during business hours and they kill hundreds of people.

Friends, acquaintances, and family members of McVeigh will testify that he carried the book with him, gave copies to them, urged them to read this book.

We will show you passages from the book, and you'll see how the bombing in the book served as a blueprint for McVeigh and for his planning and execution of the bombing in Oklahoma City.

Oklahoma City.

On April 19th, 1993, that's four years ago, not -- the Oklahoma City bombing was two years ago -- but four years ago on the same day, April 19th, 1993, there was another great tragedy in American history. It occurred at Waco, Texas. That's the day that many lives were lost when the Branch Davidian compound burned down. But it was more than just a tragedy to McVeigh. You'll hear testimony from McVeigh's friends that he visited Waco during the siege and that he went back after the fire and that he had already harbored a great dislike and distaste for the federal government. They imposed taxes and the Brady Bill, and there were various other reasons that he had disliked the federal government.

But the tragedy at Waco really sparked his anger; and as time passed, he became more and more and more outraged at the government, which he held responsible for the deaths at Waco. And he told people that the federal government had intentionally murdered people at Waco, they murdered the Davidians at Waco. He described the incident as the government's declaration of war against the American people. He wrote letters declaring that the government had drawn, quote, "first blood," unquote, at Waco; and he predicted there would be a violent revolution against the American government. As he put it, blood would flow in the streets.

He expected and hoped that his bombing of the Murrah Building would be the first shot in a violent, bloody revolution in this country. As his hatred of the government grew, so did his interest in a knowledge of explosives.

You'll hear that he and Terry Nichols had experimented with small explosives on Nichols' farm in Michigan. Later our evidence will prove that McVeigh graduated to larger bombs, and you'll hear about an incident that occurred just one year before the bombing in a desert in Arizona where he made and detonated a pipe bomb. He placed it near a large boulder in the desert, and he ran away as the pipe bomb exploded and cracked the boulder.

You will see that he also educated himself about how to build bombs, particularly truck bombs, using ammonium nitrate fertilizer and some sort of fuel oil. And we'll explain to you how you can make a bomb from fertilizer and fuel oil, and of course that's consistent with the type of destructive device that was used in Oklahoma City.

So The Turner Diaries was one of his favorite books where the heroes blow up the federal building with a homemade truck bomb, but he also obtained what was really a cookbook on how to make bombs. He order the book through the mail, we will show you; and the book is called Home Made C4. C4 is a type explosive. Some of you with military background know that.

This book provides essentially a step-by-step recipe as to how to put together your own fertilizer fuel-based bomb. And the book even provides helpful hints as to where to acquire the various ingredients, the components. It describes how to build a powerful bomb, and it does so in simple, understandable terms. In fact, it shows how unbelievably simple it is to make a hugely, hugely powerful bomb.

McVeigh ordered and received the book from Paladin Press in the spring of 1993.

Over time McVeigh's anger and hatred of the government kept growing; and in the late summer of 1994 -- and this is nine months before the bombing -- he decided that he had had enough. He told friends that he was done distributing antigovernment propoganda and talking about the coming revolution. He said it was time to take action, and the action he wanted to take was something dramatic, something that would shake up America, he said, and would cause ordinary citizens, he thought, to engage in a violent revolution against their democratically elected government, just like The Turner=20 Diaries; and of course, just like the main character in the book, he would become the hero.

The action he selected was the bombing, and the building he selected was the federal building in Oklahoma City. We'll provide you with testimony on this. And he offered two reasons for bombing -- or for selecting that particular building; first he thought that the ATF agents, whom he blamed for the Waco tragedy, had their offices in that building. As it turns out, he was wrong; but that's what he thought. That was one of his motivations; and second, he described that building as, quote, "an easy target."

It was conveniently located just south of Kansas and it had easy access. It was just a matter of blocks off of an interstate highway, Interstate 35 through Oklahoma City traveling north; and the building is designed is such that you can drive a truck up, there is an indentation at the sidewalk in front of the building. You can drive a truck right up and park a truck right there in front of the building, right there in front of the plate glass windows that I described in front of the day-care center.

The day that he selected for the bombing also has significance. He selected April 19th. Of course, first, that was the anniversary of Waco, and he wanted to, as he said, avenge death that occurred at Waco; and second, April 19th a couple of centuries ago, in 1775, that's the day that the American Revolution is reported to have begun. That's the day that the opening shot was fired in Concord/Lexington. The day is known as Liberty Day.

So as indicated by the materials that McVeigh carried with him -- you'll see the stuff that he got from his car -- he envisioned that by bombing the building in Oklahoma City he would bring what he thought would be liberty to this nation.

Well, this was not just talk from McVeigh. He was ready for action. He knew from the literature he had how to make the bomb and he knew how to get the ingredients. Both The Turner Diaries and this book Homemade C4, the bomb-making cookbook, told him to where to look. The best place to get ammonium nitrate fertilizer, the book said, was at a farm supply store, and the best place to get nitromethane racing fuel, which you would mix with the fertilizer, was at a raceway.

So McVeigh engaged his friend, his Army buddy, Terry Nichols, in the project. Nichols, of course, shared the hatred for the federal government, and they worked together in a conspiracy. As his Honor just told you, the first count is conspiracy. That's an agreement to commit a criminal act.

They reached this working arrangement whereby they would, together, acquire the ingredients to manufacture the bomb. And a fair amount of our evidence will be about their acquisition of the various components that were used to make the bomb that blew up the federal building in Oklahoma City.

They got 4,000 pounds -- that's 2 tons of ammonium nitrate fertilizer. They bought it at a farm supply store in central Kansas where Nichols was living at the time and where McVeigh visited him. This was in the fall of 1994, at least six months before the bombing, giving you some indication of the planning that went into this process and the premeditation.

They made two purchases of 1 ton each. The first one was made at the end of September, 1994, and the second one was made the middle of October; and both purchases were made in phony names. The phony name they used was Mike Havens. We'll provide you with evidence showing that Terry Nichols used that name Havens as an alias.

We will also show you that one of the receipts, the receipt for the first purchase, September 30th, was found in Nichols' home after the bombing. Agents conducted a search of Nichols' home several days after the bombing and they found the receipt for that first purchase of 1 ton of ammonium nitrate fertilizer; and on that receipt, when it was sent back to the FBI lab, were two latent fingerprints of Timothy McVeigh.

To get some of the other chemicals they needed for the bomb, McVeigh and Nichols picked up the phone book and let their fingers do the walking. They called dozens and dozens of companies and individuals in search of ingredients that they needed for the bomb. And the reason we can trace and show you so many of these calls is in part because they used a calling card to make the calls. They had obtained a calling card from a magazine called Spotlight magazine; and in an unsuccessful effort to avoid having the calls traced back to them, they again used a fake name. They didn't get the calling card in their own names. They used this time the name Darrell Bridges, but we'll prove to you that it was they that got, ordered, obtained and paid for this calling card.

The calling card was the type of phone card that requires you to pay in advance. It's called a debit card. The balance on the card is debited each time you make a call; and then when you're down to a zero balance, you have to send in more money to the company to make more calls; and that's precisely what McVeigh and Nichols did, and we'll show you money orders that they sent in, and we'll prove to you that the money orders were obtained by McVeigh and Nichols; and that's why we can trace so much of their activity, at least so much of their phone call activity, because they used the same debt card in the name of Darrell Bridges to do a lot of their business, and even though they didn't get a phone bill, as you or I would get for our home phone, they didn't get the phone bill of course because they were paying for these calls in advance; and even though they may have believed that by doing it that way the calls wouldn't be traceable, well, the phone company still needed to keep track of the calls and how much was charged so they could debit down the card.

So the phone company had records of the calls that were being made from where to where and how long it was and

were being made, from where to where and how long it was and how much it cost; and those are the records that we have that we'll present to you to prove the calls that McVeigh and Nichols were making.

The debt card records reveals dozens and dozens of calls in the fall of 1994. That's when they're trying to acquire the components, the ingredients for the bomb. The calls were made to various companies and individuals that sold or possibly could obtain the ingredients, the components that would be used for an ammonium nitrate fertilizer bomb.

The mixture would be made and held in barrels. They called barrel companies. The mixture would use racing fuel as a most likely fuel source to mix with the ammonium nitrate. They called fuel racing raceways. And there are various other companies -- or chemicals, pardon me, including anhydrous hydrazine. They called various chemical companies.

For example, we will show you a copy of the yellow pages taken from the area in Kansas where McVeigh and Nichols were during the fall of 1994. We can compare the yellow pages with those records from the calling card. Going down the yellow pages -- the yellow pages, if you look at a page for chemical companies, you see a number of chemical companies, you see the numbers listed, and you see the number that they called on their calling card. They went down the yellow pages and called the companies that were on those yellow pages.

So you can match up what they're doing; and you'll notice -- it wasn't just chemical companies. You'll notice that all the companies they called during that period of time, in the fall of 1994 when they were using this call -- this calling card to seek ingredients -- all of them have one thing in common: They all sell something you could use to make a bomb, a large ammonium nitrate fertilizer bomb.

But we're not going to prove up, simply by circumstantial evidence, by asking you to compare the yellow pages to these phone records to show that they were obtaining these ingredients, because as further evidence we'll call people who actually received the calls and in some cases, they weren't strangers on the other end of the phone. They were friends of -- or acquaintances of McVeigh.

For example, we'll call a man by the name of David Darlak. He's an old acquaintance McVeigh. They grew up together and they've known each other for years.

Darlak received calls from McVeigh and he remembers him. He'll tell you what he remembers. Darlak recalls that McVeigh called him trying to get racing fuel.

Well, Darlak didn't ever know McVeigh to be interested in racing, and McVeigh, of course, didn't reveal that he wanted the racing fuel for something other than racing, to build a bomb, he didn't say that. He didn't reveal why he wanted the racing fuel. But Darlak will come in and explain. He's one of the people that calls from McVeigh during this period of time.

Greg Pfaff is another person that received a call. Greg Pfaff is a guy that McVeigh ran into and met when they did the various gun shows, met at gun shows. Pfaff recalls getting calls from McVeigh, and he will come in and tell you that McVeigh asked him if Pfaff could get any det cord.

Now, det cord is a nickname, an abbreviation for

detonation cord, and that's what you'll use, as you'll hear the ammonium nitrate and fuel oil doesn't blow up by itself, you don't light a match and throw it on it and it explodes. You need some kind of detonation. Det cord would be used to facilitate the detonation of the explosion.

According to Pfaff McVeigh was so eager to get this det cord that McVeigh offered to drive across the country. Pfaff was on the East Coast. He offered to drive across the country to Pfaff if Pfaff could get any det cord.

You will also hear from a man named Glynn Tipton. Tipton works for a company that goes to drag races and he was on a drag race on October 1st, 1994, in central Kansas. He recalls a man that he's almost certain as McVeigh coming up to him and trying to buy large quantities of nitromethane and anhydrous hydrazine; and the books I've told you about describe those two chemicals as being part of the shopping list for making an ammonium nitrate fertilizer bomb.

All these calls are reflected on the debt card that McVeigh used and so is a call to Mid-American Chemical Company, that's one of the companies actually that's listed in the yellow pages you'll see.

Linda Juhl is an employee of Mid-American Chemical Company and she remembers getting a call in the fall of 1994 at the same time. She recalls it was from a young man in Kansas who wanted to obtain anhydrous hydrazine, one of the chemicals you can use to make ammonium nitrate fertilizer bombs. Anhydrous hydrazine is usually used as a rocket fuel and it can seriously boost the explosion.

You'll also hear a number of calls to companies such as CP Racing and other companies that sold nitromethane. Nitromethane is a racing fuel. It too can be used as one of the ingredients in ammonium nitrate fuel -- fuel oil explosive devices.

Well those are the calls they made during this period of time in search of some of the various components for an explosive device, but we'll prove that they obtained -- they actually acquired large quantities of explosives, as I said just, getting the mixture, the fertilizer with the chemicals of nitromethane or anhydrous hydrazine or racing fuel doesn't itself cause an explosion unless you have something to detonate it with.

We'll prove to you where McVeigh and Nichols got the detonation -- detonators that they needed. In short, they stole them. During the period of the Fall of 1994, Nichols was living in central Kansas in a community and city called Marion, Kansas, he was working on a cattle farm there and nearby there was a rock quarry. Now some of you probably know rock quarries use explosives to blast the rock and they typically store the explosive they have on site in what are referred to as magazines or secure storage lockers.

The quarry that was near Nichols' home in Marion, Kansas, kept a quantity of explosive, primarily blasting caps, in locked storage facilities right there on site.

As I already said, McVeigh came to visit Nichols during late September of 1994 and stayed through that first

weekend, first weekend of October 1994, that's the weekend when Glynn Tipton saw him at the raceway or saw somebody he believes is McVeigh at the raceway looking for the two chemicals I just described. That's also the same weekend, on the Friday of that weekend, September 30th, that they made their first purchase of 1 ton of ammonium nitrate fertilizer from the supply store in central Kansas.

Well, it's the very same weekend that they broke into the magazine at the rock quarry and stole hundreds of blasting caps and sticks of an explosive that's known as -- it's a sausage-type of explosive known as Tovex.

The reason that we can prove that it was McVeigh and Nichols that broke into these storage units and stole the explosives is because they made essentially two mistakes: First of all, they left evidence behind at the scene of the

crime; and secondly, they didn't get rid of all the loot. They left some of it in Nichols' house.

The evidence that they left behind at the scene of the crime was one of the padlocks that they had drilled open. There were five padlocks that had to be drilled open to get in. Four of them was missing but one of them was left behind.

The county sheriff that came out to investigate that break-in kept that padlock. You remember this is months before the Oklahoma City bombing, but he kept it in his evidence and provided it to the FBI after the bombing when the connection was made between that theft and the bombing. Federal agents later searched Nichols' house after the bombing and they found in Nichols' basement a battery-powered Makita drill and with the drill were some drill bits and they matched the padlock that has a hole drilled in it to open up the lock, and you'll see this.

They went inside that hole and lock and figured out the drill bit impressions, the toolmark impressions and they made toolmark impressions also from the drill that was found -- the drill bit that was found in Nichols' basement and they matched the two; and that toolmark expert will come in and show you that the impressions inside the lock matched the impressions made by the drill bit from Nichols' basement so that you can conclude that drill bit drilled that lock.

The other mistake they made was that Nichols kept some of the explosives. They were found after the bombing in his basement. He had some of the blasting caps. Now blasting caps come in a wide variety of sizes. There are different brands and there are different delays. I think they come in delays from something like from 1 to 20 and all the blasting caps that were stolen from the quarry were 60-foot No. 8 delay Primadet blasting caps.

Found in Nichols' basement after the bombing when the agents searched his basement were five blasting caps, Primadet 60-foot No. 8 delay.

Well, with this quantity of explosives or components for making a bomb, McVeigh and Nichols of course needed someplace to keep all of this stuff. McVeigh, during this period of time, really didn't have any home. He would stay with friends and various other places. He was just traveling around and it would have been foolish, of course, for Nichols

around and it would have been foolish, of course, for Nichols to have kept the stuff in his home for two reasons: first of all, it's dangerous; secondly, if anybody found it in his home. So it's obviously traceable for him. So their solution to this is to rent private storage lockers, and that's exactly what they did.

They rented private storage lockers, but to prevent anyone who would break in and getting into these storage lockers to easily trace these components to them, they again used false names. They rented three lockers in the central Kansas area near where Nichols was living at the time. And they rented all three lockers in phony names, different phony names: This time they're Shawn Rivers, Ted Parker and Joe Kyle. I'm not expecting you to remember the various aliases and phony names they used. You'll hear evidence and we will provide you with documents that will show you these various names.

They were all paid, the storage lockers were paid for, with cash, which is, of course, is the least traceable means of payment. But we will prove through eyewitness testimony, through fingerprints, and through handwriting analysis that it was McVeigh and Nichols who rented these storage lockers in false names.

The leases on the three storage lockers began in the fall of 1994, right at the very time that they were acquiring components for the bombs; but they continued to pay the rent on these storage lockers up through the date of the bombing. When FBI agents searched the storage lockers soon after the bombings, they were all empty. Rent was paid up till then, but there was nothing in them. Of course, the components were used in Oklahoma City.

During this period when McVeigh and Nichols were acquiring the components for the bomb, McVeigh periodically drove to Arizona and visited two friends of his, Michael and Lori Fortier. He had met Michael in the Army, and they had shared the same antigovernment ideas; and McVeigh had come to trust not only Michael but he also came to trust Michael's wife, Lori.

So in the fall of 1994, he confided his plan to the Fortiers. Sitting in their living room in Kingman, Arizona, he actually drew a diagram of the bomb that he intended to build. And you'll hear that evidence from the witness stand. He outlined the box of the truck, and he drew circles for the barrels inside the truck, the barrels of fertilizer and fuel oil that he would place strategically in the truck to cause maximum damage, as he described it.

Later during that same period of time, one of times when he was in Arizona, again, fall of 1994, months ahead of bombing, he demonstrated his design to Lori Fortier by borrowing from her Campbell soup cans out of her cupboard and placed them on the floor and showed her the shape in which he would design the bomb inside the box of the truck. And he described it as a shape charge and explained that by putting in that -- putting the barrels of explosives in a particular shape it would increase the charge in a particular direction, the direction toward the building and the plate glass windows that I've previously described.

By the end of October 1994, McVeigh had most of ingredients he needed to build the bomb; so he was able at that time to carry out his plan. But this was still the fall of 1994. Remember, he was determined to take action when he thought it would have maximum impact; and he thought the anniversary of the tragedy at Waco would provide that kind of maximum impact. He thought that others were as angered at Waco as he was and that he could get tremendous impact, shake up the nation, by delaying his violent terrorist action until the anniversary of Waco, April 19th; so he left the bomb components in the various storage lockers, and he waited. He waited till the spring.

And in late January, he returned to Arizona. Again, he stayed with his friends, the Fortiers. He stayed there through February and March. He was really most of the time just hanging out, not doing anything. He wasn't employed. Periodically he would go to gun shows during that time. Periodically he would try to recruit Michael Fortier to participate in the bombing. And as April approached, it became clear to him that Fortier was not going to participate. That spring, McVeigh was ready to put his action -- to put his plan into action.

He had been regularly corresponding with his sister, Jennifer, who was then living in upstate New York. And he had revealed to her his distrust and his distaste for the federal government. In fact, in the fall of 1994, he had visited her in New York. He created a file in her computer. He had marked the file "ATF read," "ATF read," as though he wanted them to discover this file and read it after his dramatic action.

You'll see the chilling words in that computer file. I'm going to delete the expletive. It said, "All you tyrannical M.F.ers will swing in the wind one day for your treasonous actions against the Constitution and the United States." And it concluded with these words: "Die, you spineless cowardice bastards." That was written in the fall of 1994.

By the spring of 1995, he had moved beyond words. He was ready for action. In a letter dated March 25th, just three weeks before the bombing, he told his sister Jennifer not to send any more letter after May 1st because, quote, "G men might get them."

You'll see a copy of that letter. About the same time, he sent another letter to his sister Jennifer -- this was before the bombing -- in which he said, "Something big is about to happen." You'll hear from Jennifer McVeigh. She'll testify. You won't see that letter, because after the bombing, as she will explain, she destroyed that letter.

During this period of time in the spring of 1994, before the bombing, while McVeigh was hanging out in Arizona, he asked Lori Fortier if he could borrow her typewriter. She let him take it for a day or so; and when he returned it he had a phony driver's license. It was on one of the blank driver's license forms. It had been obtained through the -- or ordered through one of those ads at the back of Soldier of Fortune magazine, one of the ads that sells phony identification kits. And McVeigh had typed on the blank form. He had made it look

like it was a driver's license from North or South Dakota. He had typed in those words, the name of state. And the phony name he had selected -- I'm going to give you another alias name -- was Robert Kling.

He liked that name, he told Lori Fortier -- and you'll be able to remember it -- because it reminded him of the race of characters on that TV show "Star Trek," the Klingons. And you'll hear that name a lot in this trial, because that's the name that McVeigh used to rent the Ryder truck that he used to blow up the federal building, "Robert Kling."

To finish the phony drivers's license, McVeigh asked to borrow Lori Fortier's iron, so he could iron on plastic lamination -- lamination that came with the blank form. And she was afraid he would ruin his (sic) iron, and she offered to iron it on for him. That's how it is she can tell you she saw the drivers's license she remembered the name.

He handed her the Robert Kling driver's license. She ironed on the lamination. It had on it a small photo that McVeigh attached up in the corner in the box where the photo for a driver's license would fit. It was McVeigh's photo, of course. She ironed -- the lamination -- lamination and gave it back to McVeigh.

During these months in early 1995, when McVeigh stayed with the Fortiers, he became more and more withdrawn and more and more unpleasant as April 19th approached. And in early April, he moved out of the Fortiers' house into a local motel in Kingman Arizona. He stayed there until April 12th, 1995. You'll see those motel records. He checked out April 12th, 1995, exactly one week before the bombing. He was in Arizona.

He checked out, and he was next seen in Kansas on Friday before the bombing. The bombing was on the following Wednesday. Friday before the bombing, McVeigh arrived in Kansas. Kansas, of course, is where Terry Nichols was then living; and that's where he and McVeigh and Nichols had stored this stuff, the bomb components, in the storage lockers. The day that McVeigh arrived in Kansas was a Friday, April 14th, five days before the bombing. He stopped at a Firestone service station in Junction City, Kansas.

He knew that Firestone station because when he was in the service in Fort Riley, which is not far from Junction City, he had had his car serviced there before. The manager of the place, a man by the name of Tom Manning, remembered McVeigh.

McVeigh was there at that Firestone station, as Manning will tell you, because McVeigh said his car was burning oil. The car was in bad shape; so the manager, Manning, said he had a used car out back that he was willing to sell to McVeigh. McVeigh checked out the car and decided that he would go ahead and buy it; so he paid \$250 in cash for the car and signed over the title to his car, which he had with him.

While Manning was getting the used car ready to turn over to McVeigh, he recalls that McVeigh left the Firestone station for about 10 or 15 minutes on this Friday morning. Manning provided this information the very first time he was asked whether McVeigh was there the entire time, and he remembered McVeigh left for a period of time when Manning went to get the car ready for McVeigh.

During that interval of time, on Friday morning, five days before the bombing, when McVeigh left the Firestone station, a call was placed to a Ryder truck rental agency in Junction City, Kansas. The Ryder agency in Junction City is called Elliott's Body Shop. It's listed in the yellow pages.

Just so you know what's coming, I've already told you the twisted rear axle that seemed to fall out of the air onto the red Fiesta of the maintenance man in the apartment building in downtown Oklahoma City -- that axle traced back to a Ryder truck that had been rented two days before the bombing from Elliott's Body Shop in Junction City, Kansas. That was the truck that became the bomb.

The call I'm talking about now was made to reserve the truck. The caller said his name was Robert Kling, the same name that McVeigh had used on the phony driver's license. And the caller asked to reserve a large truck for pickup the following Monday. That would be two days before the bombing.

We've traced that call, and it traces back to a pay phone located at a bus station in Junction City, Kansas; and that bus station pay phone is less than a half a block from the Firestone station where McVeigh had been. You can see it We'll show you there's a photo from the pay phone. You can see the Firestone station. I mean, it's virtually across the street, just down the alley a piece.

Although McVeigh had all the ingredients to manufacture, to build a bomb, he didn't yet have a truck. Now, in The Turner Diaries, the bomber steals a delivery truck in which to make their bomb; but McVeigh decided to rent his. And that's, of course, why he had the phony driver's license; and that's why he made the call to Elliott's Body Shop to reserve a truck five days before the bombing.

Now, there's another detail about that bus station pay phone call that we will prove to you. Actually, there were two calls made back to back that morning from that outdoor pay phone. The first call went to the home of McVeigh's Army buddy, Terry Nichols, who was living at that time now in nearby Herington, Kansas. The next call, which started within seconds of the completion of the first call, was the one that went to Elliott's Body Shop to reserve the Ryder truck. Both calls were made on a Spotlight debit card.

For reasons that we will explain, the computer failed to record the actual customer account for the call to the Ryder truck rental agency; but the call to Nichols' house, the first call, was charged to the calling card that McVeigh and Nichols were using. And of course, it was McVeigh who was near that pay phone that morning, having entered into the car transaction with Manning.

Later that day, McVeigh registered at a small motel in Junction City Kansas, which is known as the Dreamland Motel. It's located about four miles up the road from the Ryder truck rental agency. He registered there in his own name, Timothy McVeigh; and he stayed in Room 25 at the Dreamland Motel through that weekend up until Tuesday. Tuesday is now the morning of the day before the bombing. And as a result of a telephone call, of a telephone call from the pay phone, Elliott's Body Shop the Ryder rental place, actually reserved a large truck for Robert Kling. But they were willing to do so

large truck for Robert Kling. But they were willing to do so only if someone came in and put a deposit down on the truck the following day.

The following day, of course, was a Saturday, four days before the bombing. The only person who was working that day at the Elliott's Body Shop was the owner, Eldon Elliott. Mr. Elliott will testify; and he will tell you what he remembers about that Saturday morning. He was there by himself when a young man with a military demeanor came in and said he was Robert Kling. The lighting was good. The two men stood facing each other for several minutes. There were no interruptions. The shop was not busy. They transacted business. And instead of simply making a deposit, a cash deposit, to reserve the truck in the name Kling, the man wanted to pay for the truck in full. He counted out several hundred dollars in cash and gave it to Elliott. It was a memorable transaction. There was some paperwork involved, and the man left.

Mr. Elliott remembers this transaction and he can identify the man. It was Timothy McVeigh.

I've already summarized ample evidence to convince you that Kling was really McVeigh; but there's still more. Although McVeigh had paid for the truck, he didn't take it with him. He said he would pick it up on Monday, April 17th, two days before the bombing, after four o'clock. He was still staying at the Dreamland Motel in the same city; and that night, Saturday night, a carry-out order for Chinese food from a local Chinese restaurant was made from McVeigh's room at the Dreamland Motel, a telephone call to the local Chinese restaurant ordering Chinese food; and the name used to place the order was Kling.

Now, the delivery man who actually delivered the order had only a brief encounter with the customer. He can't identify who he gave the food to; but again, the significance for us is a further association of the name Kling with McVeigh. This time, independent of anything coming from Elliott's Body Shop, independent of call that reserved the truck, this is simply through a Kling order being delivered to McVeigh's room.

The following day was Easter Sunday. The bombing was on Wednesday following Easter in 1995. There will be no witnesses who saw McVeigh's car in Oklahoma City on Easter or thereafter. But we will provide sufficient evidence for you to conclude that McVeigh drove his car down to Oklahoma City on Easter Sunday and left it there as a getaway car for use after the bombing. For example, we will show you that McVeigh made a call that afternoon, Sunday afternoon, at about 3:00 to the home of his Army buddy, coconspirator Terry Nichols. He made the call from a pay phone in Herington Kansas just blocks away from Nichols' home.

You will see the evidence -- you will see from our evidence that it's about four and a half hours from Herington, Kansas, driving to Oklahoma City. We'll show you evidence of the videotape from a surveillance camera. It actually happens to be a surveillance camera in the very same apartment building where the maintenance man came out and the truck axle fell on the front of his car. It's call the Regency Towers. They have a surveillance camera in the inside lobby. And it shoots

through the inside lobby, so that you can pick up some of activity in the street in front of the building.

From that camera, we will show you five hours after McVeigh -- a little more than five hours -- after McVeigh made the call to Nichols' house -- you can see a truck of the same features as Nichols' truck passing downtown Oklahoma City twice -- passes that camera -- on Sunday before the bombing.

And you'll see that when McVeigh was stopped after the bombing in Oklahoma City, he had a handmade, hand-printed sign in his car. It was in his own handwriting. It said, "Please do not tow. Needs batteries and cable. Will move by April 23rd." There was nothing wrong with the batteries and cable when the car was stopped that day April 19th, the day of the bombing; and there was nothing wrong with the batteries and cables when Thomas Manning sold the car to McVeigh on Friday before.

As further evidence that McVeigh left his car in Oklahoma City on Easter Sunday so it would be there as a getaway car, we will prove that he needed a taxi on Monday afternoon in order to pick up the Ryder truck. Remember, when he went in on Saturday and paid the money, he didn't take the Ryder truck with him. He said he would be back after 4 on Monday, two days before the bombing.

Well, shortly before he was scheduled to pick up the truck, shortly before four o'clock on Monday afternoon, a call was placed from the pay phone near the Dreamland Motel, the call that McVeigh was registered at the Dreamland in his own name. So this call was not placed from his room phone, it wasn't placed from the motel phone. This call was placed from a public phone; but the public phone is just walking distance from the Dreamland Motel in the direction of Elliott's Body Shop.

We'll prove to you that it was McVeigh who made the call. The call was charged to that calling card that they had in the phony name; and it was placed today a taxicab company in Junction City. The cab company is listed in the Junction City yellow pages. And his call was placed on Monday after Easter. McVeigh stayed at the Dreamland Motel until Tuesday. He didn't have his car, so he needed a taxi to go to Elliott's Body Shop.

The taxi cab company dispatched a cab to the location where McVeigh was by the pay phone near the Dreamland. The cab picked up one passenger, it's records will show; and it drove that passenger in the direction of Elliott's Body Shop and dropped the passenger off at a McDonald's restaurant which is located about one mile from Elliott's Body Shop. The fare was \$3.65; and we will prove to you that that passenger was Timothy McVeigh.

The only road or walkway between the McDonald's and Elliott's Body Shop is a two-lane access road; and the only thing on that road are a couple of apartment complexes and a couple of other buildings, not a busy, busy road. It's about a mile from the McDonald's to Elliott's Body Shop.

In fact, the McDonald's is on the nearest intersection. If you walk from Elliott's -- if you walk from Elliott's and hit the intersection, that's where the McDonald's is. That McDonald's restaurant has a surveillance system that

consists of a series of cameras inside. We will show some of the photos from those cameras on that Monday afternoon, the same Monday as the cab ride and shortly before the Ryder truck was picked. What you will see is Timothy McVeigh on the photos

taken inside the McDonald's restaurant. He was captured by the surveillance cameras.

You will first see him as he approaches the counter and later as he leaves the restaurant. He spent only about 8 minutes in the restaurant, and he apparently ate a McDonald's hot apple pie.

Now, McVeigh, of course, did not spend \$3.65 on a taxi simply to have an apple pie at McDonald's. He took a taxi because his car was in Oklahoma City, waiting to serve as a getaway car. And that afternoon, Monday afternoon, he needed to get up to Elliott's to pick up the truck; so he took a cab and he stopped at McDonald's because it was at the intersection on the way. It's just a stopover spot.

McDonald's -- I'm sorry. McVeigh left McDonald's, you'll see on the video footage, at approximately 4:00. As I said, Elliott's Body Shop is about a mile away. It's about a 15-minute walk.

15 minutes after McVeigh left McDonald's, he walked into Elliott's Body Shop and picked up the truck that he used to destroy the Murrah Building. The owner, Eldon Elliott, was again there. He recalls the transaction. Again, this was not a fleeting encounter with a complete stranger. This is not like asking the cab driver or the man who delivered the Chinese food to remember their customer, to identify the customer. Mr. Elliott had seen McVeigh two days before, and he was seeing him again on this Monday. On this occasion, he wasn't simply handing over a box of Chinese food. He was giving McVeigh a valuable piece of equipment, a large Ryder truck.

He spent some time on the transaction. He walked around the truck, inspected it for damage. He filled out a damage form. And he recalls the person that he released the truck to. It was the same person who had come in on the preceding Saturday morning, the same person that paid cash on the truck. This was the second time Mr. Elliott had an opportunity to observe that man. Again, the lighting was good. The two stood nearly face to face. The man was Timothy McVeigh.

Your Honor, can you tell me if you want me to continue, or take a break?

THE COURT: Well, if this would be a convenient place for you, we could do it now.

MR. HARTZLER: Sure.

THE COURT: All right. I'm sure we can use a little rest stop, and we'll do that. So members of the jury, we're going to take about a 20-minute recess now, it being about mid-morning; and of course, just like I said in the preliminary instructions, please do not discuss anything about the case during this recess. You're excused now.

You can go out this door. It will be a little bit shorter.

(Jury out at 10:30 a.m.)

THE COURT: All right. We will recess for 20 minutes

THE COURT: All right. We will recess for 20 minutes.
(Recess at 10:30 a.m.)
(Reconvened at 10:50 a.m.)

THE COURT: Be seated, please.

MR. HARTZLER: Your Honor, should I resume the podium?

THE COURT: Yes, please.

(Jury in at 10:51 a.m.)

THE COURT: Mr. Hartzler, you may resume.

MR. HARTZLER: Thank you, your Honor.

Okay. I've brought you up to Monday afternoon, Monday before the bombing. McVeigh was at Elliott's Body Shop. He picked up the truck. He's still in Junction City. It's two days before the bombing.

There is another face that Mr. Elliott does not remember as well as he remembers McVeigh's face. It's the face of a second man that Mr. Elliott believes he saw with McVeigh on that Monday afternoon, only once, not on the first occasion. The man -- nobody was with McVeigh that time. This is when McVeigh came to pick up the truck.

He saw that person just for a moment, glanced at him. His business, of course, was with McVeigh. That's who he was concentrating on.

Now, whether Mr. Elliott was mistaken about the existence of another person and who that other person might possibly be, if there is such a person, doesn't change the fact that Mr. Elliott will say that this defendant rented the truck that blew up the Murrah Building.

As you already know and as his Honor instructed you again this morning, our burden in this case is to prove the guilt of Timothy McVeigh beyond a reasonable doubt. We welcome that burden. We will meet it.

The indictment charges that McVeigh committed the crimes with others. It refers specifically to Terry Nichols by name. It charges him as a co-conspirator. It also mentioned others unknown or unnamed. We do not bear the burden at this trial to prove the guilt of Terry Nichols. You'll hear evidence about Nichols -- and I've mentioned some of that, summarized some of the testimony about Nichols; but we'll present that evidence because it incriminates McVeigh. We're not trying Terry Nichols in this case. The same is true of the other person who might have been with McVeigh at Elliott's Body Shop.

You also may hear from the man that delivered the Chinese food. Remember, he delivered it -- the Kling order -- in Room 25. He believes the person he delivered it to was not McVeigh.

So this other person -- this other possible person with McVeigh has come to be known as John Doe 2, but we don't bear the burden in this trial of proving whether there is or is not another person with McVeigh. We don't bear any burden of proving who else is guilty.

So we'll keep our focus on the burden we bear. We will maintain our focus on the evidence against McVeigh. We'll prove what the Court will allow us to prove; that is, evidence against McVeigh. And I hope that you'll be able to keep your focus on that as well.

At Elliott's Body Shop, McVeigh presented his phony

driver's license in the name Robert Kling to rent the truck. And the birthday that McVeigh put on the driver's license is telling: McVeigh's real birthday is April 23, yesterday. But the birthday he gave Kling was his special day, April 19, the anniversary of the fire at Waco and the date that McVeigh selected for the bombing in Oklahoma City.

McVeigh also signed the rental agreement in the name Robert Kling. You will see the actual rental agreement documents from the rental of the Ryder truck that blew up the building, and you will see down at the bottom of those documents the signature "Robert Kling."

Now, everyone's handwriting has certain distinctive features. That's why you can identify or recognize the handwriting of loved ones and old friends, even though sometimes you don't know why you can recognize it. And that's

also why documents examiners who spend their careers examining and comparing handwriting can notice little distinctive idiosyncrasies of particular handwriting, little distinctive features, and they can compare one document to another.

Well, with the assistance of a documents examiner who will testify for us, you will look closely at those Ryder rental documents; and together in the courtroom, we will compare the documents, the other documents that we can prove McVeigh wrote, letters to friends, things of that sort. And you, yourself, will see the similarities.

For example, on the Kling signature, you'll see that there is a little curlicue that he used to make the K; and you'll see a similar curlicue in other writing that we will prove was written by McVeigh.

You'll notice on the Kling documents, in the name Robert Kling, the cross stroke for the T is done backwards. You can tell it's done backwards because there is a blot of ink that starts on the back side of the T and tapers off on the front side of the T. And we'll show you other documents written by McVeigh which have that same backward cross stroke on the T. Those are just two examples. There are other similar features that we'll present to you; and when you see these documents and when you listen to the examiner and when you compare these documents yourself, you'll conclude that Timothy McVeigh stood in Elliott's Body Shop and signed the name Robert Kling.

That Monday afternoon, McVeigh drove the Ryder truck back to Dreamland Motel. You'll hear details about where he parked it, when he was seen in it at the Dreamland, things of that sort. Now, there may be discrepancies in memories of witnesses as to the precise time and date that he was at the motel with the Ryder truck; but completely independent of evidence from Elliott's Body Shop, there will be no doubt that McVeigh had a Ryder truck in those days before the bombing.

And our evidence will establish that the truck McVeigh had at the Dreamland was the truck that he rented at Elliott's Body Shop, because employees of Ryder Corporation searched all of their records nationwide, all of their rentals during this period of time, and there is no rental in the name Timothy McVeigh. Now, if he had rented a truck for some legitimate

purpose, you would think it would be in his name. There is no rental in the name Timothy McVeigh for that period of time. That's because he rented the name -- he rented the truck in the name Robert Kling; so my point is there are at least -- there are overlapping ways, independent ways, in which he we will demonstrate that Robert Kling is really Timothy McVeigh.

There is the circumstances of the telephone call from the bus station across from the Firestone where he bought his used car. There are the circumstances of him being at the McDonald's 20 minutes and leaving 20 minutes before the truck was picked up at Elliott's Body Shop. There is the eyewitness testimony of Eldon Elliott. There is the documentary and handwriting evidence. You'll see and compare the documents. And there is the fact that there was no McVeigh rental of any Ryder truck during this period of time.

Between the time that McVeigh picked up the Ryder truck, that Monday afternoon, and the time that the bomb was detonated early on Wednesday morning, he had plenty of time, you will learn from our explosives expert, to build a bomb in the back of a truck and drive it to Oklahoma City; and that is precisely what he did.

The Turner Diaries taught him how to mix the different ingredients, how to set up the bomb, right down to how to drill a hole between the cargo box and the cab of the truck so that he could detonate it, so that the fuse could run into the cab of the truck and he could fuse it from where he was sitting in the front of the cab. You'll hear from witness testimony that's what he said he would do.

So he conferred -- converted the Ryder truck from a cargo vehicle into a gigantic deadly bomb, and he drove it to Oklahoma City; and he detonated it on one of the -- at one of the busiest times of the day.

Bear in mind this was not 3 or 4 in the morning, when he could conceivably have detonated the bomb and possibly not have killed anyone. It was at 9:00 -- 9:02 in the morning, when everyone was in their office, business was being conducted, and the children were in the day-care center.

The sound and the concussion of the blast rocked downtown Oklahoma City. It was as though it had been struck by an earthquake; and as McVeigh sped away from the scene of the crime, word quickly spread as to the location of the blast. No one in downtown Oklahoma City could have missed the sound. It ripped the air, shattered windows. It was a terrifying explosion.

People who heard it because of the noise couldn't help but be concerned. Just like the shock waves of the bomb, the word spread through the city as to where it had been located. The word was, of course, it was at the federal building.

That morning, Mike Weaver had driven his wife's car down to work. It had needed service, and the service station was closer to his office than to his wife's; so as a favor, he drove her car and she drove his. He dropped their son off at junior high on his way to work; and after dropping his son off, Mike drove downtown to the service station with his wife's car.

Mike's workday started at 9:00; and when his wife, Donna, heard the blast and then got the news that it was the

Murrah Building, which was Mike's building, she rushed from her office, made her way quickly, as quickly as she could, to the Murrah Building. And on her way, she hoped against hope that maybe Mike had gotten delayed, maybe he had gotten delayed in dropping their son off, maybe he had gotten delayed at the service station, maybe he hadn't made it to work at 9:00. And she stopped in front of the Murrah Building and looked up. His office was gone, and she knew so was he.

She was right: He was killed.

She didn't have earplugs in her pocket. None of our witnesses had earplugs in their pockets that day.

The Noise from the concussion from the bomb was felt throughout the city; and Helena Garrett, whose son, Tevin, was in the day-care center. She, of course, was across the street in her building. By pure coincidence, she was on her way to the Murrah Building, still in her building, but she was going to move her car from the Murrah Building to her regular parking lot. When she heard the blast, she rushed outside and saw that the entire front face of the Murrah Building was missing. The plate glass windows that the children pressed their hands and faces against were gone. The entire side of the building was gone.

She ran to the scene and frantically searched the area for her son. She watched as rescue workers arrived and carried bodies of small children from the building, and she looked to see if any of them were Tevin. At one point, she climbed on a pile of debris in front of the building until the rescue workers begged her to leave; and then she went home and waited. She waited for days; and when Tevin's body was found, it was taken to a funeral home. And at the funeral home, she asked to see her son; but the funeral director persuaded her not to: The body was too badly mangled. So she never saw her son again.

As she searched for her son that morning of the bombing, rescue workers searched for survivors and the bodies. And law enforcement agents arrived to search the debris for clues as to the cause of the blast; and what they found were various parts of the Ryder truck that had been -- that had blown up. The truck had blown to smithereens. And one of the pieces they found was a small piece of plywood from the side of the truck. It had yellow and red Ryder truck markings on one side of the plywood. On the other side was just plain plywood. And the piece, when it was found, was sealed in a plastic bag and shipped back to the FBI laboratory, along with all the other truck parts, pieces of debris that were found, and were being sent back for examination; and the purpose of sending them back to the lab was to examine them for chemical residue, try to figure out the cause of this blast.

And the chemist who examined most of these pieces is a man by the name of Steven Burmeister. He's been with the FBI for years, and he's one of the most qualified forensic chemists in the area of explosives residue. He's spent many years studying and examining explosive residue, both -- pardon me. He's worked both at the FBI laboratory and in the private sector, and he's testified both for defendants and for the Government.

And when he examined these pieces of evidence that

And when he examined these pieces of evidence that came back to the FBI lab, he was looking for clues as to the type of explosive that might be used and might have been used in the bomb. He used a microscope to examine the truck parts, and he didn't find much.

An explosion is a dynamic reaction; and Burmeister will tell you that the chemicals used in an explosive are often destroyed as part of the explosion, so you don't necessarily find bomb residue after an explosion. But Burmeister did find something: When he looked at that little piece of plywood from the side of the truck, he saw little specs under the microscope; and when he had tested those little specs, he determined their chemical makeup. The specs were crystals of ammonium nitrate, the very same chemical that McVeigh and Nichols had obtained in 50-pound bags in the form of the fertilizer they had purchased in central Kansas months before.

You'll also hear from a chemist from Great Britain. Her name is Linda Jones, and she's also an explosives expert. She's worked numerous cases involving IRA bombs, and she has over 20 years of experience in the explosives field. She'll explain the different types of damage that can be caused by different types of bombs. She's had ample experience with ammonium-nitrate-type bombs, and she knows what kind of damage they can cause.

She will also explain to you why a mixture of ammonium nitrate and fuel oil or racing fuel can be detonated to create an explosion; and she'll explain it's not a complicated task. She analyzed the damage to the Murrah Building and the surrounding area, and she'll explain to you why that damage is consistent with damage caused by an ammonium-nitrate-based truck bomb. She'll also explain how easy and cheap it is to make just such a bomb -- so easy, in fact, it could be built by one or two people.

Now, you undoubtedly will hear criticism of the FBI laboratory, especially the explosives unit at the lab; but Agent Burmeister is not from the explosives unit. He's a chemist, and his work is unassailable. And Linda Jones is not from the explosives unit. She's not even with the FBI. She's from Great Britain.

Also, none of the people who have been criticized for their work at the FBI laboratory will be witnesses in this case. Linda Jones has done her work independent. She's done an independent analysis of the bomb crime scene, and her evaluation and analysis of the bomb and crime scene are consistent with the most demanding scientific standards in the business.

I've already described for you the huge twisted axle that fell on the red Ford Fiesta that seemed to fly and fall out of the sky. It had been at the -- it had been at the center of the explosion; and the force of the explosion propelled it more than 200 yards in the air. Law enforcement agents found it there beside the Ford Fiesta, and they traced its vehicle identification number.

Now, many of you know that every vehicle carries a unique number stamped on various parts of the vehicle. It's referred to as the "VIN" or vehicle identification number. The agency saw the axle, located the VIN, vehicle identification

number, and called it in to find out what vehicle the axle came from and where the vehicle came from.

They learned that the axle came from a large Ryder truck; and by contacting Ryder, they learned that the truck had been rented two days before, two days before the bombing, from

a rental agency in Junction City, Kansas. You already know the rental agency. They discovered it then: Elliott's Body Shop.

That information, of course, led them to Elliott's, where they learned what I've already told you: The truck had been rented by a young man who used the name Robert Kling.

Kling's address in South Dakota, of course, proved to be false. Not only was there no house at that address, the address in the city -- the listed city -- there is not even an address of that sort.

The agents surveyed the area for anyone who had seen -- who had been seen driving a Ryder truck; and as you know from my description of testimony related to the Dreamland Motel, they discovered that a guest at that motel had been seen days before the bombing riding in a Ryder truck, and that guest was registered in his name. It was Timothy McVeigh. That information led them to a search for McVeigh, and I've already told you much of the rest of the story.

McVeigh had been dropped in Oklahoma City -- I'm sorry -- McVeigh had been stopped and arrested in Oklahoma City on the morning of the bombing, traveling away from the city. He was arrested that morning because he didn't have a license on his car and because when he was stopped, he had an obvious concealed weapon underneath his jacket.

He was still in custody two days later, when the federal agents tracked the VIN number, went to Elliott's, found it was Kling, went to Dreamland, discovered that Kling was McVeigh.

They went to the county jail where he was being held. They took possession of the clothing he had, same clothing that he had the day of the bombing, because they had been removed, put into storage; and he was in an orange prison jumpsuit, not wearing clothing he had on the day of the bombing.

They took those (sic) clothing and sent them to the FBI laboratory. I'm referring, of course, to the T-shirt with the image of Lincoln and the tree dripping blood on the back. And again, it was Stephen Burmeister who did the examination. He conducted a chemical analysis of the clothing, and he found explosives residue on the shirt and the pants pockets and on the earplugs in the pockets or that had been in the pockets.

This residue was not ammonium nitrate. The ammonium nitrate was found at the scene of the bombing. That was on the plywood. That was explosive residue that's referred to as PETN. PETN is found in det cord, and it's a very fine powder. Det cord is sort of a narrow, hollow tubing; and when you use det cord, you often cut it. And in cutting it, cutting it open, the fine powder sifts out from inside the det cord. And it's sticky and gets all over everything. You can't really cut it without getting it on your hands and clothing. And that's the explosives residue that was found on the shirt McVeigh was wearing and on the pockets and on the earplugs that had been in

his pockets.

The agents, of course, located his car. They found inside his car that manila envelope that he previously described. The papers inside there were practically a manifesto. They're almost a declaration of his terrorist intent. Some were passages in his own handwriting. Some were photocopies that he had highlighted. Many of the documents bear his fingerprints. All of them were about the right and the need to kill people who work for the federal government.

There was a passage from The Turner Diaries, the one I referred to earlier, that said, "The real value of our attacks today . . ." There was the quote from one of the founding fathers about how, when the government fears the people, there is liberty; and that's the one that had McVeigh's handwriting beneath it that said, "Maybe now there will be liberty." And there was much, much more. We will show you all those documents. There were passages declaring war against the American government. There were passages calling for violence against the government because of Waco.

The agents continued their investigation and uncovered all of the evidence that I've previously summarized, all of the evidence that we will present to you. They found the evidence of the phone calls to the chemical companies, phone calls to the barrel companies and to the raceways. They got the letters that McVeigh wrote to his sister. They got -- they found all the evidence about McVeigh and Nichols' acquisition of the bomb components. They found out about the storage lockers and got the storage locker documentation, determined it was McVeigh and Nichols that rented them in false names. They got the information from Elliott's Body Shop. They collected all of that information, all of the evidence that we'll be presenting to you.

As you can probably tell from what I've said, there is no single witness who is going to come in here and tell the whole sad story. Our case consists of dozens of pieces of evidence put together. His Honor referred to that earlier this morning, when he was speaking with you. And those pieces will come in like bricks building a brick wall.

Now, some of the bricks won't fit tightly together, because memories will be slightly different; and as I think we spoke to some of you in jury selection, there will undoubtedly be some unanswered questions. There always are in a case of this complexity.

But in the end, we will build a solid wall of evidence against McVeigh, making your job of determining his guilt easy, I believe. You'll get a clear picture of what happened, and it won't depend on any one witness. There will be overlapping proof, and you'll be convinced beyond a reasonable doubt that he's responsible for the bombing in Oklahoma City.

But there is one witness who is very close to McVeigh and who knows a lot. I haven't mentioned him yet. Our case does not depend on him. We could prove the case without him, but he was very close to McVeigh. I'm referring, of course, to Michael Fortier, his other Army buddy. We will call him as a witness because he provides insight into McVeigh's thinking, his intent, and his premeditation; and he knows a few details that other witnesses do not know

THAT OTHER WITNESSES DO NOT KNOW.

A couple of years after the Army, McVeigh came to visit Fortier in Fortier's hometown in Kingman, Arizona. I already talked about one of those trips. McVeigh had changed since the Army, Fortier noticed. Although McVeigh had always been suspicious of the government, even during the Army, when he was trying to get people to read The Turner Diaries, his feelings had deepened into a burning hatred. He accused the government of murdering the Branch Davidians at Waco, and he brought Fortier videotapes and propaganda and other anti-government literature and other conspiracy theories; and he spent a lot of time in Kingman in the two years before the bombing. And Fortier watched and will tell you how McVeigh grew more and more extreme, grew from words to action or wanting action.

In the spring of 1994, McVeigh told Fortier that the American government had, quote, "declared war," unquote, on the American people. And that fall, the fall of 1994, months before the bombing still, McVeigh told Fortier that he had decided to strike back on the government.

When McVeigh came up with his plan to blow up the Murrah Building, he recruited people to help him. You already know that he recruited Terry Nichols, and he tried to recruit Michael Fortier. He told Fortier and Fortier's wife about his plan. I already described how he diagramed the bomb in the living room of the Fortiers' house in Arizona; and he told Fortier that the time had come for him to take action against the government and that he would blow up the building, and he identified the building as the federal building in Oklahoma City.

But McVeigh didn't just give a broad outline of his plan to Fortier. He told him the ingredients he would use. He diagramed, as I said, the bomb that he would build inside a truck. He told Fortier how he would arrange the barrels inside the truck. He told Fortier how he acquired some of the ingredients. He told Fortier that he and Nichols had purchased the ammonium nitrate from a farm supply store, which is of course confirmed by the evidence we have independently. He told Fortier about their going to the quarry at night, which I already told you about, which is confirmed by the other evidence; where they got the explosives, the blasting caps and the sausage Tovex. He told him how they had stolen it using the Makita drill that the agents later found in the basement of Nichols' house, and he showed Fortier some of the stolen explosives he and Nichols had stolen from the quarry.

In fact, he gave Fortier some of the blasting caps, and Fortier turned them over to the FBI. They're the same types of blasting caps that were found in Nichols' basement, the same brand, the same length, the same delay as the stuff that was stolen from the quarry.

We're not going to bring the blasting caps into the courtroom, but we'll show you photographs of those blasting caps.

Now, in addition to what McVeigh told Fortier, he also took him to Oklahoma City and showed him the building months before the bombing. And Fortier will -- pardon me -- Fortier will describe that trip that they took. It was a stopover on

their way to Kansas.

He told Fortier during the trip that Nichols would help McVeigh mix the bomb and would help McVeigh get away after the bombing. And when McVeigh and Fortier were in downtown Oklahoma City, they drove around the Murrah Building; and McVeigh showed Fortier the alley where he planned on parking his car. And he explained to Fortier that he would park there because he wanted to have a tall building between himself and the blast; and indeed, you will see -- we have a model of downtown Oklahoma City -- you'll see a tall building next to the -- kitty-corner from the Murrah Building -- it's a YMCA building -- exactly where Fortier pointed out McVeigh said he would park his car. It's a tall building that would shield McVeigh, unlike it shielded the innocent people in the building.

McVeigh told Fortier that he wanted to bring the building down. And Fortier asked him, "Well, what about all the innocent people? What about the secretaries and people like that in the building?"

McVeigh compared them to the storm troopers in the "Star Wars" movies. He said, "Well, even if they as individuals are innocent, they work for an evil system and have to be killed."

McVeigh also told Fortier about how he and Nichols planned to raise money to finance their illegal activities. They were going to do it by robbing a man by the name of Bob who was a gun dealer that McVeigh knew from Arkansas. Since Bob knew McVeigh, Nichols was going to do the actual robbery; but McVeigh told Fortier that he had scouted out Bob's remote Arkansas home. And in November of 1994 -- this is during the period of time when they were acquiring the ingredients and the components for the bomb -- Fortier received a call from McVeigh who told him that it was a, quote, "code red." He had explained this code system he had. "Code red" meant an alarm. And he told Fortier to go to a pay phone and call him back at another number.

When Fortier called back, McVeigh told him that Nichols, quote, "did Bob"; warned Fortier that Bob might send private eyes out to Kingman to try to investigate McVeigh so that Fortier should be on the lookout, to let him know if he saw any private investigators.

Much of what Fortier will testify to is corroborated, as I've indicated, by other independent evidence. McVeigh told Fortier about dressing up like a biker and purchasing nitromethane at a raceway.

Well, Glynn Tipton, who I mentioned earlier, will tell you that someone who he's almost certain was McVeigh approached him at a raceway about buying nitromethane and anhydrous hydrazine; and Tipton will tell that you the man was dressed up in dark jeans and black T-shirt, which is exactly what Rick Fortier, how he liked to dress -- and Rick Fortier, Michael's brother, is a biker.

In December of 1994, McVeigh showed Fortier some electric blasting caps that he and Nichols had stolen from the quarry; and he asked Michael Fortier's wife, Lori, to wrap the blasting caps up using Christmas wrapping so that they would

look like Christmas packages, to disguise them in case he got stopped, because he was traveling from Arizona back to Michigan and he wanted to take the blasting caps with him. And Lori did that.

And a couple of days later, to corroborate the story, McVeigh got to Michigan and met with another friend of his named Kevin Nicholas. Kevin Nicholas will testify and he'll tell you that he helped McVeigh unload his car when McVeigh got to Michigan and McVeigh warned him to be careful with these two Christmas presents. And he later told Nicholas that the boxes contained blasting caps, corroborating exactly what Lori and Michael Fortier will tell you.

There are a number of witnesses like the Fortiers, who were friends and acquaintances of McVeigh; and these various witnesses have widely varying degrees of knowledge of what McVeigh was doing or involvement with him. David Darlak is the friend that McVeigh called to request the racing fuel. Greg Pfaff is the acquaintance that McVeigh called for the detonation cord, said he would drive across country to get it. Kevin Nicholas is the friend I just mentioned. He's the guy that took the blasting -- the Christmas presents out of the car that McVeigh later said were blasting caps.

Each of these witnesses had some knowledge of what McVeigh was doing, some knowledge of McVeigh's activities; but not all of them had incriminating knowledge, not all of them are culpable or could be charged criminally. So when they testify, not all of them are testifying pursuant to plea agreement or immunity order. Certainly not Darlak and Pfaff and Nicholas. There is no deal that they have with the Government.

But one step up the ladder from those three are Lori Fortier and Jennifer McVeigh. Both of them had some knowledge of McVeigh's plans. Both of them probably could have stopped this terrible crime, had they chosen to do so. Both of them were concerned about their criminal culpability when federal agents came to talk to them, so both of them at some point refused to talk or to testify here without some sort of protection from being prosecuted. The protection that they sought through their separate, different attorneys is that what we refer to as "use immunity." It's an arrangement in which the court orders them to give up their constitutional right to refuse to testify, to give up their right to refuse to incriminate themselves, and to come in and testify.

And we, as a result of that court order, cannot use the information they provide to prosecute them. We cannot use that information against them. We can use their testimony -- we will use their testimony against McVeigh; but we can't use it against them. There is one circumstance in which we can use it against them: If they lie, they can be charged with perjury; and we can use their testimony from the witness stand against them.

Another step up the ladder of culpability, involvement with McVeigh, from Jennifer and Lori is Michael Fortier, of course. Although he did not join the conspiracy and he didn't participate in the bombing -- in fact, he rejected McVeigh's proposal. He did have knowledge of McVeigh's plans. He knew about McVeigh's criminal activities. He didn't report it. He

about McVeigh's criminal activity. He didn't report it. He didn't report it to anyone who could have stopped it. He made no effort to stop it.

In addition, he actually participated with McVeigh in transporting stolen guns. These were guns that were stolen from Bob, the gun dealer in Arkansas. I told you about the trip the two of them made up to Kansas. Well, the purpose of the trip was to go up and get some of the stolen guns. Fortier participated in transporting them back to Arizona; so he transported stolen guns, which is a federal violation.

So while he will not plead guilty to the bombing, he won't plead guilty to the conspiracy that he was not involved in, he will plead guilty to some of the crimes. He'll plead guilty to transporting the guns and to conspiring with McVeigh to transport the guns; and there are two other violations he'll plead guilty to -- he's already pled guilty to.

You'll hear that he and his wife were also involved in drug use. They used marijuana and speed. And immediately following the bombing, when Fortier could have been remorseful and could have reported what he knew, he lied. He lied to the FBI, he lied to news reporters, he lied to his friends, he lied to his parents, he lied to his family; and Lori Fortier, his wife, lied, too. They lied because they were scared. They were afraid of what could happen to them. They had known about McVeigh's plans. They had done nothing to stop it. Scores of people had died, and they were afraid that they could be prosecuted. They were afraid they could be subjected to the death penalty, and they lied.

And the lies were bad. You'll hear from Fortier -- he will admit that he lied, told reporters, told others that he thought McVeigh was innocent and that he had no reason to believe McVeigh was involved.

Law enforcement agents obtained a wiretap on McVeigh's house -- on Fortier's house, on his telephone. The effort proved totally unfruitful in part because Fortier and his wife, as they will say, suspected that their house was being tapped.

The agents then obtained subpoenas to bring the Fortiers before the grand jury in Oklahoma City; and before they appeared before the grand jury, they had lawyers appointed for them. And when they got their attorneys, they admitted they had been lying and they told us what they know; and they will tell you what they know.

Michael Fortier is now in prison awaiting sentence. He pled guilty to lying to the FBI, to concealing his knowledge of this bombing, to transporting guns; and he will testify pursuant to a plea agreement with the Government. He faces a maximum of 23 years in prison, but he's hoping to get a much, much shorter sentence than that.

At the conclusion of the case, the Judge will instruct you must consider Michael Fortier's testimony with care and caution; and we encourage you to do that and to consider his testimony in the context of all the other evidence we will present. And much of what he tells you will be corroborated independently.

As I've said, our evidence is not dependent on any one witness. It's certainly not dependent on Michael Fortier, but he will provide you some understanding of McVeigh's thinking.

... especially during the last few months and up until the time the bombing actually occurred.

I'm not going to again detail the charges. The Judge has already explained them to you; but in presenting all of this evidence to you, we obviously are going to be able to prove the eleven counts against McVeigh.

The Judge has explained to you one of the counts is a conspiracy. That's an agreement between two people to commit a crime, two others involved blowing up the building. And then there are eight counts involved of murder, involving eight different law enforcement agents. And I want you to understand that those eight counts are not there because we value the lives of law enforcement agents any more than lives of any of the other people who were lost in that building. There is a specific federal statute that subjects the defendant to the death penalty for murdering a law enforcement agent in the line of duty, and that's why those eight counts are charged.

Each of the crimes has various elements. The Judge at the end of the case will instruct you on those elements. It's our burden to prove each of the elements for each of the counts.

We will meet that burden. We will make your job easy. We will present ample evidence to convince you beyond any reasonable doubt that Timothy McVeigh is responsible for this terrible crime.

You will hear evidence in this case that McVeigh liked to consider himself a patriot, someone who could start the second American Revolution. The literature that was in his car when he was arrested included some that quoted statements from the founding fathers and other people who played a part in the American Revolution, people like Patrick Henry and Samuel Adams. McVeigh isolated and took these statements out of context, and he did that to justify his anti-government violence.

Well, ladies and gentlemen, the statements of our forefathers can never be televised to justify warfare against innocent children. Our forefathers didn't fight British women and children. They fought other soldiers. They fought them face to face, hand to hand. They didn't plant bombs and run away wearing earplugs.

Thank you.

Thank you, your Honor.

THE COURT: Mr. Hartzler.

Members of the jury, as I already explained, opening statement is not evidence in the case. Mr. Hartzler has outlined what the Government intends to prove; and of course, the Government has the burden of proof. It is not up to the defendant to -- in the case to offer any evidence or to prove anything, and neither is it required of counsel for the defendant to make any opening statement.

Mr. Jones, you are going to make an opening statement, as I understand it.

MR. JONES: I am, your Honor.

THE COURT: And given the hour, I'll give you the choice of whether you want to stop or start and then tell us a convenient place to break or whether you want to take the

recess now.

MR. JONES: If the Court please, I'm prepared to start now.

THE COURT: All right. If you'll tell us when is a convenient place to interrupt for the recess, that's what we'll do.

MR. JONES: Thank you, your Honor.

THE COURT: Do you want to stand up and take a little stretch, members of the jury, while we're adjusting the lectern? We'll let you do it.

OPENING STATEMENT

MR. JONES: May it please the Court . . .

THE COURT: Mr. Jones.

MR. JONES: Special attorney to the United States Attorney General, Mr. Hartzler, and to Mr. Ryan, the United States Attorney for the Western Judicial District of Oklahoma and to Mr. Timothy McVeigh, my client, I have waited two years for this moment to outline the evidence to you that the Government will produce, that I will produce, both by direct and cross-examination, by exhibits, photographs, transcripts of telephone conversations, transcripts of conversations inside houses, videotapes, that will establish not a reasonable doubt but that my client is innocent of the crime that Mr. Hartzler has outlined to you.

And like Mr. Hartzler, I begin where he began. As he said, it was a spring day in Oklahoma City. And inside the office of the Social Security Administration located in the Alfred P. Murrah Building, named after a distinguished chief judge of the United States Court of Appeals for the Tenth Circuit, a young black woman named Dana Bradley was feeling the atmosphere a little stuffy and warm; so she left her mother, her two children, and her sister in line and she wandered out into the lobby of the Alfred P. Murrah Building. And as she was looking out the plate glass window, a Ryder truck slowly pulled into a parking place and stopped. She didn't give it any particular attention until the door opened on the passenger side, and she saw a man get out.

Approximately three weeks later, she described the man to the Federal Bureau of Investigation agents, as indeed she did to us and to others, as short, stocky, olive-complected, wearing a puffy jacket, with black hair, a description that does not match my client. She did not see anyone else.

She saw this individual pause briefly, walk to what she thought might be the back of the truck, and walk away.

She turned around and went back in the Social Security office; and then in just a matter of moments, the explosion occurred. It took the life of her mother and her two children and horribly burned her sister. She is not a witness for the defense.

And that night, approximately 12 hours later, almost to the minute, somewhere between 50 and 100 million people throughout the world, courtesy of CNN, watched physicians crawl through the rubble of the Murrah Building and amputate this woman's life -- this woman's leg in order that her life might be saved and she could be extricated from the rubble.

In addition to the members of her family who died that

morning, the bomb claimed Charles E. Hurlburt; John Karl Vaness, III; Anna Jean Hurlburt; Donald Lee Fritzler; Eula Leigh Mitchell; Donald Earl Burns, Sr.; Norma Jean Johnson; Calvin C. Battle; Laura Jane Garrison; Burl Bloomer; Luther Treanor; Rheta Long; Juretta Colleen Guiles; Robert Glen Westberry; Carolyn Ann Kreymborg; Leora Lee Sells; Mary Anne Fritzler; Virginia Mae Thompson; Peola Y. Battle; Peter Robert Avillanoza; Richard Leroy Cummins; Ronald Vernon Harding; LaRue Ann Treanor; Ethel Louise Griffin; Antonio C. Reyes; Thompson Eugene Hodges, Jr.; Junior Justes; Margaret Goodson; Oleta Christine Bidby; David Jack Walker; James Anthony McCarthy; Carol L. Bowers; Linda Coleen Housley; John Albert Youngblood; Robert Nolan Walker, Jr.; Thomas Lynn Hawthorne, Sr.; Dolores Marie Stratton; Jules Valdez; John Thomas Stewart; Mickey Bryant Maroney of the Secret Service, who had guarded presidents; John Clayton Moss, III; Carole Sue Khalil; Emilio Rangel; James Everette Boles; Donald R. Leonard of the Secret Service; Castine Deveroux; Clarence Eugene Wilson; Wanda Jean -- Wanda Lee Watkins; Michael Lee Loudenslager; Carrol June Fields; Frances Ann Williams; Claudine Ritter; Ted Allen; Linda McKinney; Trish Nix; Betsy McGonnell; David Burkett; Michael George Thompson; Catherine Mary Leinen; Sharon Louise Wood Chesnut; Ricky Lee Tomlin, from my hometown of Enid; Larry James Jones; Richard Arthur Allen; Harley Richard Cottingham; Lanny Lee David Scroggins; George Michael Howard; Jerry Lee Parker; Judy Joann Fisher; Diane Althouse; Mike Weaver; Robert Lee Luster, Jr.; Peter DeMaster; Katherine Ann Finley; Doris Adele Higginbottom; Steven Douglas Curry; Michael Joe Carrillo; Cheryl Hammon, Aurelia Luster and Linda Florence of the credit union; Claudette Meek; William Williams; Johnny Wade; Larry Turner; Brenda Daniels; Margaret Spencer; Paul Broxterman; Paul Ice; Woody Brady; Claude Medearis; Teresa Lauderdale; Terry Rees; Alan Whicher; Lola Bolden; Kathy Seidl; Kimberly Clark; Mary Rentie; Diana Day; Robin Huff; Peggy Holland; Victoria Texter and Susan Jane Ferrell of Chandler, Oklahoma; Kenneth Glenn McCullough; Victoria Sohn; Pamela Argo; Rona Chafey; Jo Ann Whittenberg; Gilbert Martinez; Wanda Howell; Sandy Avery; James Kenneth Martin; Lucio Aleman, Jr.; Valerie Koelsch; Teresa Alexander; Kim Cousins; Michelle Reeder; Andrea Blanton; Karen Carr; Christi Jenkins; Jamie Genzer; Ronota Ann Woodbridge; Benjamin Davis; Kimberly Burgess; Tresia Jo Mathes-Worton; Mark Allen Bolte; Randolph Guzman; Sheila Driver; Karan Shepherd; Sonja Sanders; Derwin Miller; Jill Randolph; Carrie Lenz; Cynthia Lynn Campbell Brown; Cassandra Booker; Shelly Bland; Scott Williams; Dana Cooper; Julie Marie Welch; Frankie Ann Merrell; Christine Nicole Rosas; Lakisha Levy; Cartney McRaven; Aaron Coverdale; Ashley Megan Eckles; Zackary Taylor Chavez; Kayla Marie Haddock; Peachlyn Bradley; Chase Dalton Smith; Anthony Christopher Cooper, II; Colton Smith; Elijah Coverdale; Dominique R. London; Baylee Almon; Jaci Rae Coyne; Blake Ryan Kennedy; Tevin Garrett; Danielle Nicole Bell; Tylor Eaves; Antonio Cooper, Jr.; Kevin Lee Gottshall, II, and Gabreon Bruce.

For those of us from Oklahoma, the bombing of the Alfred P. Murrah Building is the event by which we measure time. It is to my generation in Oklahoma what Pearl Harbor was to my mother and father's generation.

to my mother and father's generation.

And on the morning that Mr. Hartzler described, the proof will show that when the fire department arrived, the smoke was so black that at first they thought it was the Walter -- the Water Resources Board across the street that had been destroyed, because the smoke hid the fact that the entire front and the roof of the Murrah Building was gone. And it was three or four minutes before the captain on duty realized as the smoke began to clear that the real catastrophic event was behind him. And the Oklahoma City fire department moved to a second, third, fourth, fifth, sixth alarm.

That is the Oklahoma City bombing.

You have been empowered to determine whether the allegations made by the Government against my client are true; that is to say, whether he is guilty or not guilty.

Mr. Hartzler has outlined to you this morning the Government's case, the evidence, or at least some of it, which he hopes to prove. The Judge has told you that that is not evidence itself, what he says; and certainly what I say is not evidence. Rather, he and I are trying to put together pieces of a puzzle so that you may look at the puzzle and see whether, in fact, the pieces justify the way that we say they come together.

In reviewing the evidence in this case and in the proof that will come, you know, and certainly it will be in evidence, that this was the largest domestic terrorism act in the history of this country. The president of the United States and the Attorney General of the United States went on nationwide television within hours after the bombing. The president came to Oklahoma City for the memorial funeral service at which 12,000 people attended. The federal government offered a \$2 million reward for information leading to the arrest and conviction of those involved.

And I think it fair to say that this was the largest criminal investigation in the history of this country.

The question is did they get the right man.

Many of the witnesses that Mr. Hartzler said would testify will tell you that though they have spent many, many -- in some cases dozens of hours -- talking with the ladies and gentlemen at the prosecution table and with the FBI and with newspapers from around the world and television networks, they have never talked to us. So in some cases, we will be asking them questions to find out for the first time; and we will ask them about these conversations that occurred over so many hours and so many days with the prosecution.

I believe that when you see the evidence in this case, you will conclude that the investigation of the Alfred P. Murrah Building lasted about two weeks. The investigation to build the case against Timothy McVeigh lasted about two years. But within 72 hours after suspicion first centered on Mr. McVeigh, we will prove to you that even then, the Government knew, the FBI agents in the case, that the pieces of the puzzle were not coming together; that there was something terribly wrong, something missing. And as Paul Harvey says, our evidence will be the rest of the story.

So let me begin first with Timothy McVeigh. The evidence in this case, probably from the Government as well as

from the defense, will show that yesterday, he turned 29 years old, as I think Mr. Hartzler has already made some reference to; for he was born on April 23, 1968 in Lockport, New York, son of William and Mildred McVeigh; and as Mr. Hartzler has indicated to you, he has a sister, Jennifer, younger by six years, and an older sister, Patricia, older by two years. Tim's dad, Bill McVeigh, had been an auto worker since 1963 and his mother, Micki, worked at various jobs, including most frequently as a travel agent.

Their (sic) parents were separated in June of 1984, when Tim was 16 years old, and they were divorced in March of 1986. Tim continued to live in the family home with his father, Bill. He grew up in upstate New York. Witnesses will tell you that he started the first grade in September of 1974 in Lockport, New York, a small town just outside of Buffalo.

He continued through all of his schooling at Lockport. He made good grades except perhaps in his senior year -- in fact, well above average grades. He got a honor pass award, which is reserved for students who exhibited above average academic performance and initiative, in his senior year; and when he graduated from the Star Point High School in Lockport in June of 1986, he had a small regents' scholarship to a state university in New York; but he didn't go to college.

He first started working at Burger King in the fall of 1986, until the spring of 1987. Then he switched jobs and went to work as an armored car driver for Burke's Security in Buffalo from the spring of 1987 to the spring of 1988. It was during that period of time that he knew and was well acquainted with some of the people that Mr. Hartzler mentioned to you, friends of his, like Mr. Darlak that he grew up with in upstate New York.

Then he went to work at the Burns International Security Service, March of 1992. He had a supervisory position there, and he left it in January of 1993. He came to Arizona, where his friends Mike and Lori Fortier lived; and Tim worked at the TruValue Hardware store in Kingman beginning in 1993 and again as a security guard at State Security during the same period of time. And then he went to work, so to speak, on his own, buying and selling and trading weapons at the numerous gun shows held throughout the country, of which there are probably anywhere from 2- to 3,000 a year.

But in May of 1988, he entered the armed services and stayed there until December of 1991, in the United States Army. After Fort Benning, his permanent station duty was Fort Riley, Kansas. And there he became a gunner for a Bradley fighting vehicle and repeatedly throughout his Army service, as his friends will testify here, he achieved a top gun ranking. In fact, first among 93 other Bradley gunners.

He achieved extraordinary advancement in the enlisted ranks from a private E1 to a sergeant E5 in less than three years. And then when the Operation Desert Shield, which became Operation Desert Storm, started, he served in the front line assault, in the Kuwait/Iraq operations. He was literally on the front line and made one of the first invasions into the enemy area.

During this service in the military, he earned one of

our highest awards, the Bronze Star. He also earned the Army Commendation medal with an upgrade for valor. He received the Army Commendation medal, two Army Achievement medals, and several others. In fact, his unit was chosen to be the inner perimeter guard at the site where General Schwarzkopf and his opposite number in the Iraqi army arranged the terms of the armistice that ended the war.

After the war, he returned to the United States. He came back initially to go into the special forces. He had been accepted into it, but he had been in the desert for several months, had lost a considerable amount of weight and frankly physically wasn't up to it; so he and a friend of his who came

back with him and joined on the same day dropped out the second day, because they knew they weren't cut out for his physically. He went back to Fort Riley, stayed in the service and then eventually got out, went into the reserves in New York, and then went to work at some of the places that I have suggested to you here.

That's basically his background, where he grew up, who his parents were, where he worked, and what his position was.

Mr. McVeigh's motives as described by the Government in Mr. Hartzler's opening address are that he is anti-government; that he has a hatred for the United States, and that he conspired with others to build a terrible explosive device which he initiated because he was angry at the government of the United States.

Mr. Hartzler has told you that the Government's evidence will consist of, among other things, a shirt that Mr. McVeigh was wearing when he was arrested and that in his car he had all this patriot literature -- it was, after all, incidentally, Patriots' Day, as Mr. Hartzler said -- quotations from John Locke, Patrick Henry; but on this shirt, he had sic=20 *semper tyrannis*, the words spoken by John Wilkes Booth when he assassinated Abraham Lincoln in Ford's theater. And the Government suggests to you that as an expression of his motive.

Well, *semper tyrannis* is also the official slogan of the state of Virginia and had been for almost 100 years before John Wilkes Booth appropriated it. And it was chosen by three men: George Mason, a member of the Virginia House of Delegates, a member of the Constitutional Convention at Philadelphia. He authored several amendments to the Constitution which were later adopted.

Another person who designed that slogan and adopted it was the famous general Richard Henry Lee of the American Revolutionary Army, who signed the Declaration of Independence and was a delegate to the First Continental Congress in Philadelphia and introduced the famous resolution of June 7, 1776, which called for the dissolutionment (sic) of ties between the United States and Great Britain; and he proposed the Tenth Amendment to the Constitution, which was adopted, and later served as a United States senator from Virginia.

The third person who participated in the selection was George Wythe, who signed the Declaration of Independence and was a delegate to the continental Congress.

So *semper tyrannis* is not the exclusive property of John Wilkes Booth. It has a meaning in the historical

OF JOHN WILKES BOOTH. It has a meaning in the historical conservative community of people who follow the revolutionary rule and its antecedents, has really nothing to do only with John Wilkes Booth; likewise with the statement that Mr. McVeigh made to his sister that something big is going to happen. Well, we will give you proof that in the last of March and the first part of April of 1995, the something big that was going to happen didn't have anything to do with the bombing in Oklahoma City. Those words and expressions and communications and conversations were all over the Internet, in which thousands of people exchanged communication back and forth because they believed that the federal government was about to initiate another Waco raid, except this time on a different group.

Now, we're not concerned with whether the federal government was going to do that. The point is that Mr. McVeigh was just one of tens of thousands of people of his political persuasion who believed that something big was going to happen in April of 1995.

There is no question that the evidence will show that Mr. McVeigh was a political animal. He studied history, the Constitution, the amendments to the Constitution. He carried them on his person. He carried them in his car, he carried them in his briefcase, and they were stacked in his house and he laid them out on tables at gun shows. There isn't any dispute about that.

Likewise, he was extremely upset with the subject of government abuse. Among the collection of literature, including that found in his car at the time of his arrest on Patriots' Day were John Locke's Second Treatise of Government, quotations from Thomas Jefferson, quotations from Winston Churchill and the Declaration of Independence.

Tim McVeigh, along with his sister and his friends, wrote letters to newspapers. They voted. His politics were open and known to everyone that spent any time with him. There was no secret about the politics that Tim McVeigh had.

And part of those politics had to do with the events, as Mr. Hartzler has described them, at Waco and Ruby Ridge.

Our proof will be that Tim McVeigh believed that the federal government executed 76 people at Waco, including 30 women and 25 children. That was his political belief. He was not alone in that opinion.

He believed that the federal law enforcement at Waco deployed in a military fashion against American citizens and children who had committed no crime and that the Branch Davidians were not a cult who lived in a compound. He believed that they were what they were, a breakoff of the Seventh Day Adventist church who had lived at Mount Carmel since the 1930's.

He believed that the federal government undertook a course of action including the use of tanks and CS gas and other military weapons against the Branch Davidians which was certain to result in their death. He believed that federal agents fired upon the Davidians as they attempted to escape the fire. He believed that these actions and cover-up of these actions, as he saw it, pointed to a federal government out of control; and he made no secret about it. He was at Waco.

There is a videotape of Tim McVeigh which you will see in evidence in a flannel shirt sitting on top of his car, talking to a television reporter. And on the top of the car are bumper stickers that he is selling or giving away which describe his political beliefs.

He believed that the government manipulated the press at Waco and that the words "cult" and "compound" were used to hide what was really going on.

He was not alone in those beliefs. When the federal jury at San Antonio acquitted the Branch Davidians of murder, he saw that as validation; and when the Congress of the United States last year issued its report on Waco, he saw that as validation.

He was also concerned about Ruby Ridge, where Marshal Deacon, much celebrated member of the United States Marshal's Service, was killed. He believed there that the ATF had entrapped Randy Weaver into committing a crime by sawing off a small portion of a shotgun just below the line to make it illegal so that they could then pressure Weaver into being an informant for the ATF in the community in northern Idaho 20 miles from the Canadian border that Weaver had moved his family to, to live life as he wanted.

And he believed that an FBI sniper, who was also at Waco, shot and killed Randy Weaver's wife as she was holding her daughter and that they shot and killed a ten-year-old boy, Sammy, as he was running towards the house. And the jury on Ruby Ridge acquitted Randy Weaver of murder.

So his views weren't alone, and they certainly were not secret.

He had another belief: He was strongly concerned about the Brady Bill, wrote angry letters about it, talked about it, didn't like it. In his mind -- and the evidence will show -- the Brady Bill was just the first step to effectively repeal the Second Amendment by taking away from people their right to own guns and to protect themselves against abuses of the federal government.

Those were his beliefs. Much of the rhetoric and writing that the Government will introduce and call to your attention was virulent and caustic. It was extreme in some cases.

But there are many examples of material -- and some of them, we will introduce -- possessed and studied by Tim McVeigh which were not. Among the items found in Mr. McVeigh's car at the time of his arrest was a statement in reference to gun control. And along with the items that Mr. Hartzler said was found and read from, this was found: "Well, that's part of my contribution to defense of freedom, this call to arms. In the past, I put to use the above points. I intend to become more active in the future. I would rather fight with pencil lead than bullet lead. We can win this war in voting booth. If we have to fight in the streets, I would not be so sure. Those guys have helicopters and tanks. Assault rifles and 223s are ineffective against an Abram tank or an Apache helicopter. All too often in the past, we gutsy gun owners have lost the battle because we have failed to fight. The Brady Bill could have been defeated in Congress if gun owners had become more

involved in electing officials and communicating to those officials what was expected to them. The Brady Bill will pass by the thinnest of margins. The next bills will make Brady look mild. Start your defense today. Stamps are cheaper than bullets and can be more effective." This was also in Tim McVeigh's car.

And among the others was one by Abraham Lincoln: "To sin by silence when they should protest makes cowards of men."

We will prove to you that the evidence that the Government brings to you which they call the motive for blowing up the building proves nothing; that millions of innocent people fear and distrust the federal government and were outraged and that being outraged is no more an excuse for blowing up a federal building than being against the government means that you did it.

The federal government's actions in reference to gun control and Waco trigger emotional responses from people like Tim McVeigh; but they are within the political and social mainstream. And among those people who held the same views were Michael and Lori Fortier. Each of them expressed frequently the same views ascribed to Tim McVeigh.

We will show you evidence that Michael Fortier himself believed that the Government had murdered innocent children at Waco and had used excessive force at Ruby Ridge.

The evidence of Michael and Lori Fortier will show that people can have deep-seated convictions about these matters without being prompted to action.

Mr. Hartzler has also discussed with you and the Government will introduce into evidence The Turner Diaries. The Turner Diaries, we will show, has sold about 200,000 copies in this country. In fact, you can buy it down at the Tattered Cover book store right here in Denver; and it is no more a blueprint, much less a reason, to blow up a federal building than Frederick Forsyth's novel The Day of the Jackal is a blueprint to assassinate the president of France, or William Faulkner's novel Sanctuary is a graphic description of how men can rape women by instrumentation, or that Lady Chatterly's=20 Lover can teach you how to make love.

The Government has argued, Mr. Hartzler will tell you, and proved under their theory, that the Turner Diaries was a blueprint for the Oklahoma City bombing. The Government's evidence will say that the bombing of the FBI headquarters in Washington -- and incidentally, that was the building, not a federal building in the middle of the country, but the offices of the Federal Bureau of Investigation in Washington. They have argued that their evidence will be that Mr. McVeigh thought it was necessary to wake up America because that was the theme of The Turner Diaries. And the prosecution's evidence, as Mr. Hartzler has told you, will be that passages from The Turner Diaries demonstrate the motive and the purpose of the bombing.

I believe this is a convenient place to stop, your Honor.

THE COURT: All right. Thank you.

Well, members of the jury, we will recess at this time. We're going to recess for an hour and a half, which may

seem like a long time to you, but you have to realize that during these recesses, particularly in the noon recess, the lawyers have things to do in organizing what's going to be presented to you, contacting witnesses and the like; so that's why it seems, you know, for those who are not engaged in all of that an excessive amount of time, but scheduling as matter that is my responsibility and I believe the time is well spent.

So, of course, during this time, you'll be out of the courtroom, in your own area; but, of course, my instruction to you, you must obey, which is don't talk about this now. We're just getting started. You just are hearing opening statements, which are not evidence in the case; and there will be a lot of witnesses and a lot of exhibits; so please don't talk about anything connected with this case. Everything else is up to you.

So you're excused now, an hour and a half.

(Jury out at 12:11 p.m.)

So I guess that's about 1:42. We'll be in recess.

(Recess at 12:12 p.m.)

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Item

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OPENING STATEMENTS

By Mr. Hartzler

By Mr. Jones

* * * * *

REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 24th day of April, 1997.

Paul Zuckerman

Pam Andasola
