

**Tuesday, April 29, 1997 (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 68)

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 29th 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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Western District of Oklahoma, 210 West Park Avenue, Suite 400,  
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Houston, Texas, 77007, appearing for Defendant McVeigh.

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PROCEEDINGS

(In open court at 9:00 a.m.)  
THE COURT: Be seated, please.

Good morning. May I have counsel at the bench, please.

(At the bench:)

(Bench Conference 068B1 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

THE COURT: All right. Bring in the jury, please.

You have your next witness ready?

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

THE COURT: Good morning. We're ready to resume and call for the next witness.

MR. HARTZLER: The Government calls Lou Hupp.

Mr. Mackey will question him.

THE COURT: Thank you.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Louis Hupp affirmed.)

THE COURTROOM DEPUTY: Would you state your full name for the record and spell your last name.

THE WITNESS: My name is Louis Gale Hupp. The last name is spelled H-U-P-P.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Thank you.

MR. MACKEY: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Good morning, Mr. Hupp.

A. Good morning.

Q. Tell his Honor and the jury where you work.

A. I'm employed in the latent fingerprint section of the FBI in Washington, D.C.

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Q. And when did you start to work for the FBI?

A. After graduating high school in 1965, I proceeded to Washington, D.C., and became a student fingerprint classifier.

Q. And since that time, June of 1965, have you worked for anybody else?

A. I had a two-year leave of absence for the United States Army, and then it was back to the FBI to date.

Q. And where did you serve while you were in the military?

A. I was a military policeman and a sentry-dog handler, and I served a term in Vietnam as well as a term in Maryland.

Q. Over the years of your employment with the FBI, have you specialized in any area?

A. Well, I've specialized in fingerprint identification, and by that I mean when I entered on duty with the FBI in 1965, I took up classifying, filing, and retrieving of fingerprints from files. I progressed through the ranks until I become a assistant supervisor within what we call the ten fingerprint section or the ten fingerprint file, and this is merely based on fingerprint cards. When somebody has either applied for a job or is arrested or personal identification and they're

submitted to the FBI, we would classify those, check the files,  
and see if they had a previous record or merely check the files  
and place them in the proper section in that file.  
Q. What is your current title?  
A. I am currently employed as a supervisory fingerprint

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specialist in the latent fingerprint section.

Q. How long have you been a part of the latent fingerprint section?

A. In 1975, I took a competitive examination which included merely identification tests, oral test, written test, for a position in the latent fingerprint section and was accepted in 1975.

Q. Could you describe in more details -- detail the duties of a fingerprint specialist in the latent fingerprint section?

A. My duties include the receiving of evidence from various law enforcement officials throughout the world for the presence -- and to examine them for the presence of latent prints. I will examine these through the use of chemicals, lasers, and other devices in order to render these latent fingerprints visible so they can be seen, photographed, and compared. Also, I will compare these prints with the prints of known individuals in an attempt to effect an identification. And if requested and an identification has been effected, I will testify much as I am today.

I am also a member of the FBI disaster squad; that is, a group of senior latent fingerprint people who proceed to the scene of natural disasters and other disasters in an attempt to help identify the victims of those disasters. And these include many types of disasters. Also, I instruct law enforcement people throughout the

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United States in the processing of evidence for latent prints, how to prepare to go to court, and how to testify in court when they achieve identifications just like I'm doing today. I have also instructed on three occasions outside the continental limits of the United States on fingerprint identification with fingerprint matters.

Q. In the course of your career, can you estimate for the jury how many fingerprint comparisons you have conducted?

A. To estimate that, it would be in the high millions. And it would be many millions of comparisons.

Q. Prior to today's appearance, on how many other occasions

Q. PRIOR TO TODAY'S APPEARANCE, ON HOW MANY OTHER OCCASIONS have you testified on behalf of the FBI concerning fingerprint identification?

A. I have been certified and testified approximately 80 times in both federal and state courts.

Q. Mr. Hupp, could you tell the jury what an inked fingerprint is?

A. Well, the undersides of the fingers, as well as the palms of the hands, are covered with raised portions of skin which we refer to as friction ridges. Now, these friction ridges are lined with sweat pores constantly exuding sweat which keep these ridges moist; and when you touch an item such as this countertop or piece of paper or a book or anything like that, these outlines or designs are transferred to that item. And they're generally invisible to the naked eye, thus

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the word "latent." And they require some form of processing, as I spoke of earlier, either through the use of chemicals and/or powders or alternate light sources or lasers in order to make them visible to the naked eye.

Q. And do you compare those latent fingerprints with anything else?

A. We compare them with what we know as inked fingerprints or the known fingerprints.

Q. Tell the jury what the inked fingerprint is, then.

A. Well, these same friction ridges that I spoke of are covered with a thin film of contrasting color, such as black printer's ink, for example. This constantly covers the fingers. They are rolled onto a fingerprint card. The main difference is that an inked fingerprint is an impression made for specific purpose, that being identification, whereas a latent print is a mere chance impression, it wasn't meant to be left. It was just accidentally left there. An inked print is a purposeful recording of the entire friction ridges of your fingers.

Q. And describe to the jury how you compare known fingerprints with latent or developed fingerprints.

A. These fingerprints that I spoke of are not always straight or continuous ridges. Some of these ridges suddenly stop. We call that an end of a ridge. Others fork or divide. I call those dividing ridges. We have some that start as a single

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ridge, divide to form two ridges, only to come together again to form one ridge. I refer to that as an enclosure. Now, there's still other ones, another one that I will call a dot. It's merely that, a small ridge.

Now, when I attempt to make an identification between two fingerprint impressions, whether it be two inked or an inked with a latent, I look for these same or similar identifying characteristics to lie in the same relative position in two fingerprint impressions. And when I find that, then an identification has been effected.

Q. What does the term "point of comparison" mean to you?

A. A point of comparison is just that, it's either the end of the ridge, the dividing ridge, the enclosures, or the dot.

Q. And as a general rule, how many points of comparison do you rely upon before you find or conclude an identification?

A. In the FBI latent fingerprint section, at present time, there is no set number of points. However, we have an administrative rule which is on the books which requires any latent print of less than 12 points of identity -- and that being the dots, the end of ridges or enclosures -- requires supervisory approval before it can be reported in a report that it is in fact an identification.

Q. How many people like yourself are employed at the FBI as fingerprint specialists?

A. Right now we have approximately 90 examiners, of which 32

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are trainees which have started since last July. So 32 of those are at various stages of training. 20 of them are supervise -- 20 of us are supervisors. So there's 90, but 20 supervisors and 32 trainees.

Q. And as a matter of practice at the FBI lab, how many fingerprint specialists review and examine a known and an unknown before an identification is made?

A. It is FBI policy that if I in fact make an identification between an inked and an unknown or two inks, that before that can be reported, I must let a peer, and in some instances a supervisor, review that and come to the same conclusion that I have before it can be reported as an identification.

Q. Based on your years of experience, can you tell the jury whether you can determine when a fingerprint is placed on an item of evidence?

A. No. There is no set way, no scientific methods at present time which would allow me to say this fingerprint was placed on here this day or that day. We just have no way of knowing at present time.

Q. Could you describe in summary fashion the kinds of chemical processes used by the lab to develop or to identify or find latent fingerprints?

A. Well, basically when evidence is received into the latent fingerprint section, it must be divided into two categories. Those categories are porous and nonporous, and they're

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basically just what the word means. The porous -- it's something that the substance will be absorbed -- is the surface

itself, such as a piece of paper, a book, anything, a piece of cloth that would naturally absorb the sweat. These require a chemical process.

So in this instance, we would examine them first with a laser or an alternate light source. We would also examine them with -- visually, just to look at them and see was there something foreign on the fingers when it was touched and it was

actually transferred. Still if we didn't find anything there, we would apply a process which we refer to as DFO. We would let it sit a period of time, and they would develop on their own; if we wanted to do it a little quicker, simply apply dry heat to it, and they will apply. However with DFO, they require some form of alternate light source or laser to visualize them, but they merely fluoresce under this light.

After that, we would apply a process which we call nin or ninhydrin. Now, this process reacts with amino acids, much like the DFO does; however, there's a little change. We apply humidity to ninhydrin, and it will develop additional fingerprints.

After this process, we have a process we call physical developer. It's really a three-step processor. We put the items into a tray of maleic acids, which removes most of the impurities from the paper. Its prime purpose is to prime the

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surface of the paper for the next step as well as to neutralize

any chalk that is in the paper because chalk in the next step will react and turn almost instantly a very dark gray or a very black.

Once we neutralize that, we place it into a second bath which is called redox bath, and it sits in there approximately 15 minutes. Now, this process is very destructive to the surface. It will literally obliterate a lot

of things that you can't see. Some of the things that I have examined in this particular instance here, they came back and they're very dark gray color. You can't make out a lot of the handwriting. That is due to this process. So there will be changes in the process. The ninhydrin, you'll see some of the things will have a purple stain that will be in the background,

along with this gray. That's what causes these things; and some of these, they are self-destructive on the surface, itself.

Now, if I had a piece of evidence such as this pitcher

which is nonporous, which when we touch an item, we transfer to it, the surface of it. It's not transferred into it. It merely lies on the surface. Now, these we would visually examine, the alternate light source. We will apply a process called cyanoacrylate, or Super Glue -- which you may have heard of on the market called Super Glue. This we apply a little heat to Super Glue. It gives off an ester, and it will attach

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itself to the water which is present, the sweat on that pitcher, for instance. They will be a crystalline white. You can look at it and see them. We can photograph them; or in some instances, we'll apply a dye stain to it or just a dye, visualize it under the alternate light source or laser that I spoke of previously, and then we can photograph those. And last but not least, we go back to what you've all seen on TV, the powder method with black powder, gray powder, white powder; and you would process the item and photograph the latent that way. That's what would cause them to be visualized.

Q. Mr. Hupp, if you have a original document with highlighting, Magic Marker on it, and you subject it to the processes you've described, what happens?

A. In most instances, it will go away. In this particular case, we did experience it numerous times where when I put it in the bath, it was there; when I took it out, it was no longer there. That was one of the impurities that was removed.

Q. Let me direct your attention now, Mr. Hupp, to the afternoon of Friday, April 21, 1995. Did you have occasion to be at the Noble County Courthouse, in Perry, Oklahoma?

A. Yes, I did.

Q. Would you tell the jury why you were there?

A. I had been directed to proceed to the Noble County Jail in Perry, Oklahoma, with the purpose of fingerprinting a

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Mr. Timothy McVeigh.

Q. While you were there, did you take the fingerprints of an individual identified to you as Timothy McVeigh?

A. Yes, I took not only fingerprints but what we in the FBI call major case prints, which is the entire friction ridge areas of the underside of the fingers and the palms.

Q. If that person were in court today, would you be able to identify him?

A. Yes, I would.

Q. Would you do so at this time, please?

A. He is the gentleman sitting at the table with the light blue shirt.

MR. MACKAY: Your Honor, would the record reflect the

MR. MACKAY: Your Honor, would the record reflect the witness has identified the Defendant McVeigh.

THE COURT: Yes.

BY MR. MACKEY:

Q. Mr. Hupp, in front of you is a folder containing in it Government exhibits. I want to direct your attention first to Government Exhibit 444. 444.

Do you find that?

A. Yes.

Q. Would you tell his Honor and the jury what that is?

A. These are photographic reproductions of the fingerprints, the top pages of the fingerprints that I took on April 21 -- excuse me -- in the Noble County Jail in Perry, Oklahoma, of

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Timothy McVeigh.

Q. And how are you able to recognize it as such?

A. I recognize my signature, which appears in this block right

here, the date. I also recognize --

THE COURT: Don't display it to the jury. It hasn't been received in evidence.

BY MR. MACKEY:

Q. Is it by those features that you recognize Exhibit 444?

A. Yes, my signature and the date.

MR. MACKEY: Your Honor, we move to admit Exhibit 444.

MS. MERRITT: No objection.

THE COURT: Received.

BY MR. MACKEY:

Q. Mr. Hupp, would you describe to the jury the procedure you used to take the fingerprints and major case prints of Defendant McVeigh.

A. In this instance we used black printer ink. I used a fingerprint roller which is merely a roller approximately that size, approximately that wide with a handle. That is the sole purpose of this handle to apply fingerprint ink. In this instance, we put down a layer of tape on the countertop. I put

some fingerprint ink on top of it, and I used the roller to roll a fine film out, very light in color.

Then one at a time I took the right hand of

Mr. McVeigh and I started with the right thumb, and we rolled

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what we called nail to nail into the ink; and then I placed it on a contrasting background, which is displayed here as a fingerprint card.

Now, at this time when I started to record these prints, I had asked Mr. McVeigh to sign the card, and he in fact did sign the card. Then I proceeded after the thumb, I went to the index finger, the middle finger, the ring finger, the little finger, proceeded to the left thumb, index, and so on; and each time I rolled them into the ink and ensured they



were covered with ink and then placed them onto the card. Then at the bottom, you see we have the two thumb impressions, I took the thumbs, reinked them, put them down on the surface of the card, brought them up to the tips so I would have tip areas of the finger for comparison purposes. Then we took the four fingers of each hand extended and joined as you see, placed it into the ink and then placed it on approximately a 45-degree angle at the bottom of the fingerprint card in this large block.

Q. How many pages exist in Government Exhibit 444?

A. 22 pages.

Q. And just by way of category, can you describe the range of prints that you took from Mr. McVeigh on that day?

A. Well, basically the first two pages are the rolled ten fingerprint impressions. Now, these are the ones that I spoke of earlier that early in my career I learned to classify and

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file and file. That is the purpose of these fingerprints. After that, there are a few pages of which I recorded what we call the major case prints of the finger.

Now, the intent of these impressions is to record the entire friction ridge area of the finger from the first joint right down to the base of the palm. Now, these -- these impressions, there again you see we try to get as much ridge detail as possible, one finger done at a time; and each finger is recorded a minimum of five different recording areas, that being 45 to center, a fully rolled impression, 45 backwards, flat to tip, and then we do the tip. With that we hope that any latent print we may encounter from other items or evidence,

we would hope we could compare and make conclusive comparisons against these fingerprint plates. As you can see, there are several recorded much the same way.

The next few pages is where I recorded the palmar surface of the hand. Now, this was recorded by placing ink on the full palm, placing an 8-by-8 card on a 4-inch roller, placing a roller on a counter and inking the complete area of the palm, place it out there, and merely rolling the roller back toward the edge of the table. And as you can see, it rolls right off the end, and we have from the base of the palm to the tip of the finger.

Then we took a specific recording of this area of the finger, of the palm here, right under the fingers. Many times

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it didn't record because it's a soft, pliable surface and it tends to shift, and it will tend to smear.

Then we took -- these impressions are to record this

area of the palm here, what we call the blade area or the heel of the palm and the area under the thumb because when you lay it flat, there are areas out here that do not record, so we want to record those.

This is another card of the same area.

The remaining cards are much the same. These are the fingerprint impressions of the left hand recorded the same way as I described for the right. And then again, these are the palmar impressions which I recorded of the left palm exactly the same way that I recorded the palm. These are what we consider major case prints in the FBI.

Q. Mr. Hupp, did Defendant McVeigh cooperate with you throughout the course of taking fingerprints on April 21?

A. Yes, he did.

Q. And did you rely on the fingerprints that you had in your hand there, Government Exhibit 444, in carrying out fingerprint examination identification work?

A. Yes. This was the only fingerprints that we had on file.

Q. Mr. Hupp, turn your attention, please, back to the binder, and you should see before you seven exhibits previously admitted into evidence in this trial. You find Government Exhibit 418?

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A. Yes.

Q. 448?

A. Yes.

Q. 452?

A. Is that Q31D?

Q. On the reverse side of that exhibit?

A. 452, yes, sir.

Q. 456?

A. Yes.

Q. 458?

A. That is correct.

Q. 459?

A. Yes.

Q. 460?

A. Yes.

Q. And 462?

A. Yes.

Q. Now, as to each of those exhibits, have you seen them before today?

A. Yes, I have.

Q. And where was that?

A. I saw them in my office in Washington, D.C., between the times of April 23, 1995, and May 2, 1995.

Q. And were each of those exhibits examined for the presence of latent fingerprints?

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A. Yes, they were

A. Yes, they were.

Q. And what was the result of that examination, as to each of those exhibits?

A. We found -- we found fingerprints on various items -- in all of these, we found fingerprints on them.

Q. Now, having found fingerprints on those exhibits, did you personally compare those latents with the known fingerprints of

Defendant McVeigh?

A. Yes, I did.

Q. And are you prepared to tell the jury your findings --

A. Yes, I am.

Q. -- based on that comparison?

A. Yes, I am.

Q. Let me turn your attention back to Government Exhibit 418.

A. Okay.

Q. Can you see it on the screen before you?

A. No, sir.

Yes, sir.

Q. Is that a photographic enlargement of Government Exhibit 418?

A. Yes.

Q. And is that the reverse side of that same exhibit?

A. Yes, it is.

Q. Did you find latent fingerprints on Government Exhibit 418?

A. Yes, I did.

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Q. And did you make the comparison I asked of earlier?

A. Yes, I did.

Q. Would you tell the jury what you found?

A. I found the fingerprint developed on Government's Exhibit 418 to be a left thumb of Mr. McVeigh.

Q. Before coming to court today, did you prepare any charts or

other aids that might assist you in demonstrating the conclusion you just described?

A. Yes, I did.

Q. Direct your attention to Government Exhibit 419. You have that with you?

A. Yes.

Q. And what is that, please.

A. This is a photographic enlargement of both the latent print

which was developed on Government's Exhibit 419 and the left thumb impression of Mr. McVeigh which appears on this Government's Exhibit 444.

Q. And would that exhibit assist you in describing to the jury your findings?

A. Yes, it would.

MR. MACKAY: Your Honor, at this time with the Court's permission, we'd ask that Mr. Hupp come down from the stand, with the aid of Government Exhibit 419 demonstrate his

findings

on that card.

THE COURT: Where do you want him to go?

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MR. MACKEY: Down here. I know it's old-fashioned, but he's got a chart that --

THE COURT: We need to have a microphone wherever he is.

MR. MACKEY: We've rigged it up beforehand to put this mike on, and I've instructed Mr. Hupp to keep his voice raised.

And alternatively, we have the head mike at the stand.

THE COURT: Does the defense have a copy of these comparison charts? Ms. Merritt, do you have a copy?

MS. MERRITT: I believe we do, your Honor.

THE COURT: Well, I'm concerned about where she can see them, so don't turn your back on defense counsel. You'll have to do it at the end of the jury box.

You may proceed.

MR. MACKEY: Thank you --

THE COURT: These are simply demonstrative exhibits?

MR. MACKEY: Exhibit 419, yes, your Honor.

THE WITNESS: All right. The photographic enlargement marked "latent fingerprint" is approximately 12 times photographic enlargement --

THE COURT: Just a moment. Ms. Merritt --

MS. MERRITT: Can I move over there?

THE COURT: Do you want to move so you can see this?

All right. Let's proceed in a question-and-answer fashion, not a lecture fashion here.

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MS. MERRITT: I can see.

BY MR. MACKEY:

Q. Mr. Hupp, let me direct a question to you, first. What are

the two things that you have in your possession there?

A. Okay. These are photographic enlargements of the latent fingerprint which was developed on Government's Exhibit 418 and

a photographic enlargement of the latent -- or the inked fingerprint which appears in the No. 6 left thumb block of Government's Exhibit 444, fingerprint card of Mr. Timothy McVeigh.

Q. And for the record, which side of Exhibit 419 is which? There are two, on the demo chart, Mr. Hupp.

A. Oh, this one here?

Q. Yes.

A. They're clearly marked with "latent fingerprint" and "inked fingerprint." This is from 419; this is from 444.

Q. All right. Now, each of the charts has a series of numbers on it?

A. Yes.

Q. What do they represent?

A. These -- all right -- the black ridges that you see on both charts represent the friction ridges that I spoke of earlier. The gray or white areas in between represent the valleys or furrows between the ridges. The red lines, red letters, numbers, were placed on there by me for illustrative purposes

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only.

Now, bearing in mind that we must find same or similar points of identity lying in two fingerprint impressions in order to effect an identification, let me direct your attention to the center --

THE COURT: Just answer questions, please.

BY MR. MACKEY:

Q. Mr. Hupp, what's the purpose of the numbers that appear on each side of Government Exhibit 419?

A. These are used to illustrate the points of identity that I have demonstrated at the end of the line.

Q. Directing your attention, then, to the number "1" that appears on the latent side, what is that?

A. Point No. 1 on the latent side -- it demonstrates where the two ridges coming from the right side toward the left merge or come together to form an enclosure.

Q. Same question, then, as to the number "1" on the inked fingerprint side: What does that represent?

A. Here again, in the same position, we have two ridges coming over which join at this point where I've designated the point No. 1 on both charts.

Q. Same question, then, on No. 2 on the latent fingerprint side: What does that number represent?

A. Counting from point No. 1, we're looking for relative position. Point No. 1, one, two ridges down, and there's a

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ridge right here that does the same thing. It forks or divides that way.

Q. And does the No. 2 on the inked side correspond?

A. Here again, from point No. 1, one, two ridges down, the third ridge, it splits and divides in the other direction.

Q. And was that the general method that you used in constructing Government Exhibit 419 to find corresponding points of comparison?

A. That is correct.

A. That is correct.

Q. Is there any --

MR. MACKEY: Can all the members of the jury see the chart?

BY MR. MACKEY:

Q. Is there any of the other eight points of comparison that is particularity distinctive that you'd like to illustrate to the jury?

A. Looking at point No. 3, we have a ridge that comes in from the left-hand side and stops. Right below it there's a point, a ridge that comes down and stops in the other direction. You'll see that happens on both charts. Both instances, they both -- one ends to the left, one ends to the right. And if you look from point No. 3, continuing down that ridge a short distance, I spoke of a dot. That is a dot there.

That is what it looks like.

From there, continuing just a short distance, we have

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another end of a ridge on both prints; and a very short distance, there is a enclo -- or a bifurcation, or a dividing ridge. It is with these ridges that I have demonstrated to you, plus others that are illustrated on the charts -- that cause me to form my opinion that the latent fingerprint which was developed on Government's Exhibit 418, a business card from

Paulsen Military Supplies, was made by one and the same finger.

That's a left index finger of the defendant, Mr. McVeigh.

Q. Thank you, Mr. Hupp.

Mr. Hupp, let me turn your attention, then, to Government Exhibit 448. You see that in front of you, please.

A. Yes, sir.

MR. MACKEY: Kathi, may I have the ELMO, please.

BY MR. MACKEY:

Q. Mr. Hupp, how many latent fingerprints were found on Government Exhibit 448?

A. There were four latent fingerprints developed on Q448 -- or

on Government's Exhibit 448. Excuse me.

Q. And was a comparison made of those latents with the knowns of Defendant McVeigh?

A. Yes, they were.

Q. And what did you conclude?

A. I concluded that all four fingers belonged to Mr. McVeigh.

Q. Let me show you Government Exhibit 452.

A. Yes, sir.

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Q. And how many latent fingerprints were found on that particular item of evidence?

A. On this particular item, there was one latent fingerprint

... on this particular document, there was one latent fingerprint

found.

Q. And what was the result of the comparison?

A. Here again, this was identified with a fingerprint of Mr. McVeigh.

Q. You find Government Exhibit 459?

A. Yes.

Q. See that in front of you?

A. Yes, it is.

Q. And how many latent fingerprints were identified on that exhibit?

A. On this one, there were two fingerprints and one latent palm print developed, all of which were subsequently identified

with Mr. McVeigh.

Q. Same questions, then, as to Government Exhibit 458.

A. On this particular document, one fingerprint was developed;

and this fingerprint was identified with Mr. McVeigh.

Q. Same question, then, as to Government Exhibit 460.

A. On 460, I developed two fingerprints on this particular document; and they were both identified as fingerprints of Mr. McVeigh.

Q. Direct your attention to Government Exhibit 462. Same questions, please.

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A. On Government's Exhibit 462, there was one fingerprint developed on this document. Here again, it was identified as a

fingerprint of Mr. McVeigh.

Q. Direct your attention finally to Government Exhibit 456.

What did you find, please.

A. On this particular document, I identified -- or we developed nine fingerprints on this particular document. And they were subsequently identified as fingerprints of Mr. McVeigh.

Q. Mr. Hupp, were all the contents of Government Exhibit 448, the envelope, examined at the FBI lab for fingerprints?

A. Yes, they were.

Q. And were latent fingerprints identified on all of them?

A. No.

Q. Now, have you performed other fingerprint work and other investigative work in this particular case?

A. Yes, I have.

Q. And have you made other findings with regard to evidence not yet admitted in this case?

A. Yes.

Q. Now, the Court has granted us permission to have you come back on a second occasion. Would you be prepared to do so to present further findings about matters we've not covered yet this morning?

A. Yes.

Louis Hupp - Direct

MR. MACKEY: With that, Judge, I have no other questions.

THE COURT: All right. Ms. Merritt . . .

CROSS-EXAMINATION

BY MS. MERRITT:

Q. Good morning, Mr. Hupp.

A. Good morning.

Q. You would agree, would you not, that a fingerprint examiner should have extensive training and experience in comparing latent prints and inked prints?

A. Yes.

Q. And it's true, isn't it, that most fingerprint examiners have gotten their training on the job, as opposed to in school?

A. That is correct.

Q. It's true that there really aren't any college courses that teach fingerprint examination; isn't that true?

A. There may be one, but it's -- for the most part, no, there's not many, if any.

Q. So there's not a lot; right?

A. That's correct, yes.

Q. But there is voluminous literature on the topic of identification and classification of fingerprints, isn't there?

A. Yes, there is.

Q. And there's a lot of training courses?

A. Yeah. There are training courses throughout the United

Louis Hupp - Cross  
States.

Q. And I'm sure you've had an opportunity to review or read during the last 30 years many texts or treatises on fingerprint examination.

A. Yes, I have.

Q. Can you name for me any texts or treatises or articles that you consider to be a leading or standard authority in the field?

A. There are several out there, several of which we use in the latent fingerprint section. Most notably that we use is The Science of Fingerprints.

Q. And can you tell me who the author of that is?

A. The FBI.

Q. Do you rely upon anyone's work outside the FBI?

A. Yes, we -- there's several books in our library. We have Andre Moenssens, we have B.C. Bridges. There are numerous books in our library, many of which have taken excerpts and have been placed into The Science of Fingerprints book.



Q. So would you agree that the Moenssens and the Bridges books

are standard or leading authorities in the field?

A. I will agree that they are leading authors. As far as to having degrees in fingerprints, no.

Q. Now, usually the classification of fingerprints is done by a different person than the person who does -- who identifies the latent fingerprint; isn't that true?

Louis Hupp - Cross

A. No.

Q. Well, you happen to be qualified to do both; isn't that right?

A. That is correct, yes.

Q. But isn't it true that in a lot of laboratories and police departments around the country, they have a different person doing the classification of prints than they do the identification of prints?

A. Yes. Based on that, yes, I agree.

Q. I wasn't suggesting that you weren't qualified to do both; I was suggesting that in a lot of places in the country, the jobs are split.

A. That's true. I would agree.

Q. Now, I believe that you said in 1975, you were tested orally and written for certification of some sort?

A. It was really afforded a test which included -- portions of

it were oral examinations, as well as speeches. I was given a written test, and I was also given a comparison test in which we were given numerous latent prints, various known prints, and

asked to do comparisons, much like we do in case work, yes.

Q. And that test was given to you by the FBI?

A. That is correct. Yes.

Q. Have you been proficiency tested or certified by an outside organization?

A. Yes, ma'am.

Louis Hupp - Cross

Q. And that was the International Association of Identification?

A. That is correct.

Q. In 1977 --

A. Yes.

Q. -- is when that certification process began?

A. Actually, I have been certified by the International Association for Identification in 1977, have maintained that certification ever since; but within the past two years, I have

been certified by an outside agency known as ASCLAD.

Q. Okay. And when you were certified in 1977, did you have

to

take the test, or were you grandfathered in because of the test

you had previously taken with the FBI?

A. In 1975, I was grandfathered in based on my experience and the number of comparisons that had been conducted.

Q. Okay.

MR. JONES: Excuse me, your Honor. When Mr. Hupp turns away from the microphone, I sometimes --

THE COURT: Yes. You ought to respond to the lawyer, not to the jury. She's asking you the questions.

BY MS. MERRITT:

Q. Now, there's some things that the science of fingerprint identification can't tell us -- isn't that true -- such as when

a print was left on an object or a specimen?

A. That is true.

Louis Hupp - Cross

Q. Or how long a print has been on an object or a specimen. True?

A. Yes.

Q. And the length of time -- the reason that you can't determine the length of time or when a print was left is because it's affected by a number of factors, such as atmospheric conditions. Isn't that true?

A. That would be correct.

Q. And it might depend on the amount of moisture deposited?

A. Yes.

Q. It might depend on the kind of surface that the print was impressed upon?

A. Yes, ma'am.

Q. And would you agree that the moisture on a print gradually disappears as the prints get older?

A. In some instances, yes.

Q. Now, the examinations that you performed in this case were what's known as a one-on-one examination -- isn't that true -- or do you want me to explain what I mean by one-on-one examination?

A. If you're referring to that they were compared in a one-to-one state; other than that, what a one-on-one examination is, I'm not familiar with that term.

Q. Okay. You compared the prints, you compared the specimens you were given, to what you knew to be the known prints of

Louis Hupp - Cross

Timothy McVeigh; correct?

A. That is correct.

Q. You didn't do it in a lineup fashion, where somebody gave you five sets of inked prints and asked you to see if any of the prints you were testing matched any of those five people.

A. That is incorrect.

Q. Okay. How is that incorrect?

A. I was given a list of -- at times it went as high as 21 people; and it finally resolved out in -- the latter stages of the examinations -- down to 16 people.

Q. Okay. Now, you didn't mention that on your direct examination, did you; that you compared these specimens in this

case to prints of other persons?

A. No, ma'am.

Q. And that isn't in your reports, is it?

A. That is, yes.

Q. Is it in your lab notes?

A. Yes, it is.

Q. Can you tell me where?

A. It would be the last page of all lab notes. There was a standard page of names that was incorporated with each individual submission.

Q. Okay. Now, have you ever undergone any blind proficiency testing by the FBI, or anyone else?

A. As I previously stated, we did blind proficiency testing by

Louis Hupp - Cross  
the ASCLAD lab on two occasions.

Q. Now, can you explain to the jury what blind proficiency testing is?

A. Blind proficiency is when they came in, a test was prepared, and it was administered to everybody in the latent print section. And the people that administered the test were given a test from outside. They had to pass an outside test. And then there was a test administered by internal people, which was in turn returned to the ASCLAD organization. They, in fact, graded the test and let us know what the results were.

Q. Okay. Now, I'm going to direct your attention to Government's Exhibit No. 418B, and if I might put it on the ELMO.

And this is Government's exhibit which you have previously stated that you found a fingerprint of Timothy McVeigh on; is that right?

A. Yes.

Q. Now, let's take a look at the front of that, of this item. It appears to be a business card, does it not?

A. Yes, ma'am.

Q. And it reflects an address in Wisconsin?

A. Yes.

Q. It states that it's a business that appears to sell military supplies on a retail, wholesale, or mail-order basis?

A. That's what it states, yes.

Louis Hupp - Cross  
Q. It has a couple of pictures. One looks to be a helicopter.

One looks to be some kind of tank, military equipment. Is that true?

A. Yes.

Q. And is there any handwriting or hand printing on the front of this card other than that which states, "Q29," which I assume is your handwriting or someone else's from the FBI?

A. Someone else's; but, no, you're correct, there is no other handwriting.

Q. And did you examine the front of this card for latent fingerprints?

A. Yes, ma'am.

Q. Okay. And did you find any suitable for testing?

A. No. They were on the back.

Q. Well, okay. Let's turn to the back, which I believe will be 4 -- same exhibit number.

A. Yes, ma'am.

Q. Okay, now, you would agree that the back of this card has hand printing on it; correct?

A. That is correct.

Q. It has --

A. May I restate? I'm incorrect. The fingerprint is in fact on the front of the card. Can we go back to that?

Q. Okay.

A. I'm sorry.

Louis Hupp - Cross

Q. Okay. And on the back of the card, there's hand printing; correct?

A. That is correct, yes.

Q. It indicates the name Dave and a phone number beginning with the 708 area code?

A. Yes, ma'am.

Q. And then there's some more hand printing of the words, quote, "call after 1 May, see if I can get some more."

A. That is correct.

Q. And the "1 May" appears to be a date?

A. I would have to assume, yes.

Q. And then there's still some more hand printing that says "TNT @ \$5 a stick, need more."

A. That what it appears to be, yes, ma'am.

Q. And there's also the notation "Q29" handwritten with initials on the top right side of this, back of this card?

A. Yes, ma'am.

Q. And those aren't your initials?

A. No, ma'am.

Q. Thank you.

Now, you took the fingerprints of Mr. McVeigh at the Noble County Jail; is that correct?

A. Yes, ma'am.

Q. And I believe you arrived at the Noble County Jail around April 21, around 3:30 or 4:00 p.m.; is that correct?

Louis Hupp - Cross

A. Approximately that time, yes.

Q. And at that time, your purpose for going to the jail was to take the fingerprints of Mr. McVeigh; right?

A. Yes.

Q. And you did, in fact, fingerprint him; and you obtained the photographs and the negatives of his prints and the prints cards?

A. Actually, at that time I only recorded the original fingerprints. The photographs and negatives were prepared at my office in Washington, D.C., at a later time.

Q. What did do you with the prints you recorded?

A. The prints I recorded were placed in an envelope; and at that time I was headed for D.C. Subsequently I was -- my orders were changed, and I turned those over to another individual who transported them back to D.C. on the plane.

Q. Okay. Who did you hand those to?

A. Mr. Al Lewis.

Q. And do you know where they went after they were on the airplane?

A. They went -- his office is exactly the same as mine; so they went back to my office in Washington, D.C.

Q. And when did you next see them?

A. When I returned to my office in D.C. at some later point in time.

Q. Do you know the date?

Louis Hupp - Cross

A. I want to say the 26th, 25th, something like that. 25th, I believe.

Q. But you're not sure; right?

A. Not right at this time.

Q. And at the time that you took Mr. McVeigh's fingerprints, you anticipated, didn't you, that evidentiary items from the Oklahoma City bombing would be compared to his fingerprints at some point in time?

A. I was merely instructed at that time to record his fingerprints. I guess it was a mere assumption that in light of what had happened and things that I had heard that there was a possibility; but at that time I was not told that, no.

Q. Okay. I understand that. That's why I used the word "anticipated."

A. Yeah, I anticipated -- somebody did, anyway, yes.

Q. Now, also on April 21, after leaving the jail, you assisted

in the search and processing of evidence from Mr. McVeigh's vehicle; correct?

A. Yes.

Q. Okay. And I understand that you're going to be coming

back  
to testify at a later date on items other than the  
fingerprints  
that we're talking about here today; right?

A. Yes, ma'am.

Q. So I'm not going to get into fingerprints other than those  
that Mr. Mackey asked you about on direct at this time. But I

Louis Hupp - Cross

did want to just state that you did, in fact, assist Agent  
Eppright and others in searching and processing the vehicle --  
correct -- on that day?

A. Yes.

Q. Now, do you know where Exhibit -- the Paulsen's business  
card that we showed before, Exhibit 418 -- do you know of your  
own personal knowledge where that came from?

A. No.

Q. You didn't -- you weren't given that object at the jail on  
April 21, were you?

A. No, I was not.

Q. And you didn't obtain it when you were searching the  
vehicle on April 21, did you?

A. No, I did not.

Q. And in fact, you never saw it in Oklahoma at all. The  
first time you saw it was at the laboratory in Washington,  
D.C.; right?

A. That is correct, yes.

Q. And you don't have any personal knowledge of how that card  
got to the FBI lab, do you?

A. No, ma'am.

Q. Or from where it was sent?

A. No. No.

Q. Or even who sent it?

A. No, I do not.

Louis Hupp - Cross

Q. Do you recall when you got back to the FBI laboratory  
after  
your activities searching the vehicle on April 21?

A. I recall getting back to work, I arrived back on a Tuesday  
evening. To sum up the dates, it was the following Tuesday  
evening after the tragedy.

Q. I'm going to put up what has been previously admitted as  
the Government's Exhibit 444, which you previously identified  
as photographs of the prints you took of Mr. McVeigh; correct?

A. Yes.

Q. And directing your attention to the top portion where  
there

is writing on that, can you tell me first with respect to the  
name "Timothy McVeigh" that is hand printed there, is that  
your  
handwriting?

A. That is correct, yes.

Q. Now, underneath that, it has some identifying -- some spaces for identifying characteristics. And in one of those, under "weight," it is written "160."

A. Yes, ma'am.

Q. Did you write that?

A. No, I did not write that; but a colleague of mine wrote that in our office in Washington, D.C.

Q. Do you know which colleague wrote that?

A. I believe it was Mr. Shiflett, but that is merely speaking off the top of my head. I can't be certain, but I would assume

Mr. Shiflett did that.

Louis Hupp - Cross

Q. Mr. Shiflett is another fingerprint examiner at the FBI lab

in Washington?

A. Yes, ma'am.

Q. Now, you would agree, wouldn't you, that you need to show a chain of custody for certain items; in other words, you need to

show that the items you examined are the same in the lab in Washington, they're the same items that you -- well, strike that. Let me start with this way.

With respect to the inked fingerprints that you took of Mr. McVeigh, you need to know when you're examining those prints in Washington that those are the same item; correct?

A. Yes.

Q. And we refer to those -- to that as chain of custody; right?

A. Yes.

Q. Okay. And chain of custody includes the initial possession of a specimen or object by the examiner or the agent, doesn't it?

A. Yes, ma'am.

Q. Okay. And chain of custody would also include the journey to the laboratory?

A. Yes, ma'am.

Q. And it would also include the method of storage at the laboratory prior to the time that you analyzed the item?

A. Yes, ma'am.

Louis Hupp - Cross

Q. And it would also include the retention, if it was feasible, of any unused portion of the specimen or object after testing it?

A. Yes, ma'am.

Q. So what you need to establish is that the evidence

specimens were in fact the same ones taken from the place or person in question; right?

A. That is correct.

MS. MERRITT: Your Honor, may I have a moment?

THE COURT: Yes.

BY MS. MERRITT:

Q. Agent Hupp, in summary, what you are saying is that a business card that was found in Mr. McVeigh's vehicle or wherever it was found and political literature containing quotations from books, newspapers, and the Wall Street Journal, found in his vehicle had Mr. McVeigh's fingerprints on them; correct?

A. Yes.

Q. And wouldn't you say that's hardly surprising?

MR. MACKEY: Object.

THE COURT: Sustained.

MS. MERRITT: No further questions.

THE COURT: Any redirect?

MR. MACKEY: Just one.

#### REDIRECT EXAMINATION

Louis Hupp - Redirect

BY MR. MACKEY:

Q. Mr. Hupp, on Friday, April 21, when you were taking the prints of Defendant McVeigh, did you ask him at that time his height, weight, and other physical description?

A. No.

MR. MACKEY: No further questions.

THE COURT: You may step down. You'll be notified when to return.

MR. HARTZLER: Government calls Special Agent James Elliott.

THE COURT: All right.

MR. HARTZLER: Ms. Wilkinson will question him.

THE COURT: Okay.

THE COURTROOM DEPUTY: Do you need this on?

MS. WILKINSON: No, we don't.

THE COURTROOM DEPUTY: Okay.

Would you raise your hand, please.

(James Elliott affirmed.)

THE COURTROOM DEPUTY: Would you state your full name for the record and spell your last name.

THE WITNESS: James F. Elliott, E-L-L-I-O-T-T.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Ms. Wilkinson.

MS. WILKINSON: Thank you, your Honor.

#### DIRECT EXAMINATION

James Elliott - Direct

BY MS. WILKINSON:

Q. Good morning, Mr. Elliott.

A. Good morning.



... 3:00 morning.

Q. Could you tell the ladies and gentlemen of the jury where you were born?

A. McAlester, Oklahoma.

Q. And how old are you?

A. 57 years old.

Q. Could you tell us where you work?

A. Work for the Federal Bureau of Investigation.

Q. What is your title?

A. Special agent.

Q. And how long have you been a special agent?

A. 32 years.

Q. Could you tell where you're currently assigned with the FBI?

A. I'm currently assigned to the Oklahoma City Bombing Task Force.

Q. Are you on temporary assignment to the task force?

A. Yes, ma'am.

Q. From where are you assigned?

A. McAlester, Oklahoma.

Q. And what office are you in there?

A. I'm in the McAlester, Oklahoma, resident agency of the Oklahoma City division.

James Elliott - Direct

Q. How long have you been with the resident agency in McAlester?

A. 18 years.

Q. Could you tell the ladies and gentlemen of the jury what a resident agency is, what you do there?

A. A resident agency is a suboffice of the main field office, which is in this case Oklahoma City. In the resident agency, we cover all violations assigned to the FBI or under the FBI's jurisdiction.

Q. How many agents are normally assigned to a resident agency?

A. It varies. The ones that I've been assigned to have been anywhere from one to four.

Q. Were you assigned to the McAlester Resident Agency in April of 1995?

A. Yes, I was.

Q. Have you ever been assigned to the Oklahoma City office?

A. Yes, ma'am.

Q. When was that?

A. I was assigned to the Oklahoma City office from July of 1976 until November 1977.

Q. During the time you were sent or stationed in Oklahoma City, did you become familiar with the downtown area?

A. Yes, ma'am.

Q. How did you become familiar with the downtown area?

A. The courts for the Western District of Oklahoma are located

James Elliott - Direct

in the downtown area of Oklahoma City. Also other various duties took me there.

Q. After you left the Oklahoma City office, did you have other

occasions where you returned to downtown Oklahoma City?

A. Yes, I was assigned from Oklahoma City. I was in the Enid,

Oklahoma, Resident Agency for approximately 18 months, and the seat of courts for that is in the Western District of Oklahoma.

Q. Could you tell us over your career what type of cases you have worked on as a special agent?

A. I've worked a variety of cases. I've worked civil rights, domestic terrorism, reactive crimes, bank robberies, kidnappings, white-collar crimes, bank embezzlements, public corruption.

Q. Did you mention stolen-car cases?

A. Yes, I've worked stolen-car cases.

Q. Any other type of investigations involving vehicles or trucks?

A. Well, all types of stolen-car cases, chop-shop-type cases in which they dismantle the vehicles and change the vehicle identification numbers.

Q. Do you have any specialized responsibilities with the FBI?

A. Yes, ma'am. I'm a member of the Evidence Response Team.

Q. What do you do as a member of the Evidence Response Team?

A. The Evidence Response Team, we respond to major crime scenes and collect evidence, preserve evidence.

James Elliott - Direct

Q. Can you tell us what type of training you've had in connection with your duties as a member of the Evidence Response Team?

A. I've had an 80-hour course of study in which they teach us to collect evidence properly, package it properly, photography, fingerprinting.

Q. When was the most recent training course you attended in connection with your duties with the OT?

A. It was approximately six weeks prior to the bombing on April 19, 1995.

Q. Was that the two-week course that you just referred to?

A. Yes, it was.

Q. Okay. Let's turn to April 19, 1995. Can you tell the jury

where you were early that morning?

A. I was in my office in McAlester, Oklahoma.

Q. What were you doing?

A. I was doing paperwork.

Q. Did you receive a call that day?

A. Yes, I did. I received a call from a Drug Enforcement Administration agent who advised me that the building that

housed their headquarters in Oklahoma City had blown up. I -- And he was going to respond there. I called the Oklahoma City office. The telephone was busy. I went downstairs, got into my automobile, turned on the radio, and determined that an explosion had occurred at the Alfred Murrah Building, at that

James Elliott - Direct  
point of unknown origin.

Q. What did you do after you realized you couldn't contact the Oklahoma City office?

A. Well, I assumed that the Evidence Response Team would be activated, so I went to my residence, packed my clothing for crime-scene investigations, went back to my office where I had a message on the answering machine advising me I should respond to Oklahoma City.

Q. Could you tell us a little bit about the clothing that you just mentioned that you bring to crime scenes?

A. The clothing were boots, battle-dress uniforms, BDU utility clothing.

Q. Has this clothing been cleaned before you took it to the crime scene?

A. Yes, ma'am.

Q. When you got to your office before you went or responded to Oklahoma City, did you take anything else with you?

A. Yes, I took the crime-scene kit that recently had been assigned to me, and my camera.

Q. Could you tell us what's in that crime-scene kit?

A. Crime-scene kit contains packaging materials, fingerprinting equipment, tools to dislodge pieces of evidence that might be trapped.

Q. Had you ever used any of those items from your crime-scene kit at any earlier crime scene?

James Elliott - Direct

A. No, ma'am.

Q. When had you received those materials?

A. At the conclusion of the training period, which was about six weeks prior to April 19.

Q. So to the best of your knowledge, they were brand-new?

A. Yes, ma'am.

Q. What did you do after you collected your crime-scene kit at the office?

A. I then proceeded to Oklahoma City.

Q. At what time did you arrive in Oklahoma City?

A. Approximately 12:30 to 12:45.

Q. What did you see when you got to the downtown area?

A. I saw a massive destruction.

Q. Where did you go?

Q. where did you go:

A. I initially responded to the temporary command post at 8th and Harvey, which is located in a motor home that the FBI uses for that type of activity.

Q. What's in a command post?

A. There's telephone connections, radio equipment.

Q. Was it difficult for you to get access to the command post at that time?

A. Yes, ma'am.

Q. Could you tell us about the security?

A. I'm sorry?

Q. Could you tell us about the security?

James Elliott - Direct

A. Yes, I went through several checkpoints on the Centennial Expressway to get into downtown Oklahoma City which were manned

by Oklahoma highway patrolmen, I believe Oklahoma County deputies, and Oklahoma City police officers.

Q. Once you arrived at the crime scene on April 19, 1995, how long did you stay in Oklahoma City?

A. I stayed until -- I believe it was May 7.

Q. And did you return at some time thereafter?

A. I returned on Memorial Day of May 1995. I can't remember the exact day. Following the explosion of the building.

Q. Did there come a time when you were assigned full-time to the OKBOMB Task Force?

A. Yes, ma'am, I was assigned full-time in August of 1995.

Q. Could you tell the jury about your day-to-day responsibilities during that first month of the investigation when you were in Oklahoma City?

A. The first month of the investigation, I was assigned to the

evidence control center where we -- when the evidence was collected, it was brought to our warehouse or collection center. We would categorize it and store it.

Q. What type of warehouse did you use for storing the evidence?

A. It was a large warehouse which formerly was an automobile agency, a garage.

Q. What type of security did you have?

James Elliott - Direct

A. The building was alarmed. In the evenings when there was no one there, the Oklahoma City Police Department had extra patrols in the area.

Q. What type of security did you have during the day when you were receiving evidence?

A. During the day, there were five or six of us present at all

the time. It was never left unattended.

Q. What did you do on a daily basis as part of the evidence control center?

A. On a daily basis, I was, I would help catalog the evidence, and I also was assigned as liaison person with the property room of the Oklahoma City Police Department as well as the rescue center for the fire department at the Murrah Building.

Q. What did you do as the liaison to the fire and the police department rescue teams?

A. As liaison to the fire department, I would respond to the Murrah Building when the rescue workers found Government records or something they thought might be of an evidentiary nature.

Q. Did you -- excuse me, go ahead.

A. I would tell them if they were Government records, particularly, which agency they should contact to return those records.

Q. During that first month of when you were fulfilling these responsibilities, did you have the opportunity to walk around

James Elliott - Direct  
the Murrah Building and the surrounding crime-scene area?

A. Yes, I did.

Q. How often?

A. On a daily basis.

Q. During that time, did you become familiar with the streets and the buildings that encompassed -- that are encompassed by the downtown area?

A. Yes, ma'am.

Q. Did you also have the opportunity to observe the damage to the building and the surrounding area?

A. Yes.

Q. Can you tell us how large the area was that had been damaged by the explosion on April 19, 1995?

A. It would be an estimate on my part, but I would say about 16 blocks.

MS. WILKINSON: Your Honor, if we could take our break a little bit early this morning, so we could finish our next exhibit.

THE COURT: All right, all right. We'll do so. Now is what you're saying.

MS. WILKINSON: Yes, please.

THE COURT: All right, you may step out. We're going to take a break of about 20 minutes or so.

Members of the jury of the jury, we'll be taking our recess early at the invitation of Ms. Wilkinson, so we'll take

James Elliott - Direct  
20 minutes at this time and of course follow the cautionary instructions regularly given to you and do not discuss the case or come into contact with any information about it outside of what you're getting here. You're excused now, 20 minutes.  
(Jury out at 10:09 a.m.)

THE COURT: Recess to 10:30.

(Recess at 10:10 a.m.)

(Reconvened at 10:30 a.m.)

THE COURT: Be seated, please.

Ready?

MS. WILKINSON: Yes, your Honor.

THE COURT: Okay. Bring in the jury.

(Jury in at 10:31 a.m.)

THE COURT: Please come in and be seated again.

Ms. Wilkinson, you may proceed.

MS. WILKINSON: Thank you, your Honor.

BY MS. WILKINSON:

Q. Mr. Elliott, before the break you were telling us about your familiarity with the downtown area immediately after the bombing on April 19, 1995. Do you recall that?

A. Yes.

Q. And did you tell us that the damage or the area that had -

-  
that incurred the most damage was approximately a 16-block area?

A. Yes, ma'am.

James Elliott - Direct

Q. During this investigation, did you and others create a model of the downtown Oklahoma City area?

A. Yes, we did.

Q. How was the model created?

A. The model was created -- I want to say agents -- they weren't agents. People from Special Projects Unit of FBI headquarters came to the bomb scene, measured the building, measured the crater that the bomb had left and from that built a model to scale.

Q. Did you assist them in determining the area that you wanted to include in the model?

A. Yes, I did.

Q. Did the people from Special Projects also determine the accurate measurements of the streets, the parking lots, and other areas encompassed in the downtown area?

A. Yes, they did.

Q. What else did they include on the model?

A. The buildings, the streets.

Q. Are there fiber optics?

A. The fiber optics. I'm sorry, yes.

Q. Can you explain that, please.

A. Yes, fiber optics is a lighting system that displays where certain pieces of evidence was located.

Q. And now those fiber optics are not on the model that's in front of you; is that correct?

James Elliott - Direct

A. They are not connected, no, ma'am.

Q. Did you examine the model that's down here in front of

Q. Did you examine the model that's down here in front of Government's counsel table before you came to court today?

A. Yes.

Q. And is it a fair and accurate representation of the downtown Oklahoma City area that encompasses the Murrah Building?

A. Yes, it is.

MS. WILKINSON: Your Honor, could Mr. Elliott step down?

THE COURT: Yes. We need --

MS. WILKINSON: Could you bring your pointer, Mr. Elliott.

BY MS. WILKINSON:

Q. Would this model, Government's Exhibit 642, assist you in your testimony today in explaining what you did during the investigation?

A. Yes.

MS. WILKINSON: Your Honor, we would offer Government's Exhibit 642.

MS. RAMSEY: No objection, your Honor.

THE COURT: All right. It's received.

We need a microphone for him.

Certainly seems to be working.

All right. Is that comfortable for you?

James Elliott - Direct

BY MS. WILKINSON:

Q. Are you all hooked up?

A. Yes.

Q. Okay. Let's try it. Could you --

THE COURT: Just a moment.

MR. JONES: If necessary, could Ms. Ramsey and myself stand closer to the model if we can't see?

THE COURT: Yes, of course.

MS. WILKINSON: After Agent Elliott describes the general model, we're going to break it apart; so maybe after that if Mr. Jones and Ms. Ramsey need to move, we can do that.

BY MS. WILKINSON:

Q. Mr. Elliott, could you explain generally what this model shows?

A. The model generally shows the area from the Santa Fe tracks

on the west of the Murrah Building to Walker Street -- I'm sorry -- open on the east to Walker Street on the west.

It depicts the Murrah Building in the center from N.W. 6th Street to the north, to mid block between N.W. 5th Street and N.W. 4th Street to the south.

Q. Could you come around to the other side where the legend is

and orient the jury?

THE COURTROOM DEPUTY: No, the wire.

THE WITNESS: No, I can't.

MS. WILKINSON: Perhaps this would be a good time for

James Elliott - Direct

us to break the model so we can move in front of the jury.  
Your Honor, can we do that?

THE COURT: Sure.

JUROR: Could you back it up a little bit?

THE COURT: Well, members of the jury, if it's better  
for you to stand, you can do that while we're doing it.

THE WITNESS: Sorry about that.

BY MS. WILKINSON:

Q. Agent, do you want to come around here?

A. I'll try.

Q. Careful.

Let's start with the legend.

A. Okay.

Q. Could you explain to the jury what it shows?

A. The legend shows first that this is north. The yellow  
dots

are truck parts. The green dots over here -- you may not be  
able to see them -- are parts of the cargo box.

The blue dot is -- such as this one and one here --  
are pieces of plastic. And the street sign is depicted right  
there.

Q. Are those all items that were recovered during the  
crime-scene collection?

A. These are all items that were recovered during crime-scene  
collection.

Q. Now, is this model built to scale?

James Elliott - Direct

A. This model is built to scale, yes.

Q. Starting with the Murrah Building, can you tell us what it  
depicts?

A. Well, Murrah Building depicts the courtyard, which is the  
front of the building, depicts the area in front of the Murrah  
Building, the parking lot. Later we'll show you that this  
removes.

From there directly northeast is the YMCA.

Behind it, the Kirkpatrick Hotel.

This is North Robinson Street here; the Journal Record  
Building, which is directly across the parking lot from the  
Murrah Building; the Athenia Building, which housed the  
Athenia

Restaurant, as well as some offices for the Oklahoma Water  
Resources Board.

The Water Resources Board building here on the corner  
of North Harvey and N.W. 5th.

Saint Joseph Rectory. Directly behind it would have  
been Saint Joseph's Church.

The U.S. Post Office, which is located, as you can  
see, on the corner of North -- the northwest corner of N.W.  
5th

and Harvey.

Law Office Building, which was located behind the post



office.

Behind -- or to the rear of that is a garage.

The Regency Towers apartment building was a multistory

James Elliott - Direct

building -- it still is a multistory building. It was located about a block west of the Alfred P. Murrah Building.

There is a Firestone store located directly across from the Regency Towers.

The miscellaneous buildings -- this is Fred Jones body shop here, and these are other miscellaneous office buildings.

Going back this direction, I think I missed the -- an office furniture building, a group of loan stores; and on the model before we removed it was Bentley Carpet and some other buildings which are across Broadway Street, which is a main thoroughfare located about two blocks from the Alfred P.

Murrah

Building.

Q. Are the major buildings on this model marked with a label indicating the name of the building?

A. Yes, they are.

Q. Could you tell us a little bit about the direction of the streets that are indicated on this model?

A. Okay. N.W. 5th is a one-way street east. N.W. 6th is a one-way street west.

North Robinson, I believe, is one way to the south.

North Harvey was one way in a northerly direction.

Hudson to the south and Walker north.

Broadway is a two-way street.

Q. Does this model indicate certain -- the damage that occurred to certain buildings?

James Elliott - Direct

A. Yes, it does.

Q. Could you explain which buildings and show how that's --

A. The buildings are the Alfred P. Murrah Building, the Athenia Building, and the Journal Record Building.

The front facade of the Murrah Building is removable, which shows the area that was destroyed by the blast. In front of it is a removable piece, which represents the crater.

From the Journal Record Building, the roof -- this roof portion was blown off and landed in the parking lot directly under it.

The Athenia Building sustained -- excuse me. This is a little difficult.

The Athenia Building sustained damage to this area here.

Q. When you say "this area here," could you indicate for the record?

A. Yes, I'll show you.

The -- to the corner would be the southeast corner of

the building along the east side.

Q. Now, were there other buildings in this area that were damaged due to the bombing?

A. Yes. Every building in this area was damaged due to the bombing.

Q. But the only three that are indicated by the model are the

James Elliott - Direct

three buildings --

A. Are these three buildings, Journal Record Building showing the roof that was lifted into the parking lot, the Athenia Building, and the Alfred P. Murrah Building.

Q. Mr. Elliott, immediately after the bombing, were there cars

in this parking lot that's right on 5th Street across from the Murrah Building?

A. Yes, there were.

Q. Could you take your seat, please.

You mentioned earlier that you had gone to a command post to receive your first orders on the day of April 19. Is that right?

A. Yes, ma'am.

Q. Could you tell us where the command post is in relation to the model?

A. The command post was at 8th and Harvey in this direction, Harvey Street being the street directly west of the Alfred P. Murrah Building.

Q. So it's not on the model. Is that correct?

A. It's not on the model.

Q. In constructing this model, did you also construct certain charts that represent the same downtown area?

A. Yes, we did.

MS. WILKINSON: Your Honor, if I can enlist the marshal's help, because it will be hard for an agent to get

James Elliott - Direct

around to put up Government's Exhibit 640.

THE COURT: Sure.

MS. WILKINSON: It should be right there in front.

THE COURTROOM DEPUTY: It has not been admitted.

MS. WILKINSON: You can just show it to Mr. Elliott, then. Those two pieces.

THE COURT: Well, let's don't put it up yet.

MS. WILKINSON: You can just show it to him, not to the jury, please.

Thank you.

BY MS. WILKINSON:

Q. Mr. Elliott, is 640 a two-part exhibit that you helped construct and create?

A. Yes, it is.

Q. Did you review it prior to coming to trial?

A. Yes, I did.

Q. What does it show?

Q. What does it show.

A. It shows the area -- same area as the model with the exception of there are some buildings on the north side of 6th Street that are depicted on this chart.

Q. And is it blank in the sense that it doesn't depict where evidence was recovered?

A. That's correct.

MS. WILKINSON: Your Honor, the Government would offer Exhibit 640 into evidence.

James Elliott - Direct

MS. RAMSEY: No objection, your Honor.

THE COURT: All right. 640.

Now, you may put it up.

MS. WILKINSON: The next two, please, after that. You can put that up.

You can take it down. We just need to display it briefly. Thank you.

You don't even need to display that next one. That's just the second part. You can put it next to it and give Mr. Elliott the next two charts, please.

BY MS. WILKINSON:

Q. Mr. Elliott, we're showing you Government's Exhibit 641. Did you help create and construct these charts?

A. Yes, I did.

Q. What are they?

A. They are identical to the chart that we were just shown with the exception of evidence as was displayed on this chart is platted on this chart -- on this model, rather, is platted on this chart.

Q. And is it a fair and accurate representation of the recovery of the crime-scene evidence and of the location of the buildings and the streets in the downtown Oklahoma City area?

A. Yes, it is.

MS. WILKINSON: Government offers 641. We don't need to publish it at this time.

James Elliott - Direct

MS. RAMSEY: Your Honor, we would object at this time. The Government has not established where this evidence was recovered.

MS. WILKINSON: That's fine, your Honor. We can wait till we do that. We'll do it at the end.

THE COURT: All right.

MS. WILKINSON: That's fine.

BY MS. WILKINSON:

Q. Mr. Elliott, let's go back to April 19, 1995, when you first arrived at the command post. What time did you tell us you arrived there?

A. Between 11:30 and 11:45.

Well, at the command post, at approximately 11:45; at Oklahoma City, 11:30.

Q. What did you do when you first arrived there?

A. I went into the command post and inquired as to what responsibilities they needed me for. They told me to stand by, they would assign me duties later.

Q. What happened?

A. I went outside and encountered Special Agent James Norman, who advised me that he had located a number on what appeared to be a piece of large truck. He gave me that number and asked if I could determine what it was.

Q. What agency does Special Agent Norman work for?

A. He is an FBI agent.

James Elliott - Direct

Q. What did you do when he gave you that number?

A. I looked at the number, determined that it in my opinion was a confidential vehicle identification number. I called the National Insurance Crime Bureau in Dallas, Texas, and gave them that number.

Q. What number did Special Agent Norman give you?

MS. RAMSEY: Your Honor, we object as to hearsay.

MS. WILKINSON: Your Honor, it's not for the truth of the matter asserted at this point.

THE COURT: It isn't?

MS. WILKINSON: No.

THE COURT: All right. You may proceed.

What number did he give you?

THE WITNESS: He gave me No. 6.4 PVA26077.

BY MS. WILKINSON:

Q. What did you think when you saw that combination, 6.4 plus the PVA26077?

A. I did not believe that the -- the 6.4 belonged there.

Q. Why?

A. It did not flow as confidential identification numbers that I've seen in the past.

Q. Can you tell us what a confidential vehicle identification number is?

A. A confidential vehicle identification number, or CVIN, which is easier to say, is a number that is stamped on a hard

James Elliott - Direct

portion of a vehicle as it is manufactured so that the vehicle can later be identified, should the public vehicle identification number be destroyed.

Q. How many characters are in a confidential vehicle identification number?

A. Eight characters.

Q. Is that true for every vehicle?

A. To my knowledge.

Q. And is the confidential vehicle identification number the full identification number for a vehicle?

A. No, it is not.

Q. What is?

A. The full identification number is displayed generally on the dashboard and the driver's side post of any motor vehicle.

Q. What is that commonly referred to?

A. It's called a public vehicle identification number and has 17 characters normally.

Q. Now, is the confidential vehicle identification number part

of the public vehicle identification number?

A. It's the last eight numbers or eight -- last eight characters would be more correct, of a public vehicle identification number.

Q. Is that confidential vehicle identification number unique to each vehicle?

A. Yes, it is.

James Elliott - Direct

Q. How so?

A. It's the sequential production number for the vehicle.

The

CVIN will tell you what make of vehicle it is, the year of its manufacture, the plant of its manufacture, and the sequence in which it was built.

Q. Is it common in law enforcement investigations to use that confidential vehicle identification number to determine the public vehicle identification number of a car?

A. Yes, it is, when the public -- public vehicle identification number is not present.

Q. What did you do after you called the National Insurance Crime Bureau with that number?

A. I then went to the location that Mr. Norman had given me of

that piece of truck part, which was in front of the Regency Tower Apartments. I examined it, determined that the confidential vehicle identification number was truly PVA26077.

Q. Did you actually go and examine the piece of evidence that you're talking about?

A. Yes. Yes.

Q. Where was it located.

A. It was located directly in front of the Regency Tower Apartments.

Q. And what did it appear to be to you?

A. Appeared to be a rear-axle housing to me.

MS. WILKINSON: Your Honor, could the witness step

James Elliott - Direct

down to identify a piece of evidence?

THE COURT: Yes

THE COURT: Yes.

MS. WILKINSON: You don't need to bring your earphones (sic), if you can just keep your voice up, please.

THE WITNESS: Okay.

BY MS. WILKINSON:

Q. Mr. Elliott, underneath this black cloth is Government's Exhibit 630. Did you examine this prior to coming to trial?

A. Yes, ma'am.

Q. What is it?

A. It's the rear-axle housing that I described in the front of

the Regency Tower Apartments on April 19, 1995.

Q. How do you recognize it as being the same piece that you saw on April 19, 1995?

A. I recognize it by the number which is stamped on the axle housing and by the general configuration of the piece with the damage that was inflicted on it.

MS. WILKINSON: Government offers 630, your Honor.

MS. RAMSEY: No objection, your Honor.

THE COURT: 630 received.

BY MS. WILKINSON:

Q. Mr. Elliott, could you take the cover off?

Now, could you show the ladies and gentlemen of the jury where you found the confidential vehicle identification number?

James Elliott - Direct

A. This series of numbers right here is the confidential vehicle identification number. It reads PVA26077. No. 6.4 is over here to the left; and the significance of 6.4, I don't know.

Q. But as far as you know, that is not part of the confidential vehicle identification number?

A. I absolutely know it is not part of the CVIN.

Q. You can take your seat.

Are you aware that a photograph was taken of the rear axle and where it was found on April 19, 1995?

A. Yes, I am.

Q. Have you reviewed that photograph prior to coming to trial?

A. Yes, I have.

Q. It's Government's Exhibit 633?

A. Yes, ma'am.

Q. And is that a fair and accurate representation of where you found this rear axle on April 19?

A. Yes, it is.

MS. WILKINSON: Your Honor, the Government would offer 633.

MS. RAMSEY: No objection, your Honor.

THE COURT: 633 received.

MS. WILKINSON: Again, if the marshal could put up the photo. It's right there.

Your Honor, could I approach?

James Elliott - Direct

THE COURT: Yes.

BY MS. WILKINSON:

Q. Mr. Elliott, do you have your light pen?

A. Yes, I do.

Q. Could you show the jury what you see in that photograph?

A. I see the rear-axle housing, where it has landed, appears to have struck this red Ford Festiva and then bounces to this location. That's the location at which I examined it on April 19, 1995.

MS. WILKINSON: Your Honor, could I have the marshal move the photograph a little bit? I don't think all the jurors

can see it, especially back here in the back.

THE COURT: Can you see it?

BY MS. WILKINSON:

Q. Now, when you went to this location, is that how you saw the rear axle on April 19?

A. Exactly as it appeared.

Q. Now, did you also have -- or are you aware of another photograph taken which is an enlargement of the rear axle which

indicates the confidential vehicle identification number?

A. Yes, I am.

Q. Did you review that photograph prior to coming to trial?

A. Yes, I did.

Q. It is a fair and accurate representation of the confidential vehicle identification on the rear axle?

James Elliott - Direct

A. Yes, it is.

MS. WILKINSON: The Government offers 636, your Honor.

MS. RAMSEY: No objection, your Honor.

THE COURT: 636 received.

BY MS. WILKINSON:

Q. Now, using your light pen, Mr. Elliott, could you indicate for the jury where the confidential vehicle identification number is located?

A. This is the confidential vehicle identification number identical to what's on the rear-axle housing.

Q. Could you step down and show the jury on the model exactly where you found the rear axle, Government's Exhibit 630, and then you can take your seat.

A. Directly in front of this building.

Q. Could you remove the building and just show them where?

A. The rear-axle housing was located right here in the street, right in front of the Regency Towers.

Q. How far is that from the crater in front of the Murrah Building?

A. Approximately 575 feet.

Q. You were able to determine the approximate weight of the

rear axle, Government's Exhibit 630?

A. Only by estimate. We estimated it to be about 250 pounds.

Q. Now, after you went down 5th Street, saw the rear axle and recorded the confidential vehicle identification number, what

James Elliott - Direct  
did you do?

A. I then returned to the command post and on my way there received a radio message that I had been called by the NICB office in Dallas.

Q. What is the NICB?

A. The National Insurance Crime Bureau.

Q. What did you do?

A. I returned to the command post, telephoned the lady in Dallas, and collected the information from her.

Q. What did she tell you?

MS. RAMSEY: We would object as being hearsay.

THE COURT: Are you offering this -- well, I think you ought to identify more what this bureau is.

MS. WILKINSON: Yes, your Honor.

BY MS. WILKINSON:

Q. Could you explain in more detail, Mr. Elliott, what this bureau is and what kind of records they maintain?

A. The National Insurance Crime Bureau is, as I understand it, a privately funded organization funded by insurance companies which investigates crimes against the insurance companies, among them automobile theft. They maintain records through all of the automobile manufacturers of shipping of -- manufacturing information and shipping information for each vehicle manufactured in the United States.  
Q. Do they maintain all the vehicle identification numbers and

James Elliott - Direct

the confidential vehicle identification numbers for cars and trucks manufactured in the United States?

A. Yes, they do.

Q. Do they also keep part numbers for those vehicles?

A. They also maintain part numbers, or have access to them, at any rate.

Q. Is it the customary practice of the FBI to contact the National Insurance Crime Bureau to determine the public vehicle identification number?

A. Yes, it is.

MS. WILKINSON: With that, your Honor, I'd like to ask the same question.

THE COURT: Do you have the same objection?

MS. RAMSEY: Same objection, your Honor.



MS. RAMSEY: Same objection, your Honor.

THE COURT: Objection overruled. I'll receive it under Exception 24.

BY MS. WILKINSON:

Q. Mr. Elliott, what did you learn that day?

A. I learned that the true vehicle identification number of this vehicle was 1FDNF72 -- I think it's S.

Q. Do you need something to refresh your recollection?

A. Yes, I do.

MS. WILKINSON: Hold on, your Honor -- do you have any objection?

BY MS. WILKINSON:

James Elliott - Direct

Q. Go ahead.

A. 1FDNF72J4PVA26077.

Q. Are those last eight characters the same characters that you saw on the rear axle, Government's Exhibit 630?

A. Yes, they are.

Q. What else did you learn about the vehicle from the National

Insurance Crime Bureau?

A. I learned that the vehicle was registered to Ryder Rental, Incorporated, in Miami, Florida, that it was a current rental under their number 137-328.

Q. Did she give you the approximate size of the vehicle?

MS. RAMSEY: Your Honor, we would interpose an objection as being hearsay, as going beyond what is kept in the

normal course of business.

THE COURT: Overruled. Proceed.

THE WITNESS: She advised me that the vehicle was I believe between 19- and 26,000 gross vehicle weight.

BY MS. WILKINSON:

Q. What did you do with the information once you received it?

A. I gave it to the lead agent on duty, who then in my presence telephoned it to FBI headquarters.

Q. What were -- what responsibilities were you assigned after that point once you obtained the vehicle information?

A. I was then assigned later in the day to -- to work in evidence coordination in the Evidence Control Center.

James Elliott - Direct

Q. Did you begin those duties on April 19?

A. Yes, I did.

Q. What did you do?

A. We went to a warehouse which the FBI already had rented, used for other purposes, started setting up our computers, preparing the warehouse to receive evidence from this crime scene.

Q. Did you return to the crime scene later that day?

A. He returned at about 6:30 p.m. in order to determine if -- if and what type of evidence we would be receiving that

it and what type of evidence he would be receiving that evening.

Q. What did you find when you got to the crime scene?

A. I found that they were clearing the streets between Broadway and Hudson on 5th Street and clearing Robinson and Harvey in order for emergency vehicles and other rescue-type vehicles to have access to the area for rescue purposes.

Q. Did you encounter anyone who was recovering evidence that evening?

A. Yes.

Q. Tell us what happened.

A. I encountered two deputy sheriffs from -- auxiliary deputy sheriffs of the Oklahoma County sheriff's office at the corner of the Athenia Building, where they were examining a twisted piece of metal. I looked at the piece of metal, determined that it had encased in it a Florida license tag, appeared to be

James Elliott - Direct

a rear bumper; and I seized it as evidence and took it to the Evidence Control Center and entered it as evidence.

Q. Did you enter it into the Evidence Control Center that day?

A. Yes, I did.

Q. Okay. I'm showing you Government's Exhibit 637. Do you recognize that?

A. Yes, ma'am, I do.

Q. How do you recognize it?

A. It's the license tag that was encased in the rear housing on April 26 with the assistance of other agents. I removed it from the rear bumper and photographed it.

Q. And how do you know that's the same license plate that you recovered on April 19?

A. Because the number is NEE26R. It's a Florida license which expires in December of 1995.

MS. WILKINSON: Government offers 637.

MS. RAMSEY: No objection.

THE COURT: Received, 637.

BY MS. WILKINSON:

Q. Mr. Elliott, if you can stay where you're seated. Let me point out Government's Exhibit 637A. Do you recognize this?

A. Yes, I do.

Q. How do you recognize this?

A. I recognize it as the piece of bumper -- rear bumper that -- in which this license was located. I recognize it

James Elliott - Direct

principally because of its -- the twisted nature, the unique nature in which it is torn.

MS. WILKINSON: Government offers 637A.

MS. RAMSEY: No objection, your Honor.

THE COURT: Received, 637A.

BY MS. WILKINSON:

Q. You told us that when you first found this rear bumper and license plate, that the license plate was encased in the bumper. Is that right?

A. That's correct.

Q. Did you cause -- or take a picture or cause to be taken a picture of the license plate when it was in the rear bumper?

A. Yes, I did.

Q. And did -- referring to Government's Exhibit 638, did you examine that photograph prior to coming to trial today?

A. Yes, I did.

Q. And is it a fair and accurate representation of what you saw on April 19?

A. Yes, it is.

MS. WILKINSON: Government offers 638.

MS. RAMSEY: No objection, your Honor.

THE COURT: Received, 638.

MS. WILKINSON: May we publish it, your Honor?

THE COURT: On the --

MS. WILKINSON: On the easel.

James Elliott - Direct

THE COURT: All right.

MS. WILKINSON: We're not using the TV. There is not enough room with all these other exhibits.

THE COURT: It's all right with me.

BY MS. WILKINSON:

Q. Mr. Elliott, explain what the jury is looking at in this photograph, please.

A. The jury is looking -- the jury is looking at a portion of the rear bumper with the last three numerals of the license tag partially visible.

Q. And what is that white document to the side of the license plate on Government's Exhibit 638?

A. That's an evidence tag that I placed on the piece of evidence after I had recovered it.

Q. Did there come a time when you removed the license plate from the rear bumper?

A. Yes.

Q. When was that?

A. It was on April 26 --

Q. Why did you do that?

A. -- 1995.

In order to better read the license tag. The license tag was not completely readable while inside the bumper.

Q. Could you tell the ladies and gentlemen of the jury what the license plate number is, please.

James Elliott - Direct

A. The license plate number is NEE26R.

Q. And did you take a photograph of the license plate after

you removed it from the rear bumper?

A. Yes, ma'am.

Q. Did you review that photograph, Government's Exhibit 639, before coming to court?

A. Yes, I did.

Q. And is it the same photograph you took that day?

A. Yes, it is.

MS. WILKINSON: The Government offers 639.

MS. RAMSEY: No objection, your Honor.

THE COURT: Received, 639.

MS. WILKINSON: May we publish it?

THE COURT: Yes.

BY MS. WILKINSON:

Q. Mr. Elliott, could you describe what's depicted in the photograph, please?

A. What's depicted in the photograph is the license tag immediately after it was removed from the rear bumper.

Q. Could you tell the ladies and gentlemen of the jury what's on either corner of the license plate, please.

A. On the corner is the expiration date, December, 1995 with the registration number for that sticker.

Q. Does it indicate what state the license plate came from?

A. Florida.

James Elliott - Direct

Q. Now, did there come a time during this investigation when you had reason to remove certain pieces of evidence from the packaging for testing?

A. Yes, ma'am.

Q. Did you maintain the evidence at the Evidence Control Center before you did that?

A. Yes, we did.

Q. Inside that packaging is Government's Exhibit 699. Could you take it out, please.

A. Yes, ma'am.

Q. Do you recognize that?

A. Yes, I do.

Q. What is it?

A. It is what appears to be a Ford Motor Company ignition key.

Q. And out of which evidence bag did you take that Government's Exhibit 699?

A. I took that from 1B78, Item 162B.

Q. And how do you recognize that, that that is the same key that you took out of that evidence bag?

A. It has the numbers H54 on it; and also, packaging that I placed it in at the time that I removed it from the bag.

Q. Was this key sent to Hurd Lock for testing?

A. Yes, it was.

MS. WILKINSON: I have no further questions, your Honor.

James Elliott - Direct

THE COURT: All right. Ms. Ramsey, proceed, please.

CROSS-EXAMINATION

BY MS. RAMSEY:

Q. Mr. Elliott, I just have a few questions to ask you.

Would

you please explain to me the location of the garage or warehouse where the exhibits were kept?

A. Yes, ma'am. It's located at 4th and Classen, between 4th and Western -- between Classen and Western on 4th, N.W. 4th, which would be approximately 10 blocks west on the street directly behind the Murrah Building.

Q. And you said that the FBI had already rented this area for something else. Is that correct?

A. It was maintained as a forfeiture warehouse and an evidence

warehouse prior to that time.

Q. And what was in that warehouse?

A. What was in the warehouse?

Q. Prior to your actually using it.

A. There were some items that had been seized as evidence in other cases, some gambling machines -- I don't -- some purses, some other miscellaneous items; and there also were automobiles

which were stored there.

Q. How big was this area?

A. I'm not very good at judging these sort of things, but 30 -- 20,000 square feet. Something like that.

Q. And what was done with the evidence that was currently in

James Elliott - Cross

that warehouse?

A. We isolated it in a separate room.

Q. And what did you do when you went into that warehouse in order to protect it before the items from this case were

brought in?

A. Well, we swept the rooms that we were going to use and marked them off so that we would have bins and we could keep the items separated from each other.

Q. Did you put any protective coating on the floors or the walls or anything of that nature?

A. No, we did not.

Q. Did you disinfect it or do anything like that?

A. No, we did not.

Q. Okay. How many items of evidence were brought into that area? Just --

A. Well, about 7,000 pounds.

Q. Okay. And were they all large pieces, like the truck axle,

or were there smaller items that were brought in, also?

A. No, they were all sizes.

Q. Okay. And were those isolated from each other, or were they just placed in a pile in the corner, or how did you take care of them?

A. Well, each item with the exception of the large items like this, which did not require packaging -- excuse me -- were packaged in glycine bags or in paper bags or in some cases in

James Elliott - Cross

large garbage cans or yellow buckets.

Q. And when you were picking up the license tag and other items of evidence, did you use any protective coating yourself?

A. I wore gloves.

Q. Did you wear protective clothing?

A. No, I did not.

Q. I believe you testified on direct examination that you had special clothing that you were supposed to wear.

A. Well, by special clothing, I was not -- I was referring to BDUs, utility suits.

Q. So they're not clothing that is cleaned every time you put it on in order to protect the integrity of evidence, is it?

A. Well, it's washed every time I wear it, yes.

Q. But I mean it's not a space suit or something like that --

A. No.

Q. -- that's special for you to wear?

A. No, it's not.

Q. Now, when these items of evidence were brought in, were they checked in to you personally, or how were you --

A. No. There were six of us work -- seven of us working in that warehouse. Normally, the people who -- the evidence control technicians would give each item a 1B number. As far as handling the items, yes, I handled the items and placed them

in the bins with the assistance of other people.

Q. And would you describe the bins?

James Elliott - Cross

A. Well, the bins were no more than a piece of tape on the floor which separated -- separated the items so that we could catalogue them and find them later.

Q. Okay. And did you keep a list of these items as they were brought in and when you catalogued them?

A. Yes.

Q. All right. And did you -- were you the only one who kept the list?

A. No, ma'am.

Q. Okay. Were the other six or seven people that were with you also keeping the list?

A. Also responsible for maintaining the list. It was a shared thing.

Q. Did Mr. McVeigh's vehicle come to this location?

A. Yes, ma'am.

Q. And it was tested at that location?

A. Yes, ma'am.

MS. RAMSEY: I have no further questions, your Honor.

THE COURT: Any redirect for this witness?

MS. WILKINSON: Yes, your Honor.

REDIRECT EXAMINATION

BY MS. WILKINSON:

Q. Mr. Elliott, Ms. Ramsey asked you about items that had come into the warehouse, and you approximated that there was 7,000 pounds of debris that you catalogued and stored?

James Elliott - Redirect

A. Yes.

Q. Did Timothy McVeigh's clothes ever come to the warehouse?

A. No, ma'am.

Q. When you were processing this debris, you said that you wore gloves. Is that correct?

A. That's right.

Q. But you didn't wear a protective suit?

A. No.

Q. Would the protective suit have aided you in any way in dealing with debris like the rear axle that is damaged, jagged and otherwise difficult to handle?

A. No, it wouldn't have, because those protective-type suits are fragile and would tear.

Q. Could you describe briefly what the items were that you were receiving, what they looked like, how you had to handle them?

A. Well, they were jagged pieces of metal, like those in front of us. There were glycine bags filled with smaller pieces of metal. There were some pieces 11 feet long, some inches long; glass in some cases; mostly metal -- sharp, jagged metal.

MS. WILKINSON: No further questions.

MS. RAMSEY: No recross.

THE COURT: All right. You may step down.  
Next witness?

MR. HARTZLER: Your Honor, the Government calls Clark Anderson; but we have a logistical problem. I think we'll need

the monitor soon for display of his exhibits.

THE COURT: Well, do we have to move these?

MR. HARTZLER: I don't even know where the monitor is.

THE COURTROOM DEPUTY: It's right outside the hallway. I just need this out of the way.

MR. HARTZLER: If we could just take a moment to stretch or something.

THE COURT: All right. If we can get some help in moving the exhibit.

Members of the jury, if you want to stand and stretch while we're performing this move.

MR. JONES: May we stand, too, your Honor?

MR. JONES: May we stand, too, your honor?

THE COURT: You may.

If you'll be sworn by the clerk.

(Clark Anderson affirmed.)

THE COURTROOM DEPUTY: Have a seat, please.

Would you state your full name for the record and spell your last name.

THE WITNESS: Clark H. Anderson, A-N-D-E-R-S-O-N.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mackey?

MR. MACKEY: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MACKEY:

Clark Anderson - Direct

Q.Good morning.

A.Good morning.

Q.Mr. Anderson, would you tell the jury where you live, what city?

A.I live in Fort Lauderdale, Florida.

Q.And where do you work?

A.I work at Ryder System, Inc., in Miami, Florida.

Q.Where did you grow up?

A.I grew up in St. Louis, Missouri.

Q.And did you attend college?

A.At the University of Missouri in Columbia, Missouri.

Q.And while in college, did you take your first job?

A.I certainly did, with Ryder.

Q.And have you worked for anybody else since then?

A.No, sir, I have not.

Q.How many years is that in total?

A.A little over 24.

Q.Could you tell the jury at the outset the two different Ryder truck rental businesses that exist today?

A.Yeah.The two pieces of Ryder that are most easily identifiable is the long-term leasing and commercial rental, big tractors and trailers and -- that travel back and forth across the country; and the part of the business that -- the other part of the business is the consumer rental business, smaller trucks, rent it here, leave it there.You see them at

Clark Anderson - Direct

service stations and gas stations and everything.That part of the business is known as consumer truck rental; and the two act

as separate business units in the company.

Q.Which of the two businesses you've described are you most familiar with based on your experience?

A.I've spent the last eight years completely focused on the consumer rental business.

Q.Could you in brief fashion outline to the jury what positions you've had with Ryvder and what sort of duties you've



carried out on their behalf?

A.I started out at about the lowest rung on the ladder.It was renting trucks at the rental counter to customers, be they commercial or consumer customers; from there into a sales role, then sales management role on a regional basis; promoted from there to a -- what's called a district manager, which is really kind of a general manager of a metropolitan profit-center-type business, multiple locations, being the manager of multiple locations.

I was in Evansville, Indiana, with that responsibility; moved to a larger responsibility in St. Louis, Missouri; even larger responsibility, same position, in Kansas City, and from Kansas City to one of our largest locations in the United States, in metropolitan New York City.So I've kind of travelled around the country in that type of job. From my position in New York City, I was again

Clark Anderson - Direct

promoted to our headquarters in Miami, Florida, relocated to Miami, Florida, and worked in the -- that's when I started -- I

believe that was in 1989.That's when I started with 100 percent of my focus on the consumer rental business.

Q.What was your title in the position you started in 1989?

A.In 1989, I believe it was director of operations.

Q.And could you outline for the jury the specific responsibilities you had for managing dealerships, Ryder dealerships across the country?

A.The positions kind of evolved as we grew the business and worked what started out as director of operations, involved in things such as purchasing and pricing and inventory management and even, you know, a lot of administrative duties.As the business grew and we became more specialized, my responsibilities grew with it; and I started working on a lot with the distribution network, still retained some of the old responsibilities in purchasing and pricing and that type of thing, but added onto the management -- national management of our distribution network, which is all of the dealer locations you see in the neighborhoods, which would involve the recruiting and selection and training of those dealers.

I had additional responsibilities with some systems development for the consumer rental business.

Q.In addition, did you or your staff have the responsibility of titling and registering the vehicles owned by Ryder?

Clark Anderson - Direct

A.Yes.Part of my staff did.Yes, sir.

Q.Could you give the jury just a thumbnail sketch of the consumer business, how many dealerships there are and what

size

fleet it operates with?

A.The fleet is made up of four different-sized vehicles: a 10-foot vehicle, a 15-, a 20- and a 24-.And they're spread amongst those sizes based upon the amount that they can haul and the size that they are in cubic feet.

They're rented through other people's primary business, dealers, whether it might be a Phillips 66 station or

some kind of general rental center, self-storage, mini-storage facility; and there is about 5,000 of those in 48 states -- in all of the 48 states, not in Alaska or Hawaii.And those dealers rent those trucks as commissioned agents of Ryder.The trucks are put there on consignment.They rent them to customers following company procedures, collect the money, send

the money to the company.

The company in turn pays them a commission of the gross revenues for their part in helping us rent the trucks.

Q.In April of 1995, approximately how many consumer rental vehicles did Ryder own?

A.At that point in time, about 33,000.

Q.And what system was in place at that time, Ryder System, to keep track of those 33,000-some-odd vehicles?

A.We use a system that we had installed by the end -- or by

Clark Anderson - Direct

the beginning of 1993 that is a computerized system that closes

the loop, if you will, of information, all the way from the dealer to our headquarter's mainframe; so the dealer has a computer terminal on his desk that he does just Ryder business on it.And through the use of unit numbers and other types of things, we create records that we're able to track every vehicle, track all of the sales dollars that we do with them, track where the vehicles are going to and coming from; and all of those records are sent and recorded at our Miami location and kept on mainframe computer.

But all those dealers are connected through various computer hardware and software to Miami.

Q.Could you describe the unit number a little more specifically to the jury?

A.The unit number is a six-digit numeric number, 1, 2, 3, 4, 5, 6.The first in the consumer business -- the first digit being a 1, signifies it for -- in Ryder System as what we call in the vernacular a one-way truck, but it's a consumer rental vehicle.And that's how I can tell from looking at unit numbers primarily whether or not it's a consumer rental truck or belongs to the heavy-duty division, commercial division of the company.

And the unit numbers are unique; and after a vehicle is retired, that unit number is not used again, so that we don't confuse the records.

Clark Anderson - Direct

Q.When does Ryder first assign a unit number to one of its trucks?

A.Very early on in the process.In fact, we use -- before the truck is built, we assign a unit number to the trucks and groups of trucks that we build; and the unit number starts out its life acting -- enacting as a purchase order number for that vehicle and then later becomes the unit number for the vehicle.

And it is that vehicle's identifier throughout its life and after life in the records.

Q.You mentioned that one of the vehicles offered for rental by Ryder was a 20-foot truck.Is that correct?

A.Yes, sir.

Q.What does that 20 feet measure?

A.20 feet is just the measurement of the cargo box on the truck, so just the part that you can put things in, not the cab.The cab part would be in addition to that; so just the length of the box, if you will, that's on the back of a truck.

Q.And when did Ryder first introduce to the market, the rental market, a 20-foot moving truck?

A.In the spring of 1991, it was a new type of truck that was introduced for us.

Q.How long do you keep that vehicle in your fleet?

A.We keep the trucks on an average of 60 months, five years.

Q.In April of 1995, would there have been any used or aftermarket Ryder vehicles of the 20-foot size?

Clark Anderson - Direct

A.No, sir, there would not have been.We would not have sold any of them by then.

Q.Let me ask you some obvious questions about ownership of your trucks.What sort of documents does Ryder keep on file to prove ownership of its vehicles?

A.Well, the principal ownership proof that we have on any of our vehicles is the vehicle title; and then, of course, from there, you know, other documents, such as the registration certificates and, you know, the copies of the manufacturer's certificate of origin that we surrender to the state.But principally the title, and secondarily the registration documents.

Q.Are those documents that Ryder will receive in due course from states with whom they register those vehicles?

A.Yes, sir.Upon receiving an invoice for a truck, they also -- the manufacturers also send you something called a certif -- manufacturer's certificate of origin.You submit those with an application for title and registration when a truck is brand-new to the state; and in turn, the state, together with a little fee that you send them, will accept those and return to you a title and a valid registration, license plate type of document for that vehicle.So you have the title and the registration documents

the title and the registration documents.

Q.Is it now and was it the case in April of 1995 that Ryder would keep such records in the ordinary course of their

Clark Anderson - Direct  
business?

A.Yes, sir, we do.

Q.And did you rely upon those records in conducting your business?

A.Yes, we do.

Q.What sort of use did Ryder make of the vehicle documents such as title and registration in carrying out its business?

A.Well, the -- the truck life begins for us when we're able to -- to get its title; and so that's when we begin our first use of the truck.So, you know, it has items such as the vehicle identification number on it, the unit number, the title -- you know, the state that it starts its life in, or various identifiers on that title.But the title's principal purpose is to prove to anyone that you own the truck and ultimately, at the end of the truck's life for Ryder, to be able to transfer ownership to somebody else.

Q.It's an asset you would seek to protect through the use of such records?

A.Yes, that's correct.

Q.Do you recognize an agency by the name of National Insurance Crime Bureau?

A.Yes, sir, I do.

Q.And tell the Judge and jury how you recognize that agency.

A.The National Insurance Crime Bureau is a member agency that companies like Ryder that have lots of fleets -- fleets of lots

Clark Anderson - Direct

of vehicles and insurance companies belong to trade information, to control theft of vehicles.

It's obviously in the owner of a fleet such as -- as large as ours best interest and also an insurance company who has to pay for vehicles when they're stolen to trade information, keep track of information, such as serial numbers and manufacturers.The long-standing practice is manufacturers --

MR. TRITICO:Excuse me.I'm going to object as not responsive to the question that was posed.

THE COURT:Overruled.You may continue.

BY MR. MACKEY:

Q.Go ahead.

A.Manufacturers submit new vehicle identification numbers to the National Crime Insurance Bureau; and then law enforcement, member agencies and member insurance companies can query those data banks.

Q.Was it part of your job or that of your staff to liaison with that agency?

A.Yes, sir, it was.

Q.In just the manner you've described?

A.Yes, sir, it was.

Q.And was that true in April or early 1993?

A.It was true in 1993, yes.

Q.And since then as well?

Clark Anderson - Direct

A.Yes, sir, every -- we are continuing members of the NICB.

Q.Specifically, what information would Ryder provide and at what point for each of its vehicles to that agency?

A.Well, what we provided to them were mostly queries to manufacturers; upon completion of the manufacturing process, provide VIN information to the NICB.The members such as Ryder are able to query our databases and their other databases about, you know, VIN information, licensing information, those types of ownership-related issues.

Q.In April of 1995, would that agency have had the VIN numbers of Ryder's trucks?

A.Yes, it would have.

Q.Let me direct your attention now to April 19, 1995.Where were you on that day?

A.April 19, 1995, I was in Miami, Florida.

Q.And in the afternoon of that day, did you receive an inquiry about a VIN on a truck owned by Ryder?

A.Yes, sir, we did.

Q.Describe what happened.

A.We received a call in the company sometime in the middle of the afternoon, to my best recollection, from an FBI agent in Oklahoma City, Oklahoma, inquiring about our ownership of a serial number, needing a description of what type of vehicle was attached to that serial number and a question as to the location of the truck that belongs to that serial number:

Clark Anderson - Direct

Where is it now?Where is it today?

Q.Did you or others at your direction search the records of Ryder for that specific VIN number?

A.Yes, sir, we did.

Q.What did you determine from that search?

A.We determined that the truck was a 1993 Ford with a 20-foot body on it that was domiciled presently at Elliott's Body Shop in Junction City, Kansas, and was on rental to a customer at the time.In fact, it was in the process of a rental.

Q.That's information you gathered from reviewing Ryder's records in Miami?

A.Yes, sir.

Q.On that day?

A.Yes, sir.

Q.Turn, if you will, to Government's Exhibit 650, which should be on top of your stack of exhibits in front of you.

A.Got it.

Q.Do you recognize what that exhibit is?

A.Yes, sir.This is the title for the vehicle that I identified that day.

Q.Does that title correspond to the VIN that was inquired about on April 19, 1995?

A.Yes, sir, it does.

Q.And is that title part of the records of Ryder Truck Rental?

Clark Anderson - Direct

A.Yes, sir, it is.

MR. MACKEY:Your Honor, we'd move to admit Government's Exhibit 650.

THE COURT:Any objection?

MR. TRITICO:No, your Honor.

THE COURT:650 received.

BY MR. MACKEY:

Q.Mr. Anderson, do you see Government's Exhibit 650 on the screen before you?

A.Yes, sir, I do.

Q.Let me focus on the upper left-hand corner for a moment: And with the pen that you'll find to your left, could you circle on that document the VIN number that you traced on April 19, 1995?

A.Whoops.

Q.If you want to press the button, you can clear it.

A.All right.Let me try this again.

Q.Mr. Anderson, I'm not going to ask you to do that again.

A.With your indulgence, I'm fascinated now.

Q.That's the most artistic circle we've seen.

A.It has a life of its own.

Q.This won't be hard:Could you read into the record the VIN number that you've just circled?

A.Yes.It's 1FDNF72J4PVA26077.

Q.Directing attention to that same enlargement, the bottom

Clark Anderson - Direct

right-hand corner, do you see a series of numbers, a six series

of numbers after the name "Ryder Truck Rental"?

A.Yes, sir.

Q.What is that number?

A.That is the unit number for the vehicle.

Q.And throughout the life of that one 1993 Ford, was it Ryder's practice to always correspond that unit number with that VIN number?

A.Yes, sir.That's the way it works.

Q.Let me ask you to look now at Government's Exhibit 652. Excuse me.651, next in your list.

A.Yes.

Q.You recognize what that is?

A.Yes, sir.This is a set of papers that represent the registration of the new vehicle at the time of purchase.

Q Have you examined 651 before coming to court today?

Q.have you examined 651 before coming to court today:

A.Yes, I have.

Q.And is it a series of certified records from the State of Florida for the same vehicle you've identified previously?

A.Yes, sir, it is.

Q.Does it include registration information and licensing information for that same vehicle?

A.Yes, sir, it does.

MR. MACKEY:Would move to admit Government's Exhibit 651.

Clark Anderson - Direct

MR. TRITICO:No objection.

THE COURT:651 received.

BY MR. MACKEY:

Q.Mr. Anderson, before coming to court today, did you have an opportunity to examine a large axle housing and look specifically for any portion of a VIN number on that exhibit?

A.Yes, sir, I have.

Q.And I'm going to direct your attention and ask if you can perhaps rise in your chair and see Government's Exhibit 630 in the far corner.

A.Oh.

Yes.

Q.Does that appear to be the same axle that you examined before coming to court?

A.Yes, sir, it is.

Q.And did you find any numbers impressed -- go ahead and sit down.Thank you.

Did you find any stamped into the metal of that exhibit?

A.Yes, sir, I did.

Q.And how do those numbers correspond with the Ryder records you've just identified?

A.The numbers that are on the rear axle housing are the part of the VIN number, the last part of the VIN number, known as the confidential VIN number, or referred to as the confidential

Clark Anderson - Direct

VIN number.

Q.Let me turn your attention now to Government's Exhibit 637, which appears to be a license plate.Should be on the stand there.

Have you seen that exhibit before?

A.Yes, sir, I have.

Q.And have you examined the numbers that appear on Exhibit 637, the license plate, with the Ryder records for the vehicle you just testified about?

A.Yes, sir, I have.

Q.And how do they correspond?

A.The license plate number is -- stamp number is the exact same number as the registration and the decal, the current

decal signifying the proper year of the plate, is the same as what's on the registration documents.

Q.Let me turn your attention to Government's Exhibit 652. What is that, please.

A.This is the 1995 current year registration for this particular vehicle.

Q.And is that a document that Ryder maintained in the ordinary course of its business?

A.Yes, sir, it is.

Q.Does it relate to the same vehicle we've been discussing?

A.Yes, sir, it does.

MR. MACKEY:Would move to admit Government's Exhibit

Clark Anderson - Direct  
652.

MR. TRITICO:No objection.

THE COURT:Received.

BY MR. MACKEY:

Q.Do you see a registration decal number in Exhibit 652?

A.In the left-hand side of the document is decal number 10806440.

Q.And how does that number compare with the registration tag physically placed on the license plate?

A.It's the identical number that is on the decal on the upper right-hand corner of the license plate.

Q.Thank you.I want to turn our attention now, Mr. Anderson, to the tracing of the rental history for this particular vehicle; but before I ask any specific questions about that, can you orient the jury a little bit more about the responsibilities of Ryder dealers for maintaining certain business practices?

A.The -- our business relies on each of the 5,000 dealers using the same common practices at each of their dealerships around the country, so that we only have, if you will, one set of rules that we use and things happen the same way all around the country, so we can keep the records the same way all around the country.

The -- one of the ways that we enforce the use of common practices and following common policies is

Clark Anderson - Direct  
systematically with our computer network, so that the dealer doesn't have a lot of options for independent thinking; that the same things can happen and be recorded the same way, whether it is Dealer A or Dealer B.

Q.And were you personally responsible for the development of the nationwide computer system you've just described?

A.Yes, sir, I was.

Q.And when did you start those efforts and when were they completed?

A.The efforts began in the fall of 1989, with some initial



thought process on what kind of system to build. We built the system and tested it through the end of 1991, had our first live field test of it to see if really did work in true life, as opposed to in the laboratory, in December of '91. In January of 1992, we began to roll it out around the country, installing it -- excuse me -- at these various dealers and completed the project by April of 1993.

Q. To your knowledge, was that computer system in place and operational in Junction City, Kansas, in April of 1995?

A. That computer system is operational in Junction City, Kansas, in 1995.

Q. Would you describe to the jury what business records are created by a Ryder dealer based on that system when a customer calls and makes an inquiry simply for a quote?

A. There is a function in the system that assigns a unique

Clark Anderson - Direct

number to a quote and captures data and in turn will print out a quotation, the confirmation, if you will, of what you talked about at that date, confirming the price that we quoted you.

Q. And if a customer wants, then, to make a reservation for a

vehicle, what happens next?

A. Using the same number that was on the quote, the quote is upgraded to a reservation. And the reservation is confirmed by payment of the deposit in the minimum and has a place -- has more information on it and place for a customer's signature.

Q. And then finally what happens when that customer arrives to pick up the truck?

A. The reservation agreement number is -- with all of that information in it is upgraded to its next level, which is called open agreement and additional information is collected and an open agreement is printed, the customer signs it. The customer is then authorized to have that vehicle.

Q. And do you and others in Miami headquarters have access to those business specifics for all of the transactions being carried on by dealers, Ryder dealers across the country?

A. Yes, sir, we do.

Q. By virtue of the computer system you just described?

A. By virtue of the computer system, yes, sir.

Q. Prior to coming to court, did you attempt to identify documents as it related to the last rental of unit 137328?

A. Yes, sir, I did.

Clark Anderson - Direct

Q. I want to turn your attention now to Government's Exhibit 305 in the folder.

Let me as well direct your attention to 308 and 309.

If you look at those three exhibits at the same time.

A. Yes, sir.

Q. Do you recognize each of those?

A. Yes, sir, I do.

Q. And do those exhibits relate to the rental of the unit 137328?

Q.And do they each relate to the rental of the unit we've been describing this morning?

A.Yes, sir, they do.

Q.For the record, what is Government's Exhibit 305?

A.Government's Exhibit 305 is a quote for a one-way rental from Elliott's Body Shop to Omaha, Kansas -- I'm sorry -- Omaha, Nebraska, for a Mr. Bob Kling.

Q.And for the record, what do you recognize Exhibit 308 to be?

A.308 is a reservation made by Mr. Kling for the same rental that was described in the quote, a one-way rental from Junction

City, Kansas, to Omaha, Nebraska, for a 20-foot vehicle.

Q.And finally, Exhibit 309:What is that, please.

A.And Exhibit 309 is the open agreement that was -- with a little bit more information on it that was finally printed out and -- for Mr. Kling at the time of his rental, at the time he picked the truck up.

Q.Do each of those three exhibits represent the type of

Clark Anderson - Direct

business records maintained by Ryder in April of 1995 systematically across the country for its customers?

A.Yes, sir, they do.

MR. MACKEY:Your Honor, we'd move to admit Government's Exhibit 305, 308 and 309.

MR. TRITICO:Your Honor, I would object to this witness' identification of these specific documents and I'd like to take him on voir dire for a moment, if I may.

THE COURT:You may voir dire, yes.

VOIR DIRE EXAMINATION

BY MR. TRITICO:

Q.Good morning.

A.Good morning.

Q.Now, in reviewing -- let me see if I understand what happens.The computer -- this information is typed into the central computer where you can print off in Miami the information that was taken at, for instance, Elliott's Body Shop.Is that correct?

A.That's correct.

Q.And is this called EDI, electronic data information?

A.Well, that's one terminology for it, yes, sir.

Q.That's what you all call it; right?

A.No, sir, that's not what we call it, but --

Q.Okay.

A.-- it is referred to in the industry as electronic data

Clark Anderson - Voir Dire  
interface.

Q.Okay.And the purpose in doing this is so that you don't have to mail around and ship around the hard copies of the documents; right?You've got the computer information.You don't need the hard copy in Miami.Correct?

don't need the hard copy in Miami, correct?

A.We do not maintain the hard copies in Miami, no, sir.

Q.The hard copies are maintained at the local dealership; right?

A.No, sir.One copy of the document is maintained at the dealership and an additional copy is maintained at a regional office and stored there for a period of time.

Q.Which is not your office; is that right?

A.Which is not the office that I'm in.That's correct.

Q.When you pull the computer up, you don't see the signature of the individual who signed the reservation or the open agreement; is that right?

A.That is correct.

Q.The documents you're looking at, Government's Exhibit No. 308 and 309, have a signature on them, do they not?

A.Yes, they do.

Q.Those are not maintained -- that document is not maintained in the care and custody of you at your office.Is that right?

A.The hard document itself is not sir.The information contained on it is.

Q.That document that you're looking at, Government's Exhibit

Clark Anderson - Voir Dire

308 and 309, is not maintained in your custody at your office; correct?That document you're looking at?

A.This document, this hard copy of a document is not, no, sir.

Q.And the Government's Exhibit No. 305 -- this copy was not maintained at your office, was it?

A.That's correct.

MR. TRITICO:That's all I have on voir dire, and I'll continue my same objection that this is not the appropriate person to identify these documents.I object to it.

THE COURT:Objection sustained at this point.

DIRECT EXAMINATION CONTINUED

BY MR. MACKEY:

Q.Mr. Anderson, relying upon records available to you in Miami, did you search and determine what specifics you knew of the last rental of unit 137328?

A.Yes, sir, I did.

Q.And what did you find in your records in Miami, Florida?

A.I found --

MR. TRITICO:Excuse me, I'm going to --

THE COURT:Wait a minute.

MR. TRITICO:Objection.Hearsay.

THE COURT:Overruled.

You may respond.

You're responding based on looking at your data?

Clark Anderson - Direct

THE WITNESS:I'm responding based on looking at the data that's in the system at the time.

THE COURT:All right.

THE WITNESS:And what we found was this truck was in the process of a rental.

BY MR. MACKEY:

Q.And did you have the renter's name available to you by searching records in Miami, Florida?

A.Yes, sir, we did.

Q.And what was the renter's name on that unit?

A.Bob Kling.

Q.And did you know the date of dispatch; that is, the release of the vehicle to that renter?

A.Yes, sir, I did.

Q.And what was that date?

A.I believe it was 4-17.

Q.And based on records available to you in Miami, did you know what destination that truck was reserved for?

A.Yes, sir, I did.

Q.And what was that?

A.Omaha, Nebraska.

Q.And did you know from your records in Miami when that truck was due to arrive in Omaha?

A.Yes, sir, we did.

Q.And when was that?

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A.April 21, 1995.

Q.Prior to coming to court Mr. Anderson, did you make an inquiry of records in Miami to determine whether Ryder, any of its Ryder dealers, had rented a truck to a person in the name of Timothy McVeigh?

A.Yes, sir, I did.

Q.And what search did you conduct?

A.I conducted a search of our agreements -- a contract file, if you will, big computer search, to see if there were any Timothy McVeighs that had rented a truck from us in a certain time frame.

Q.Do you have before you Government's Exhibit 307?

A.Yes, I do.

Q.What is 307?

A.307 is a computerized listing, a printout of a computerized listing of customers, rental customers between April 1, 1995, and April 19, 1995.

Q.Was that information retrieved from records available to you in Miami, Florida?

A.Yes, sir, it is.

MR. MACKEY:Move to admit Government's Exhibit 307.

MR. TRITICO:I don't think I have an objection, but I would like to examine the document that's coming into evidence very briefly.

THE COURT:All right.

Clark Anderson - Direct

MR. TRITICO:May I approach?

THE COURT:Yes.

MR. TRITICO:I have no objection.

THE COURT:All right.307 received.

BY MR. MACKEY:

Q.Mr. Anderson, based on your search and based on the information set forth in Exhibit 307, did Ryder or any of its dealers across the continental USA rent a Ryder truck to a person by the name of Timothy McVeigh between April 1 and April 19, 1995?

A.No, sir, we did not.

Q.I want to put another hat on you for a moment, Mr. Anderson, and ask you about the construction of 20-foot Ryder trucks.Are you familiar with the construction of those vehicles?

A.Yes, sir, I am.

Q.And over the years, how have you become so familiar?

A.In addition to being on the team of executives that solicits the bid, obtains the bids and buys the trucks, I've toured various manufacturers, including Ford's truck plants, and watched the trucks being assembled and have participated in discussions with engineers and manufacturing people about the building of the trucks.

Q.And was it your responsibility at various times to direct the purchase of additional trucks for Ryder's fleet?

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A.Yes, sir.

Q.And was that the case in 1993?

A.Yes, sir.

Q.As part of your preparation, did you search to determine when Ryder first placed the order for unit 137328?

A.Yes, sir, I did.

Q.And did you find records that identified the original purchase order and construction papers for that vehicle?

A.Yes, sir, I did.

Q.Take a look, please, at Government's Exhibit 644 and 645.

A.Okay.

Q.For the record, what is Exhibit 644?

A.644 is a purchase order for a group of vehicles identified by unit and purchase order No. 137200 through 137595 -- or 599 -- excuse me -- for a 1993, 20-foot conventional chassis from Ford.

Q.Would that document be the manufacturer's specs or specifications for the construction of what became Unit 137328?

A.Yes, sir, it would have been.

MR. MACKEY:Your Honor, I move to admit Government's Exhibit 644.

MR. TRITICO:I'm sorry.644?No objection.

THE COURT:644 received.

BY MR. MACKEY:

Q.In like vein, would you look at Government's Exhibit 645

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and tell the jury what it is and how you recognize it.

A.645 is the purchase order for the body that goes on the truck for the same series of unit numbers inclusive of the unit

we've been describing, has all the specifications of the bodies.

Q.And is that like 644 a record that Ryder kept as it relates to its own vehicles?

A.Yes, sir.

MR. MACKEY:Would move for admit Government's Exhibit 645.

MR. TRITICO:No objection.

THE COURT:645 received.

BY MR. MACKEY:

Q.Who built the chassis for the truck in question?

A.Ford Motor Company.

Q.And who assembled the box compartment on the back of that chassis for the truck in question?

A.Morgan Corporation.

Q.The identity of both of those vendors are reflected in each of those exhibits?

A.Yes, sir, it is.

Q.Would you tell the jury what the overall length of a 20-foot Ford 1993 Ford truck was as purchased in -- excuse me -- as you ordered in 1993?

A.The overall outside length from the bumper to -- the back

Clark Anderson - Direct

of the front bumper to the back bumper would be in the neighborhood of 31 feet.

Q.And how tall?

A.About 11 1/2, 12 feet.

Q.And how wide?

A.8-foot wide exactly, 96 inches.

Q.How much would that vehicle when fully configured weigh?

A.Without any cargo in it, that vehicle would weigh 11,500 some odd pounds.

Q.And how was it licensed in terms of the weight capacity?

A.The licensing for the weight capacity on it was 18,000 maximum gross vehicle weight; so including the body, the truck,

chassis, and whatever payload may be in it.

Q.How much weight was a 20-foot Ryder truck designed to carry by Ryder?

A.It's designed to carry as much as 24,000 pounds, or, you know, for all-inclusive.

Q.Based on the documents before you and your experience, was a 20-foot Ryder truck fueled by gas or diesel?

A.It's a gas-powered vehicle.

Q.Can you tell the jury the size of its tank, gas tank?

A.It has a 50-gallon gas tank.

Q.And do you know from your experience the approximate

mileage that a 20-foot Ryder truck gets on the highway?  
A.The truck should -- depending upon the load that's on the

Clark Anderson - Direct

truck and the speed that the truck is traveling -- should get no less than 5 and most likely no greater than 7 miles per gallon.

Q.And at what point does the needle on the gas gauge show empty in that size vehicle?

A.It shows empty before the tank is bone dry.It will show empty with approximately 4 to 8 gallons remaining in the tank.

Q.Mr. Anderson, can you tell the jury a little bit about the construction of the box compartment that Ryder put on its trucks in that time period?

A.The box cargo compartment of the truck is made principally of a material that's referred to in the industry as FRP, FRP standing for Fiberglass Reinforced Plywood, which is really a plywood material that is sandwiched by various layers of and processes of fiberglass; so perhaps a -- the plywood, the resin, a piece of roving, woven roving that you often see in fiberglass and material, and then more fiberglass on top of that; so that the plywood is actually sandwiched in between the fiberglass coatings.

Q.Is there a material that's laminated over that plywood?

A.Yeah.Well, it's done in several layers, so you have plywood, resin, woven roving, more resin; and finally on the exterior of the body, there is a material that Ryder -- specifies that it be covered in that's a Du Pont product called

Tedlar; and on our trucks, that's put on in our color, Ryder

Clark Anderson - Direct

yellow.It's a very thin film, decal-type material.

Q.And speaking of decals, are there any uniform practices that Ryder used in 1993 to identify its vehicles?

A.Yes, sir.The decals design artwork is all the same for all the vehicles; and they change by virtue of the size of the truck.

Q.Before you should be Government's Exhibits 311 through 315.

A.Yes.Yes, sir.

Q.Are each of those photographs?

A.Yes, sir, they are.

Q.And do you recognize what's depicted in each of those photographs?

A.What's depicted in each of these photographs is a 1993 Ford 20-foot van -- 20-foot truck.

Q.Of the same configuration, design as the truck in question?

A.Exactly the same configuration, design.

MR. MACKEY:We would move to admit Government's Exhibits 311, 312, 313, 314 and 315.

MR. TRITICO:May I have just a moment, Judge?

THE COURT:Yes.

MR. TRITICO:No objection.

THE COURT:They are received.311 through 315.

MR. MACKEY:May I take a moment to display each to the jury?

THE COURT:Yes.

Clark Anderson - Direct

BY MR. MACKEY:

Q.Showing you now Government's Exhibit 311:Tell the jury, Mr. Anderson, what that depicts.

A.This is the side view of the left-hand side of the vehicle, driver's side of the vehicle.

Q.312?

A.And that is a side view of the same vehicle from the right-hand side or the passenger's side of the vehicle.

Q.Directing your attention to what appears to be a side door, can you tell the jury what, if anything, is unique about that feature in Ryder trucks?

A.What's unique about it in Ryder trucks is only the Ryder consumer 20-foot vehicles has the side door; so of our two large vehicles, a 20 and a 24, only the 20-foot has the side door in it for ease of loading from the passenger's side.

Q.Exhibit 313 is what, please.

A.313 is the head-on front view of the same truck.

Q.Directing your attention to -- six-digit number that appears in the upper right-hand corner of this photo:What is that, please?

A.That is the unit number of the vehicle.

Q.Was it routine for Ryder to affix that unit number to each vehicle?

A.Yes, sir, it is, in more than one location.

Q.What is Exhibit 314?

Clark Anderson - Direct

A.314 is the rear view of the same truck.

Q.Does it also show the unit number?

A.Yes, sir, it does, in the upper left-hand corner.

Q.And finally, Exhibit 315.

A.This was a picture taken at the Morgan manufacturing facility depicting the units as they are completed at their manufacturing facility and ready for shipping for market.

Q.Mr. Anderson, immediately before placing the Ryder truck into service, what happens?

A.We do a final inspection of the vehicle and record various components of it.First of all, we want to make sure that all the nuts and bolts are tight and it's full of oil and water and

those types of things; and we also want to record some information off of that vehicle to put in its maintenance file for ease of use later on.

Q.And specifically do you create a record called consumer new truck inspection work sheet and repair order?



truck inspection work sheet and repair order?

A.Yes, sir, we do.

Q.Take a look, please, at Government's Exhibit 668, the last -- second of last two exhibits I'd like to show you.

A.Okay.

Q.And what is Exhibit 668?

A.This is, as you described, a consumer and new truck inspection and repair order for Ford and Navistar vehicles.

Q.And does this particular exhibit relate to the truck in

Clark Anderson - Direct  
question?

A.Yes, sir, it does.

Q.How were you able to determine that?

A.In two ways, Mr. Mackey.It has a unit number and the serial number for the vehicle that we've been describing, so they are both recorded on this document.

MR. MACKEY:Move to admit Government's Exhibit 668.

MR. TRITICO:No objection.

THE COURT:Received, 668.

BY MR. MACKEY:

Q.Mr. Anderson, does that exhibit have the ignition key code?

A.Yes, sir, it does.

Q.Where does that appear on the document?

A.It's top right-hand corner.It is the key code.

Q.And how is that used by Ryder to place its vehicles in service?

A.We record the key code at the time we place the vehicle in service in case we need to make another key for the vehicle. This way, our service departments can call up a central record and determine what the key code is so we can make a key for it instead of having to install a new lock.

Q.That document has the key code for the truck in question?

A.Yes, sir, it does.

Q.Finally, Mr. Anderson, before coming to court, did you look at Government's Exhibit 670, 670A, small A, as in Adam?

Clark Anderson - Direct

A.Yes, sir, I did.

Q.And did you look specifically -- well, let me ask you.

Does that appear to be a series of photographs?

A.This is a series of photographs, yes, sir.

Q.And did you -- do each of those photographs bear a time in the bottom right-hand corner?

A.Yes, sir, they do.

Q.Did you study each of those photographs before coming to court?

A.Yes, sir, I did.

Q.And specifically with regard to the frames marked 856-56 through 857-15, did you examine those photographs?

A.Yes, sir, I did.

Q.Did you see a vehicle depicted in any of those frames?

A.Yes, sir, I did.

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MR. TRITICO:Excuse me just a moment, sir.  
I'm assuming this is going to be linked up later; but  
I want to object now to any testimony he makes now if these  
photographs aren't later introduced.  
THE COURT:Well, I assume you're laying a foundation  
which will be completed by another witness, just as  
Mr. Tritico --  
MR. MACKEY:As we've talked about, yes, your Honor.  
MR. TRITICO:I want to make my objection now before  
he does it.

Clark Anderson - Direct  
THE COURT:Well, I don't ee your objection as being  
appropriate now.  
MR. TRITICO:Okay.  
THE COURT:Proceed.  
BY MR. MACKEY:  
Q.Based on 24 years of experience with Ryder, based on  
building trucks on their behalf, based on driving them and  
that  
sort of thing, what vehicle appears in those frames?  
A.This appears to be a 20-foot Ryder vehicle in this exhibit,  
in these pictures.And it's consistent throughout all of the  
pictures, the same vehicle, same type of vehicle.  
Q.Thank you.One final question:Based on your search of  
the records at Ryder, did Unit 137328 ever make it to Omaha?  
A.No, sir, it did not.  
MR. MACKEY:Thank you.  
I have nothing else.  
THE COURT>About how long do you expect your  
cross-examination to be?  
MR. TRITICO:20 minutes.  
THE COURT:20 minutes?  
MR. TRITICO:Yes, sir.  
THE COURT:I think we'll take lunch first.  
You may step down, Mr. Anderson.  
Members of the jury, we'll take the luncheon recess  
before completing this testimony.And of course, during this  
time, you can concentrate on the delicious food we're serving  
you instead of talking about the case; so again, please  
remember the cautions to avoid discussion of the case among  
yourselves and all others.And avoid anything outside of our  
evidence that could influence you in your decision to be made,  
as you recognize, on the basis of all of the evidence; and  
maintain open minds until you've heard it all.  
We're going to be in recess till 1:40.You're  
excused.  
(Jury out at 12:08 p.m.)  
THE COURT:Mr. Jones?  
MR. JONES:Your Honor, I request that the model be  
covered now, because I think it may be some time before other  
jurors -- I mean other witnesses speak about it.  
THE COURT:Are you going to be using this?

MS. WILKINSON:No, your Honor.We're going to take it down over the lunch hour.  
THE COURT:I thought you were.That's why I gave you three more minutes for the recess.  
1:40.  
(Recess at 12:09 p.m.)  
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305	5614				
307	5618	5619			
308	5614				
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311-315	5624	5624			
444	5522	5522			
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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 29th day of April, 1997.

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Paul Zuckerman

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Kara Spitler