

Tuesday, May 6, 1997 (afternoon)

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 81)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 1:42 p.m., on the 6th day of May,
1997,
in Courtroom C-204, United States Courthouse, Denver,
Colorado.

Proceeding Recorded by Mechanical Stenography, Transcription
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APPEARANCES

PATRICK M. RYAN, United States Attorney for the
Western District of Oklahoma, 210 West Park Avenue, Suite 400,
Oklahoma City, Oklahoma, 73102, appearing for the plaintiff.

JOSEPH H. HARTZLER, LARRY A. MACKEY, BETH WILKINSON,
SCOTT MENDELOFF, JAMIE ORENSTEIN, AITAN GOELMAN, and VICKI
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Stout Street, Suite 1200, Denver, Colorado, 80294, appearing

for the plaintiff.

STEPHEN JONES, ROBERT NIGH, JR., and AMBER
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Attorneys at Law, Jones, Wyatt & Roberts, 999 18th Street,
Suite 2460, Denver, Colorado, 80202; and CHERYL A. RAMSEY,

Attorney at Law, Szlichta and Ramsey, 8 Main Place, Post
Office

Box 1206, Stillwater, Oklahoma, 74076, appearing for Defendant
McVeigh.

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PROCEEDINGS

(Resumed at 1:42 p.m.)

THE COURT: Be seated, please.

(Jury in at 1:42.)

THE COURT: Government's next witness, please.

MR. HARTZLER: Government calls Steve Soto.

Mr. Mackey will question him.

THE COURT: Thank you.

MR. HARTZLER: Actually, Mr. Goelman.

THE COURT: Okay.

(Steven Soto affirmed.)

THE COURTROOM DEPUTY: Would you have a seat,
please.

THE WITNESS: Thank you.

THE COURTROOM DEPUTY: Would you state your full
name

for the record, and spell your last name.

THE WITNESS: Steven George Soto. Last name is
spelled S-O-T-O.

THE COURTROOM DEPUTY: Thank you.

THE COURT: We'll ask you to speak up a little. You have a soft voice. Hard to hear.

THE WITNESS: Okay.

THE COURT: Mr. Goelman.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Good afternoon, Mr. Soto.

A. Good afternoon.

Q. Where do you live?

A. St. Louis, Missouri.

Q. What do you do there?

A. I am the acting manager of the money order branch for the St. Louis accounting service center.

Q. Money order branch of the what?

A. Of the United States Postal Service.

Steven Soto - Direct

Q. How long have you worked for the Postal Service?

A. 18 years.

Q. And what do you do as head of the money order branch?

A. I'm responsible for the processing, maintenance, and accounting of postal money orders.

Q. In that accordian folder right before you, can you take a look at that, please, and see if you can find Government Exhibits 482, 485, 492, 498, and 501.

A. Yes.

Q. Do you recognize what these are?

Q. Do you recognize what these are:

A. Yeah. These are United States Postal Service money orders.

Q. Turning to the first one, Mr. Soto. Government Exhibit 482.

MR. GOELMAN: Kathi, can I get the ELMO?

THE COURTROOM DEPUTY: Yeah.

THE COURT: This hasn't been received, has it?

MR. GOELMAN: Yes, your Honor. It's already been admitted.

THE COURT: Well, my list is wrong.

THE COURTROOM DEPUTY: That's that list off of the -

-

THE COURT: Go ahead.

THE COURTROOM DEPUTY: -- last week's witness.

BY MR. GOELMAN:

Q. Mr. Soto, can you tell me what the numbers on that top line mean.

Steven Soto - Direct

A. Yes. The numbers from left to right are -- the first set of numbers is a serial number of the money order. The second set of numbers is the date that the money order was issued to the customer. The third set of numbers is the issue identification number or location of the post office where the money order was issued. And the fourth set is the dollar amount of the money order.

Q. So the issue identification number is 487290?

A. Yes.

Q. Does that correspond to a particular United States Post Office?

A. Yes, it does. That is Deford, Michigan.

Q. And in order to buy a United States Postal Service money order, do you actually have to be at that post office in person?

A. Yes, you do.

Q. What date was this particular postal money order purchased?

A. 11-7-93.

Q. And turning down to the payor area, do you see where it has

the address for Daryl Bridges?

A. Yes.

Q. Would you read that address, please?

A. Yes. 3616 North Van Dyke Road, Decker, Michigan, 48426 slash TDC.

Q. Now, from your experience in the Postal Service, do you

Steven Soto - Direct

know what slash TDC means?

A. No, I do not.

Q. Would that have any meaning at all to the United States Postal Service?

A. No, it would not.

Q. Can you please turn to Exhibit 485.

MR. GOELMAN: This has also been admitted, your Honor.

THE COURT: Thank you.

BY MR. GOELMAN:

Q. Same questions about the top line, Mr. Soto.

A. Okay. The first set of numbers is the serial number. Then

we have the year, month, and day that the money order was purchased. The -- again, the identifying post office, and the dollar amount.

Q. Okay. And is that identifying post office 191990?

A. That's correct.

Q. Do you know where that particular United States postal office is located?

A. Yes. Las Vegas, Nevada.

Q. And under the address of the payee, again, it says Washington, D.C., then it has a zip code. Has again TDC after that?

A. Yes.

Q. Do you recognize that abbreviation?

A. No, I do not.

Steven Soto - Direct

Q. What about underneath? What's that COD number used for -- line where it says PH card?

A. That's basically used for a memo field.

Q. Please turn to Government Exhibit 492 now. Same questions,

Mr. Soto.

A. The left number is the serial number. The second set of numbers is the year, date, and month the money order was

----- The third set is the date TDC on 10/10/90 of the

purchased. The third set is the issue ID or location of the post office, and the fourth set is the dollar amount of the money order.

Q. Okay. Where is this particular post office located?

A. This is Marion, Kansas.

Q. So on September 29, 1994, this money order was purchased in

Marion, Kansas?

A. That's correct.

Q. Showing you what's already been admitted into evidence as Government Exhibit 495. Same questions, Mr. Soto.

A. Serial number on the left. Money order purchased date by the customer, the office or issue ID that the money order was purchased, and the dollar amount.

Q. And the ID here, 665020.

A. That is Manhattan, Kansas.

Q. Turning your attention to Government Exhibit 498. It's already been admitted into evidence. What date was this purchased?

Steven Soto - Direct

A. 1-21, 1995.

Q. And what's the post office identification number on this?

A. 664410, which is Junction City, Kansas.

Q. And finally, Mr. Soto, turn to Government Exhibit 501, which is also in evidence. Can you tell me when this was purchased?

A. This was purchased 2-14-95.

Q. And can you tell me where it was purchased?

A. Also Junction City, Kansas.

THE COURT: Ms. Ramsey, any questions?

MR. GOELMAN: May I have a moment, your Honor?

THE COURT: Yes.

MR. GOELMAN: Nothing further.

THE COURT: Ms. Ramsey, any questions?

MS. RAMSEY: Yes, your Honor.

CROSS-EXAMINATION

BY MS. RAMSEY:

Q. You don't know who Daryl Bridges is, do you, Mr. Soto?

A. No, I not.

Q. And you don't have any personal knowledge of these money orders being purchased, do you?

A. No, I do not.

Q. And did you also check to see the next money orders that were purchased on November the 7th after these two? After the one that was purchased?

A. On November the 7th?

Steven Soto - Cross

Q. Yes. Don't your records reflect that the next two money orders were made out to Marife Nichols?

A. Yes, they do, actually.

MS. RAMSEY: No further questions, your Honor.

THE COURT: Any redirect?

MR. GOELMAN: No, your Honor.

THE COURT: Is the witness excused?

MR. GOELMAN: Yes, your Honor.

MS. RAMSEY: Yes, your Honor.

THE COURT: You may step down. You're excused.

Next please.

MR. HARTZLER: Government calls Terry Eastman.

Mr. Goelman will question him (sic).

THE COURT: Thank you.

(Teresa Eastman affirmed.)

THE COURTROOM DEPUTY: Have a seat, please.

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

THE WITNESS: Teresa Clare Eastman. E-A-S-T-M-A-N.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Goelman.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Good afternoon, Ms. Eastman.

Teresa Eastman - Direct

A. Good afternoon.

Q. Where do you work?

A. Travelers Express Company.

Q. Where is that?

A. Minneapolis, Minnesota.

Q. What do you do for Travelers Express?

A. I am a proof specialist.

Q. Proof specialist?

A. Correct.

Q. What does that involve?

A. I find documentation to prove out different things for

court matters. Get stuff ready for different court things.

Q. What kind of company is Travelers?

A. A money order company.

Q. And how long have you worked there?

A. 12 and a half years.

Q. Does your job involve disputes sometimes between agencies who sell Travelers money orders and Travelers itself?

A. Yes.

Q. And what do you do for those kinds of disputes?

A. Those, I -- that's where I do most of my proof work for, showing what documentation we can to explain why the agent owes

us money, and I get that ready for court.

Q. Ms. Eastman, I want you to look at your screen. I'm going to be showing you exhibits already admitted into evidence. I

Teresa Eastman - Direct

want you to tell me if you can identify them.

A. Yes.

Q. That's Government Exhibit 488.

A. Yes.

Q. What is that?

A. It's one of our money orders.

Q. Also going to show you Government Exhibit 488A and I want you to tell me if that's just a clearer copy of the face of the

same money order.

A. Yes, it is.

Q. And can you tell when that was purchased?

A. Yes. 8-21 of '94.

Q. Is there anything on the face of this money order that tells you where that was purchased?

A. Yes.

Q. What's that?

A. The agent number is listed down on the right-hand side about three-quarters of the way down.

Q. Can you read that agent number into the record, please.

A. It's 0463012921.

Q. So that's the particular Travelers Express vendor that sold

this money order on August 21?

A. Correct.

Q. And does that correspond to a particular store?

A. Yes, it does.

Teresa Eastman - Direct

Q. After the bombing in Oklahoma City, did you receive a subpoena that asked for information about this particular money order?

A. Yes, we did.

Q. And was part of that subpoena also requesting information about where the money order was purchased?

A. Yes, it was.

Q. Did you provide this information?

A. Yes, I did.

Q. And how did you go about determining the location?

A. Looking through our purged information, I was able to look

up the store and order the photocopy and pull up the store sales summary report.

Q. Okay. Travelers keeps records of all the different sales that its vendors make?

A. Yes.

Q. And what kind of records is this information kept on?

A. Some is held on microfiche. Others is into our computer system.

Q. Okay. Do you remember if you produced a particular document in response to this subpoena?

A. Yes.

Q. What did you produce?

A. I produced the photocopy of the money order and the sales summary report.

Teresa Eastman - Direct

Q. And how was the sales summary report compiled?

A. It is transmitted from the automated machine on a weekly basis to Travelers Express through the computer systems and phone lines.

Q. So whenever a store anywhere sells a Travelers money order,

at some time, they send Travelers in Minneapolis record of that?

A. Correct.

Q. I'm showing you what's been marked for identification -- it's not in evidence -- Government Exhibit 489. Do you

recognize this?

A. Yes.

Q. What is it?

A. That is one of our sales summaries.

Q. Is that in fact the sales summary that you produced in response to a Government subpoena in this case?

A. Yes, it is.

Q. And is that a record that is made and kept in the ordinary course of Travelers' business?

A. Yes, it is.

MR. GOELMAN: Move to admit Government Exhibit 489, your Honor.

MS. RAMSEY: Your Honor, we object as being cumulative

and also she testified it was prepared for litigation purposes.

THE COURT: Well, I didn't understand it being

Teresa Eastman - Direct

prepared for litigation purposes.

MS. RAMSEY: I believe that was the question before Mr. Goelman --

THE COURT: Well, clear that up, Mr. Goelman.

MR. GOELMAN: Yes, your Honor.

BY MR. GOELMAN:

Q. What time is the information reflected on this record initially stored?

A. I'm sorry. Can you repeat that.

Q. When is the information that's reflected on this sales summary -- when is that initially transmitted to Travelers Express?

A. On a weekly basis and it is stored the day it is transmitted.

Q. And it's transmitted from whom?

A. From the Dillon's store.

Q. And why does Travelers keep these records?

A. To be able to prove to the agent if there is a dispute upon

money owed so that we can go back and show them.

Q. If you need to get money from your particular vendor for Travelers money orders they sell?

A. Yes.

MR. GOELMAN: Your Honor, we move to admit Government

Exhibit 489.

MS. RAMSEY: Make the same objection, your Honor.

Teresa Eastman - Direct

THE COURT: Overruled. 489 is received.

BY MR. GOELMAN:

Q. Can you tell me where this particular money order was purchased from looking at this exhibit?

A. Yes, it was a Dillon's location.

Q. Dillon's location where?

A. El Dorado, Kansas.

Q. And did the person who purchased this money order physically have to be at that Dillon's in El Dorado, Kansas?

A. Yes, they would have.

Q. On August 21, 1994?

A. Yes.

MR. GOELMAN: Nothing further, your Honor.

THE COURT: Questions?

MS. RAMSEY: Yes, your Honor.

CROSS-EXAMINATION

BY MS. RAMSEY:

Q. Did the person who was at the Dillon's store have to provide identification?

A. No, they would not.

Q. Not at all?

A. No.

Q. All right. And do you keep track of the money orders

sequentially?

A. As in which -- what do you mean by sequentially? I mean,

Teresa Eastman - Cross

how they were sold or --

Q. Yes. Uh-huh.

A. Well, as they are transmitted through, yes.

Q. When I go into a Dillon's store, perhaps to purchase a money order, does Dillon's have a batch that are in sequential order?

A. Yes.

Q. And you know by your records which store has which sequential number; is that correct?

A. Yes.

Q. Can you tell me if the next two sequentially numbered money orders went to Marife Nichols, or do you know that?

A. I would not know that.

Q. All right. Do you have any idea personally or from your records who actually purchased these money orders?

A. No, I would not.

MS. RAMSEY: No further questions, your Honor.

MR. GOELMAN: Nothing further, your Honor.

THE COURT: Excused?

MR. GOELMAN: Yes, your Honor.

MS. RAMSEY: Yes, your Honor.

THE COURT: You may step down. You're excused.

Next, please.

MR. HARTZLER: Government calls John Kane.

Mr. Goelman will question.

THE COURT: All right.

(John Kane affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please.

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

THE COURTROOM DEPUTY: Yes, your Honor.

THE WITNESS: John Kane, K-A-N-E.

THE COURTROOM DEPUTY: Thank you.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Good afternoon, Mr. Kane.

A. Good afternoon.

Q. Where do you live?

A. Orlando, Florida.

Q. Are you married?

A. Yes, I am.

Q. Have any kids?

A. I have a 14-year-old son and an 18-year-old daughter.

Q. What do you do for work?

A. I'm executive vice president for Amnex, a publicly held telecommunications company that does business in the United States as well as abroad.

Q. And how long have you worked in the telecommunications industry?

A. Approximately 24 years.

John Kane - Direct

Q. What part of the industry did you start in?

A. Actually, I started by installing telephones and putting in

phone wiring in commercial office buildings in New York.

Q. Started with the hard stuff?

A. Yes.

Q. After several years in that line of work, Mr. Kane, did you

go into the long distance portion of the industry?

A. About 1983.

Q. Can you describe that a little bit.

A. Kind of got tired of working with wires and was more interested in -- in what the -- some of the future businesses were in the telecommunications area. And I thought long distance was a good opportunity. New growth area. Was a deregulating industry. And it was a good opportunity for me to

move over there, and I did.

Q. How did you do that move?

A. I formed a company with a couple of friends of mine and started reselling long distance service.

Q. What was the company called?

A. It was called Tenex.

Q. And how long did you stay with Tenex?

A. We had Tenex for about four years.

Q. What happened after that?

A. We sold that company to someone else through a consolidation activity in the industry. And then I went on to

John Kane - Direct

Boston, Massachusetts, where I was vice president and general manager of a company called First Phone of New England which

was a regional long distance company.

Q. And how long did you work for First Phone of New England?

A. Also about four years.

Q. Did you -- were you ever asked to testify before Congress on issues concerning the telecommunications industry?

A. Yes, I did back in 1994, I believe. I testified on a Senate bill that was introduced by Senator Hollings called 1822

and it was the predecessor legislation that did not pass. And the last year -- in 1995, the Telecommunication Act of 1995 was

passed, but it was very similar legislation.

Q. On whose behalf did you testify before Congress?

A. At that time, I was the president of ACTA, which is American -- America's Carriers for Telecommunications Association which is a trade association for approximately 200 long distance companies, and I was their representative before Congress on -- on that matter.

Q. And you were their representative because you were president of ACTA at that time?

A. I was president and knowledgeable of the subject matter.

Q. Mr. Kane, we've heard about your experience in both the long distance aspect of the industry and the actual installation. At some point, did you decide to take your accumulated knowledge of the telecommunications industry and

start a debit card business?

A. Yes, I did.

Q. And would you tell the jury a little bit about what exactly

a debit card is.

A. A debit card is a -- essentially a different way to pay for

a telephone call as opposed to a calling card which is billed

after the -- the call is made. A debit card is paid for in

advance of the services being used by the consumer. It's a

very popular device used in college campuses and low-income

neighborhoods and for people who really don't want to have to

worry about getting a phone bill that can prepay for their long

distance service and it's a convenience feature. Prevents them

from having to stuff quarters into a pay phone to make a

telephone call.

Q. So the calling card that most people refer to as a calling card, that's more like a credit card?

A. A calling card is a credit device, yes.

Q. And what exactly is a debit card, then?

A. It's a prepaid calling card.

Q. And the time that you went into the debit card business, to

your knowledge, were debit cards being used in the United

States?

A. When I originally began my research into the developing the

business plan for that business, I could not find any debit

cards being used in the United States, although just about the

John Kane - Direct

time I was ready to launch my debit card service, AT&T announced a similar service.

Q. Where did you get the idea to start a debit card service?

A. Most of the rest of the world other than the United States,

prepaid calling is the only vehicle you can use from a public calling location, like a pay phone. Most -- most countries, you have to use an electronic card where you plug it into the phone that you buy the card in advance and the amount of the call is deducted from the card physically. Then you take the card out and take it with you. But since the telephones in this country are not adapted to plugging an electronic card into at this point, you have to use in -- this country adapted that kind of technology to use an 800 number as the access method of getting onto the service and then by verifying the PIN number and then by making your long distance call, your balance is reduced as time goes on.

Q. When you decided to set up a debit card business, Mr. Kane,

what did you do?

A. What did I do? I went to a friend of mine in the business.

Business associate of mine, Jake Gainsboro, OPUS Telecom, and talked to him about some technology that he had been using for some time for another application in the communications business. And gave him my ideas and talked to him about

adapting some of his technology for this debit card application.

John Kane - Direct

Q. Okay. This technology, was it OPUS technology? Did Mr. Gainsboro's company actually create that?

A. They had created the original technology, and it was my specifications and design for the modifications that they used to adapt their existing technology.

Q. Do you know how widespread use of Mr. Gainsboro's software is in the telecommunications industry?

A. It's fairly widespread. OPUS Telecom was one of the original companies to manufacture automatic dialing equipment in the United States and so they have a very -- have had a very long run of products that they have introduced. Mostly specialty things. They are not very -- very visible to the public.

Q. So you described how you actually set up the debit card service. How did you market the debit cards?

A. Generally, we were marketing the debit cards in a number of manners. This is, again, a new business, a new industry. And we tried a little bit of everything. We tried some retail distribution through convenience stores, check cashing locations and those kinds of things. We also marketed the card through affinity groups, associations, and those kinds of

methods as well.

Q. Okay. When you say affinity groups, what was the arrangement that you had with these affinity groups?

A. Well, essentially, we would go to one of these affinity

John Kane - Direct

groups and -- and suggest that they would have an opportunity to make some revenue sharing off of these prepaid cards if they

would market them to their membership or their subscriber base;

and typically, they would advertise the product in their -- whatever their -- their newsletter or mailer or membership meetings, people would sign up for the service and they would receive a card and a part of the revenue that was developed by the use of that card would go back to that group. And contribute to whatever -- whatever it was, whether it was a nonprofit or for-profit.

Q. Whatever cause they sponsored?

A. Whatever cause.

Q. Was one of the affinity groups that you sold to Liberty Lobby?

A. Yes, it was.

Q. Were you personally involved in the marketing of the debit card to Liberty Lobby?

A. No, I wasn't.

Q. And do you have any personal knowledge of when Liberty

Lobby started offering its debit card?

A. I don't know exactly when they started offering it. I know

the first batch of cards was activated in November of '93.

MR. GOELMAN: Your Honor, may I approach?

THE COURT: Yes.

BY MR. GOELMAN:

John Kane - Direct

Q. Can you look inside that folder, please, Mr. Kane, and see if you can find Government Exhibit 484, which has already been moved into evidence.

A. 44 or 484?

Q. 484.

A. Okay.

Q. Do you recognize what that is?

A. Yeah. This is the photocopy of the fulfillment kit that the Spotlight, which is the -- I believe the magazine or newsletter that Liberty Lobby sent out to their membership with the prepaid calling card information. When somebody sent back one of the coupons or the mail orders, this is the package they received back.

MR. GOELMAN: May I publish, your Honor?

THE COURT: Yes.

BY MR. GOELMAN:

Q. Turn to page 2 of that packet, please, Mr. Kane. What's

x. Turn to page 2 of that packet, please, Mr. Kane. What is

World Call 2000?

A. World Call 2000 is a service-marked name of CCT, which is a

corporation, Computer Calling Technology, Inc. It was the product that West Coast Communications sold to -- to Liberty Lobby's subscribers.

Q. Okay. West Coast Communications was --

A. West Coast Communications was the -- was the parent company, CCT was the subsidiary, and CCT had a -- product

John Kane - Direct

registered name was World Call 2000.

Q. At the time that the debit card was offered, were you employed with WCT?

A. Yes.

Q. I want you to take a look at the instructions for how to place a call. Tell me if that accurately reflects how someone would make a call on the debit card system that you designed.

A. Yes, it does.

Q. Is there a PIN number reflected here?

A. Yes, there is.

Q. And how many digits did WCT's PIN numbers have for their debit cards?

A. In this particular program, there were 14.

Q. And was that a confidential PIN number?

A. Yes -- yes, it is.

Q. I want you to take a look down at the bottom of the actual card where it says "assist." Do you recognize that phone number, (800)576-8896?

A. That's a -- one of the customer service telephone numbers for the debit card customer service group.

Q. What about the name written next to it?

A. The name there is -- says Keith Bower. He was one of my employees who was responsible for customer service.

Q. And if a customer called and had a complaint that they were having technical difficulties completing calls, what would

John Kane - Direct

Mr. Bower do?

A. Mr. --

MS. RAMSEY: Your Honor, we would object unless he has personal knowledge of that.

THE COURT: Well, do you have instructions as to what he was to do?

THE WITNESS: Yes, sir.

THE COURT: Then you may testify to it.

THE WITNESS: Standard procedure for a customer calling in for a complaint would be based apparently -- would be based on what the customer's trouble was. Types of troubles that these kinds of users would have from time to time would

involve not being able to get through to a number they were calling or having a problem with the balance of funds that were on their account were the two primary issues.

BY MR. GOELMAN:

Q. And if Mr. Bower got a complaint from a customer, did he have instructions sometimes to make calls using that particular PIN number?

A. Yeah. The standard process would involve replicating the customer's activity to try to simulate the problem so the corrective action could be taken.

Q. Mr. Kane, are you familiar with a company called Caretel?

A. Yes, I am.

Q. And do you know what Caretel's role in the debit card

John Kane - Direct

system was?

A. Yeah. They -- WCT provided customer service during business hours and Caretel was a contract labor company that provided the balance of the 7-by-24 customer service requirements for WCT.

Q. And what would happen, Mr. Kane, if a customer called up -

- a debit card holder called up, and said that he was being charged for calls that he never made or someone had stolen his PIN number?

MS. RAMSEY: Your Honor, we would make the same

objection call. That this is speculative. He was not the person on the other end. He has no idea what was actually going on.

THE COURT: He can testify to what the routine was.

THE WITNESS: Okay. The standard process if someone said they had a problem with a balance on their card and suspected that someone was using their -- their funds was to take the balance, transfer it to another card, give the customer a new PIN number and credit the customer for any calls

that we were able to identify the customer did not make.

BY MR. GOELMAN:

Q. Do you know whether the Daryl Bridges Spotlight card -- account ever had a new PIN number awarded to it?

A. No, it did not.

Q. Mr. Kane, what was your position at the time of the bombing

John Kane - Direct

in Oklahoma City?

A. It was senior vice president for operations for WCT Communications.

Q. How large a company was WCT?

A. We were about a \$150 million telecommunications company.

Q. How did you come to start working for WCT?

A. The principals of WCT and I had known each other through the industry for a number of years. And when I was bought out

at First Phone and started the prepaid calling business, they had expressed an interest in my joining them in an operations -- executive operations position and eventually came

to acquire CCT from me in part of an employment deal where I went to work for them.

Q. And CCT was the company that administered the debit card system?

A. That was the subsidiary that operated the debit card business.

Q. Okay. What happened to the debit card business when you went to WCT?

A. I sold it to them as part of the transaction. They acquired it from me.

Q. Did you retain management control over that part of the business?

A. For a while, yes.

Q. And after the bombing in Oklahoma City, did you become

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aware that one of your debit cards might have had something to do with the bombing?

A. Yes, I did.

Q. How did you first become aware of this?

A. I received a telephone call from Marty Bishop at MCI, who was in their toll fraud and security group and he wanted to know who the subscriber was that was associated with an 800

number which was (800)793-3377 and I identified for him that

that number was owned by WCT and was being used for an internal

application for a calling card program. For a prepaid calling card program.

Q. Okay. Did you determine which particular group had 1(800)793-3377?

A. We looked it up in our database and we were able to identify that the Spotlight program was where that number was assigned.

Q. Okay. What are -- who actually owned the particular 800 number?

A. Well, I don't know that you can own an 800 number. It's a -- it's a resource, national resource and it's assigned to a customer. We were the a -- WCT was the assigned customer from the standpoint of legal use of that number.

Q. And did WCT use this particular 800 number for any of its other customers besides Spotlight?

A. No, it did not.

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Q. When investigators -- or did you eventually get in touch directly with people who were investigating the Oklahoma City bombing?

A. Yes. Subsequently.

Q. And did they want anything else besides information as to who subscribed to that 800 number?

who subscribed to that 800 number:

A. Well, they first wanted to know who subscribed to the number, and I told them that it was WCT's number. They wanted to know what the number was used for. And I explained to them it was for a prepaid calling service. And then they wanted to know subscriber information about the people using -- that could possibly use that number.

Q. Did you ever get a request from them, asking for a specific

phone number?

A. Yes. Early on, they gave me several phone numbers that they wanted to see whether or not that 800 number and through the prepaid calling process had ever called or any calls had been made from certain numbers.

Q. And what was the first particular call that you were asked about?

A. They gave me two telephone numbers. One of them was a number for a motel, and the other number was for a truck rental location.

Q. Do you remember the name of the motel?

A. I believe it was Dreamland.

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Q. And do you remember if they indicated a date that they wanted you to check for calls?

A. They were interested in calls on the 14th of April, 1995.

Q. And what did you do in order to determine about calls

involving the Dreamland on April 14, 1995?

A. We went to one of our on-line data processing systems where

we store records, billing records, and looked up the 800 number

and pulled what we call an inquiry or rated call inquiry out of

the -- out of those billing records and physically looked for the phone number from the Dreamland in those records.

Q. Did you find any calls from the phone number that the FBI had given you?

A. Not on the 14th.

Q. Okay. What did you find?

A. I did find a call from a number similar to the number I was

given that was early on --

MS. RAMSEY: Your Honor, I would object that that's not responsive to the question asked.

THE COURT: Overruled. Continue.

THE WITNESS: I found that there was a call on the bottom of the report for the early morning of the 15th from a telephone number that was similar to the number from the Dreamland. Once I found that number, I called Marty Bishop back at MCI because he had access to a reverse directory and used the reverse directory and he looked up the number in his

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directory and said that that number billed to the Dreamland

Motel. I told them that I had a record of a call from there. And he immediately conferenced in some investigators from the Secret Service.

BY MR. GOELMAN:

Q. Mr. Kane, the call that you found from the Dreamland, what date was it on?

A. It was on the 15th.

Q. And when you talked to investigators, what did they want when you told them about this call?

A. They wanted to know what -- what prepaid calling card user had made the call and where the call was made to.

Q. And did you find that information for them?

A. Yes, we did.

Q. Do you remember what that information was?

A. The -- that call was made from the Dreamland and was to a number that ends in 3400, I believe were the last four digits of the number.

Q. Did you eventually determine who the particular Spotlight subscriber was who made this telephone call?

A. The -- these prepaid cards were sold mail order, so we had the ability to figure out that information; and the subscriber was Daryl Bridges in a Decker, Michigan, address.

Q. Okay. Mr. Kane, I'd like to talk a little bit about how a debit card system actually works. If you -- someone writes a

check and they don't have enough funds to cover it, it can bounce a check. Can someone do that with a debit card?

A. Well, on the debit card system, the -- there's an amount initially established for the account. Whatever the person prepaid. And every time a call is made, the amount for that call is subtracted from that initial balance. That balance can

be added to. If the customer has that feature or elects to use

that feature and if there is no money available in the account,

or if there is inadequate money in the account to make the call

that the customer is trying to make, they will get a message played back that they have insufficient funds or it can't be made at the time of making the call.

Q. So if they don't have any money in the account, they just will physically not be able to complete the call?

A. That's correct.

Q. And are you familiar with the technical process whereby the

system checks to see how much money a particular caller has?

A. Yes, I am.

Q. I'm going to ask you to look at Exhibit -- Government Exhibit 504 for identification.

Is that a depiction of the basic process?

A. It's fairly simplistic, yes.

Q. Would it help you explain to the jury how this process works?

A. Yes. I can start here.

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Q. Mr. Kane, the jury can't see it yet.

MR. GOELMAN: Your Honor, may I introduce Government Exhibit 504 into evidence?

THE COURT: This is illustrative?

MR. GOELMAN: Yes, sir.

MS. RAMSEY: No objection, your Honor.

THE COURT: All right. 504 may be used to illustrate

the testimony.

BY MR. GOELMAN:

Q. Okay. Mr. Kane, go ahead.

A. Okay. The telephone on the far left-hand side would, in this picture, indicate the originating telephone. The subscriber would pick up the phone, dial the 800 number for the Spotlight calling program, the call would be received at a WCT switching center and routed through the switch, which looks at the 800 number and makes a determination as to what to do with the call, how to deliver the call.

800 numbers for Spotlight were routed to the -- through the OPUS system where various identification of the subscriber would take place and a balance check would take place. The OPUS system would then initiate a call back into the WCT system, and WCT would then route that call out to the right-hand telephone over the least costly route so, in theory,

we could -- we could make a profit by doing that.

Q. And what would happen if the caller didn't have any balance

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in his account?

A. They wouldn't be able to complete any calls.

Q. At what point in this process would it stop?

A. They would be stopped at the -- in the box where it says dollar check.

Q. Okay. I think there's a light pen up there. Probably --

A. This?

Q. Not that one.

A. This?

Q. That's it.

A. Okay.

Q. Can you see the box labeled 3911?

A. Yes.

Q. Okay. Can you just put an X there and explain exactly what

that is.

A. This 3911 is a numeric -- I'd love to put an X here, but it

won't do it. 3911 is a number that we assigned to the prepaid calling system so we could route telephone calls to that -- that prepaid calling system. WCT's switch operates off of numbers and --

Q. Mr. Kane. What's a switch you keep referring to?

A. In this particular case, this is a -- this is about a 30,000-port tandem switch which is used in processing of long distance telephone calls, some of which were prepaid calling card type calls; and if they were a prepaid calling type call,

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they would be routed to the OPUS platform.

Q. So a switch is the thing that makes the phone call go through?

A. Essentially, yes.

Q. Okay. And what about 3910? What exactly does that signify?

A. 3910 is a numeric identifier for the trunk group that was assigned to receive calls from the prepaid calling platform that were destined to be terminated back out to the network.

Q. So basically, 3911 records were incoming, 3910 records were outgoing from OPUS?

A. That's accurate.

Q. Now, that -- you said that showed a very basic process. Are you familiar with some of the intermediate steps --

A. Yes, sir.

Q. -- in this process?

A. Yes.

Q. Ask you to take a look at Government Exhibit for identification 505. It should be up there among all the other

cross

ones.

MR. GOELMAN: This is not in evidence, Kathi.

BY MR. GOELMAN:

Q. Do you recognize that, Mr. Kane?

A. Yes, I do.

Q. And is that a schematic demonstrating how WCT and OPUS

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would process debit card calls?

A. This is a higher-level look of the previous exhibit.

Q. Would it help you explain this slightly more detailed process to the jury?

A. Sure.

MR. GOELMAN: Your Honor, I move to admit for demonstrative purposes Government Exhibit 505.

MS. RAMSEY: No objection, your Honor.

THE COURT: You may do so.

BY MR. GOELMAN:

Q. Mr. Kane, taking that pen, can you please trace the route that a phone call would take when it -- from the time that it leaves the outgoing phone?

A. Sure. The -- again, the upper left-hand telephone -- this will not mark. Now it'll mark. Would -- would represent the originator for the call. Line No. 1 would indicate the -- the connection between that telephone and the local telephone company.

Everybody's home phone is physically connected by

some

wires to a -- what they call a local telephone company. The local telephone company provides the dial tone which you begin dialing over. The local telephone company would receive the 800 number that would be dialed from the telephone on the left-hand side; and in this case, we're dealing with an 800 telephone number, dial number.

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The local telephone company doesn't know who that 800 number belongs to at that time. So they launch a -- an electronic query to a database, much like validating a credit card. They go off and go out to this -- to this NASC which is a box over here. And there's a database kept there that identifies for that local telephone company who to route the call to. So once they have passed that information on to the local telephone company, the local telephone company then will route the call to WCT for this particular 800 number.

Now, WCT's switch will, upon receiving this inbound telephone call which contains a lot of information about where the call was made from, including the telephone number and the type of telephone that's making the call -- WCT's switch will look at that 800 number and it'll look at its internal database, make a decision as to where that call needs to be delivered to. In the case of this particular 800 number, this switch would take the -- the call and connect it to arrow 5,

which are actually some physical wires that were connected from

the WCT switch to the OPUS calling platform.

Q. Mr. Kane, what would the caller be hearing at this point?

A. The caller at this point -- right up until the OPUS equipment started playing its voice prompts, the customer would be hearing nothing.

Q. So on arrow 5, the caller still would have heard nothing?

A. Right. But at the moment the OPUS platform comes on line,

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they would immediately start hearing voice recording.

Q. And what would that voice recording say?

A. In this -- for this 800 number, it would say, Welcome to the Spotlight calling service or something of that nature.

Q. Mr. Kane, do you know how long steps 1, 2, 3, 4, and 5 would take or how long it would be from the time that caller put in the 800 number until the caller heard the welcome to Spotlight prompt?

A. That duration of time would probably be about seven to ten seconds.

Q. And what would happen after the caller heard that particular prompt?

A. Once they hear the initial greeting prompt, they are prompted to enter the PIN number that's printed on the back of the card. Once the caller puts that PIN number in, there's an

intermediate arrow here in the -- in OPUS where OPUS would go and check its internal database and essentially, its financial records to see whether or not the PIN number that was put in was valid; and if the PIN number was valid, then how much money was available in that particular account for making telephone calls.

Once they -- that information, by the way, is then played over a voice prompt, synthesized to the customer so the customer knows how many dollars are remaining in their account on every telephone call. Once that voice prompt is played and

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the subscriber is prompted to dial the number they want to call, the OPUS platform then calculates the number of dollars remaining in the customer's account and the -- place that the call was being made to, and tells the caller in minutes how long they are going to be able to talk based on their balance so they could -- they can decide whether or not they wanted to continue with the call or whether they are going to hang up or let the call go through.

Q. So there's a series of different voice prompts and greetings?

A. Yes, there are.

Q. What happens after OPUS determines that there is enough balance to make a phone call, tells the caller how many minutes

they have? What does OPUS do with the signal then?

A. Then OPUS -- if the caller dials a long distance number,

then OPUS would take that call and through arrow No. 6, put the

call back into the WCT switch, bypassing the dialed number back

to WCT and WCT would look at that dialed number as a new

incoming call and select the least costly route which is

indicated by No. 7 to -- to deliver that call to the

destination telephone number. En route to that destination

telephone number, the call would pass through another at least

one local telephone company's central office where that

telephone would be connected to.

Q. Mr. Kane, you said those initial five steps until the

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caller would hear the greeting would take about seven to ten

seconds. How long could the whole process take from the time

the caller dials -- finishes dialing the 800 number until the

phone rings on the other side, if in fact, it's put through?

A. It's a pretty wide variable there based on how long the

caller resided in the OPUS platform and listened to voice

prompts. The minimum would probably be someplace from 15 to

20

seconds. And we've had callers who were in the OPUS platform

for -- it could be up to a minute before they successfully

dialed all the digits they needed to dial.

MR. GOELMAN: Your Honor, we have a blown-up poster

of
this particular exhibit which I'd like to put on the easel.
It's Government Exhibit 506.

THE COURT: Okay.

MS. RAMSEY: Your Honor, we would object as being
cumulative. It's already been published to the jury.

THE COURT: Well, I don't know. What do you intend
to
do?

MR. GOELMAN: Mr. Kane is going to need to be
referring to this basic exhibit throughout his presentation,
your Honor.

THE COURT: All right. Put it up. 50 --

MR. GOELMAN: 506.

THE COURT: -- 6.

MR. GOELMAN: Thank you.

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THE COURT: I think the jury can see it, but maybe
nobody else can.

MS. RAMSEY: Your Honor, might I move also, so that
--

THE COURT: Yes. Okay.

BY MR. GOELMAN:

Q. Is that the same process that you just described, Mr.
Kane?

A. Yes, it is.

Q. Can you -- I don't know if there's a laser pen there or

pointer, whatever you prefer using. Can you describe --
inside

the OPUS box, it looks like there's a picture of five
different

computers there.

A. Right. There's a way this system works. The system has a

central computer, for lack of a better term, which contains
the

customer balance, account balance information, and the
customer

database information with respect to where the callers are to

be making calls to and from -- to. Not from.

Each of the other four smaller computers were call
processors. The call processor computers were actually

physically connected by wires to the WCT switch. And those --

those computers where the calls actually would come into,
where

they would collect information, they would ask the central
computer for validation of that information, and then they

would -- these little computers would connect the calls back

out to the lead.

Q. Which of those computers, if any, had the information
about

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the account number, balance, that kind of thing?

A. That's all stored in the -- in the central computer here.

Q. Thank you. I think you said when you were describing this
process that the WCT computer and the OPUS computer actually

physically connected?

A. They were physically connected with wires to each other.

Q. Okay. Were they -- were there particular places on each of

the systems that the wires ran from and to?

A. Yes, there were.

Q. Okay. Can you describe this a little bit.

A. The -- in the Los Angeles switch center where all this equipment was located, there were physical equipment in those -- in those rooms and off the back of the WCT switch, there were wires run from this trunk group 3911 that represented specific ports or specific locations on the equipment over to each of these call processing computers at OPUS where they were physically connected to specific ports on the OPUS equipment.

Q. Okay. You used the term "ports." Can you just real briefly describe what you mean by that?

A. A port is the smallest increment of physical telephone connection within a switching system such as this. It's the minimum requirement for a person to be able to talk over. It's

the equivalent of a couple of wires that you have in your house

connected to your -- to your home telephone.

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Q. Mr. Kane, can you please look at Government Exhibit 507 -- marked for identification 507. Does that illustrate the

unique

relationship between the ports on the different systems?

A. It's representative of one such relationship.

Q. Okay. Would this help you explain the whole system of ports to the jury?

A. It would, yes.

MR. GOELMAN: Move to admit Government 507 for demonstrative purposes, your Honor.

MS. RAMSEY: No objection, your Honor.

THE COURT: You may use it.

BY MR. GOELMAN:

Q. Referring to the screen, Mr. Kane, can you please describe how the ports on each computer relate with each other.

A. Yes. The -- the 800 call would come into the switch as -- as we previously discussed. The switch would assign 39 -- trunk group 3911 to that particular call. In this example here, within trunk group 3911, there were a number of ports assigned to that trunk group. This representation here, port No. 11284 would be the port that was used. That port was physically wired and connected to port 1405 in the OPUS system which was, in turn, physically wired to port No. 11296 in the WCT system for the terminating portion of the call.

Q. Okay. And is this just for one particular call, or would OPUS port 1405 always correspond to WCT 3911 for 11284 and 3910

port, 11296?

A. They would always correspondence.

Q. So the ports are monogamous effectively?

A. There's a one-to-one relationship that's constant.

Q. And if you knew one out of these three ports -- if you knew

a call went through one out of these three ports, could you determine the other two ports that the call also passed through?

A. Sure.

Q. How many such ports were in use on each of these three locations while the debit card platform was up and running?

A. I think it ran up to as many as about 130.

Q. 130?

A. 130.

Q. How would the system decide which port a particular call was going to go to?

A. The WCT system was responsible for making that assignment or routing the call to the OPUS equipment. The WCT system was set up in such a way that it would use the least used port or what we call the most idle port. The theory behind that, to keep the -- the use of the equipment balanced and even.

Q. So when a call came in to the 3911 place, it would go to the port that had been used --

A. Least.

Q. -- least. And then -- but once it went to that particular

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port, it had to go to a certain OPUS port and 3910 port?

A. Right. The physical relationship between these three sets of numbers is always constant.

Q. Did you document what that physical relationship was?

A. Yes, we did.

Q. Ask you to turn to Government Exhibit 508 for identification. Do you recognize that, Mr. Kane?

A. Yes, I do.

Q. What is it?

A. This is a -- a reference document that identifies which port number in 3911 was connected to which OPUS trunk number, in turn connected to which 3910 port.

Q. How were these relationships between these ports determined?

A. They were determined by physical inspection and verification of WCT's telephone records at my request subsequently after beginning the investigation.

Q. Physical inspection, that means actually looking at where the wire runs from one computer to another?

A. Yes, sir.

Q. And is this an accurate listing of the relationship between

the ports of the different systems?

A. Yes, it is.

MR. GOELMAN: Your Honor, we move to admit Government

Exhibit 508.

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MS. RAMSEY: Your Honor, our only objection would be this was prepared for litigation purposes only.

THE COURT: Overruled. 508 is received.

BY MR. GOELMAN:

Q. Mr. Kane, I think we're all familiar with a regular long distance phone bill we get monthly, the type of information that's contained on a long distance phone bill such as date, time, duration, from number and to number. Did WCT send its debit card customers a bill that had all that information on it?

A. No. No bills were sent to debit card customers.

Q. Why is that?

A. They prepaid for the service. It was not required.

Q. Did WCT keep records where the same information was contained?

A. We kept numerous billing records, transaction records in the normal course of business.

Q. And was all the information that's contained on a long distance phone bill contained amongst these records?

A. Yes, sir.

Q. Turning back to the poster, Mr. Kane. How many records are

created by each call that goes through this system, the various

steps in this process?

A. This is a very simplified picture and this picture would

indicate there would be at least five records created. The

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local telephone company here would -- would create a record for

their own billing purposes so they could bill the long distance

company for the privilege of using their switching equipment and network dialing of the 800 call.

WCT would create one record here because as far as WCT

was concerned, this is an originating call. This was a terminating call. So therefore, we had a billing transaction that took place in our switching center.

OPUS would create a billing record so we could keep track of debiting the accounts of the customers and keeping their balance information in order.

And then WCT would create a fourth record because as far as WCT's switch was concerned, 6 would represent a new call

coming into the WCT switch.

7 would show an outbound call from WCT switch so this

transaction becomes a billing record, as well.

And then the local telephone company here would also keep track of that information -- information from WCT's call so that they could bill WCT for using their telephone network to deliver a call to the telephone at the end. 5 on this

picture.

Q. 5 on this particular picture?

A. Yes.

Q. Leaving aside the local phone records for the moment, are you familiar with how WCT and OPUS stored the three records

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that you talked about there, the 3911, the OPUS record, and the

3910?

A. Yes, I am.

Q. And referring back to the exhibit, if you need to, when is the OPUS record -- when is the information contained in the OPUS record first recorded by the system when a call is made?

A. The -- the record is initiated when the user successfully puts in their PIN number and then dials a long distance number,

and the record is completed when the transaction ends. The phone -- the person hangs up the phone.

Q. What happens to this information then?

A. The -- the information is stored in a magnetic medium on -
-

on diskettes and on hard drives in the system.

Q. And why is this information retained?

A. Well, in order to keep track of the balance for the account, it's necessary to keep track of the call records.

It's also necessary in case a customer calls and complains about their balance not being correct. We can demonstrate to

them the telephone calls that are assigned to their account.

Q. And do you know what information is included in the file that OPUS makes for each telephone call?

A. Information regarding the -- the date, the time, the dialed

number, the account number, the port number that the call was received on is some of the information that's contained.

Q. Okay. You said the dialed number and the account number?

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A. Yes.

Q. So this single record will tell you both the account that was used and the number that was called?

A. Yes, it will.

Q. And you said this was stored on magnetic tape and on a hard

drive; is that right?

A. That's correct.

Q. After the Oklahoma City bombing, Mr. Kane, were you -- did you receive a subpoena that asked you to retrieve information from these OPUS files?

A. Yes, I did.

Q. And did you do that?

A. Yes, I did.

Q. How did you do that?

A. We went in to the -- to the system and requested the information. And the system gave us that information in a file

that we then transferred onto diskettes.

Q. What did you do with these diskettes?

A. We submitted them to the Government.

MR. GOELMAN: May I approach, your Honor?

THE COURT: Yes.

BY MR. GOELMAN:

Q. Showing you what's been marked for identification

Government Exhibit 511. Do you recognize that?

A. Yes. Those are the diskettes we submitted.

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Q. How do you know they are the same diskettes?

A. I signed and initialed them and dated them.

Q. Are the files that are stored on those diskettes business records that OPUS makes and keeps in the regular course of business?

A. Yes, they are.

MR. GOELMAN: Move to admit Exhibit 511, your Honor.

MS. RAMSEY: Your Honor, we would object to the admission at this time. And ask that you take this under advisement. This is dealing with some of the briefing materials that we've given the court.

THE COURT: Well, I understand that; but this comes in in pieces.

MS. RAMSEY: I understand that, your Honor; but we

would object to it as being inaccurate.

THE COURT: Overruled. 511 is received as what the business records of OPUS reflected.

MR. GOELMAN: Yes, your Honor.

THE COURT: That's what it's offered for.

BY MR. GOELMAN:

Q. Can you also find what's been marked for identification Government Exhibit 512.

A. Yes.

Q. And what's this?

A. This is a summary of some of the information that is

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contained on the record. It tells you the port count number, destination number, city and state, date and time, duration of the call.

Q. Mr. Kane, is this list an accurate portrayal of some of the

information that's contained on the diskettes that you just talked about?

A. Yes, it is.

MR. GOELMAN: Your Honor, we would move to admit Government Exhibit 512 just to assist the jury in remembering what type of information is stored on these diskettes.

THE COURT: Well, I don't understand how it was prepared.

MR. GOELMAN: May I inquire, your Honor?

THE COURT: Well, sure.

BY MR. GOELMAN:

Q. Do you have any personal knowledge of how this particular exhibit was prepared?

A. Yes. This is, I believe -- was taken from the file format information that we provided to the Government so they could understand what these records were.

Q. And is this a reprinting of some of the information that was contained in the file format that you initially provided us?

A. Yes, I did verify that.

MR. GOELMAN: Your Honor, we move to admit Government

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Exhibit 512.

MS. RAMSEY: Your Honor, we would object. I don't believe this clarifies anything for the jury.

THE COURT: You'll have to tell us what was done. I don't know. He just says, "I verified it." What does that mean?

MR. GOELMAN: Yes, your Honor.

BY MR. GOELMAN:

Q. Mr. Kane, what steps did you take to verify that this information is really reflective of information contained on those three disks?

A. I took the file format printout that we provided to the

Government with the disks, initially, and compared them -- the two side by side and confirmed that this information is contained in the information that I originally sent in to the Government.

Q. Okay. Where did you get that original file format layout?

A. It was printed out off of our call processing system that -- we just asked the system to tell us the file format for the records, and it prints that out. It's part of the electronic record.

THE COURT: Did you look at two computer screens?
Is that what you're saying?

THE WITNESS: I looked at two pieces of paper, your Honor.

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THE COURT: You looked at printouts from them?

THE WITNESS: Yes, sir.

THE COURT: Where are they?

MR. GOELMAN: The printouts that Mr. Kane looked at?

THE COURT: Yes.

MR. GOELMAN: We don't have them here, your Honor.

THE COURT: Well, how can Counsel verify this without them?

MR. GOELMAN: Counsel has already been provided with

them, your Honor.

THE COURT: Well, that's what I wanted to know.

MS. RAMSEY: I don't believe we've been provided with

the printouts. We've been provided with a copy of Government's

Exhibit 512.

MR. GOELMAN: The printouts refer to -- Your Honor, the printouts refer to a more complete file layout; and they were provided some months or years ago to the defense.

MS. RAMSEY: I don't know that, your Honor.

THE COURT: Well, who does?

MS. RAMSEY: Well, I'll have to go back through the files and look; but I don't believe the printout has ever been provided. But I still don't believe this is going to be anything that is going to clarify anything for the jury.

THE COURT: Well, it's obviously going to be used in preparation of other exhibits.

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Right?

MR. GOELMAN: Yes, your Honor.

MS. RAMSEY: Your Honor, we would object.

THE COURT: Well, you'll have an opportunity to verify

the information that's in here from the printouts.

MS. RAMSEY: Certainly, your Honor.

THE COURT: We'll proceed instead of stopping here.

MR. GOELMAN: Thank you, your Honor.

THE COURT: I'll receive it, 512, subject to the opportunity to verify.

MR. GOELMAN: Yes, your Honor.

THE COURT: Proceed.

BY MR. GOELMAN:

Q. Mr. Kane, referring to Government Exhibit 512, does this indicate that both the call -- the number that was called and the account number are included in OPUS files?

A. Yes.

Q. Turning back to the poster, Mr. Kane, if the OPUS file retains all this information, is there anything that is not contained within the OPUS file?

A. OPUS doesn't know anything about the sequence from 1 through 5. It's invisible to the OPUS system.

Q. Okay. What particular piece of information about a phone call does OPUS not include in its own files?

A. The originating telephone number from the phone that made

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the call.

Q. Is there a WCT file that does contain this information?

A. Yes, there is.

Q. Which file is that?

A. It's a file we call 3911.

Q. And when does the 3911 first record this information?

A. The 3911 file, an individual record in that file is created -- begins creation when the -- the WCT switch receives the call, at this point here, No. 4. It begins to accumulate information regarding the calling activity, starting with the dialed number, which is the 800 number, and the originating telephone number.

As the call progresses, it -- it accumulates more information about that call, where it was routed, what port it went to, where it was connected to, how long the call was in service, the date, etc. Quite a bit of information, actually.

Q. Mr. Kane, is it true that users of the debit cards that you

provided would get charged a flat rate per minute?

A. I believe this calling program was a flat rate program, yes.

Q. So why would WCT retain information as far as the number from which the call originated?

A. Well, in this particular case, WCT retained the information

because it was in the business of billing people for 800 service, among other things. And the 800 service transaction

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that took place between items -- between 1 and 5, we happen to own the business that OPUS was providing for us; but in many cases, we had customers who would be where the OPUS equipment would be, so we would need to bill that 800 call to a -- to a

customer. So it was kept in normal course of business. All call records were kept for billing purposes at a minimum.

Q. So this was a billing record that you essentially kept to bill yourselves?

A. That's -- as it turns out, that's what it was.

Q. And I'm going to ask you to turn -- actually, I'm going to approach if -- disks. 509.

MR. GOELMAN: Your Honor, may I approach?

THE COURT: Yes.

BY MR. GOELMAN:

Q. Showing you what's been marked for identification as Government Exhibit 509. Do you recognize that, Mr. Kane?

A. Yes, I do.

Q. And what are they?

A. These are diskettes which we put the 3911 records on so we could submit them to the Government. They came off of our data

processing system where we store those records.

Q. What kind of information is contained on those diskettes?

A. The information contained on these diskettes includes the date of the call, the time of the call, the 800 number, the port number the call was connected to and from, and various

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other information that's required for billing, duration of the call.

Q. When you say the port number, you're talking in this case

about which particular port?

A. Yes.

Q. The 3911 port?

A. Yes.

Q. Were the files that you saved onto these diskettes made for

a business purpose?

A. Yes, we recorded all our -- we kept records of all our telephone calls.

Q. And were they kept in the regular course of business?

A. Yes.

MR. GOELMAN: Move to admit Government Exhibit 509, your Honor.

MS. RAMSEY: Same objection as before, your Honor.

THE COURT: Well, let's go a little slower here. As I understand your testimony, you took certain information out of your database to create these disks.

THE WITNESS: Yes, sir.

THE COURT: And what was -- how did you do that?

THE WITNESS: We selected the common information out of the record that pertained to the time, date, the port number, the dialed number, all the unique information that -- parts of the record we didn't submit were internal device

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numbers that we used in the internal workings of the switching

equipment. They are not relevant for billing.

THE COURT: And was this for a particular period of time?

THE WITNESS: Yes, it was.

THE COURT: And what was that period of time?

THE WITNESS: The period of time that these records encompass is December of 1993 through April 17, I believe, or 19 of 1995.

THE COURT: And is this for all of the ports that you've shown us in this other exhibit?

THE WITNESS: These are for all of the -- all the calls on these diskettes will have gone to one of the ports in the previous exhibit. These are only the WCT records that pertain to the 800 number that was assigned to the Spotlight calling card.

THE COURT: Understood.

THE WITNESS: Otherwise, they wouldn't fit.

THE COURT: And then is there a printout of this?

THE WITNESS: Yes, there is.

THE COURT: Of these disks?

THE WITNESS: There's a printout of the physical calls, or printout of the way the calls are organized.

THE COURT: Well, when -- you prepared or had prepared these four disks; right?

THE WITNESS: Right.

THE COURT: Then was this printed out?

THE WITNESS: I don't believe any -- we didn't print them out.

THE COURT: Well, how do you verify that these disks correctly reflect what's in the larger database?

THE WITNESS: Oh, we looked at them on screen, physically.

THE COURT: This time, you looked at them on a screen?

THE WITNESS: We looked at the other records -- I thought the question before was about the file format itself, not the information.

THE COURT: No. I was talking about the information.

THE WITNESS: I'm sorry. I misunderstood. The information was physically verified.

THE COURT: That's why we have the problem that they don't have those printouts.

MS. RAMSEY: Same objection, your Honor. We do have these disks, though.

THE COURT: You do have the disks.

MS. RAMSEY: We have these disks, yes. We don't have the printout of the file layout is what we were objecting to.

MR. GOELMAN: Can I have one moment, your Honor?

THE COURT: Yes.

Well, you have that; right?

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THE WITNESS: Yes.

THE COURT: You made a printout of the file layout.

THE WITNESS: Oh, yes. Yes.

THE COURT: Why hasn't that been provided to defense?

MR. GOELMAN: I'm sorry, your Honor?

THE COURT: Why hasn't that been provided to the defense?

MR. GOELMAN: The printout? It has, your Honor.

THE COURT: Of the file layout?

MR. GOELMAN: It has, your Honor.

MS. RAMSEY: Your Honor, we'll have to check and see.

It may have been provided; but we'll do that at the break, your

Honor.

THE COURT: Okay. Well, I'll receive it subject to this verification; but I'm relying on the testimony of this witness for the verification of these disks, which was made, according to your testimony as I understand it, through this looking at the screens.

THE WITNESS: Yes, sir.

THE COURT: Okay. I mean, I don't know how else to deal with this modern stuff.

MS. RAMSEY: Your Honor, we would interpose the same objection that we made previously subject to the briefs that we've submitted to the court.

THE COURT: Yes. All right. Proceed.

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MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Mr. Kane, I'd ask you now to find Government Exhibit marked

510 for identification.

A. I have it.

Q. And is that nothing more than the -- a list of some of the information contained on these diskettes that you just talked about?

A. Yes, it is.

MR. GOELMAN: Your Honor, we'd move to admit Government Exhibit 510.

THE COURT: Is this what you were just talking about?

THE WITNESS: This is -- there are two different things here. One is looking at the first record, and one is a -- essentially a road map to how to look at that information and understand which -- what information is contained in the record. The record doesn't have -- the electronic record doesn't have a word called "authorization" in it. It has a number, and it's a comma, and it has more numbers and another comma, and so forth. And this is just to tell you how -- what is in each of the fields.

THE COURT: But what those numbers really mean in --

in language.

THE WITNESS: In language, yes, sir.

THE COURT: Other than digital language.

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THE WITNESS: Other than digital.

MS. RAMSEY: Your Honor, we have received a copy of this, and we don't have any objection to 510.

THE COURT: All right. Good.

MS. RAMSEY: I'm not trying to be argumentative, your Honor.

THE COURT: No. I know you're not. I'm not suggesting that you are.

BY MR. GOELMAN:

Q. Mr. Kane, is Government Exhibit 510 basically a table of contents for the 3911 records?

A. Partially, yes.

Q. And does it list some of the information that is contained on those diskettes?

A. Yes, it does.

Q. Does that information include the originating number for the particular phone call?

A. Yes, it does.

Q. And does it also include the 3911 port?

A. Yes, it does.

Q. For that particular phone call?

A. Yes, it does.

Q. So with the OPUS record, Mr. Kane, you can get everything except for the originating number; is that right?

A. That's correct.

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Q. And then with the 3911 record, you can get the originating number?

A. That's correct.

Q. What about 3910? What do you get from the 3910 records?

A. 3910 is just a repeat of the OPUS record. The -- it also gives us a port number that ties back to the original 3911 record, since the three ports are physically connected to each other.

Q. And at what point in the process of a phone call is the 3910 information originally recorded?

A. It's much like the 3911 record, except the call would begin -- the 3910 record would begin with an incoming call from

Arrow No. 6. The record would develop over the time that the number was dialed by the OPUS system into the WCT system. The 3910 record would then be populated with the outtrunk, outport,

and result of the call, whether it was answered, busy, and the duration of that call, time and date, etc.

Q. Is there anything on the 3910 record relevant to these particular calls that the OPUS records don't contain?

A. The only thing that's on the 3910 that would have any value, really, is the port number on the 3910; and since the 3910 and the 3911 are records that were created off of the same

system, they are under one clock and one clocking device.

Q. So Mr. Kane, if you -- that's all the information that you get from 3910 record in addition to the OPUS record, why does

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WCT keep 3910 records?

A. Again, WCT thinks that Arrow No. 6 is a customer. It doesn't know it's itself. The equipment doesn't keep -- doesn't know that. It's -- it's just -- it's supposed to keep track of billing transactions and activity. And it sees 6 through 7 as a billable transaction, and we keep that information for billing purposes and for trouble verification purposes for customers.

Q. Okay. Mr. Kane, did you retrieve some information from 3910 files in response to Government subpoena?

A. Yes, we did.

Q. And can you please describe how you went about extracting that information from the 3910 files.

A. Yes. In this case, we took all of the records on -- from the OPUS Spotlight calling program. We looked at all of the dis -- all of the telephone numbers that had ever been dialed by the OPUS system, and we ran it against the 3910 records and all the records that matched -- we submitted to the

all the records that matched -- we submitted to the Government.

Q. So why didn't you just do a search based on the particular 800 number if you were retrieving all Spotlight records?

A. Well, the 800 number is not in the 3910 record, so we couldn't do it that way. That information wasn't available. All of the call records that the debit -- OPUS system made for Spotlight and all of the other 50-some-odd customers that we had on the OPUS platform would have used 3910 as the way their

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calls would have been terminated. So anybody who was a Spotlight calling card holder, whoever dialed a number that was

dialed by a nonSpotlight calling card holder would -- both those call records would end up in that 3910 file that was submitted to the Government.

MR. GOELMAN: Your Honor, may I approach?

THE COURT: Yes.

BY MR. GOELMAN:

Q. Mr. Kane, you're being shown what's been marked for identification Government Exhibit 513. Tell me if you recognize, that, please.

A. Yes, I do.

Q. What is it?

A. These are the records from the 39 -- the 3910 records that we were just discussing. They were taken off one of our data processing systems and submitted -- put on diskettes and

submitted to the Government.

Q. How do you know those are the same diskettes?

A. I physically verified them and looked at the records.

Q. How do you know those are the same diskettes that you --

A. They are signed by me. Signed and initialed and dated by me.

Q. And would your answers to his Honor's questions about the previous record, about Exhibit 510, be the same for the verification procedure for these particular records?

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A. Oh, yes, they would.

MR. GOELMAN: Your Honor, we move to admit Government

Exhibit 513.

MS. RAMSEY: Same objection, your Honor.

THE COURT: 513 is received.

BY MR. GOELMAN:

Q. Mr. Kane, can you now look for Government Exhibit 515 and tell me if you recognize that.

A. Yes. I have it.

MS. RAMSEY: What number was that?

MR. GOELMAN: 515.

MS. RAMSEY: 15?

BY MR. GOELMAN:

Q. What is it, Mr. Kane?

A. This is, again, a file record layout for some of the information contained in the 3910 records this time.

Q. And can you tell the Court, please, how this particular information was extracted, how you found out what kind of information was contained and where it was on the 3910 files.

A. I don't understand the question.

Q. Can you explain how you know that the 3910 files actually had the information that this piece of paper describes them having?

A. Well, I verified that the format -- this information was from the format that we submitted to the -- to the Government.

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Q. Same as you did with the 3911 files?

A. Yes, sir.

MR. GOELMAN: Move to admit Government Exhibit 515, your Honor.

MS. RAMSEY: No objection.

THE COURT: 515 is received.

BY MR. GOELMAN:

Q. And referring to Government Exhibit 515, Mr. Kane, does this indicate that the 3910 records include a lot of the same information that the other records include, including call date, time, duration?

A. Yes.

Q. Does it also include the to number?

A. Yes, it does.

A. Yes, it does.

Q. And does it also include the particular 3910 port that was used for each call?

A. Yes, it does.

MR. GOELMAN: Your Honor, this might be a convenient stopping place before I launch into the minutia of computer records.

THE COURT: Are you suggesting our attention span may be --

MR. GOELMAN: My own, your Honor.

THE COURT: Okay. You may step down, sir. We're going to take a recess.

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And, members of the jury, we'll take our afternoon recess. I might explain to you, you know, you've heard the words "foundation" at times; and much of what is going on here is attempting to build foundation for other exhibits which may or may not come into evidence and which may or may not be understandable to you, but we have to have your patience as we go through this process to determine what may be admissible later in -- in a way that you may better understand and perhaps you do this, although I'm not suggesting you don't understand everything that's been said and shown to you here. You may understand it. But I just wanted you to be certain that what we're doing here is what's called building a foundation for

what may come later and of course, some of these objections have been made and some of the rulings that I've made have been subject to the opportunity for the defense to verify some of this information. So that's what's going on.

And you don't need to discuss that during this recess.

As a matter of fact, you shouldn't discuss it or anything else connected with the case during this time because as, of course, is the usual caution, please keep open minds and -- and stay patient with us as we develop the issues in this case.

You're excused now, 20 minutes.

(Jury out at 3:11 p.m.)

THE COURT: Okay. We'll be in recess until 32 after.

(Recess at 3:12 p.m.)

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(Reconvened at 3:32 p.m.)

THE COURT: Please be seated.

(Jury in at 3:32 p.m.)

THE COURT: Please resume the stand.

You may continue, Mr. Goelman.

MR. GOELMAN: Thank you, your Honor.

Your Honor, may we have Exhibit 506 placed back up on the easel?

THE COURT: Yes.

All right.

MR. GOELMAN: Can the Court see that as well?

THE COURT: I have my own copy here.

MR. GOELMAN: I forgot.

BY MR. GOELMAN:

Q. You were describing, Mr. Kane, how the 3910 search was conducted and those documents that you retrieved and saved onto diskette for the Government. You said that you took all the common destination numbers. Can you please explain that.

A. Sure. What we did was we went to the OPUS system and we went to the database of all customers for Spotlight; and we obtained from that system all of the telephone numbers that any of those customers had ever dialed. We then took those numbers and we put them in a file and we compared all of the 3910 records that we had in the WCT files to the other file. And we pulled only those 3910 records where a telephone number that

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had been called by any Spotlight user matched.

Q. So the starting point for that search was the OPUS files?

A. That's correct.

Q. And what if when -- if a Spotlight call was made and there was no OPUS record for that particular call: Would the 3910

search that call have been returned to that particular number?

ror that call have been retrieved in that initial search?

A. The only way you could get a 3910 record was if someone using an OPUS card had made a call at some time.

Q. A Spotlight card?

A. Spotlight card.

Q. And when you were first reconstructing the Daryl Bridges account records after the bombing, Mr. Kane, did you discover that there had been a call made for which there was no OPUS record?

A. Yes, I did.

Q. Can you tell us a little bit about how you made that discovery?

A. At the time we were recovering or looking for these records

in our data processing systems was relatively recent to the bombing. And from a time standpoint, these calls were still on

our active data processing systems. They had not been yet backed up and stored off of the live on-line system. So we were actually going into the system and typing in the 800 number and asking it to tell us all of the calls that had been made to the 800 number.

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And through the process of reviewing those numbers and trying to compare them to the -- to the OPUS Bridges account, we found a call on the 14th -- I believe it was the 14th --

Q. Mr. Kane, let me understand this process. You were using the 800 number to call up records of all recent Spotlight calls?

A. That's correct.

Q. And you were actually looking at a screen on which information about these calls was displayed?

A. One call at a time.

Q. And how did you -- why did you think this particular record was significant?

A. Well, the -- I actually was looking at the screen and had found a call that originated from a particular telephone number

and pushed the carriage return button or the enter key; and the

next record came up on the screen. And I thought I was

looking -- I didn't think the screen had changed, because a lot

of the elements in the record were identical; so I actually

toggled back and looked at the previous record and determined

actually that they were -- they were two different records that

had come from the same telephone number. And they were sequentially back to back in our files.

Q. They were sequentially back to back. What does that indicate?

A. There were no other calls to the Spotlight 800 number

between these two calls.

Q. And after you determined that these records did, indeed, reflect two separate phone calls, what did you do?

A. We obtained the -- this was a 3911 record that we were looking at. We went and obtained the corresponding 3910 record from our systems, on-line systems as well.

Q. And what did you do after finding the 3911 and the 3910 for this particular call?

A. At that point, we had thought that we had found another Spotlight account, different than the Bridges account that had made this telephone call.

Q. Why did you think it had been made by another Spotlight account?

A. Because we did not have a Bridges record that matched to the -- the second call.

Q. So did you take any steps to try to find out who this second account belonged to?

A. Yes. We searched the OPUS database system with all the available information pieces that we had, and we could not find a match in the OPUS system for that record.

Q. Earlier, when describing the process a call -- that a call goes through when it's made, you said that OPUS created a record for every telephone call made. Is that right?

A. That's correct.

Q. If there is no OPUS record, how do you even know that the

John Kane - Direct

phone call took place?

A. Well, I have in this process -- we have three records that relate to each telephone call. For this particular call, we only have two records. The OPUS record is missing.

Q. You have the 3911, 3910, but not the OPUS record?

A. That's correct.

Q. How do you know that this is a Spotlight call, as opposed to just another debit card?

A. Well, on the inbound 800 call on the 3911 file, the 800 number corresponds to the Spotlight calling program, so those are the only ones we were looking at. And by using the ports on that matrix that we previously talked about, we were able to

know which port a call would have come back from the debit card

platform on that would relate to that inbound call.

We essentially had a call from here to here that we knew the originating telephone number and we knew that the call will be delivered to the OPUS system; and the call went on for over 8 minutes, so we knew that there was a connection.

And then we had another call that came from here and went out here. It could only have come from the OPUS system that went on for a little bit over, I believe, close to 8 minutes but not quite.

So I had the port numbers from here and here that tied together the dates and times tied together and the durations

together, the dates and times tied together, and the durations

tied together. And we were -- we could not find an OPUS record

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for that particular call.

Q. So you had a call that was definitely made using a Spotlight debit card and you didn't have any OPUS record for that call?

A. That's correct.

Q. Do you know why you would have a 3911 and a 3910 on a particular phone call and you'd be missing that intermediate record?

A. I do now. I did not know then.

Q. And what's your understanding of the reason for that?

A. The -- when we discovered that this record appeared to be missing, we contacted the OPUS people and had several of their software engineers and myself on conference call for several hours where we researched this pretty thoroughly through their data systems and comparing them with ours. At some point in that process, we discovered that this record was actually intentionally discarded by the system as part of a restarting process that the processor in this center section was doing three times a day. That system would actually restart its process three times a day; and any calls that were in progress during that process were not kept in the system. They were discarded by the system.

Q. Mr. Kane, you mentioned that you researched this in discussions with personnel from OPUS.

A. Yes.

John Kane - Direct

Q. Who is the president of OPUS?

A. Jay Gainsboro.

Q. Mr. Gainsboro, again, was your partner in establishing the debit card platform?

A. Yes.

Q. When you were looking at that information about these two phone calls on the screen, what kind of record were you looking at?

A. The 3911 record?

Q. That's -- that's how you originally noticed that the call existed?

A. We were looking at what we call a CDR minute out or a CDR display. CDR is "call detail recording," or "call detail record"; and that's the raw record that the WCT switching system creates for every call that passes through, whether it's billed or not.

Q. These are the records that are later used to create other records such as 3911, 3910?

A. Yes.

Q. And what would happen if WCT did not keep the call detail

records?

A. We wouldn't be in a position to bill our customers or to service our accounts.

Q. After the bombing, Mr. Kane, did you pull up and print out the CDRs from -- for the Bridges account for a certain amount

John Kane - Direct

of time?

A. Yes. I believe we printed those CDRs out between March 25 and April 17 or 19.

Q. And did you print out all the CDRs for all Spotlight customers, or only ones relevant to the Daryl Bridges account?

A. Only ones related to the Bridges account.

Q. How did you determine which CDRs described calls that were made on the Daryl Bridges account?

A. We had a printout from the OPUS system of the Bridges account. We used that as a guide.

MR. GOELMAN: Your Honor, may I approach?

THE COURT: Yes.

MR. GOELMAN:

BY MR. GOELMAN:

Q. Mr. Kane, do you have Government's Exhibit 517 up there?

It's about 50 pages.

A. I do.

Q. Do you recognize that?

A. Yes, I do.

Q. What is it?

Q. What is it?

A. These are the copies of the printouts that I obtained off of our CDR display system, data processing system that WCT used

to keep track of its business.

Q. And are these CDRs records that WCT makes for a business purpose?

John Kane - Direct

A. Yes, they are.

Q. Are they kept in the regular course of business?

A. Yes, they are.

Q. Did you view this information on screen before printing it out?

A. Yes, I did.

MR. GOELMAN: Your Honor, we'd move to admit Government's Exhibit 517.

MS. RAMSEY: Same objection, your Honor.

THE COURT: Overruled. Received, 517.

BY MR. GOELMAN:

Q. When you printed out the CDRs, Mr. Kane, did you print out the records relating to both of those phone calls that took place on April 14 that you were describing?

A. Yes, I did.

Q. And could you turn to page -- pages 41 and 42, please.

Do you recognize that particular series of records?

A. Yes. It has my notes on it. And this page 41 represents

the 800 call to the Spotlight calling card number received from

a telephone which based on this record is a pay phone and came from a (913)762-9765 -- is the telephone number.

Q. Okay. Can you tell which number was called?

A. Not from this record. The record from the 3910 side of this particular call went to (913)258-3400.

Q. And that was the 3400 you were talking about earlier?

John Kane - Direct

A. Yes, it is.

Q. When you initially saw this particular screen of information, the 3910 relating to that phone call, was that phone number familiar to you?

A. Yes. This phone number was in the Bridges records that we had previously printed off of from the OPUS system.

Q. Okay. Was that the called number for the very first call that you found on April 15, 1995?

A. Yes, it was.

Q. And can you tell from these records when this phone call ended?

A. Sure. This phone call ended at 7:53:06. That's military time. So it would be in the morning.

Q. Is that West Coast time, East Coast time?

A. This would be Pacific time.

Q. Turning to pages 43 and 44, the same exhibit, Mr. Kane. Do

you recognize what call these records refer to?

A. These records refer to the call that we could not find an OPUS record for and they begin coming from the same pay telephone, (913)762-9756 and the call begins at 7:53:33.

Q. So that call begins at 7:53:33 and the previous call ends at 7:53:06?

A. That's correct.

Q. That is a 27-second difference, sir?

A. Yes, sir.

John Kane - Direct

Q. During these 27 seconds, did some mechanical process have to happen?

A. The second call would have originated from the same phone and would have gone through steps 1 through 4 in order to have this separation of time. So this process had to take place up here.

Q. Everything until the 800 number actually is connected?

A. Yes.

Q. And that is the process that you described as taking 7 to 10 seconds earlier?

A. That would be accurate, yes.

Q. Did this wait of 7 to 10 seconds along with the caller disconnecting and then the caller dialing the 800 number again -- did all that have to take place in this 27-second window?

A. It would have all taken place in the 27 seconds.

Q. Mr. Kane, besides these call detail records or CDRs, did you provide the Government with another WCT record relating to that particular phone call, the second phone call on April 14, 1995?

A. Since the dialed number off -- from the second record was not a number that had ever been called by a Spotlight card user, it was not part of the 3910's we originally had submitted; and we actually provided -- prepared a diskette and submitted this one record separately at a later date.

John Kane - Direct

Q. You said the 3910 was not part of that group of 3910's that

you had already provided?

A. Not initially, no.

Q. What about the 3911 for this particular phone call? Is that part of the group of 3911s that you provided?

A. Yes.

Q. Why would the 3911 for this phone call have been provided but not the 3910 for this phone call?

A. The criteria for creating the 3910's was that only 3910 records that had a terminating number or a called number that had ever been called by someone using a Spotlight calling card were in that database. This called number was unique and had never been called by another Spotlight user; so therefore, it wouldn't -- wasn't part of the database that could be found.

Q. And you indicated that you saved this particular 3910 on another disk?

A. Yes.

MR. GOELMAN: May I approach, your Honor?

THE COURT: Yes.

BY MR. GOELMAN:

Q. You're being shown what is marked for identification as Government's Exhibit 514. Do you recognize that, Mr. Kane?

A. This is the diskette I submitted, signed and dated by me.

MR. GOELMAN: Your Honor, we move to admit Government's Exhibit 514.

John Kane - Direct

MS. RAMSEY: Same objection.

THE COURT: Well, I'm confused by this testimony.

Would you explain again why the 3910 and the 3911 are different with respect to this call?

THE WITNESS: 3911 was included in the general -- the overall records we submitted.

THE COURT: Yes.

THE WITNESS: Because it was based on the 800 number.

The 3910 records we initially submitted were only withdrawn from our systems based on a telephone number that anybody who had a Spotlight card who had ever made a telephone call to -- so all those telephone numbers became a universe of

numbers. Then when we went to our 3910 file, we only extracted

from there calls that matched any number that anybody from Spotlight had ever made. We were only trying to find a third verification for the 3911 record and the OPUS record.

THE COURT: Okay. And then to create 514, you did what?

THE WITNESS: 514, the information was in our big 3910 file; but it was not in this subset file because no one from Spotlight had ever called that.

THE COURT: I see. So you just pulled this out.

THE WITNESS: Just pulled it as a separate record.

THE COURT: All right. The objection is overruled. 514 is received.

John Kane - Direct

MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Mr. Kane, how many phone calls did WCT process between December, 1993 and April, 1995?

A. I think we calculated that to be close to 2 1/2 billion.

Q. And are all 2 1/2 billion reflected on the 11 diskettes that you've provided here today?

A. No.

Q. How many of those calls are included on those diskettes?

A. I think the total is somewhat less than half a million.

Q. Would you please turn to what's been marked for identification as Government's Exhibit 516.

A. 516? Okay.

Q. Does that reflect the relative number of each type of record that you provided to the Government in connection with this case?

A. Yes, it does.

MR. GOELMAN: Your Honor, we'd move to admit Government's Exhibit 516 for demonstrative purposes.

MS. RAMSEY: No objection.

THE COURT: All right. Received.

BY MR. GOELMAN:

Q. Mr. Kane, from that exhibit, looks like WCT provided about 156,000 OPUS records and only 140,000 3911's and 105,000 3910's. Is that about right?

John Kane - Direct

A. That's what the numbers say, yes.

Q. Can you explain the different numbers of each kind of record?

A. Sure. There was 140,000 calls that were dialed during this period of time to the specific 800 number for the Spotlight calling program. Once a subscriber had successfully entered the telephone -- their PIN number, then they could make multiple calls without hanging up, dialing the 800 number and putting their PIN number in a second time. It's a feature

putting their PIN number in a second time. It's a feature commonly referred to as "reorigination." So when the first call ended, if the subscriber did not hang up, they would be greeted with a voice prompt that gave them the option of making another call without hanging up.

Q. So if you only dialed into the 800 number once during these

series of calls, how many 3911's would be produced?

A. Just one.

Q. And how many OPUS records could be produced for that one 3911 record?

A. Theoretically, it's infinite till you run out of money.

Q. What about 3910's? There seem to be significantly less 3910's than there are of the other two records.

A. All right. Some of the transactions in OPUS are people calling in and obtaining a balance check, finding out they don't have enough money to make a call, changing their name, becoming disconnected for one reason or another; so they may

John Kane - Direct

not have a completion on that particular call.

Also, the calls in 3910 would only be there if there was a completed call; so therefore, busies, ring/no answers, would not appear in the 3910.

Q. And so 3910 file, even though it might include some numbers, some non-Spotlight calls, if the destination number was common with Spotlight calls, it still has significantly

less than the other two kinds of records because of ring/no answer, and busy calls?

A. Yes, it does.

Q. You've testified, Mr. Kane, that there is no single record that retains all the information that would be retained in the regular long distance call. Is that right?

A. That's correct.

Q. You've also testified that you can get all this information

from amongst the records that WCT produces. Is that right?

A. Yes, sir.

Q. Would you please turn to Government's Exhibit 518 for identification.

What is that, Mr. Kane?

A. This is a diagram that shows some of the different data elements that are part of each of these records.

Q. And would this help you explain how you can extract information from each of these records to produce one unified record of phone calls?

John Kane - Direct

A. Yes.

MR. GOELMAN: Your Honor, we move to introduce Government's Exhibit 518 for demonstrative purposes.

MS. RAMSEY: Your Honor, if I might have a moment.

THE COURT: Yes.

MS. RAMSEY: No objection, your Honor.

THE COURT: All right. 518 is received for demonstrative purposes.

BY MR. GOELMAN:

Q. Mr. Kane, if you had a 3911 file, had a 3910 file, and had an OPUS record for a particular phone call, what would you need to construct one unified record?

A. Here, initially we would match up the date and the port numbers, then look at the durations, and then finally look at the times.

Q. Okay. And you would match up which -- which record would you begin with?

A. Actually, we would begin with the OPUS record from the Bridges account, since those are the records we were trying to find the originating telephone numbers for.

Q. And would you match it up with the 3910 first, or would you first go to the 3911 file?

A. No, we would go to the 3911 file, look for the date and look for the port number match and then look at the other data elements in the records to verify that they were -- that was

John Kane - Direct

the correct record.

Q. So to do this process, would you have to go through all 140,000 or 156,000 or 100 records in the relevant group?

A. Well, within the relevant groups, we would only look at the

date that we were looking for; so in -- if we were looking for a particular day, we would only look for the records from that date to begin with. And then we would--we'd begin the process with a smaller pool of records.

Q. Mr. Kane, you've mentioned the role of ports several times.

If there were about 100 -- if there were about 140,000 Spotlight calls made -- I think that's what the number 3911's was you indicated --

A. Correct.

Q. -- about how many Spotlight calls per day on average, if you've calculated that?

A. I believe I've calculated that to be about 250 to 275 a day.

Q. And how many Spotlight calls would each port system handle on that given day?

A. You have 275, let's call it, and we had 130 potential places where that call could have been delivered, so 2 to 4 calls per day per port.

Q. And how does that ability to determine which port the call came in -- how does that affect this reconstruction process that you've described?

John Kane - Direct

A. Well, once you match the date and the port, then it's a relatively simple process of matching the duration and the

relatively simple process of matching the duration and the times of the call beginning and ending to -- and quite candidly, there is no other call record that's a reasonable match. The time is too far away or the duration of the call is significantly different.

Q. Once you matched an OPUS record with a 3911 record, what would you -- what, if anything, would you use the 3910 records for?

A. Well, we would then confirm that we had the correct 3911 record by using that port matrix and making sure that the 3910 record had the right port number on it and match the 3911.

Q. Mr. Kane, you just said that this reconstruction process was -- I think you said easy, or not hard?

A. Tedious.

Q. Would you say it was fun?

A. Fun? No, I wouldn't say it was fun.

MR. GOELMAN: Nothing further, your Honor.

THE COURT: Ms. Ramsey.

CROSS-EXAMINATION

BY MS. RAMSEY:

Q. Mr. Kane, how long have you been in the telephone industry?

A. About 24 years.

Q. And how long have you been in this type or this branch of the telephone industry?

A. I believe I began the prepaid calling business in 1992.

Q. And you've certainly garnered a lot of experience in these two areas; is that correct?

A. Yes.

Q. And you understand all this; right?

A. Yeah. I think so.

Q. How many hours did it take you to prepare this tedious information, as you call it?

A. I think overall, we calculated at one point that we had somewhere in excess of a thousand hours, potentially as many as

2,000 hours overall.

Q. And how many people did you have working with you?

A. At different times, we had between 6 and 12 people.

Q. Okay. So it took you a considerable amount of time; is that correct?

A. Yes, it did.

Q. It wasn't a matter of pushing a button and coming up with the matches between the 3911, OPUS, and 3910. Is that correct?

A. No, it wasn't.

Q. Okay. When were you first contacted by the FBI or a governmental agency regarding this particular case?

A. I'm not sure if it was Friday or Saturday following the bombing.

Q. Okay. And what were you requested to do at that time?

A. I was requested to -- to disclose the subscriber for the

John Kane - Cross

A. 800 number.

Q. And what is the 800 number that you're talking about? Is that just the general Spotlight number?

A. The specific Spotlight number.

Q. Do you have any idea from your records who the specific Spotlight subscriber is?

A. I did not at that time.

Q. Okay. But you have since learned that. Is that correct?

A. That is correct.

Q. What is the Spotlight number?

A. (800)793-3377, I believe.

Q. And that was general to Spotlight --

A. Specific to Spotlight.

Q. But to all members who had the Spotlight calling card?

A. That's correct.

Q. They would all use that 800 number. Is that correct?

A. That's correct.

Q. And when you were first approached by the Federal Bureau of

Investigation, I assume, what did you tell them that you could do?

A. In what regard?

Q. With regard to this 800 number?

A. They wanted to know if I could identify call records associated to that number, and I told them yes.

Q. All right. And did you provide that information for them?

John Kane - Cross

A. Yes, I did.

Q. And how long did that take you to provide for them?

A. I provided them information at various times during the process of obtaining these records but immediately provided them with the Daryl Bridges account information, which was in one place.

Q. All right. And how many times did you end up speaking with

members of the FBI?

A. Oh, I have no idea. Many.

Q. Under a hundred, or over a hundred?

A. Probably over a hundred.

Q. It took a lot of time with regard to each particular call?

A. Sometimes in groups and sometimes in particular calls.

Q. And then you would do some work on a group of calls or a particular call and then give that information to the FBI. Is that correct?

A. It was more oriented towards days.

Q. Okay. And then were you told to collect more information about other days?

A. Well, I was asked to collect all of the information. And I

told the FBI that based on the fact that the information was stored on off-line systems, on cartridges and disk packs in various different locations, that we had to go and literally get the correct cartridges and get the information off of

-
those

cartridges.

John Kane - Cross

Q. And were -- if I understand you correctly from your direct testimony, each of the 3911, the 3910, and the OPUS were all in different areas or different cartridges, so to speak, as far as storage is concerned?

A. The -- yes.

Q. And you went to each one of those and pulled out information with regard to the Daryl Bridges Spotlight calling card. Is that correct?

A. Yes.

Q. All right. And did you have to write some kind of software in order to do this, or was this something that you had already done?

A. Initially, we were using the process of our on-line system and thus the CDRs that we had talked about previously. Unfortunately, that was a very time-consuming process. And the Government asked us to figure out some way, if we could, of speeding up that process.

Q. Was the CDR process that you talked, about the last records that were introduced, I believe, as 517 -- that is the usual

record that would come out prior to your doing some kind of program?

A. Yes.

Q. Okay. And so that was what was taking too long to read?

A. It was taking too long to get them, yes.

Q. Okay. And how did you devise this other method of getting

John Kane - Cross

the information?

A. Once we had obtained a number of the CDRs, we looked at the

relationship between the different computer systems and the

different record-keeping areas and we wrote a relatively simple

program that would -- based on criteria of the records we had already reviewed -- would go out and get those records out of our systems in a much more prompt fashion.

Q. So would you say it was also tedious to come up with the origination point data or the 3911, 3910, and OPUS information?

A. Tedious in the beginning; but once we knew what we wanted to get from our systems, it wasn't that tedious.

Q. And were these calls billed at 25 cents per minute regardless of where they were from or where they were to?

A. Within the OPUS system, I believe that's correct.

Q. Okay.

A. Except that would be domestically. For international calls, the rates would be different.

Q. Okay. So you would agree that it was a difficult job, at least until you did the software. Is that correct?

A. Yes.

Q. Had you ever been asked by anyone, either a governmental official or anyone in private industry, to do this before?

A. To find phone records?

Q. In this fashion?

A. No.

John Kane - Cross

Q. Okay. Is the OPUS system something that you have any control over?

A. Control over?

Q. Management decisions, things of that nature?

A. Oh, yes. OPUS is a software provider. We own the equipment and the right to use it.

Q. And you pay so much each month or year in order to provide or in order to receive that service; is that correct?

A. Yes. That's correct.

Q. What would a person hear when it goes on this exhibit that's behind you from the telephone to the local phone company, where No. 1 is --

A. What would they?

Q. Hear.

A. Dial tone.

Q. And then when you go to 2, would anything be heard?

A. No.

Q. 3?

A. No.

Q. And then to 4?

A. No.

Q. When they finally reach 5 is when they actually hear something on the other end of the telephone, other than the dial tone or nothing. Is that correct?

A. That's correct.

John Kane - Cross

Q. And that would change for whatever system had that number -- is that correct -- whether it be a Spotlight card or some other debit card?

A. Yeah. The voice prompts are customized to the program.

Q. Okay. And how long did you say that that would take?

Approximately 7 seconds, I believe you said.

A. 7 to 10 seconds.

Q. 7 to 10 seconds. Okay.

Now, when we get to step 5 and we go into OPUS, that is when a person's account balance or remaining balance is told to them?

A. After they've entered their PIN number successfully.

Q. Okay. And then when we go to 6, into the 3910, they are also told what time is left on the card. Is that correct?

A. They are told how long they can talk to the particular number they dialed, yes.

Q. And is it usual and customary when someone might have a short period of time left that they would hang up at this time?

A. Not necessarily, depending on what they were trying to communicate.

Q. If someone were making a phone call and they had a certain number (sic) of time left on their debit card and they went over that time, what happens?

A. Well, they couldn't go over the time because the system would physically disconnect.

John Kane - Cross

Q. All right. So no one ever went over that specific amount left on their calling card. Is that correct?

A. That's the way the system works.

Q. Do you know who designed that system?

A. Jay Gainsboro.

Q. And how long did you say you had known Mr. Gainsboro?

A. I've known him probably in excess of 10 years.

Q. And this was the procedure that was in effect in December of 1993 through April of 1995; is that correct?

A. Yes.

Q. Okay. And I believe you testified on direct examination that a person would not receive a bill.

A. That's correct.

Q. Would they receive anything other than the warning when they dialed to the 3910 about how much time was left?

A. Receive?

Q. Would they get a statement saying you only have \$20 left on

your debit card; do you want to fill out this coupon and send it back?

A. What they would get was every time they called in and successfully put in their PIN number, their balance would be played to them.

Q. I understand that. But did they receive anything else? Did they receive something in the mail --

A. Oh, no.

John Kane - Cross

Q. -- saying their balance was low?

A. No.

Q. So they would not have any contact at all with the Spotlight calling card system with regard to their balance; is that correct?

A. Not directly.

Q. Okay. Now, the accounting system dealing with the 3910 was

set up not to send out bills; correct?

A. That's correct.

Q. Okay. And isn't it true that anyone who knew the PIN number would be able to call through this procedure and

number would be able to call through this procedure and through

6 and find out what the balance was and how much time was left on the account? Is that correct?

A. Yes, it is.

Q. Now, is it traditional in a debit card system that certain forms of moneys are used to add balances to their account?

A. Yes.

Q. And what would those be generally?

A. Generally, the consumer can pay cash for the card at the point of purchase, or if the service that they're obtaining allows for them to order the service by mail order, they can do

that. Some debit cards allow for the card to be recharged or for the balance to be increased by use of a commercial credit card, VISA or Mastercard, American Express.

Q. Is it also traditional in this type of system that money

John Kane - Cross

orders or personal checks would be used?

A. No, it's not.

Q. All right. What would normally be used, then? The VISA?

A. VISA or MasterCard.

Q. And how would that be done? By sending it physically into the company, number, or --

A. No. Traditionally, the VISA or MasterCard type recharge or

increase of balance is done by interactivity with the system directly. You type in your VISA number.

Q. Can you do that when you're getting your balance in the 3911, OPUS, and 3910 routine?

A. You can't do it on the Spotlight calling program. It's not

a feature of that particular program.

Q. How would somebody do that?

A. In the Spotlight calling card?

Q. Uh-huh.

A. In Spotlight calling card, they had to send funds to a bank

that was acting for Spotlight and collecting these funds; and then the bank would submit an electronic request to us to add dollar amounts to certain account numbers.

Q. Was that an 800 number that somebody would call?

A. The --

Q. To increase their balance?

A. No. They would send -- physically send something to the bank, money.

John Kane - Cross

Q. How do you physically send your credit card to the bank, is

my question.

A. I don't believe they were using credit cards. I believe they were using in this particular case -- you had to send in a

check, or you had to use the credit card at one point when you initially requested the service.

Q. All right. So how would you increase your balance if you used a credit card?

A. The amount would be electronically submitted to us by the bank.

Q. All right. But how does the bank get notice is my question.

A. I don't know how the bank got the information from the subscriber.

Q. Okay. How closely tied were you to the Spotlight calling card?

A. Closely tied to it in what regard?

Q. To the business.

A. I really didn't know that much about the Spotlight calling card business other than they were a customer, one of about 50.

Q. Did you sell this service to Spotlight, yourself?

A. No, I didn't.

Q. Do you know who did?

A. I believe they were sold the service by an agent of CCT.

Q. Okay. And CCT was the subsidiary company, or the parent

John Kane - Cross

Q. Company?

A. Subsidiary company.

Q. Okay. Now, was there ever any billing for unanswered phone

phone

calls?

A. No.

Q. Okay. So would that show up and have a CDR, or not?

A. There will be a CDR, yes.

Q. Will it show the beginning call as well as the number that was called?

A. Yes.

Q. Okay. And the CDR is only for the termination of the call.

Is that correct?

A. There is an originating CDR and a terminating CDR.

Q. Okay. And every originating would have a terminating. Is that correct?

A. Every originating would have a terminating, if there was a terminating.

Q. Well, my question is if somebody hung up, would there be a terminating?

A. It depends on when they hung up.

Q. Prior to the call being completed?

A. Yes -- no, there would not be a CDR.

Q. Okay. And there would not be any OPUS record, I would assume, because it --

A. Again, it depends on when they hung up. If they

John Kane - Cross

successfully put in their PIN number, OPUS would have enough to

create a record.

Q. What was OPUS designed to do?

A. It was designed to keep track of PIN numbers and account balances and to manage the process of the call.

Q. Was it mainly a billing-type process?

A. Yes.

Q. So it was not made to deal with terminating and originating

calls -- is that correct -- as far as numbers are concerned?

A. Other than keeping --

MR. GOELMAN: Objection. Comprehensibility of the question: "deal with originating and terminating calls"?

THE COURT: Overruled.

THE WITNESS: The system kept track of the calling activity based on where the call was made to but did not keep track of where the call came from.

BY MS. RAMSEY:

Q. And that's why the 3911 record is necessary to complete the

loop. Is that correct?

A. That's correct.

Q. Okay. What methods do you use to gather the OPUS records that you supply to the Government?

A. The OPUS records, we only -- you mean the Bridges records, or the overall OPUS records?

Q. The overall OPUS records.

A. The overall OPUS records, the 800 number related to a program number within the OPUS system, the number happens to be 399, which is the unique numeric identifier within the system; and we requested it from the OPUS system by typing it into a keyboard. All the records associated with program No. 399.

Q. And you have access to all of OPUS records in order to do that?

A. Sure.

Q. That's in the regular course of your business. Correct?

A. Correct.

Q. I believe in one of the records that the Government had in front of you with regard to the number of the calls, is that the number of calls you received from the OPUS system when you first did your query?

A. The first query we did was only against the Bridges account number.

Q. Okay. And then the second one that has the 4,000 and some odd number --

A. 155,000.

Q. All right. Is that what you got when you did the second query as far as OPUS is concerned?

A. Right.

Q. Okay. Now, did you supply all of that information to the Government, or did you do something else with it prior to giving it to the Government?

John Kane - Cross

A. Well, we did provide -- we provided all the information in that raw format to the Government.

Q. All right. Did you do anything else with it prior to giving it to the Government?

A. I don't understand.

Q. Did you do any analysis of it?

A. I did some analysis of it so that I could ascertain whether

or not we had records for every day and for all of the time periods that were required.

Q. And did you print that out in a readable-type form?

A. We kept track of it in some notes.

Q. And does that OPUS record contain all of the calls placed by Spotlight customers and only Spotlight customers?

A. It obtain -- it is the number of records that the system kept track of. It is not all of the records that were made by Spotlight customers.

Q. Explain that.

A. We talked before about the record from the 14th that's missing in OPUS, an OPUS record. There are probably other OPUS

records that are missing from different Spotlight account customers for the same reason.

Q. Okay. But only on that disk -- on that disk are only Spotlight customers?

A. That's correct.

Q. Okay. And again, you never prepared anything like this

John Kane - Cross

from OPUS records before, have you?

A. We used to obtain records from the OPUS system from time to time for different reasons to look at them, so this is normal, relatively easy thing to get.

Q. Okay. And you prepared this at what time? Approximately April 20?

A. I don't recall when we did this 155,000 records, but the disks are dated that were submitted.

Q. All right. Has your looking at these records continued since you were first contacted by the Government on that Friday or Saturday after the bombing until -- when?

A. I've looked at these records many times during that period of time.

Q. All right. But have you -- when was the last time that you looked at the records?

A. Probably this morning.

Q. Okay. And did you do that for analysis purposes, or just to answer a question that someone had asked you?

A. Did that more to refresh myself with the records.

Q. So when was the last time that you looked at the records to do any analysis?

A. Several months ago.

Q. Now, I want to turn your attention to this problem with the

computer that you alluded to just a few minutes ago about a malfunction and the dropping of a number. What would you call

John Kane - Cross

that?

A. I don't know what I'd call it. It's -- it's -- it was intended to be a solution for a problem that unintentionally created a second problem.

Q. What was it originally intended to do?

A. We from time to time were having a difficulty with the OPUS

hardware, where their system would stop processing calls, essentially would lock up. It would just stop functioning.

And we didn't think this was a desirable feature, since

consumers couldn't make calls when this process was -- when the

system had locked up.

Q. How did you find out that the system had locked up?

A. Our 800 number would start ringing because customers would start complaining.

Q. All right. But you did not receive a sign from the computers that there was a problem?

A. Not at this -- not the way we had the system set up. There

wasn't somebody physically watching the machines while they

were working.

Q. And are you aware of any problems other than this one record we talked about on April 14?

A. I'm aware that based on what I know about why that record is missing -- I'm confident there are other records that are also missing from the OPUS file.

Q. Would you agree that there might be perhaps 34 out of 209

John Kane - Cross

calls that are not in that area -- that are not in the records?

A. I would think that would be a disproportionate percentage.

Q. Too large, or too small?

A. Too large.

Q. And during this -- would you term this as a malfunction of the computer?

A. The lost records, or the fact that the system was locking up?

Q. Both.

A. System locking up was a definite malfunction in the computer.

The records being lost was, as it turns out, by design. The fix for the locking-up problem that the software engineers implemented was a timed restart program that ran three times a day and essentially restarted this computer to prevent it from locking up.

Q. How many seconds would that restarting take?

A. I don't know.

Q. Okay. And during the time that the computer was restarting, no records were kept in OPUS? Is that correct?

A. During the time that the computer was restarting, calls that were in progress were discarded from a record standpoint.

Q. And so that would mean that OPUS would not have that record

to bill the customer; is that correct?

A. That's correct.

John Kane - Cross

Q. Okay. And after you -- was the first time that you discovered this when you were checking with regard to this particular phone call that you talked about?

A. Yes, it was.

Q. And has that since been corrected?

A. Yes, it has.

Q. And did you correct that, or --

A. OPUS Telecom corrected it.

Q. Corrected that problem?

A. Yes.

Q. Now, do the termination numbers in the field on the CDR records look the same as the international calls?

A. Do the termination --

Q. Uh-huh. Can you tell by looking at a termination number if

it's an international call or not?

A. I can, yes.

Q. Okay. And do they look the same?

A. Well, they're numeric; but there are more digits, and they all begin with a different sequence other than an area code.

Q. I think this morning I gave some information to Mr. Mackey;

and I believe you checked the computer with regard to some Bridges calls sequence calls. Did you do that?

A. I believe there was five sequence numbers.

Q. Yes.

A. Only one of those was a Bridges call.

John Kane - Cross

Q. Okay. Did you check to see if the correct termination numbers were given for those?

A. Yes, I did.

Q. And were they correct, or not?

A. They are correct numbers, but they're not complete enough to have resulted in a completed call.

Q. What does that mean?

A. It means that whoever put those numbers in either gave up putting numbers during the call or had misdialed, was trying to dial another number.

Q. And so they hung up before the call was completed?

A. Well, the call was never completed because there wasn't enough information to complete the call. So when they hung up,

I couldn't tell you.

Q. But for some reason the call stops prior to being completed

to a number. Is that correct?

A. I believe that it would -- it would not have been completed

because there wasn't enough information to complete the call.

Q. And all of these numbers that I gave you were for domestic calls. Is that correct?

A. The five call records all have terminating numbers that begin with an international code but don't have enough digits to have been completed internationally or anyplace else.

Q. Are you aware of problems with the OPUS system with regard to calls being placed for February 12 or April 16?

John Kane - Cross

A. I'm not sure. What year?

Q. 1995.

A. I'm not certain of any specific problem.

Q. Calls being deleted or termination -- termination numbers being incorrect?

MR. GOELMAN: Your Honor, can we break these questions

up?

THE COURT: All right.

BY MS. RAMSEY:

Q. Are you aware of any problems with regard to the deletion of records in the OPUS system between February 12 and April 16

of records in the OPUS system between February 12 and April 10 of 1995?

A. I'm aware that there were records that were not kept that we just discussed.

Q. Any others than what we've just discussed?

A. Not to my knowledge.

Q. Okay. How many OPUS computers operated in the -- how many OPUS computers operated on the Bridges account? Would that be the five that are on here?

A. At least five, yes.

Q. And how many more might there be?

A. At different times, the central computer in the middle of the picture was -- there were either one of those or two of those, for redundancy purposes.

Q. Now, is there a computer with regard to the 3911 records?

John Kane - Cross

A. The 3911 records, yes.

Q. And is there a computer with the 3910 records?

A. Same computer.

Q. All right. And there are five or more computers with OPUS?

A. Yes.

Q. And is there a computer with regard to No. 1, which is the telephone in your home or wherever to the local phone company?

A. Yes.

Q. And is there a computer with regard to 2 and 3?

A. Yes.

Q. And is there a computer with regard to 7?

A. Yes.

Q. All of these systems are with different agencies; is that correct, or different businesses?

A. Some, yes.

Q. And can you tell us whether the clocks are synchronized on all of these computers?

A. I can tell you they're not.

Q. Can you tell me how much they're off?

A. Different amounts at different times, I'm certain.

Q. When you were doing this matching as far as the records were concerned, wouldn't you agree that the time of the call and the termination of the call are very critical?

A. No. Actually, I wouldn't agree.

Q. Why not?

John Kane - Cross

A. Because the -- I was matching based on the port information

first and the date -- the date and the port; and we really never found the circumstance to the extent we matched any calls

at all that the -- that there were two calls that could have been acceptable to be matched.

Q. You never found when there were two calls that could be acceptable to the matched?

A. They wouldn't be within even a close range of time.

Q. Well, when you first began your reporting, didn't you have a window of error of plus or minus 4 minutes in order to determine which calls matched?

A. Well, we didn't match in that method.

Q. Did you or have you ever told the Government that you matched with plus or minus 4 minutes?

A. We told the Government that we -- we provided raw information to the Government. The matching process that we did or the summary of that information that we kept was a method of keeping track of whether or not we had obtained all of the 3911's or 3910 records.

Q. So it -- the plus or minus 4-minute window has nothing to do with the timing of the phone calls?

A. It has to do with an assessment that the Government made with respect to the clocks in these various computers once they

studied the issue. I don't know what they did.

Q. All right. But obviously, you cannot match the calls

John Kane - Cross

perfectly, or you wouldn't need a plus or minus 4-minute window; is that correct?

MR. GOELMAN: Objection. He just testified that he had no 4-minute window.

THE COURT: Well, do I understand -- if I may.

MS. RAMSEY: Certainly, your Honor.

THE COURT: Do I understand that you made no effort in your work to match times?

THE WITNESS: No, we really didn't.

THE COURT: Okay.

MS. RAMSEY: Okay.

BY MS. RAMSEY:

Q. But you understand that the Government did do that?

A. Yes.

Q. So when you did your matching, what did you look at?

A. We looked at the port, the date first -- we looked at a date first, then the ports to make sure that they matched; and then we looked at the duration of the call, if there were more than one calls to the same port on the same day.

Q. And did the duration of the calls always match exactly?

A. No.

Q. Did they ever match?

A. Most of the time, they were pretty similar.

Q. Why were they dissimilar?

A. Because each of these systems begins counting time at

John Kane - Cross

different points in the call.

Q. And that -- would that account for the difference in the times of the computers?

A. No. The times in the computers were different because the human who set the time when they typed it in set the time off

human who see the time when they typed it in see the time off
of their watch, or whatever, and they didn't coordinate the
times between any of these devices.

Q. Okay. So you looked at the ports and something else in
order to match these?

A. We looked at the date first, obtained all the calls from
that date. Then we looked for calls on certain ports based on
the OPUS port number.

Q. Now, when you were told to check certain calls, those were
from the Bridges account. Is that correct?

A. That's correct.

Q. The Daryl Bridges account?

A. Uh-huh.

Q. And how did you discover what numbers were usually called?

I believe you said on direct examination --

A. What numbers were usually called?

Q. Uh-huh.

A. I don't recall saying --

Q. It's my understanding -- and I haven't been in the
industry

as you have -- you looked at numbers that had previously been
called by the Bridges account.

John Kane - Cross

A. No. What we looked at was all of the telephone numbers
that had ever been called by any of the Spotlight users.

Q. And then from there you reduced that down to the Daryl

Bridges account?

A. No. First we started with obtaining the Daryl Bridges account information based on the one call that we were -- that we matched to the -- as a result of the call we matched to the Dreamland Motel. We obtained the Daryl Bridges account code and obtained those records.

We subsequently obtained all of the Spotlight records.

Q. For all of the Spotlight callers?

A. For all the Spotlight callers.

Q. Okay. Do you recall appearing on "Nightline" or "Dateline" -- "Dateline" on August 11 and saying that this was like finding a needle in a haystack?

A. Yes.

Q. And do you still agree with that at this point?

A. Yes.

THE COURT: What's like finding a needle in a haystack?

THE WITNESS: Well, we had 2 1/2 billion calls. We were looking for 686. I thought that was the relationship.

BY MS. RAMSEY:

Q. Is it correct and would you agree that the matched calls for the non-Los-Angeles-switched calls were more difficult than

John Kane - Cross

the LA switch?

A. Yes.

Q. And would you agree that in some instances the timing on the OPUS computers were incorrect?

A. Incorrect in what regard?

Q. Not synchronized?

A. Not synchronized doesn't mean they're incorrect.

Q. All right. You would agree they weren't synchronized?

A. Yes.

Q. And because of that timing that it was -- this OPUS was not

designed to trace these calls from beginning to end. Is that correct?

A. It had nothing to do with the time. It had to do with the

fact that the information wasn't available to OPUS. They didn't have the originating telephone number.

Q. Has the system been changed now so that OPUS does have that

information?

A. I don't know. It was not changed at the time I was involved with the system.

Q. Are you involved with the system today?

A. No, I'm not.

Q. Not at all?

A. Other than for this trial.

Q. You are no longer employed with this company; is that correct?

John Kane - Cross

A. That's correct.

Q. This is the business that you sold?

A. Well, I sold it to WCT. I became an employee of WCT. Then

WCT sold its company to another company. And I left the company when it was sold.

Q. Okay. Now, you were asked on direct examination with regard to the phone calls to the Spotlight office, so to speak, with problems?

A. I'm sorry. I didn't understand.

Q. You were asked on direct examination about problems with the Spotlight card.

A. Problems with the Spotlight card?

Q. Uh-huh. When someone would call and say, Something is wrong with my card.

A. Yes.

Q. Were you ever involved in any of that?

A. Not personally.

Q. Okay. And would you -- do you know that if there was a problem with the card as far as someone else using that card, would that also be the number that was called?

A. The 800 -- the customer service number?

Q. Yes.

A. That's the only number the customer had, yes.

Q. Are you aware of -- since you've been in the telephone industry so long -- what they call "freaking"?

John Kane - Cross

A. Sure.

Q. What is that?

A. That's in some cases also referred to as "hacking," where people will illegally enter different people's computer systems

to either -- either for the joy of doing it, or for criminal purpose, stealing time.

Q. Is it pretty common?

A. Yes, it is, actually.

Q. It's a large loss to your industry; is that correct?

A. Yes, it is generally.

Q. Do you know from the Spotlight calling card, is it illegal to -- for two or more people to have the same PIN number?

A. Not illegal.

Q. Is it sometimes usual for other than one person to have the calling card PIN number?

A. It's not unusual, no.

Q. What is "shoulder surfing"?

A. "Shoulder surfing" is when someone will stand near a bank of pay phones, look over the person's shoulder, and write down the numbers that the person is dialing.

Q. And that -- would that be in the same category with freaking as far as losses are concerned?

A. Same general concept but different methodology.

Q. Is that also something that is common?

A. Yes, it is.

John Kane - Cross

Q. Who kept the 3910 records?

A. Who kept them?

Q. Uh-huh.

A. WCT.

Q. So that was part -- the 3911 and 3910 are both WCT records?

A. Well, WCT kept all the records because all of these things were part of WCT's overall business.

Q. And did you retrieve those records in the same manner or fashion that you have testified with regard to the 3911 records?

A. No. The 3910's were retrieved in a different method, which

I think I explained before.

Q. And I don't recall what that was.

A. What we did was we went -- took all of the telephone numbers that any Spotlight user had ever called and created a database from those telephone numbers. Then we took that database of telephone -- dialed telephone numbers and we compared it against the 3910 file, a very, very large 3910 file; and from that large 3910 file, we carved out those records which matched the numbers that had ever been called by any Spotlight user with the exception of the one record that we

talked about separately.

Q. Is this when you conducted the second query, or is that earlier?

A. I don't understand the question.

John Kane - Cross

Q. Well, I believe at first you said that you conducted just a

general query about Spotlight callers and then you did a second

query with regard to Daryl Bridges?

A. We did -- well, that doesn't really have anything to do with the 3910.

Q. What does it have to do with?

A. All right. We initially found a call from the Dreamland Motel to the 800 number which let us identify the Daryl Bridges

account as having made that call. We subsequently were requested to provide all of the telephone calls to the 800 number for the Spotlight calling program as well.

Q. And when did you notice -- or I believe you testified on direct as well as cross that you noticed this problem with regard to the starting or restarting when you went back through

these records. Did you check to see how long that had been a problem?

A. The records-being-discarded-by-the-system problem?

Q. Yes. Uh-huh.

A. I found out based on the investigation that we ran. that

A. I found out based on the investigation that we ran, that had been changed in the system, I believe, many months before; so it had been there for quite some time.

Q. Now, I want to turn your attention to Exhibit No. 517 and to No. -- Page No. 44. I believe that's the call that we've been discussing -- that you discussed earlier.

A. Yes.

John Kane - Cross

MS. RAMSEY: All right.

Your Honor, may I publish that?

THE COURT: Yes.

BY MS. RAMSEY:

Q. Now, you testified on direct examination -- and I wrote down what you said -- that you had spent quite a bit of time with regard to trying to trace this call. Is that correct?

A. Yes.

Q. How much time would you say that you had spent trying to trace this call -- or would you call it trace?

A. We were trying to find the subscriber in the Spotlight system for quite some time, yes.

Q. How many -- how long had you been trying to find that?

A. I think -- well, that was after we had this record is when we began looking for that. And we probably spent four or five hours on that -- on that issue and then several hours in a telephone conference call with Jay Gainsboro and some of his software engineers.

Q. When did you retrieve this CDR record? Do you know?

A. I believe this one was retrieved on the 21st of April.

Q. That is the date that is in the upper left-hand corner?

A. Yes.

Q. 4-21-95?

A. Yes.

Q. Did you look at this record when you retrieved it on

John Kane - Cross

April 21 of 1995?

A. Yes.

Q. Did it have any significance to you necessarily at that time?

A. Yes, it did.

Q. Okay. And what is the phone number that you looked at and pointed out on this exhibit that shows you it is a -- or where it would generally be that this is a Bridges call?

A. Up in the top of the -- actually, I can point to it here.

There is a 3910 -- is the trunk group that the -- that

the switch received the call, that the call came in on from the

switch and further came in on port No. 21468, which is right next to the trunk group.

Q. So you can tell that a call came into the 800 number; is that correct?

A. No, I could tell a call came in from the debit card system

on this record.

Q. Into the OPUS --

A. Into WCT. This is coming from OPUS into WCT.

Q. And that would be the 3910?

A. That's correct.

Q. Okay. But you cannot tell who made that call?

A. No, I can't.

Q. And what PIN number was used?

A. No, I can't. Not from this record.

John Kane - Cross

Q. Have you ever found any record that shows the PIN number?

A. For this particular call?

Q. Yes.

A. No.

Q. And did you check to see what number 800-927-9738 belonged to? That would be the bill number.

A. Yeah. That's an internal billing number. That has nothing

to do with the numbers that were dialed for the call.

Q. I understand that, but did you try to determine who held that number?

A. No.

Q. Can you tell in your investigation and trying to retrieve these -- the information with regard to this call -- were you told -- or I'm sorry. Let me back up before I ask that

could be I'm sorry. Let me back up before I ask that question.

What time was this call made according to your records?

A. This call was made at 7:53:57 West Coast time at the top.

Q. A.M.?

A. Yes. It's military time.

Q. And so that would be West Coast time, you said?

A. Yes.

Q. Were you ever told in your investigation with regard to this case that the person receiving the call, Vicki Beemer, said it came in between 10:30 and 11:00 a.m.?

John Kane - Cross

A. No.

MR. GOELMAN: Objection, your Honor.

THE COURT: Why?

MR. GOELMAN: There is no good-faith basis to think that he would know that.

THE COURT: Well, there is a good-faith basis for the question.

MR. GOELMAN: Yes, your Honor.

THE COURT: Overruled.

BY MS. RAMSEY:

Q. You may answer the question.

A. No.

Q. So in other words, what you're telling us is that you don't

know on any of these calls that you matched who placed the call

or who received the call?

A. I did not know at the time, no.

Q. I mean on any calls, physically who called and who received

the call?

A. No. Who answered the phone, you mean?

Q. Right.

A. No. I know the person potentially who owned the telephone,

but that's all.

Q. You don't know who actually placed the call, do you?

A. No.

Q. And it could be anyone who had the PIN number for the Daryl

John Kane - Cross

Bridges account.

A. That's correct.

Q. Legally or illegally; correct?

A. That's correct.

Q. It could have been Daryl Bridges or anyone else; is that correct?

A. Yes.

Q. And you don't have any idea who received any of these calls, do you?

A. No.

Q. And do you have any idea what their conversations were with

regard to these telephone calls?

A. No.

MS. RAMSEY: No further questions, your Honor.

THE COURT: Any redirect?

MR. GOELMAN: Yes, your Honor.

REDIRECT EXAMINATION

BY MR. GOELMAN:

Q. On cross-examination, you talked a bit about a process that

you described as tedious or difficult.

A. Yes.

Q. And you were talking about a particular kind of matching process. Is that right?

A. Yes.

Q. In preparation for the records that you provided to the

John Kane - Redirect

Government that you've already identified have been introduced into evidence, what exactly did you -- did you have to go through a matching process in order to retrieve those records?

A. Went through a matching to see -- to make sure that we had obtained all of the records that related to the request.

Q. Is that the same process that you described on cross-examination?

A. I believe so.

Q. You were asked questions about the call on 4-14 and the missing record from OPUS Telecom.

A. Yes.

Q. Did you do research into this particular process that OPUS computers did?

A. Yes.

Q. And do you know what time of the day the OPUS system would do the restart and purge its memory?

A. It was three times a day, and I believe it began -- it was

8 -- 8:00 and then -- in the morning and did it midnight and once at 4 in the afternoon, I believe. I'm not sure.

Q. On cross-examination you were asked if 34 out of 209 would be an average record -- number of records for mistakes in WCT's

records, I believe.

A. I'm --

Q. You were given the proportion of 34 out of 209. Do you remember that proportion?

John Kane - Redirect

A. Yes.

Q. Do you have any idea about mistakes in WCT records and what

proportion they would be to the mass of WCT records?

A. It would have to be a relatively small percentage. I have no idea what it would be, though.

Q. Is there anything about the way the debit card system worked, Mr. Kane, that would make it difficult to connect international phone calls?

A. Actually, one of the costs associated with providing the service is the costs for 800 service that we would pay; and if a subscriber would dial into the prepaid calling platform and not complete a call within, I believe, it was 72 seconds, we would disconnect the caller to try to save some costs, assuming that they had no ability to get through.

Q. And did you receive some complaints from debit card customers about this particular feature?

A. Yes, we would occasionally.

Q. You answered some questions on cross-examination about plus or minus 4-minute time windows and what relevance a particular phone call's time had to the reconstruction process.

A. Yes.

Q. And I think you answered a question from his Honor that you didn't -- you did not use the time of the phone call when you were matching records. Is that right?

A. Not specifically, no.

John Kane - Redirect

Q. Were you nevertheless able to conduct this matching process?

A. Yes.

Q. And do you have a basic understanding of the process that the Government used to do its own reconstruction?

A. Yes, I do.

Q. And do you know whether or not time was a factor that the Government used in its process?

A. I believe they did.

Q. And have you reviewed the basic methodology that the Government used to construct its summary?

A. Yes.

Q. And what is your opinion about the validity of that methodology?

A. I think it's -- it's pretty good.

Q. Pretty good?

A. Well, it's a very complex -- it's a very complex methodology, but they went through a lot of research into the records to obtain --

THE COURT: I suggest we wait for the proper witness on this.

MR. GOELMAN: Yes, your Honor.

BY MR. GOELMAN:

Q. Do you know why the duration field might be slightly different in the different WCT and OPUS records?

John Kane - Redirect

A. Each of the systems creates its own independent record, so

it -- the systems count time based on what their each individual billing piece of the call would include.

Q. Can you explain that a little bit further? Why would the duration be different?

A. Well, the duration in the 3911 record is going to be longer

than the duration of the OPUS record, because the duration of the OPUS record -- it only takes into account the duration from

the time OPUS begins to try to make the outbound call. And the

record -- the 3910 record will have a different duration,

probably shorter, because it will only have a duration from the

time the OPUS transaction begins till the OPUS transaction ends

for that particular call; so 3911 is always going to be longer

in duration than the 3910 or the OPUS record, because there is

processing time that's not billed for and not tracked that way.

Q. Mr. Kane, you were also asked some questions about security

issues on cross-examination: hacking, freaking, shoulder

surfing. You're familiar with all those terms?

A. Yes, I am.

Q. Is that something that everybody in the telecommunications industry has to face?

A. It's part of the industry, yes.

Q. And do you know if the debit card platform that you designed had any precautions designed to make it harder to commit that kind of fraud?

John Kane - Redirect

A. Yeah. There were some features in the system that allowed that if you did not put the correct PIN number in within three attempts, the system would disconnect you, so you'd have to dial back into the 800 number and try three more times again to get a valid PIN number. If you didn't, it would disconnect again.

Q. Is hacking, freaking -- are they big problems in the debit card part of the industry as compared to the credit card, calling, or other kinds of phone billing?

A. Actually, they're significantly less of a problem in the prepaid calling environment. The prepaid calling cards have a fixed number of dollars associated with them and generally small amounts, 20, 50, \$100.

A hacker would prefer to spend his time trying to steal a calling card number, where he may be able to get 5- or 600 or 5- or \$6,000 worth of activity before he's discovered. He would just literally run out of money, so -- on the calling card -- on the debit card, if he hacked a debit card number.

Q. Mr. Kane, I'm going to ask you to turn back one more time to page 44 of Government's Exhibit 517. Now, just for the record, can you read when this call began according to this 3910?

A. 7:53:57.

Q. And does that mean that's the time that the caller actually

picked up the pay phone, or whatever phone it was?

John Kane - Redirect

A. This is -- the time point at which this transaction began here for the OPUS system -- began to try to make a telephone call through the WCT switch.

Q. Okay. I believe that you talked about this phone call starting at an earlier time on direct examination. You indicated it was 7:53 and 33 seconds, I believe.

A. Well, that would -- that call was this call on this side, on the 3911, which is on page 43 of the record. That one began at 7:53:33.

Q. So the times reference different points in the process that the phone call takes before it actually goes through?

A. Yes.

Q. Finally, Mr. Kane, do you see the number that you were asked about on cross-examination, 800-927-9738?

A. Yes.

Q. I believe Ms. Ramsey asked you whose account number that was or who that was billed to?

A. Yes.

Q. Can you explain a little bit? Is that number a Spotlight customer other than Daryl Bridges?

A. No. That's an internal billing code number that WCT uses for other purposes, for keeping track of time in the network

and whatnot.

Q. Does it have any relevance at all to determining which particular Spotlight card was used to make this particular

John Kane - Redirect

phone call?

A. No, it has nothing at all to do with it.

MR. GOELMAN: One moment, your Honor.

Nothing further, your Honor.

THE COURT: Just on this page 24 again, that time 7:53:57 would be the time according to the particular computer.

THE WITNESS: Yes.

THE COURT: Okay.

THE WITNESS: The same computer as the page before.

THE COURT: Yes. But whether the computer's time corresponds to the actual time that somebody initiated the call, we don't know.

THE WITNESS: We don't.

THE COURT: Okay.

MR. GOELMAN: Thank you, your Honor.

MS. RAMSEY: I just have a couple of questions.

THE COURT: All right.

RE-CROSS-EXAMINATION

BY MS. RAMSEY:

Q. Is the 7:53:57 network time?

A. 7:53:57 is the time that the WCT switch recorded this call

West Coast time.

Q. And would you agree with the statement that the exact time information is normally not a critical issue in the day-to-day operations of the debit card system?

John Kane - Recross

A. Yes, I would.

Q. Okay. When you were just questioned by Mr. Goelman, you said that the -- this was a very complex methodology and that the 3911 is always longer.

A. Than the OPUS record.

Q. Yes.

A. Yes.

Q. Is that a consistent time that is longer?

A. Not necessarily.

Q. So when you're matching these numbers with ports and all the things that you do, you do not -- you have to make some decisions as to which number to pick; is that correct?

A. You could, if you had gotten to that level. But we never ran into that.

Q. You would agree that there are errors in the system?

A. Errors in the system?

Q. 3911, 3910, and OPUS.

A. I don't understand what you mean by "errors."

Q. Any kind of errors, such as the restarting error or dropping of PIN numbers. There are errors in this system. Is

that correct?

A. I don't think that the dropping of the -- I don't know what

you mean by dropping of PIN numbers. But the records that were

discarded by the system were actually discarded by design -- bad design, but by design.

John Kane - Recross

Q. You wouldn't consider that an error?

A. But not with the records.

Q. Well, if you're OPUS and you're billing on those records and they're being discarded so OPUS is losing money on those calls, wouldn't you say that was an error?

A. No. I'd say it was a design problem. We shouldn't have designed it to work that way.

Q. All right. Is there an error in the design of the system, then?

A. Absolutely.

Q. All right.

MS. RAMSEY: Thank you.

MR. GOELMAN: No questions, your Honor.

THE COURT: Are you going to have him back?

MS. RAMSEY: I could say I hope not, your Honor.

THE COURT: Are you excusing this witness?

MR. GOELMAN: Yes, your Honor.

MS. RAMSEY: Yes, your Honor.

THE COURT: All right. You are excused. Thank you.

We'll recess a little bit early, since we don't really have time to get started with another witness at this point; so, members of the jury, once again, of course you're excused to go your individual and separate ways.

Well, they don't have to be separate ways. They can be your own choice; but, of course, continue to follow the cautions that are regularly given and you get tired of hearing.

But you know I have to say on the record that you've got to continue to be very careful, avoiding anything that may appear in any publications or telecasts, broadcasts of any kind relating to any of the issues that are before you in this trial. And, of course, do not discuss the case or anything about it with any other persons, including other jurors.

You're excused till 9:00 tomorrow morning.

(Jury out at 4:58 p.m.)

THE COURT: I have these briefs that have been submitted in connection with this record material, but I think it's really premature to discuss that until we get the -- actually, the way in which the Government's program was put together, the things that he started on and I sort of cut off here. But until we have that methodology in testimony, I don't think that it's meaningful to discuss the issue.

And of course, with respect to this question of what comes within the business records exception to hearsay depends upon what it is that the exhibits offer. I mean, I don't expect the exhibit to be offered to identify the callers or

the

recipients of the call, assuming that it's going to be for purposes of how these circuits came together and what was recorded here by these different computers in generating the data that will then be reflected in a summary exhibit.

Again, it depends on how it's offered; so I think it's

premature for us to follow through with an oral argument in the

morning.

Do you see it the same way?

MR. MACKEY: Yes, I do, your Honor.

MS. RAMSEY: We would agree with that, your Honor.

THE COURT: All right. So we'll see where we are and

at what point we need to discuss the law on that; but again, I think it depends a great deal on what it's offered for.

MR. MACKEY: Judge, just in the way of orientation, our order of proof contemplates we'll call a series of telephone business custodians from about 27 different companies

solely for the purpose of putting into evidence business records from those companies that Mr. Dexter --

THE COURT: Showing subscriber numbers.

MR. MACKEY: Precisely.

THE COURT: I mean subscribers to telephone numbers.

MR. MACKEY: That's right. The name information that

Mr. Kane's records did not have.

THE COURT: All right. And then you're going to have

somebody who put it together with -- and describe the

...and describe the

methodology by which the proposed exhibits were created.

MR. MACKEY: In as much detail as the Court would like

to hear, yes.

THE COURT: Well, I think it's in as much detail as necessary to determine whether it's admissible, obviously.

MR. MACKEY: Understood.

MS. RAMSEY: We understand, your Honor.

MR. MACKEY: Looking ahead, the ultimate exhibit that

the Government would offer into evidence is Exhibit 554, which is, to answer the Court's question, offered solely to reconstruct the activity, the phone activity on the Daryl Bridges account for the period defined by the conspiracy only.

THE COURT: Yes. And then you necessarily have to rely on other evidence to attempt to show or to create an inference as to who the caller was.

MR. MACKEY: Some of that has already been presented in the course of this case.

THE COURT: Yeah. But the exhibit is not going to attempt to reflect that, and neither is the witness who is presenting the exhibit.

MR. MACKEY: We, in fact, have had conversations with the defense about designing the summary in such a way that it would be neutral in that fashion. That --

THE COURT: How did you get along with that?

MR. MACKEY: It took more than one meeting, Judge.

THE COURT: What's the number of the exhibit?

MR. MACKEY: 554 is the summary that Mr. Dexter would identify as the work product.

THE COURT: Well, I might peek ahead at 554.

MS. RAMSEY: Last page of the book, your Honor.

THE COURT: Okay.

MR. JONES: Your Honor, I think also in the brief, and while the Court is peeking ahead, the Tenth Circuit McIntyre case --

THE COURT: Yes. You've mentioned that in the briefs, and I'm aware of that case.

Okay. So we'll recess till 9:00 in the morning.

MS. RAMSEY: We do not need to be here at 8?

THE COURT: That's right. I don't think there is any point in talking about the law until we know what the exhibit methodology was.

MR. MACKEY: May I take up one other logistical matter just to give the Court an idea of how we plan to present the next series of witnesses?

THE COURT: Yes.

MR. MACKEY: These 27 witnesses really will be working from two exhibits, Exhibit 520 and Exhibit 521; and what we've done to expedite their presentation is to put together a group exhibit; so 520 is a compilation of all of those business records from those companies. And what we've done in the way of presenting those witnesses is simply asked them before they

come to the stand to review certain pages. And each are numbered in the exhibit, and they can, having been prepped, say, Those are the business records of my company. So we'll offer those individual pages based on the foundation laid by each individual witness but not offer the entire exhibit until and unless we have satisfied the Court we've done so.

THE COURT: I understand.

That's agreeable to you, isn't it?

MS. RAMSEY: Yes.

THE COURT: Okay. And we'll get a conveyor belt out there.

MR. MACKEY: Two notebooks, Judge.

THE COURT: All right.

MR. MACKEY: Thank you, your Honor.

THE COURT: Recess, 9:00.

(Recess at 5:05 p.m.)

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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 6th day of May, 1997.

Paul Zuckerman

Bonnie Carpenter