

Thursday, May 8, 1997 (morning)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 96-CR-68

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TIMOTHY JAMES McVEIGH,

Defendant.

REPORTER'S TRANSCRIPT
(Trial to Jury - Volume 85)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 9:00 a.m., on the 8th day of May, 1997,
in Courtroom C-204, United States Courthouse, Denver, Colorado.

Proceeding Recorded by Mechanical Stenography, Transcription
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APPEARANCES

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appearing for Defendant McVeigh.

* * * * *

PROCEEDINGS

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

THE COURT: Please be seated.

Good morning. Are we ready for the jury?

MR. HARTZLER: Yes, we are.

MR. NIGH: Yes, your Honor.

THE COURT: All right.

(Jury in at 9:00 a.m.)

THE COURT: Members of the jury, good morning. You'll recall that when we recessed yesterday afternoon, Ms. Ramsey was just beginning her cross-examination of Mr. Dexter.

So proceed with that, Ms. Ramsey.

MS. RAMSEY: Thank you, your Honor.

(Frederick Dexter was recalled to the stand.)

CROSS-EXAMINATION CONTINUED

BY MS. RAMSEY:

Q. Good morning, Mr. Dexter.

A. Good morning.

Q. I even wrote down my next question for you yesterday so I wouldn't lose my train of thought.

How -- or have you ever worked with other companies whose records are like WCT?

A. When you say "like," as in a debit card?

Q. Well, or as in the 3910, 3911, OPUS.

A. No.

Q. Okay.

A. That's debit-card type of information.

Q. And that is unique to a debit card as opposed to just making a phone call; is that correct?

A. Yes.

Q. All right. Did you just have one meeting with the people at WCT?

A. One time, I met with them in -- in California, and then there were numerous phone calls where I talked to them and then

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I -- I'm trying to remember. I met Mr. Kane once more either in Oklahoma or here in Denver to discuss the technical things.

Q. And how many hours had you spent with Mr. Kane on that other occasion?

A. When I say the other occasion, that is -- I saw him on -- I want to add one thing. I saw him pretrial. He's been in and out, so I saw him here, but that wasn't to do with the technical nature of things.

Q. Okay.

A. I would say probably three or four hours.

Q. Was he at the first meeting at WCT at their offices?

A. Yes, he was.

Q. And I believe you said that was about eight hours?

A. Ten-hour meeting.

Q. Ten hours. All right. And then you met with him about four hours, I believe you just said?

A. And a lot of phone calls.

Q. And a lot of phone calls back and forth. And did he assist you in doing anything other than providing the data to you that have been submitted into evidence?

A. He explained totally how the system worked out there. The port matrix, the clocks, all of those things. The technical things that we would have to do, in fact, to match those was provided by WCT.

Q. Have you done any research with regard to other debit cards

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other than the Spotlight calling card?

A. No, I have not.

Q. So you are not aware of whether or not the records of WCT are consistent with other businesses that have debit cards?

A. No, I'm not.

Q. Okay. Now, I believe you said yesterday that you were assigned to this case in the latter part of May; isn't that correct?

A. I was assigned to this case --

Q. I'm sorry.

A. -- on May -- April 25.

Q. Latter part of April.

A. Correct.

Q. And you met with the WCT people in June?

A. Correct.

Q. Is that correct?

And do you recall what day Timothy McVeigh was arrested?

A. No, I do not.

Q. Was it prior to your being assigned to this case?

A. Prior to me getting to Oklahoma, yes.

Q. Okay. And do you recall when Terry Nichols was arrested?

A. No, I do not.

Q. Was it prior to your being -- was it prior to you going to Oklahoma?

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A. I do not know that.

Q. Okay. Are you aware that the Spotlight calling card information with regard to Daryl Bridges was found at Terry Nichols' residence?

A. I -- you said that yesterday; but before that, I was not aware of where it was found.

Q. Okay. And all of this was prior to your first conversation with WCT on June the 1st; is that correct?

A. All of those things transpired, yes.

Q. And you were aware of those; is that correct?

A. I was not aware of where the debit card -- I was aware they were arrested, yes, before I went to WCT.

Q. And when would you say that you actually began comparing information that you had received from WCT with regard to the Spotlight calling card?

A. The electronic, we actually in California set down with them and compared some records. We took a laptop computer and dealt with the electronic files out there so that we understood the process. And from that day forward, we started doing initial work and then later on the comparisons and the matchings.

Q. And that was on June the 1st; correct?

A. I believe -- I traveled on the 1st and was there on the 2d.

I'm not sure if -- it's one of those two days

I'm not sure it -- it's one of those two days.

Q. All right. And what was your goal with regard to the

Frederick Dexter - Cross

records that you received at WCT?

A. The -- the goal that we had was to find the originating phone number that attached to each one of the OPUS records since each one of the OPUS records had basically all of the information that was needed to make a legitimate phone call, if you will, the "from," the "to," the date, duration. The OPUS record had all of that. The only thing it did not have was the originating number.

Q. And your goal was to find this originating number in order to attempt to piece together the case against Timothy McVeigh and Terry Nichols; isn't that correct?

A. No. My goal was to take the information on the Bridges card as I was assigned and match that and then what -- however that assisted in the investigation, that was what -- I was not assigned to do it against any particular person.

Q. I understand that, but it was in the case of the United States versus Timothy McVeigh and Terry Nichols; correct?

A. That is correct.

Q. All right. Now, did you testify yesterday that you had to get rid of some of the duplicate 3911 records before you could begin the work with the data?

A. We didn't get rid of them. They are still on the disks and everything. It's just that we ran a program to see which records were, in fact, duplicates, and we just didn't use them in the process.

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Q. So they were discarded in computer language, so to speak?

A. We just didn't use them. We didn't discard anything.

Q. All right. And was that an error that was created in the 3911 files by having that duplicate?

A. No. It's just when they pulled the information out of their billing records, they went back and did it twice for -- and they overlapped a period of time; so for that period of time that was overlapped, they pulled the same records twice.

Q. And was that something that WCT did or something that you did when you were pulling the records?

A. WCT pulled the records. It was them.

Q. You didn't actually pull any records, did you?

A. No, we did not.

Q. All right. When you were doing your work on this, you came up with a methodology that has been admitted, I believe, as Government's Exhibit 551.

A. I would have to look at the number.

Q. Do you have the exhibits there with you?

A. Yes.

Q. It's not a notebook. Let me rephrase that question. Do you recall preparing a methodology for producing the Bridges summary that you provided --

A. Yes. Yes, I do.
Q. -- to the Government?
A. Yes.

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Q. In that summary, do you have that when you identify all of the phone numbers that you compare the beginning time with the plus or minus two-minute error or two-minute time difference?

A. Yes.

Q. And would that equal then an actual four-minute time difference as possibly fitting into your summary?

A. No. It would never be more than two minutes. It was either two minutes before the L.A. switch or two minutes afterward, so it could never be more than two minutes.

Q. All right. If you have two minutes before and two minutes after, wouldn't that be a possibility of four minutes?

A. It -- yes. I mean, there's a four-minute gap.

Q. Right.

A. But it's never more than two minutes away from the L.A. switch.

Q. I understand that. Do you recall telling Mr. McVeigh's attorneys in August of 1996 that that was a plus or minus four-minute window?

A. I told them that when -- at that time, when we ran those -- that for records that we did not hit within two minutes, we expanded it to four to check for the matches; correct.

Q. Okay. Did you know that Mr. Kane said that he uses the port matrix to match all of his calls?

A. No. I'm not aware of that.

Q. Okay. In your work with him on June the 2d of ten hours

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and your four hours later here in Denver, he did not tell you that he used the port matrix to match all of his calls?

A. I mean, we discussed the methodology, etc. And he uses that to match all of his calls through the L.A. switch. But in the billing records, he does not have a port in his 3911, so I don't know how he could do that.

Q. Okay. You only use the port matrix in the L.A. switch; isn't that correct?

A. Or the 3911-OPUS match.

Q. Right.

A. For the non-L.A. switch, you still use the port matrix for the 3910.

Q. Right. Okay. So if Kane used the port matrix to match all of the calls, that's probably not possible; isn't that correct?

MR. MACKEY: Objection, your Honor.

THE COURT: What's the objection?

MR. MACKEY: Calling on this witness to testify about other testimony presented.

THE COURT: Overruled.

THE WITNESS: Would you repeat the question, please.

BY MS. RAMSEY:

Q. If Mr. Kane said that he used the port matrix to match all of the calls, that's not possible, is it?

A. As far as I'm concerned, it's not.

Q. All right. Now, when did you actually prepare the Daryl

Frederick Dexter - Cross

Bridges summary?

A. We prepared the first version that was given to the defense the beginning of January of '96, I believe it was.

Q. Prior to --

A. Continued to work on it before that and had iterations that were corrected and modified based on subscribers being added, etc., as the subpoenaed records came in.

Q. And are you aware -- I believe you testified on direct that the Oklahoma State Bureau of Investigation had previously prepared an OSBI time line, what they call an OSBI time line.

A. I'm aware of that, but I have not testified to that.

Q. I thought you said yesterday you were aware one of them had been prepared.

A. No. Nobody asked me.

Q. All right. Are you aware whether the names of the places that were called and the names of the places that were called from are listed on that OSBI time line?

A. Yes, I'm aware of that.

Q. And did you have the OSBI time line prior to your beginning work on the summary that you prepared?

A. No, I did not.

Q. Did you use it at some time in preparing -- or did you use it at some time prior to your preparing the Bridges summary which you said you gave the defense the first copy on -- in January of 1996?

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A. I did not.

Q. Have you ever used that for any purpose?

A. I did not use it. I compared it.

Q. Okay. Looked at it?

A. Once -- in the last six weeks to compare it to it so that I could see if there were differences between the two, but I did not use it at all in -- in preparation of the summary.

Q. Do you recall when that OSBI time line was prepared?

A. There were numerous ones that were prepared. I was told the one that I used to do the comparison was May 19.

Q. Of 1995?

A. Correct.

Q. All right. Now, you prepared a Bridges summary, so to speak, on January the 16th of 1996; is that correct?

A. Correct.

Q. And that was provided to the defense; correct?

A. Correct.

Q. And there was also another version that was given to the

defense on August the 16th, 1996; is that correct?

A. It was August something, yes.

Q. And was there another version given to the defense on December the 12th of 1996?

A. Correct.

Q. And was there another version given to the defense on April the 21st of 1997?

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A. I believe so.

Q. And in that final version that was given or in the last version of April the 21st, there was a phone call that was missed; isn't that correct?

A. I'm sorry?

Q. There was a phone call that had been previously missed?

A. That is correct.

Q. Wasn't that a phone call to Lana Padilla or Padilla, however you pronounce that?

A. Yes.

Q. All right. And are you still working on that summary?

A. No, I'm not.

Q. Okay. Your summary was not prepared in the regular course of your business, was it?

A. I don't understand the question.

Q. Well, you said you'd never done this for a debit card previously; is that correct?

A. My course of business is to support every field office in any major investigation. During the last two years, I've supported probably eight or ten field offices in major investigations. So doing this particular job was in the normal course of my business, yes.

Q. But it was the first time you'd ever done it?

A. A debit card, yes.

Q. All right. Now, when you testified yesterday, you talked

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about preparing certain programs or certain queries in order to come up with the information you needed in order to prepare your summary; correct?

A. Correct.

Q. And I -- I believe you said algorithms?

A. That's one of the -- buzzwords, yes.

Q. What's an algorithm?

A. It's a formula that's used -- the example that I used yesterday was to -- you could say it was an algorithm or formula to calculate tic time to the clock time. I mean, there's many, many of those that get used. You could say that doing plus or minus two minutes is an algorithm.

Q. Okay. And how many algorithms -- or let me withdraw that.

Do you prepare an algorithm?

A. It's -- it's -- it's put into the software. I mean, I don't know what you mean by "prepare" it.

Q. Well, is it something in this particular case -- do you

Q. Well, is it something in this particular case -- as you determine what the algorithm is going to be in order to prepare the software? This isn't something that you could go down to the corner store and purchase; correct?

A. Correct.

Q. So did you or someone at your direction prepare this algorithm in order to get the information that you needed from these disks?

A. Yes.

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Q. All right. And did the first algorithm work that you prepared?

A. Yeah. I mean it did what it was supposed to, yes.

Q. Okay. And then did you add other algorithms in order to further define the information that you needed?

A. We -- we wrote other programs to verify and validate the information, but the original methodology algorithms were not modified.

Q. Okay. How many algorithms or programs did you write in order to obtain the information that you needed in order to make your summary?

A. I don't know. There were -- there were lots. Probably --

Q. Numerous?

A. Probably over two dozen.

Q. And is that typical?

A. Yes.

Q. And prior to putting together this summary, you had never gathered any records from OPUS or West Coast Telephone; isn't that correct?

A. That's correct.

Q. Looking at the summary that you prepared for calls that were placed on April the 11th of 1995, you state that there were two calls placed from the Imperial Motel, one at 2:49 and the other at 2:51. Do you recall that?

A. Can I look at --

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Q. Sure.

A. Okay.

Q. All right. Got it?

A. Uh-huh.

Q. Is that correct?

A. The question again, please.

Q. There were two calls that were placed from the Imperial Motel, one at 2:49 and one at 2:51; is that correct?

A. Correct. Correct.

Q. And then there was another call that was supposedly placed on April the 11th from the Food 4 Less pay phone in Kingman, Arizona, to the residence of Mike Fortier -- is that correct -- in Kingman?

A. Correct.

Q. Now, are those all the Bridges calls that were found or the

Bridges summary calls that were found on that day?

A. Yes.

Q. Are you aware that Special Agent Gray interviewed a Mr. and Mrs. Blakesley in Iowa regarding an alleged phone call from the Dreamland Motel to the Blakesley residence with that Bridges debit card on the evening of April the 11th?

A. No, I'm not.

Q. You never did find that in your records?

A. No, I did not.

Q. All right. Are you aware that Mr. and Mrs. Blakesley said

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that they did not receive such a call?

MR. MACKEY: Objection.

THE COURT: Sustained.

BY MS. RAMSEY:

Q. Did you review the phone records from Illinois Consolidated Communications with the records of the Grant Motel?

A. The subscriber data or the -- I --

Q. And the telephone call data.

A. I read so many of them that I can't, without a particular call for me to go back and review, recall the names of all of them.

Q. Okay. Do you recall finding that there were two long distance calls from the Grant Motel on December the 17th and December the 18th?

A. Can I look?

THE COURT: What exhibit are you using?

THE WITNESS: The summary. 554.

THE COURT: Well, I don't -- 55 --

THE WITNESS: '4.

THE COURT: All right.

MS. RAMSEY: It's been admitted, your Honor.

THE COURT: Yes, I know. But the record doesn't show what he's using.

MS. RAMSEY: I'm sorry.

THE WITNESS: I'm showing two calls from the Grant

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Motel on the 17th of December.

BY MS. RAMSEY:

Q. All right. And who are those to?

A. One is to David Paulsen, and the other one is a balance check.

Q. Okay. And in your analysis of the calls on December the 14th, did you discover that the calls were placed from the same town the same day using two Spotlight PIN number -- two different Spotlight PIN numbers? I'm sorry.

A. I'm sorry. I didn't --

Q. December 14.

A. Using two different Spotlight PIN numbers?

Q. Uh-huh. From two different accounts.

A. I have no knowledge of other PIN numbers of Spotlight. I only analyzed from the summary the Daryl Bridges PIN number.

Q. Did you ever, in your perusal of the records from WCT, look to see if there were any other Spotlight PIN numbers that were being used in this area of the country that you were dealing with?

A. I looked for particular time periods to see if Spotlight customers were making calls out of Kansas. Let's say that as an example.

Q. Okay.

A. For a particular time period, yes, I did do that.

Q. Did you find any of those such people?

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A. Yes, I did.

Q. Okay. And when you were dealing in -- and getting the first information with regard to this PIN number and the Bridges calling card, were you aware that there were more people or that there were phone calls made from different places that were across the country but about the same time with the Daryl Bridges card?

A. That there were other Spotlight customers in the same cities as the Daryl Bridges?

Q. No. Other people using the Daryl Bridges card at different locations at about the same time.

A. No.

Q. Never found that in any of your records?

A. I mean, I don't know who used the card. All I can do is match up the records, so I have no idea who was using the card.

Q. Okay. Do you know of any legal prohibition from copying the card?

A. You're out of my territory. No, I'm sorry.

Q. Is it unusual when using a debit card, if you know, by two different people?

A. Again, I have no knowledge of -- I mean, I have a calling card and I'm the only one that uses it, so that's the only thing I can tell you.

Q. All right. But it's not unusual to give it to your children or to your wife or someone like that, is it?

Frederick Dexter - Cross

A. I do not do that.

Q. Okay. Now, did your summary reflect all of the calls that were placed in the Bridges calling card, including all of the misdialled numbers?

A. There were four records that were -- of the original 687 that are not in the summary.

Q. Four records?

A. Correct. Four of the OPUS records are not included in the summary.

Q. Why not?

A. The test call on the 24th was not put in there since we know that it -- who had did it etc

KNOW THAT IT WHO HAD DID IT, ETC.

Q. Okay.

A. There were two partial calls that didn't fit the -- the software, if you will, since when we put it into the system, it looks at area codes or country codes; and since it was less than the number of digits, we did not put that -- those two calls in. And then there was one other call. It was -- I believe it was a balance check that there was no 3911 that we could find at all anyplace for it. So therefore, that was not included.

Q. And how did you find the call to Lana Padilla that you just put in the revised Bridges summary?

A. The WCT had told us back in 1995 regarding the rebooting of the system. At that time, they also told us that at the very

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instant that the system was rebooted, whatever record was being written at that time to the OPUS file was lost. It was only March of this year that they told us that they ran tests and they determined that all calls in progress at that time were lost. Once they told us that, then we went back and wrote another program to go in and find out whether -- during any reorigination process on the Daryl Bridges card, if there was another call that there would be no OPUS record, but in fact was included in that reorigination series; and we found a record that definitely, it was a 3910 that matched in the time frame and everything else.

Q. Why did you just ask about reorigination calls?

A. Well, the -- the other calls, you could not tell who, in fact -- on a reorigination call, you have an OPUS record that shows who the account number is to, so you know that everybody in that reorigination series is being billed to the same account. That's by definition of a reorigination. If you have a single call and it's not a reorigination, then you have no knowledge of -- by looking at one call by itself of who would have actually made that call.

Q. So the reason you only checked the reorigination is because you have no idea who the other calls were to because there was only one; is that correct?

A. There was only one call in the series; right.

Q. Okay. Were you aware of the problem at OPUS prior to

Frederick Dexter - Cross

compiling your first Bridges summary?

A. We -- we were told of that when we traveled to June -- in June in Santa Barbara. They explained to us that they had to take their computer down and up three times a day, yes.

Q. And did you understand that WCT was aware of that problem prior to getting into preparing the documents for this case?

A. I -- I know they were aware of it on June 1 or 2. They were aware of it at that time, yes.

Q. And did Mr. Kane tell you that they were not aware of it prior to April the 19th of 1995?

A. I don't recall if he told me when he was made aware of that.

Q. Do you know if WCT has done something to correct that problem?

A. No. All I know is that in the April calls, that was still in effect on all the records that we got on the disks. That was still there.

Q. Are you aware that on April the 14th of 1995, when that OPUS computer was doing its thing, that there were other call records that were destroyed?

A. Yes, I am.

Q. Okay. And how many of those were there or do you know?

A. I do know.

Q. How many?

A. And they were not destroyed. They were just never written

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to the file. I just want to make that point.

Q. Okay.

A. So they were not there and taken off the file. They were never written there. During the restart in the morning, there were three calls.

Q. When you -- when I say "destroyed," you're not saying they were destroyed. You're saying it was unusable information; is that correct?

A. No. I'm saying it was never written to the file, ever.

Q. Okay. And are you aware that on November the 1st of 1994, that there was approximately 23 percent of the records that were not written that day?

MR. MACKEY: Objection to the form of the question. Lack of foundation.

THE COURT: What is the foundation for that question?

MS. RAMSEY: He's dealing with OPUS and W --

THE COURT: You asked a question with a statement of fact in it. What's the basis for the statement of fact?

MS. RAMSEY: The basis is that these calls are not in the Bridges summary, and OPUS has it on the disks that they have provided to us.

THE COURT: All right.

BY MS. RAMSEY:

Q. Do you know?

A. I -- I don't think that's an accurate statement.

Frederick Dexter - Cross

Q. Okay. What do you think is an accurate statement about the records from WCT and OPUS on November the 1st?

A. In fact, we -- we ran programs for -- first, I would have to say we ran programs for every day that there was a Bridges call in it; so if there is a Bridges call on November 1, then I could tell you exactly how many calls were lost that day, because we -- for every day, we ran that from the time frame at 7, 2, and 10:00 at night, to see what calls.

Now, there are many OPUS records on the OPUS disk that do not relate to Spotlight because of the way that WCT had to pull their records. And we did not find on any day more than a half dozen records that were lost any time on any day that there was a Bridges call.

Let me explain. When they pulled their records, the 3911 file, they could go in and just pull Spotlight records, because it had the 800 number in there. So every record in the 3911 file is guaranteed to be a Spotlight record. Every record in the OPUS file that they gave to us is guaranteed to be a Spotlight customer, because there -- they know the account numbers for Spotlight customers and they just pulled those.

Q. Every Spotlight customer uses the same 800 number; isn't that correct?

A. That's related to the 3911, that's correct.

Q. Right. Go ahead.

A. In the 39 -- in the OPUS file, each person has their own

Frederick Dexter - Cross

account number, and there's a code in there that shows that that's a Spotlight debit card. OPUS also had many, many other debit cards that they serviced for WCT other than Spotlight. Over 50, I think, is what Mr. Kane said.

All right. In the 3910 file, they had -- let's call it a big bucket, if you will, or a big database; and every -- in that database, every 3910 record is in there that supports all of their debit customers. And what they had to do to give us the records was this: They went to their OPUS file for the Spotlight customers and pulled off all of the terminating numbers. So then they took that list of terminating numbers and went back to the 3910 and pulled all of the 3910 records that matched those terminating numbers.

Now, if a Spotlight customer called information in Denver, (303)555-1212, and a nonSpotlight debit customer for WCT also called that same information number, in the file they gave us for the 3910, we would have more than one call that went -- one 3910 record that went to information, because all of those calls from all of the other debit card customers other than Spotlight were also included in that 3910 file.

So if you just go to the 3910 file and try to match that back against OPUS, you will have many, many records in the 3910 that are not associated with Spotlight. That's why in our matching, we never started with 3910. We always either started with 3911, because they were all Spotlight, or we started with

Frederick Dexter - Cross

OPUS, because they were all Spotlight.

Q. And that's why you had to use the plus or minus 2 minutes or the plus or minus 4 minutes was to help you in that matching?

A. Well, the plus or minus 2 minutes was strictly for the clocks that OPUS had that were not in sync with the L.A.

switch

SWITCH.

Q. None of the clocks of any of these 3910, 3911, OPUS ports, any of these places, were synchronized, were they?

A. The 3910 and 3911 both came off the same clock --

Q. Right.

A. -- on the L.A. switch, so those two were always in sync.

Q. But nothing else was; isn't that correct?

A. That's correct.

Q. And the systems weren't designed to be in sync, were they? I mean, they were different systems, weren't they?

A. Yes.

Q. Owned by different people?

A. No. They were all owned by WCT.

Q. Why do you --

A. Other than the local phone companies at the ends.

Q. That's what I mean. These organizations were not all owned by the same people is why their clocks were not synchronized; isn't that correct?

A. The 3910, 3911, and OPUS are all WCT's.

Frederick Dexter - Cross

Q. I understand that. But all of the times that you were using from these businesses were not all owned by the same people; correct?

A. The local phone companies that I used were not the same company, no.

Q. And they had different clocks; correct?

A. Collect.

Q. And not all of those clocks are synchronized with 3910 and 3911; isn't that correct?

A. That's correct.

Q. Now, when you went back and found these calls on the days that there were calls made with the Bridges telephone calling card, did you write down how many calls each day were missed, or not there, or whatever you want to call it? You said there were half a dozen a day, you thought?

A. We wrote software to go in and look for calls that started before that time period and ended after that time period, is what we did.

Q. All right. And did you write those days down, or did that happen every day?

A. We ran it to -- the main reason we ran that was to confirm or deny what WCT had told us in March. It wasn't for statistical or finding out. We just wanted to make sure what they had -- the latest thing they told us was accurate.

Q. And what they told you was that this occurred three times a

Frederick Dexter - Cross

day; is that correct?

A. Correct.

Q. And you found out -- found out that that was correct by using this program that you're talking about?

A. Yeah. They had told us it was three times a day before

that. The new information was, in fact, that every call that was in progress was not written to the OPUS file. Prior to that, they told us it was only the call that was terminating at the instant that the system went down. That was a major difference.

Q. All right. And you've reviewed all of the raw records supplied in this case -- correct -- at one time or another?

A. Yes.

Q. And you are familiar with all of these numbers, aren't you?

A. Yes.

Q. To a certain extent?

Now, Government Exhibit 509, which is the 3911 records, are described as the phone activity for all Spotlight calling card customers for the period of December '93 through April of '95; isn't that correct?

A. That's the 3911, you said?

Q. Yes. Uh-huh.

A. Yes.

Q. And isn't it true that the OPUS records must have an origination record except for the reorigination calls; is that

Frederick Dexter - Cross

correct?

A. The OPUS records have -- yes.

Q. Okay. Except for the reorigination. And that's what you explained just a few minutes ago; right?

A. Right.

Q. Okay. And were you aware that the OPUS records were created during the period of February the 20th of '94 through March 31 of 1994?

Question doesn't make any sense, does it? Let me rephrase that. Are you aware of any problems with the OPUS records during February the 20th of '94 through March the 31st of '94?

A. The OPUS records?

Q. Uh-huh.

A. No.

Q. Okay. Now, Mr. Dexter, you have prepared these records and I believe submitted as Government's Exhibit -- let me back up and ask one more question. If I might have the ELMO on, please.

Would you look at page 168 of Government Exhibit 521, which would be the big -- one of the big binders that should be down to your left, I believe. Page 168 of 521. That should have already been introduced into evidence.

A. 168?

Q. 168. Have you found that page?

Frederick Dexter - Cross

A. Yes, I have.

Q. Could you please explain what the categories are at the top of the page where it says "toll, billing," what each one of

those categories are and what they mean to you in compiling this Bridges summary.

A. Compiling the --

Q. Or what the records mean.

A. Just a minute. I have to look and see whose phone records these are. It doesn't say.

Q. I believe they are WCT.

A. These are not --

Q. I'm sorry. Sprint.

A. These are not WCT --

Q. I believe they are Sprint records.

A. The -- this particular page would not have been used in any shape or form to compile the summary.

Q. Okay. Can you tell me, though, from being familiar with these records what each one of these columns means?

A. Yeah. In the -- in the most left-hand column is the date that a call was made. The next column is the carrier billing, if you will. There's nothing in there. It's all zeros.

Nothing we used.

Q. Okay. Does "toll" mean date?

A. Right below it, it says MM/DD/YY, which is toll date.

It's --

Frederick Dexter - Cross

Q. Okay.

A. There's a two-line heading there --

Q. All right.

A. -- to explain what that column is.

Q. Okay. And what's the next column, the billing column?

A. Yes. And that's all zeros.

Q. And what is the next column?

A. The next column is the number that was dialed. The "to number" that was dialed.

Q. So that would be the originating number?

A. No.

Q. That's the terminating number?

A. The terminating number.

Q. All right. And what's the next one?

A. The next one is a "from," which is, in fact, an originating number.

Q. All right. And what's the next category? What's the CAT? What does that mean?

A. It's some code. I -- I don't know what that means.

Q. All right okay. What is RTP -- I believe is the next category?

A. Actually, that's the same as the column above it. It says "CAT RTP," and below, it says "group." I'm assuming that's a category group for that particular phone company, but I'm not -- I can't swear to that.

Frederick Dexter - Cross

Q. That would be something that Sprint might use in billing,

or something like that?

A. I would assume so.

Q. And what is "toll charge" -- I believe is the next column?

A. Right. That was a billable call to the customer, then there would be a -- something other than zero in there. When I look at this page, they are all 800 number calls; so obviously, there was no bill to wherever the call was placed from.

Q. And even though it's a nonbillable call, such as an 800 number or a directory assistance, if that is not billed, it still shows up in the phone records; isn't that correct?

A. It would show up in switch records for the phone company.

Q. And what is the "connect time"?

A. That would be the time that the person -- and depending on phone company to phone company, it varies what that connect time stands for. Connect time is either the time that you put in the last digit that you were dialing, or it's the time that they received it at the switch and moved it on, so it's -- either one of those two. It's like a second or two difference, would be the ending of the time that you made the call.

Q. So when you're talking about tic time, the tic time would be in this example on the first line, the 56, because the time is 9:22:56 so would you look at that for the tic time?

A. No. Not at all. I mean, this is -- this is an actual time --

Frederick Dexter - Cross

Q. I understand.

A. -- in their record.

Q. So your tic time is something different from the actual time, isn't it?

A. It's -- tic time is something that WCT used, not the phone companies on this page.

Q. And what is billable time?

A. That would be the time that -- for this particular phone company, that's either the length of the phone call, or it could be talk time. By looking at this, I can't tell you which one of those two it is.

Q. And I don't know what the next column is. It looks like MTRC?

A. Some type of a code. I don't know what any of those codes mean.

Q. How about RP? Is that another code of some kind?

A. I would assume so.

Q. RC? Same?

A. Yes.

Q. TY and ST? Some kind of an internal code?

A. Those are codes that the phone company would use.

Q. What about the IXC? Do you know what that is?

A. No, I don't.

Q. LBCD?

A. No.

Frederick Dexter - Cross

- Q. "Feat. Group"?
- A. That's Feature Group D is --
- Q. What did that --
- A. -- is what -- the phone companies use a Feature Group B and a Feature Group D. Feature Group D has certain things that it does that Feature Group B does not do. Feature Group D, in fact, will pass the originating number to the phone company on the other end, which allows your phone to get caller ID. A Feature Group B record does not pass that originating number, like Kingman, Arizona, did not do. They were Feature Group B at that time; so therefore, you could not determine what the originating phone number was at the other end.
- Q. So because Citizens Utilities didn't have that feature, that's why those records were not available immediately and they had to go back and recapture those; is that correct?
- A. The records were available. At WCT, the only missing piece was the "from number" that was not passed on to WCT; correct.
- Q. And what does the OT mean?
- A. I don't know.
- Q. And "indications"?
- A. "Indicators," I do not know, either.
- Q. Indicators. Is that some type of internal code, do you think?
- A. I would be guessing, yes.
- Q. Okay. Now, you don't know who was using the Spotlight

Frederick Dexter - Cross

- card, do you?
- A. I do not.
- Q. You don't have any idea how many were using the Spotlight card, do you?
- A. I do not know that, either.
- Q. And you don't have any idea if more than one person or if only one person was using the Spotlight card, do you?
- A. I do not.
- Q. I want to go to the call at Elliott's Body Shop and I want to direct your attention to Exhibit 526, which has previously been admitted, I believe. I'll put it up on the screen. Where the (913)762-000 (sic) --
- A. I can't read it. It's blurry. I can't see it.
- Q. You don't have it on your screen?
- A. I'll find it in the book here.
- Q. Okay. Does that make any clearer on the screen?
- A. Yes. Yes.
- Q. Okay. Where it says the (913)762 and then the four 0's, that is where -- that is where it is not in the information where the phone call was made to Elliott's Body Shop; is that correct? The four zeros? That would be the from number?
- A. I mean, is that the question? Yes.
- Q. All right. Now -- okay. Now, how long have you known that you could not -- excuse me -- tell the "from number" on that particular call?

Frederick Dexter - Cross

A. As far as the WCT records were concerned?

Q. Or any records at all.

A. I -- I know the "from number" from the WCT records.

Q. Okay. Well, how -- how is it that you don't know the number that was the "from" call was to Elliott's Body Shop? You cannot tell me that it was made from the bus depot; correct?

A. From the WCT records, I absolutely can.

Q. You -- you can?

A. Yes.

Q. Okay. How can you tell that?

A. Because the 3911 and the 3910 matched exactly. And then the 3911, you have the "from number," and on the 3910, you have the terminating number.

Q. Well, are you -- let me ask you one -- a foundational question: Elliott's Body Shop and Ryder Rental Truck are the same; correct? Same business?

A. I believe so, yes.

Q. Okay. Are you aware that Vickie Beemer says that the call came from Robert Kling at approximately 10:30, I believe?

MR. MACKEY: Objection.

THE COURT: Sustained.

BY MS. RAMSEY:

Q. How long have you been looking for all this data and documentation? Since June the 1st of 1995?

Frederick Dexter - Cross

A. Which -- the records?

Q. Any documents. Any documents. Any records.

A. I have re -- I have been working with the WCT data since June the 1st, the electronic data.

Q. Okay. And was there a call that was placed to Terry Nichols' house in Herington, Kansas, at 9:51?

A. On --

Q. The 14th, I believe.

A. Yes.

Q. Okay. And do you have any personal or professional knowledge that any Ryder truck was rented from the call that was made on that day?

A. No. I have not seen any documents to --

Q. Okay. And you don't recall when you first began looking for the data to back up the call at 9:53?

A. That would have been this -- in preparation of exhibits is when I would have studied the -- the Sprint records right here.

Q. When did you provide the information to the Government?

A. I work for the Government.

Q. When did you provide it to the U.S. Attorney's office?

A. Which -- I'm sorry. Which piece of it?

Q. About -- about the calls to Elliott's Body Shop or Ryder Rental Truck.

A. In the course of the summary, I would have -- they would have been listed in the records there. Prior to June 1, that

Frederick Dexter - Cross

information had been received from WCT on a call-by-call basis. As Mr. Kane identified things, etc., information was being provided to the task force, not to me.

Q. Did you provide a computer disk to U.S. attorneys that was provided to the defense, say, two or three months ago that just has a couple of lines on it with regard to the call to Elliott's Body Shop?

A. The 3910 record --

Q. Uh-huh.

A. -- that's associated with that?

Yes. I provided it to the task force, yes.

Q. When was that?

A. The date?

Q. The month. Just generally.

A. It was sometime this year.

Q. Okay. And it was only the two lines that were on a piece of paper -- isn't that correct -- when it was printed out?

A. It was on a disk; and if you printed it out, it would have been two lines; correct.

Q. And that's all?

A. Correct.

Q. Okay. Do you know how many 762 prefixes there are in Junction City?

A. No, I do not. 72 --

Q. 762.

Frederick Dexter - Cross

A. That is a prefix? Do you mean how many numbers go with that prefix?

Q. No. Can you tell me how many prefixes other than 762 are in Junction City?

A. Other than that, no. The answer is still no.

Q. Now, yesterday when you testified, you prepared or directed to be prepared some demonstrative charts; isn't that correct?

A. Correct.

Q. I believe those were Exhibits 504, 505, 507, 518, 535, 536, 537, 539, 540, 541, 543, 544, 545 with a second page, 546 with a second page, 547 with a second page, 548, 550, 558, 559, and 560; isn't that correct?

A. I'm assuming you're reading the numbers correct. I wasn't verifying. But I would assume so, yes.

Q. It's approximately 20 to 25 pages of demonstrative charts; isn't that correct?

A. I didn't count them.

Q. And that was to help everyone understand what you've been spending two years doing; isn't that correct?

A. That's correct.

Q. Okay.

A. That was not full-time two years. I want to point that out.

Q. All right. And yesterday also, or at some point, you

Q. All right. And yesterday, also, or at some point, you had -- had directed that some charts be prepared which show the

Frederick Dexter - Cross

Yellow Pages piece plus the calls from the Bridges summary; isn't that correct?

A. That's correct.

Q. Those are the charts that you put up? Those would be 565, 566, 567, 568, 569, 570, 571, and 582.

A. Yes.

Q. And isn't it true that most of the people, if they even remember receiving a phone call, don't recall having talked to anyone specifically from the Bridges calls?

MR. MACKEY: Objection.

THE COURT: Sustained.

BY MS. RAMSEY:

Q. Have you talked with anyone who remembers receiving a call?

A. I have not talked to anyone.

Q. And you can't testify that Timothy McVeigh ever called any of these places that you have outlined in the phone books and in those exhibits I just went through?

A. I cannot testify to who used the card at any time.

Q. And you have nothing of your own personal knowledge from which you can testify to that fact, do you?

A. That's correct.

Q. Has anyone reported to you in your investigation that a sale was made from these phone calls and the numbers that you have shown to the jury yesterday with the charts?

MR. MACKEY: Objection.

Frederick Dexter - Cross

THE COURT: Sustained.

BY MS. RAMSEY:

Q. Is there anything in the charts that you showed to the jury yesterday that connects Timothy McVeigh with any one of these calls?

MR. MACKEY: Objection.

THE COURT: The objection is sustained. That limitation on the exhibits was pointed out to the jury by me.

MS. RAMSEY: Thank you, your Honor.

BY MS. RAMSEY:

Q. I want to turn your attention now to the maps that were provided. I believe there is one, two, three, four, five, six, seven, eight, nine, ten -- about 17 or 18 maps that were put up, also. There is nothing with regard to these maps with regard to the phone calls that connect Timothy McVeigh to anything, is there?

MR. MACKEY: Same objection.

THE COURT: Sustained.

BY MS. RAMSEY:

Q. Now, Mr. Kane says that he spent approximately 1- to 2,000 hours preparing this information. Would you agree with that?

A. I don't know.

Q. And you spent, I believe you said, since the end of May, but not all of that time until the present working on this information; isn't that correct?

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A. That's correct.

Q. Would you say that this was a very difficult procedure or not?

A. No. It was not.

Q. Just time-consuming?

A. Time-consuming.

Q. And that's because the system wasn't designed to do what you were doing; isn't that correct?

A. It was -- more time was spent in the verification process to guarantee the accuracy for the task force and the Court than it was to match the records, but that was very time-consuming to verify the accuracy.

Q. So it was a time-consuming process?

A. Yes, it was.

Q. Okay. Did you do this all by yourself or did you have some other agents who were working with you or office personnel?

A. I had no other agents that worked on the matching of the 3910, 11, and OPUS. There were agents that worked on the subscriber re -- subpoenas and those kind of things, but I had one other person, a computer specialist, computer programmer that worked with me on writing the software for the matching.

Q. And there were also agents who went out to interview people; isn't that correct?

A. I would assume so, in the process of investigation.

Q. Right. And still, after all this time, you can't prove who

Frederick Dexter - Cross

received the calls? The individuals?

MR. MACKEY: Objection, Judge.

THE COURT: The objection is sustained. It's -- rhetorical questions are being asked here.

BY MS. RAMSEY:

Q. Can you prove if there was a conversation when these calls were made?

MR. MACKEY: Objection.

THE COURT: Objection sustained.

BY MS. RAMSEY:

Q. And you cannot connect Timothy McVeigh to anything with regard to these phone numbers, can you?

MR. MACKEY: Same objection.

THE COURT: Sustained.

BY MS. RAMSEY:

Q. Mr. Dexter, have you ever heard the phrase "much ado about nothing"?

MR. MACKEY: Objection.

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

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. MACKEY:

Q. Mr. Dexter, you're a computer specialist, you know data processing, you know telephone records and you work with

Frederick Dexter - Redirect

lawyers who don't? That's a question.

A. That was a question?

Q. Right. Since June of 1995, I've asked you the same question more than once about the WCT records and the Bridges summary?

A. That's correct.

Q. Feature Group D, you explained to the jury, has a special function. It passes on that "from number," that originating number. Did WCT have Feature Group D?

A. WCT, yes, did.

Q. Did it have it vis-a-vis OPUS? Did the WCT records pass on the originating record to OPUS?

A. No, it did not.

Q. All right. Had it done so, you wouldn't have the matching task that you have described in your testimony?

A. Right. But that's -- I need to point out that's not a Feature Group D since they were two computers. Feature Group D is when two different phone companies pass the information to each other.

Q. I've done it again. I've proven my point.

Ms. Ramsey referred to a May 19, '95 time line that included certain data about the Bridges phone calls. Do you remember that?

A. Yes.

Q. Now, May 19, 1995, was well before -- shortly before you

Frederick Dexter - Redirect

took on the personal task of taking this data and organizing it into the manner that you presented to this jury and to this Court; correct?

A. That's correct.

Q. Can you describe what was going on in the task force between April 19 and May 19, 1995?

A. I can only describe for the time period that I was there, and I was not there continually from the April 25 through the end of May. I was in and out a couple of days, etc. In regard to the WCT information, the information was received by the task force, the 687 calls on hard copy, and it was being processed. Calls were coming in. Faxes were coming in as WCT identified from numbers. They were relayed over the telephone. They were handwritten on faxes, etc. And that process was taking shape to support the investigation.

Q. And the first three weeks after the investigation, the FBI was doing everything it could to get as much information as possible as quickly as possible to follow those leads?

A. I believe that's correct.

Q. And then starting on June 2, you sat down in a more methodical fashion to get acquainted with the records and use your expertise to put that together; is that right?

A. That's correct.

Q. You have met Ms. Ramsey before coming to court today?

A. That's correct.

Frederick Dexter - Redirect

Q. You've met a number of the representatives of the defense before coming to court yesterday and today; correct?

A. That's correct.

Q. On how many different occasions did you meet with the defense lawyers and their experts to discuss and describe exactly what you described to this jury?

A. I believe it was on three occasions. The January 16 meeting, the -- January 16, '96, August time frame of '96, and then approximately eight weeks ago, etc., we walked over to meet with the defense attorneys.

Q. And in one of the first meetings, you had put to writing your methodologies, the very same methodologies you described to this jury and delivered that to the defense; correct?

A. I believe it was either the first or second. I believe it was the first meeting.

Q. So you laid down in writing what you had done, how you had done it, your assumptions, your procedures, and turned it over to the defense months and months ago?

A. That's correct.

Q. Let's turn momentarily, Mr. Dexter, to the Friday, April 14, 1995 phone call at the J & K Bus Depot, the two phone calls. You told the jury yesterday that the second phone call, the one to Elliott's, was in progress when the clock struck 10 in Junction City, Kansas; correct?

A. Yes.

Frederick Dexter - Redirect

Q. Why would that OPUS record -- why would the account record for that call not be found on the server in L.A.?

A. The -- the record in the OPUS file was not written to the OPUS file because of the restart three times a day, 7:00, 1400 hours, and 2200 hours. On that day, the 14th, the server time, when compared to the L.A. switch time, was one hour and a few seconds different than the L.A. switch time. So the call, as far as WCT was concerned, Pacific Daylight Time, started at 7:53 and ended after 8:00 as far as the L.A. switch. As far as the server was concerned, it was one hour before that. It would have been 6:53 and ended just a little bit after 7:00.

Q. So the server clock in L.A., the OPUS server clock thought it was 7 a.m. when it was 10:00 in Junction City?

A. That's correct.

Q. And when the clock struck 7 in L.A., the OPUS record for that call was discarded, or not written?

A. Was not written.

... was not present.

Q. But it did leave behind the records from the 3910 and 3911 file?

A. That's correct.

Q. And that's why you told Ms. Ramsey earlier there's no doubt in your mind on that day, there was a phone call from that bus depot pay phone to that Ryder number in Junction City?

A. That's correct.

Q. And it was a Spotlight call?

Frederick Dexter - Redirect

A. Yes, it was.

Q. She asked you some questions about analysis you did of activity of Spotlight customers in geographical areas. Did you study Spotlight activity in the state of Kansas in early April 1995?

A. Yes, I did.

Q. Describe what you found.

A. I did analysis for the -- the day of the 14th and then a couple of days after that to see how many Spotlight customers made phone calls going out of the state of Kansas since the Junction City call came out of the state of Kansas. And I found that there were only two Spotlight customers for those three -- three days. The 14th, 15th, and 16th were the days that I looked at in particular. The two calls from the J & K Bus Depot on the 14th, there was one other Spotlight call that originated in the state of Kansas that day at Atwood, Kansas.

Q. Tell the jury how far away Atwood, Kansas, is from Junction City.

A. It's -- according to the atlas map, it's 275 miles. And that call was made approximately -- WCT time was 7:19, which would be 9:19 in Kansas. That was the only other call on the 14th. That particular account also used the card on the 15th and on the 16th, but there were only two accounts that were used -- and also from Atwood, Kansas. They were the only accounts -- Spotlight customers had calls going out of the

Frederick Dexter - Redirect

state of Kansas for those three days.

Q. You documented the use of the Spotlight system in Junction City, but only to the Daryl Bridges account in April of 1995 -- is that right -- in Junction City, Kansas?

A. Yes.

Q. Ms. Ramsey asked you a series of questions about the identities of the callers, those who placed the call or those who received the call, and we know your testimony about that from another matter. In your study of the Bridges account, did you ever find a phone call that was placed from a subscriber with the name Daryl Bridges?

A. No, I did not.

Q. Did you ever find a phone call that was received by a phone subscribed to Daryl Bridges?

A. No, I did not.

Q. Did you ever find a phone call placed from anyone even with the last name of Bridges?

A. I don't recall that.

Q. Or received with the last name of Bridges?

A. I do not recall that.

Q. Mr. Dexter, look briefly at Government Exhibit 555, if you have it before you.

MR. MACKEY: With the Court's permission, I'd like to publish certain pages from 555.

THE COURT: All right.

Frederick Dexter - Redirect

BY MR. MACKEY:

Q. On September 24, 1994, did you find evidence in your search that a Bridges call was placed from the telephone subscribed in the name of Terry Nichols to a phone in Pendleton, New York, subscribed to William McVeigh?

A. I did.

Q. Is that set forth in the first line --

A. Yes, it is.

Q. -- of this exhibit?

Incidentally, the number that appears on the left-hand side of Exhibit 555, what does that represent?

A. That is a sequential number that tells us the call -- the number of calls that have been placed against the Bridges account; so from December of '93, this was the 99th call that had been placed against the account.

Q. And who was the second call using the Bridges account on September 24, oh, less than 20 minutes later?

A. It originated at (316)382-3535. Subscriber to -- Terry Nichols. And it was placed to Greg M. Pfaff in Harrisonburg, Virginia.

Q. Turn to Exhibit -- on Exhibit 555 to the page with October 23, '94. Do you find another occasion where the Bridges card was used to place a phone call to a phone subscribed in the last name of McVeigh?

A. Yes, I did.

Frederick Dexter - Redirect

Q. And on November 14, did you find another occasion where the Bridges card was used to place a phone call to a number subscribed in the last name of McVeigh?

A. That's correct.

Q. Turning your attention, Mr. Dexter, again to Exhibit 555, and look, please, for your summary section on April 5 and April 11.

A. Okay.

Q. And did you find calls on the Bridges card originating from the Imperial Motel in Kingman, Arizona?

A. Yes, I did.

Q. How many such calls?

A. On the 5th?

Q. 5th and the 11th. April 5th and April 11th.

A. April 5th, there are six calls; and on the 11th, there are two calls.

Q. Turning your attention now to April 15th and April 17th, 1995. Did you find evidence that the Bridges card was used to call to or from the Dreamland Motel in Junction City, Kansas?

A. On April 15, a call originated from the Dreamland Motel.

Q. And to whom was that call directed?

A. It was directed to (913)258-3400, subscriber Terry Nichols.

Q. Was the Bridges card used again in connection with the Dreamland Motel on April 17, and how so?

A. On the 17th, a call originated at the Dreamland Motel to

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the number of (913)258-3400, subscriber Terry Nichols.

Q. How many such calls on the Bridges card went in or out of the Dreamland on April 17, 1995?

A. There was one call out -- the one I just previously described -- and there was a phone call in to the Dreamland Motel from the airport pay phone in Kansas City, Missouri.

Q. I'm going to turn your attention to an exhibit previously admitted into evidence, that being Exhibit 97 for the record. Do you see that before you?

A. Yes, I do.

Q. Direct your attention to that notation referred to as Tim's Amoco on East Trapp Street in Herington, Kansas, with a pay phone listed there. Did you find the use of the Bridges card on any day from that Tim's Amoco in Herington, Kansas?

A. Yes. I recognize the name, but I can't tell you what days it was without researching it.

Q. Research, please, April 16, 1995.

A. Okay.

Q. Tell the jury what you found in your research.

A. I found a phone call a little after 3:00 Central Daylight Time from Tim's Amoco pay phone (913)258-5980 to (913)258-3400, the subscriber Terry Nichols.

Q. That was on Easter Sunday, April 16, 1995; is that correct?

A. That's April 16. I don't know if that was Easter.

Q. That was April 16. So according to your research, someone

Frederick Dexter - Redirect

using the Bridges card on Easter Sunday dialed the Nichols residence which is located, what, maybe twelve blocks away?

A. According to this map, that's correct.

Q. And that someone, in order to make that call, would have to first dial 11 digits for the 800, a 14-digit PIN code and then a 7-digit number; correct?

A. No. That's not correct. The last part of it, you also have to dial the area code when you use the Bridges account. So the last is actually 10 digits, not 7 digits that would have had to have been dialed.

Q. So some 33 digits to place this phone call from the gas

Q. So some 35 digits to place this phone call from the gas station 12 blocks from the house of the call?

A. 35 digits.

Q. I knew you'd correct me. I knew it.

Mr. Dexter, you told the jury yesterday that the last activity on the Bridges card was April 17, but for the test call. What was the test call, if you know?

A. I was told by the task force that a call was made from one of the command posts to test the card. I can't tell you the -- the "from number." I don't know that.

Q. Was it an effort by the FBI to determine whether the Bridges card was still up and running on April 24th, 1995?

A. I don't know the answer to that.

Q. But you do know that in terms of the Bridges activity, non-FBI activity, the last call was Monday night from the

Frederick Dexter - Redirect

Kansas City airport, April 17th, 1995?

A. That's correct.

Q. All right. And then -- check my math -- about 35 hours later, Oklahoma City experienced a bombing?

A. I want to be accurate. It's about 35 hours later.

Q. And on April 19, Tim McVeigh was taken into custody; correct?

MS. RAMSEY: Your Honor, I believe he previously testified he doesn't know when he was arrested.

THE COURT: Sustained.

BY MR. MACKEY:

Q. No other calls were placed on the Bridges card after Tim McVeigh and Terry Nichols were in custody; is that true?

MS. RAMSEY: Your Honor, we would object. Facts not in his personal knowledge.

THE COURT: Sustained.

BY MR. MACKEY:

Q. Mr. Dexter, based on the many hours of labor that you've described to this jury, how confident are you that you have presented to this jury an accurate summary of the telephone activity on the Daryl Bridges account?

MS. RAMSEY: Your Honor, we object as self-serving. These items have been admitted into evidence anyway.

THE COURT: Overruled.

THE WITNESS: I am as close to 100 percent sure as just about anything I've ever done.

MR. MACKEY: Thank you, Mr. Dexter.

THE COURT: Anything further?

MS. RAMSEY: No, your Honor. We would renew our objection to Government's Exhibit 554 and 555.

THE COURT: All right. Overruled. Exhibits stand received.

Is the witness to be excused?

MR. MACKEY: Yes, your Honor.

MS. RAMSEY: Yes.

THE COURT: Mr. Dexter, you may step down. You're excused.

THE WITNESS: Thank you.

THE COURT: Members of the jury, I remind you again of what I said yesterday. When these exhibits are received through the testimony of Mr. Dexter, they came in with respect to the limitations of these records which were created by the system identified, and it shows this sequencing of numbers but does not, of course, constitute any proof of who made a call, who received a call or what the conversations were on the calls that were described in the testimony. And these demonstrative exhibits, of course, are dependent upon the testimony and the other exhibits.

You understand there are two kinds of exhibits, generally, in a case. One is a document or we've had those received like, you know, a -- a receipt or something which speaks for itself. And then there are other exhibits that we call demonstrative exhibits, illustrative exhibits sometimes. And we've been mentioning that certain ones were received for that purpose, which means those exhibits are simply dependent upon the testimony of the witness and what the witness is relying on in giving that testimony. So that is by way of an illustration of the testimony and not evidence in the same sense that other exhibits which speak for themselves is.

So we're going to take a recess, having blurred our vision with all these exhibits. So we'll take the usual 20-minute recess, during which, of course, as usual, you must follow the cautions given at all earlier recesses in this case. So you're excused now, 20 minutes.

(Jury out at 10:17 a.m.)

THE COURT: I notice that the witness list includes Mr. Manning, whose testimony is by deposition. Is that a video deposition?

MR. RYAN: Yes, your Honor.

THE COURT: And I can't remember whether there are objections in it. Are there objections that come up on the video?

MR. NIGH: There are, your Honor.

THE COURT: On the audible part of the videotape?

MR. NIGH: There are, your Honor. Primarily as to leading questions. The objections as to leading questions, I'm willing to withdraw.

THE COURT: All right.

MR. NIGH: And there was one objection based upon assuming facts not in evidence. I'm willing to withdraw that, as well.

THE COURT: All right. There was an underlying objection, which, of course, you're renewing before the --

MR. NIGH: That's correct.

THE COURT: -- playing of the tape. I'm not trying to avoid that one, but what I'm trying to determine is whether we need to edit the tape. If you withdraw the objections that appear on the audible portion of the tape, I can just explain that to the jury and then we don't have a problem, and we can play it.

MR. NIGH: I think that's appropriate, your Honor. And as you say, I do maintain the objection that we made by way of pretrial motion.

THE COURT: Right. All right.

MR. RYAN: Your Honor, Mr. Nigh and I discussed this subject a couple days ago to try to resolve some of these problems. One of the things we did agree on is to eliminate the cross-examination conducted by Mr. Nichols' counsel, so we're going to follow along with the video, with the written deposition, and when we come to that part, we're going to, with the Court's permission, stop the videotape at that time.

THE COURT: I don't -- is that a discrete sequence? I mean, we can just block that out?

MR. RYAN: Exactly. It's a discrete -- I don't know exactly how many pages, but a number of pages at the end of the deposition. It's very easy to stop the tape prior to getting to that part.

THE COURT: Then is there redirect after that?

MR. RYAN: I don't believe so, your Honor.

MR. NIGH: There is, your Honor, but I don't think it relates to the cross-examination conducted --

THE COURT: All right. So we can just complete it.

MR. RYAN: Fast forward to the next part where Mr. Nigh cross-examines.

MR. NIGH: There is one additional potential problem, your Honor. There are objections to the exhibits that I think the Government wants to offer through Mr. Manning.

MR. RYAN: Yes. What I thought we would do with -- again with the Court's permission is as we come to those portions of the deposition where the exhibits are offered, we will offer them, you know, to your Honor in court. If your Honor permits the depositions in evidence, then we will ask to briefly place them on the ELMO for the jury to see the exhibits.

THE COURT: All right.

MR. RYAN: Then we'll move on with the rest of the deposition.

THE COURT: So we've got somebody who is sufficiently skilled in the technology to be able to stop and start the tape.

MR. RYAN: Your Honor, I take this as a personal insult.

THE COURT: Well, I -- I wasn't referring to you.

MR. RYAN: But yes, we will have someone other than me operating the video deposition.

THE COURT: Okay. When is that coming?

MR. RYAN: I think we're ready for it after the -- we have one more -- two more witnesses, which I don't think either one will be too long.

THE COURT: What's the running time?

MR. RYAN: It's about two hours after you cut out the Nichols' attorneys' deposition questions.

THE COURT: So we won't get it in before the noon break, probably.

MR. RYAN: I think that's correct, your Honor.

THE COURT: We'll be -- all right.

MR. HARTZLER: I suspect we probably won't start it until the noon break.

THE COURT: Oh.

MR. HARTZLER: Two witnesses are from out of town. I would guess they may take an hour and a half

would guess they may take an hour and a half.

THE COURT: Oh, all right. Okay. That's fine. Well, so the record is clear, the objection to the use of the videotape at all of any testimony from Mr. Manning that's already been addressed by the Court is again renewed and overruled.

We'll take 20 minutes from now.

MR. HARTZLER: Thank you.

(Recess at 10:23 a.m.)

(Reconvened at 10:42 p.m.)

THE COURT: Be seated, please.

(Jury in at 10:42 a.m.)

THE COURT: Next witness, please.

MR. HARTZLER: The Government calls Floyd Carter, and Ms. Behenna will question him.

THE COURT: Thank you.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Floyd Carter 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 WITNESS: I'm Floyd Lawson Carter, Jr.,
C-A-R-T-E-R.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Ms. Behenna.

Floyd Carter - Direct
DIRECT EXAMINATION

BY MS. BEHENNA:

Q. Where do you live, Mr. Carter?

A. I live in Midwest City, Oklahoma, a suburb of Oklahoma City.

Q. Are you employed?

A. Yes, I am.

Q. How are you employed?

A. I'm civil service. I'm with the Defense Investigative Service, a Department of Defense government agency.

Q. How long have you been with that agency?

A. I've been with them about 13 years.

Q. What do you currently do for that agency?

A. I am currently the special agent in charge of the Oklahoma office.

Q. When did you receive that position?

A. Several months after the bombing.

Q. What did you do before the bombing?

A. I was the assistant special agent in charge before the bombing.

Q. Can you tell the jury a little bit about your employment before you joined the Defense Investigative Service?

A. Before I was with -- we call it DIS, I spent 20 years in the U.S. Army.

Q. Can you tell the jury what DIS does as an agency?

Floyd Carter - Direct

A. Yes. We are a Department of Defense agency that's primarily a security agency. We do two primary things. One is we conduct background investigations for people that's being considered for a position of trust with the government. That could be a security clearance, or it could also be a particular position, such as the White House Communications Agency, White House Fellows Program, National Security Agency jobs and things like that.

Secondly, we provide support to defense contractors in assisting them in the protection of government-classified material, secret, top secret, confidential material.

Q. On April 19, 1995, where was the DIS office located?

A. The DIS office was on the third floor of the Murrah Building in the northeast corner.

Q. Let me show you what's already been admitted as Government's Exhibit 952. I believe it's going to come up on the computer screen in the desk.

MS. BEHENNA: Do we have the computer on?

THE COURTROOM DEPUTY: The computer is on -- there it is.

It should come back.

MS. BEHENNA: There we go. Okay.

BY MS. BEHENNA:

Q. Can you acquaint the jury -- and I think there is a pen on the desk in front of you. If you can just acquaint the jury

Floyd Carter - Direct

with the floor plan and the space of DIS.

A. Do I just touch? Is that --

Q. Yes, just touch the monitor.

A. Okay. This was the hallway. This was our main entrance coming into the office. This was sort of what we call the bullpen area. Our agents typically work out of automobiles, so they did not each have a desk. They used a generic-type desk.

This was on our files room, computer LAN room and where we stored office supplies.

This was an interview room. We typically interview the people we were conducting investigations on, and this is the room we would usually do it in.

This was the office of the special agent in charge, Bob Westberry.

This is -- was my office as an assistant.

And this was an empty office that had formerly been the office of a -- another supervisor who had retired at the first of the year.

This area out here was where all the agents would occupy a desk, and it's also where the secretary -- we only had one at the time because the other secretary had also taken an early out and retired at the first of the year. So this was -- this was the area in which they would be.

Q. How many agents did DIS have in April of '95?

A. We had 20 -- 20 agents assigned to the Oklahoma office.

Floyd Carter - Direct

However, most -- we cover the entire state, so we have day offices in Tulsa, Enid, Lawton, and other locations.

We had 11 people working out of this particular office on the third floor.

Q. And one secretary?

A. And one secretary.

Q. Where were you, Mr. Carter, on April 19, 1995?

A. I was in our office in Houston, Texas.

Q. When did you learn about the bombing of the federal building?

A. Probably within the first 20 minutes after the bombing.

Q. And what were you told to do?

A. I really wasn't told to do anything. I just called and changed my flight. And I was supposed to return home that evening anyway; and so I called the airport, changed my flight and moved out earlier. So I returned back there about 2 that afternoon.

Q. On the --

A. On the 19th.

Q. On the afternoon of the 19th?

A. That's right.

Q. Did you go to the offices of DIS? Were you able to get into the area where the --

A. I got into the federal -- what they call the TOC at that time. They had already set up the operating centers

Floyd Carter - Direct

for the federal law enforcement agencies, which was directly adjacent to the Murrah Building.

Q. So you were able to see where your office once was?

A. Yes.

Q. What happened to the business of DIS in the days following the explosion?

A. The first thing we were preoccupied with, of course, was the -- trying to identify and assist the families of those that were missing. We had to determine who had been in the building at that time, because since the people typically work out of their vehicles, we really weren't sure who was there.

We knew that the admin. people, the supervisors, and the secretaries would have been there.

So we knew that Bob Westberry was there. We knew that Norma Jean Johnson was there, and we knew that Peter DeMaster, who was one of the agents but was sitting in for me -- we knew he was there. So the first thing we tried to do was to determine who else was in the building and in the office at that time.

And then, of course, we were very preoccupied with trying to assist the medical examiner with some of the -- I guess the scientific evidence that they used to identify the bodies, fingerprints, dental records, things like this.

Q. Were you involved in assisting the medical examiner's

office in obtaining that information, then?

Floyd Carter - Direct

A. We were asked to get as much information as we can. I got the dental records for the people that had them. We also got any fingerprints that were on file. Jean Johnson had worked for the sheriff's office, so she had fingerprints on file. We obtained those and provided them to the medical examiner's office.

And those that didn't have fingerprints on file, we went to their homes and tried to find something that we could lift latent prints off of; and the Army counterintelligence -- or Army Criminal Investigation Division assisted us in that. They had people on site at the medical examiner's office, and we had one of our people with the medical examiner's office.

Q. And how many people did you have obtain latent prints off to --

A. I think they only used the latents on two. I know they used them on one. We had tried to obtain them on everyone, because we weren't sure whether we would have file fingerprints anywhere.

Q. And that occupied your time for most of the days --

A. Well, that was a portion of it. At the same time, I was very intensively trying to support the families of the people who were missing. Our -- one person was identified fairly quickly; but four of the people that were killed were -- you know, it was a week and a half or so, before they were actually identified by the medical examiner's office.

Floyd Carter - Direct

Q. How many people that worked for DIS died on April 19, 1995?

A. We had in DIS -- we had five people killed.

Q. And you knew each one of those?

A. Yes, ma'am.

Q. Let me show you -- I think there is a chart --

MS. BEHENNA: With the assistance of a marshal, your Honor -- Government's Exhibit 1076.

BY MS. BEHENNA:

Q. Can you identify that?

A. The people?

Q. You've seen that before?

A. Yes, ma'am. I've seen those photographs.

MS. BEHENNA: I move for the admission of Government's Exhibit 1076, your Honor.

MS. RAMSEY: No objection, your Honor.

THE COURT: 1076 received.

BY MS. BEHENNA:

Q. Can you briefly identify for the jury each person on that board and tell basically what this individual did for DIS?

A. Yes, ma'am. Starting in the upper left-hand corner, Harley Cottingham was an investigator, a special agent with DIS.

He -- Harley was about 46 years old. He had come to our office about four years prior to the bombing from the Colorado Springs

about four years prior to the bombing from the Colorado Springs office. He was originally from Omaha, Nebraska, and after obtaining his degree went to work for government service, came

Floyd Carter - Direct

to work for the Defense Investigative Service, and then came to us. He came to us by way of a transfer because a family member was moving into Oklahoma. He had prior Navy experience, I think four years in the Navy.

Q. What about the next person?

A. Peter DeMaster had been in our office for about 12 years. He was a special agent, and he was actually sitting in for me in a supervisory role to review reports and things the day of the explosion.

Peter had been with DIS --

MS. RAMSEY: Your Honor, we would object as being unresponsive to the question that was asked.

THE COURT: Yes. I don't think we need quite as much detail.

BY MS. BEHENNA:

Q. Thank you. If you'll continue and just briefly describe --

A. Peter had been a special agent for 12 years. Prior to that, he was an Air Force captain.

Norma Jean Johnson was by position my secretary; but my boss', Bob Westberry's secretary, had left in January on an early retirement, so she was functioning as both secretaries.

MS. RAMSEY: Your Honor, we would object again as being unresponsive.

THE COURT: Yes. What you have been asked to do is identify who they are and what their positions were.

Floyd Carter - Direct

THE WITNESS: Yes, sir.

Larry Turner was a special agent investigator with DIS.

Bob Westberry -- Robert Westberry was the special agent in charge, the position I now hold.

BY MS. BEHENNA:

Q. And I asked you before -- I don't believe I got an answer, or if you did answer my question, I didn't hear you: How long did it take for DIS to operate as an agency again after April 19, 1995?

A. The agency itself was very quick to come back to full operation, because immediately, the same day of the bombing, they brought in a team from all over the country of agents, a supervisor, and also flew in computer equipment. And we had several staff members from Washington fly in with copies of our cases that were ongoing and were destroyed during the bombing. And so they set up a temporary operation, which sort of took over from us.

All of the people in our office that were -- that were originally in the Oklahoma City office -- it took them probably a month to a month and a half to come back and assume the role

back from that temporary team that came in.

Q. All right. And some of the files were destroyed?

A. Some of the -- some of the ongoing investigations, particularly those that were in the custody of the people --

Floyd Carter - Direct

MS. RAMSEY: Your Honor, we would object as being beyond the scope.

THE COURT: Overruled.

THE WITNESS: Some of the ones that they had in their briefcases or in their personal computer, if it was destroyed -- those were destroyed, they had to be reconstructed and in some cases actually had to be rerun. And a lot of the files were destroyed.

BY MS. BEHENNA:

Q. Okay. If I can put the board on the easel -- it's the next chart up, Government's Exhibit 952.

I believe in front of you, Mr. Carter, is an envelope; and it should have some name plates inside.

A. Yes.

MS. BEHENNA: May I approach and assist, your Honor?

THE COURT: Yes.

BY MS. BEHENNA:

Q. With the Court's permission, you can go ahead and approach the board and place those name plates on that chart.

A. Where they would have been?

Q. Where their desk was located or where their office was located.

Okay. You can go ahead and take your seat again.

Mr. Carter, did any DIS employee who was in the

building on April 19, 1995, survive the bombing?

Floyd Carter - Direct

A. No, they did not.

MS. BEHENNA: That's all I have, your Honor.

THE COURT: Do you have any questions?

MS. RAMSEY: No, your Honor, we don't.

THE COURT: Witness excused, I take it?

MS. BEHENNA: Yes, your Honor.

MS. RAMSEY: Yes, your Honor.

THE COURT: Agreed?

You may step down. You're excused.

Next, please.

MR. HARTZLER: Kevin Nicholas. Mr. Mackey will question him.

THE COURT: Thank you.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Kevin Nicholas 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 WITNESS: Kevin Richard Nicholas, N-I-C-H-O-L-A-S.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mackey.

MR. MACKEY: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Mr. Nicholas, there is a microphone there; but it will work

Kevin Nicholas - Direct

better if you project -- right in front of you -- it will work better if you project your voice.

A. Okay.

Q. So everyone can hear your testimony this morning.

Tell the jury where you live, please.

A. The address, you want?

Q. Just the city is fine.

A. Vassar, Michigan.

Q. And where is Vassar, Michigan, generally in the state of Michigan?

A. Oh, in the Thumb. I live in the Thumb.

Q. And people familiar with Michigan, the hand represents Michigan, this is Saginaw Bay right here, and Vassar is not too far from there?

A. Right. About the middle or so.

Q. And you grew up in that area?

A. Lived there all my life.

Q. And how old are you?

A. 33.

Q. Are you married?

A. Yes.

Q. And do you have children?

A. One son is mine, and then I got a stepdaughter.

Q. How old are your children?

A. Tyler is 19 months and Olivia is six years old.

Kevin Nicholas - Direct

Q. Mr. Nicholas, what do you currently do for a living?

A. I work in a factory and I own apartments.

Q. How long have you owned apartments?

A. Oh, about seven years now, six years.

Q. Do you operate that as a business?

A. Yes.

Q. What's the name of your apartment business?

A. Nicholas Rentals.

Q. Nicholas, for your last name, Rentals?

A. Right.

Q. What sort of factory work do you do?

A. I make power-steering pumps for Ford Motor Company.

Q. This is the state of Michigan.

A. Yes, sir.

Q. What's your educational background?

A. Just 12 years of high school (sic).

Q. Have you had any experience in farming?

Q. have you had any experience in farming?

A. Yes. I did that for practically all my life until last fall. Then I got a job in the factory.

Q. And how was it that you did farming?

A. Well, when I was younger, helped my dad out; and then I worked for Nichols Farms, but there was a lot of factory jobs in between there and stuff. But -- and I worked on Nichols Farms, and I worked for my uncle over in Owendale.

Q. You referred to the Nichols Farm. Where is that located?

Kevin Nicholas - Direct

A. Deckerville, Michigan. That's still in the Thumb.

Q. Not too far from Vassar?

A. Right.

Q. And the Nichols: Who are they by name?

A. Terry and James, and then Joyce. And they're -- they're the ones that own it, and it's Joyce -- her farm.

Q. What time period did you work on the Nichols Farm?

A. Oh maybe '91 to '94. Yeah. I'd say. About three years I worked there for them.

Q. And what sort of work did you do for them?

A. Just farmhand, drive a tractor, whatever needed to be done.

Q. In the course of that employment, did you come to meet a man named Terry Nichols?

A. Yes, sir.

Q. Did you come to meet a man named Timothy McVeigh?

A. Yes, sir.

Q. Over what time period did you know of Mr. McVeigh? When did you first meet him, and approximately when did you last see him?

A. I'd say roughly about '92 to January, '95, is the last I seen him.

Q. And during that period, '92 through early '95, did you have occasion to have Mr. McVeigh reside with you?

A. Yes, sir.

Q. There at your residence in Vassar, Michigan?

Kevin Nicholas - Direct

A. Yes, sir.

Q. And on other occasions while he was in the area, where, to your knowledge, did he reside?

A. He stayed at Nichols Farms with James sometimes.

Q. Can you tell the jury what time period it was that he resided with you and your family?

A. Stayed about in beginning of '94 -- he stayed roughly a week with me in '94, in the beginning. Yeah. And then in the fall of '94, he stayed till January, right around the Super Bowl of '95.

Q. So the latter part of '94 forward through mid-January, 1995?

A. Yeah.

Q. Do you attend gun shows, Mr. Nicholas?

A. No. I -- not on a regular basis, no.

Q. Have you ever?
A. Yes, sir.
Q. Did you ever with Timothy McVeigh?
A. Yes, sir.
Q. On how many such occasions?
A. Three.
Q. When was the first one?
A. January of '94.
Q. And where was that?
A. Grand Rapids.

Kevin Nicholas - Direct

Q. And when was the second gun show you attended with Mr. McVeigh?
A. In Kalamazoo, in roughly early part of December.
Q. Of 1994?
A. '4.
Q. When was the third one?
A. And then the third one was January of '95, and that was Grand Rapids.
Q. In the gun-show circuit, is it common for the same show -- or the show would be on the same weekend each year?
A. Yeah, Grand Rapids one, yeah.
Q. So the Grand Rapids show that you attended with Mr. McVeigh occurred in January of both '94 and '95?
A. Yes, sir.
Q. What did Mr. McVeigh do at each of these three gun shows you attended with him?
A. He just had stands set up, and he'd sell like long guns or ammunition, stuff like that.
Q. And do you know if Mr. McVeigh used his real name when registering for any or all of these three gun shows?
A. No, he didn't use his real name.
Q. What name other than his own, to your knowledge, did he use?
A. I know he used Tim Tuttle.
Q. In the course of any of these gun shows, did Mr. McVeigh

Kevin Nicholas - Direct

offer for sale any books?
A. Yes, sir. He had numerous, you know -- quite a few books, but --
Q. Let me direct your attention to the accordion folder in front of you and see if you can find a book previously admitted into evidence in this case, Government's Exhibit No. 1. Do you recognize that?
A. Yes.
Q. And do you recognize it as what?
A. The Turner Diaries.
Q. And have you seen Mr. McVeigh in possession of The Turner=20 Diaries before?

A. Yes, sir.

Q. Describe when and where.

A. He'd sell it at the tables at the gun shows. He'd have it on the table for sale.

Q. Have you, Mr. Nicholas, ever read The Turner Diaries?

A. No, sir.

Q. Did you ever have a conversation with Mr. McVeigh where he urged you to do so?

A. Yes. He said it's a pretty good book to read and stuff. He said, "If you get time, you should read it," but never did.

Q. Let me turn our attention now to the gun show in Kalamazoo, Michigan, in December of '94, I think was your testimony, and you attended with Mr. McVeigh. Is that correct?

Kevin Nicholas - Direct

A. Yes, sir.

Q. During the course of that show, did you come to or did Mr. McVeigh identify another vendor, another person with a booth there?

A. Yes, sir.

Q. And by what name?

A. All I know is his last name was Paulsen.

Q. Paulsen?

A. Yeah.

Q. Is this the person that Mr. McVeigh identified to you in December of '94?

A. Yes, sir.

Q. In January of '94 of that gun show, did to your knowledge Mr. McVeigh offer for sale any tracer round ammunition?

A. Which year now?

Q. January of '94.

A. Yes.

Q. Grand Rapids?

And do you know where he got that ammunition?

A. Yeah. It come from a gun dealer in Arkansas.

Q. Do you recall his name?

A. Bob.

Q. And how did Mr. McVeigh get it?

A. He had it sent -- he ordered it in my name or had it sent to my house for him.

Kevin Nicholas - Direct

Q. Did you, in fact, receive it?

A. Yes, sir.

Q. What did you do with it when you got it?

A. When I received it, I was supposed to take it back to the farm and give it to Tim to bag up in smaller quantities to sell at a gun show.

Q. And did you do that?

A. Yes, sir.

Q. In or about that same time period, Mr. Nicholas, did you

and Timothy McVeigh talk about the gun dealer named Bob in Arkansas?

A. Yes, because I was kind of curious about why he wanted it shipped to my house instead of, you know, just having it mailed to the farm, you know.

And he said he used to work for the guy in Arkansas in whatever town there and loading shells or something to that effect, you know, helping him out, because he sold guns, I guess, too -- did something.

Q. And did Mr. McVeigh tell you about the state of their relationship; that is, between he and Bob?

A. He said that he screwed him some way out of some money or something.

Q. Who is "he"?

A. That Bob did for when Tim worked for him.

Q. And as a result?

Kevin Nicholas - Direct

A. He said he -- that he'd be an easy guy to rob because he lived way back in the sticks and, you know, there was woods around his house and stuff.

Q. Did he give any other reason for why Bob might be an easy target for a burglary?

A. No.

Q. Do you recall any other reason at this time?

A. No, not at this time.

Q. All right. After -- let's turn our attention back to December of 1994 and the Kalamazoo gun show. After the time Mr. McVeigh identified this person named Paulsen, where did Mr. McVeigh go?

A. I'm sorry. I don't understand.

Q. Let me start over. At the end of the December, '94 gun show, did you and Mr. McVeigh return to your residence in Michigan?

A. Oh. Yes, sir.

Q. And how long thereafter did Mr. McVeigh stay with you?

A. He took a couple trips after the gun show. He left. He went -- one trip was with James Nichols to collect some money for soybeans. Then the next trip was down to Chicago area to meet that Paulsen guy.

Q. Did Mr. McVeigh in December also leave Michigan and go out West?

A. Yes, sir.

Kevin Nicholas - Direct

Q. Directing your attention to the time period shortly before Christmas, 1994, do you recall getting a phone call from Mr. McVeigh one evening after work or after dinner?

A. After dinner, I got a phone call to come pick him up; that he was -- got rear-ended at a truck stop or gas station or whatever.

Q. This is a phone call you received from Mr. McVeigh?

A. Yes, sir.

... 100, 511.

Q. And tell the jury what he said in the telephone call.

A. He said that he was -- he was at a speedway. He give me directions, and I asked him how far away, you know, what exit and stuff. He gave me the exit number and he said to come and pick him up right away and that he had an accident and that he's parked behind semitrailers behind the Speedway gas station.

Q. So this was a call to you to assist him because he had had this car accident?

A. Yeah. To come and pick him up.

Q. And did you do so?

A. Yes, sir.

Q. And what exactly did you do?

A. Well, I grabbed my truck or got in my truck and went to I-75 and went south. It was the Bridgeport exit. It was Exit 144, and the speedway was right off the exit there.

Q. And did you follow the directions Mr. McVeigh gave you?

Kevin Nicholas - Direct

A. Yeah, roughly.

Q. And did you find him?

A. Yes, sir.

Q. And where was he located?

A. He was parked between two semitrailers in the back of the Speedway gas station; and his car was all unloaded, and all his bags were sitting out on the ground behind the car and beside the car.

Q. Had you seen the vehicle that you saw that evening in December, '94, with Mr. McVeigh previously?

A. Yes, sir.

Q. Would you recognize photographs of the vehicle as it appeared in wrecked condition?

A. Yes.

MR. MACKEY: Your Honor, I'd move to publish previously admitted Exhibits 220, 221, and 222.

THE COURT: You may do so.

BY MR. MACKEY:

Q. What does that show, Mr. Nicholas?

A. It's Tim's wrecked car.

Q. And where is this photograph taken?

A. At my house.

Q. Is that your garage, then, it's parked in front of?

A. Yes, sir.

Q. And is this another vantage point of the same wrecked

Kevin Nicholas - Direct

vehicle?

A. Yes, sir.

Q. Now, in -- on this occasion at the truck stop, tell us again what you did after arriving and meeting up with Mr. McVeigh?

A. Well, first thing we did was we loaded all his stuff in the

car and -- or in my truck, I mean, and then we had to pull the metal off the tire a little bit; so I kind of drug him around the parking lot a little bit.

Q. Let me ask you to describe the process of taking his belongings and putting them into your truck. Tell the jury in some detail what exactly happened.

A. Okay. I was just grabbing stuff and just throwing it in the back of my truck; and Tim said, "Don't handle them. I'll take care of them two Christmas-wrapped packages there," because I was just tossing his other stuff in, you know, was in a hurry, wanted to get home.

Q. You pulled out his belongings there on the ground and you started pitching them in your truck; and what instructions does he give you about two Christmas-wrapped boxes?

A. That he would handle that. And I asked him what was in them; and he says, "I'll tell you later," so . . .

Q. And after getting the car in operating condition, did the two of you then drive from the truck stop?

A. Yes.

Kevin Nicholas - Direct

Q. Back to your residence?

A. Yes.

Q. And parked the car in the position that's depicted in those photographs?

A. Yeah, I think so.

MR. MACKEY: May I have the ELMO, please.

BY MR. MACKEY:

Q. Turn your attention to Government's Exhibit 220. What did -- what happened to Mr. McVeigh's belongings when you got them back to your house?

A. Put them all in the shed.

Q. Is that this building here?

A. Yes, sir.

Q. And did that include the Christmas-wrapped boxes?

A. Yes, sir.

Q. At that time upon your return to your home, did you have another conversation with Mr. McVeigh about the contents of those Christmas-wrapped boxes?

A. Yes. I asked him, you know, what was in them, and he said caps.

Q. Caps, C-A-P-S?

A. Yes.

Q. And did you ask him what "caps" meant at that time?

A. No, sir.

Q. At any subsequent time, did you and Mr. McVeigh have a

Kevin Nicholas - Direct

conversation where he described more precisely the contents of those two Christmas-wrapped boxes?

A. Yes. It was after that one trip that he took down to Chicago that I learned what was in them and stuff.

Q. What did Mr. McVeigh tell you was in the Christmas-wrapped boxes?

A. Blasting caps.

Q. At any point in time, did Mr. McVeigh tell you where he had gotten those blasting caps?

A. No, sir.

Q. Did he tell you if he had to pay for them or if not -- or if so, how much?

A. He said he got them.

MR. NIGH: I object as being asked if he ever told him and he answered no.

THE COURT: Overruled.

You understand the question?

BY MR. MACKEY:

Q. My first question was did he tell you where he got them. You said no?

A. No.

Q. My next question is did he ever tell you what he paid for them?

A. He never give a money amount that I recall. All he said was that he got them dirt cheap.

Kevin Nicholas - Direct

Q. Told you he got them dirt cheap?

A. Yeah.

Q. All right. While he was residing with you in late 1994, did you observe Mr. McVeigh use your telephone?

A. Yes, sir.

Q. On how many such occasions?

A. A lot.

Q. And did that bother you?

A. Yes, the first few times; and then I told him, you know, not to use my business line, to use my home line because it was -- I had like circle calling. I'd get stuff cheaper, some phone calls cheaper that way.

Q. What was his response?

A. He told me that -- that none of this would show up on his (sic) bill; that he had a calling card and --

Q. Did he tell you anything about how the calling card worked?

A. That it was a pay one, where you pay in advance, and that him and Terry had one together; that Terry's name was on it, too.

Q. Let me turn your attention now, Mr. Nicholas, to page 9 of Government's Exhibit 555 previously admitted and direct your attention to the date December 18, 1994. Do you see that before you?

A. Yes, sir.

Q. What was your phone number, your business phone number, in

Kevin Nicholas - Direct

December of 1994?

A. 672-4035.

Q. And the truck stop that you went to to pick up Mr. McVeigh

Q. And the truck stop that you went to to pick up Mr. McVeigh and his belongings? Do you remember the name of that truck stop?

A. Speedway.

Q. Given the condition of Mr. McVeigh's car, the wrecked car, do you know whether he went about trying to get a new vehicle to drive?

A. Yes, sir.

Q. And did he eventually acquire one from James Nichols?

A. Yes.

Q. And did you see it?

A. Yes.

Q. And would you recognize photos of it?

A. Yeah.

Q. Take a look, please, at Government's Exhibit 268, 269, and 270 in the accordion folder before you.

Do you find them?

A. Yeah.

Q. And do each of those exhibits, 268, '69 and '70, accurately depict the vehicle that you saw Mr. McVeigh in possession of in early 1995?

A. Yes, sir.

MR. MACKEY: Would move to admit Government's Exhibits

Kevin Nicholas - Direct

268, 269, and 270.

MR. NIGH: Your Honor, I don't object to 268 or 269. 270, I object to because it would depict matters that Mr. Nicholas wouldn't be familiar with.

THE COURT: I guess I need to see it.

MR. MACKEY: May I ask a question while --

THE COURT: Yes. You can ask another question about 270, or however many questions it takes.

MR. MACKEY: All right. Thanks.

BY MR. MACKEY:

Q. Mr. Nicholas, have you ever seen the back side of Mr. McVeigh's car, the one he had in December of -- or early 1995?

A. Yes. I used to drive it on the farm once in a while.

MR. MACKEY: Would move to admit each of the three exhibits.

MR. NIGH: I still object to 270, your Honor.

THE COURT: Well, I don't understand. If you can tell me what specifically you object to, maybe I can deal with it.

MR. NIGH: I suspect that the back of the car is not the same condition that Mr. Nicholas would have seen it in.

THE COURT: Well, do you have 270 in front of you?

THE WITNESS: Yes, sir.

THE COURT: And do you recognize the condition of the car as the same as when you saw it?

Kevin Nicholas - Direct

THE WITNESS: Yes, I think so.

THE COURT: Objection overruled. Exhibit is received.

BY MR. MACKEY:

Q. Why don't we start with 270. What is that, Mr. Nicholas?

A. Back end of the car.

Q. The photograph of the back end of Mr. McVeigh's car?

A. Yeah.

Q. Can you tell what kind of car it is from the photograph itself?

A. Yeah. Pontiac.

Q. 269?

A. Front end of the car.

Q. And 268?

A. The side view.

Q. Same vehicle?

A. Yes, sir.

Q. When did you last see Mr. McVeigh?

A. Right around Super Bowl of '95.

Q. And when he left, was he driving the vehicle that you just identified?

A. Yes, sir.

Q. During the course of time, Mr. Nicholas, that you knew Timothy McVeigh, did you have occasion to receive correspondence from him?

A. Yes.

Kevin Nicholas - Direct

Q. And to observe his handwriting and other documents?

A. Yes.

Q. On a total of how many such occasions did you see the writing of Timothy McVeigh?

A. Maybe three dozen or so.

Q. And based on that experience, are you familiar with the handwriting of Timothy McVeigh?

A. Yeah.

Q. Would you recognize it if you saw it?

A. Yeah.

Q. Let me ask you first, Mr. Nicholas, after the bombing in April of 1995, did you have occasion to see correspondence from Timothy McVeigh, or authored by Timothy McVeigh?

A. Yes.

Q. Where was that at?

A. Well, I -- we -- I received a letter about a chain from him; and then my wife got a birthday card, a Valentine's card, and I think I got a card, too.

Q. I'll ask you, do you know Gwenn Strider?

A. Yes, sir.

Q. Who is she?

A. Be my wife's aunt.

Q. Where does she live?

A. Caro, Michigan.

Q. C-A-R-O?

Kevin Nicholas - Direct

A. Yes.

Q. Is that near Vassar?

A. Yeah.

Q. And after the bombing, did you have occasion to be at the Strider residence?

A. Yes.

Q. Why were you there?

A. She called me about a letter.

MR. NIGH: I'm going to object on grounds of hearsay, your Honor. I think he's about ready to testify about what a witness told him.

MR. MACKEY: It's not offered for the truth but to explain why he was there on that day.

THE COURT: All right. I'll receive it but not for the truth of whatever was said.

You may answer.

THE WITNESS: Yes, I received a call that she received -- had a letter from Tim and stuff, and she didn't know what to do with it; so I thought I had -- I told her I'd like to read it, first. So I read it.

BY MR. MACKEY:

Q. So you went over to Mrs. Strider's home and read the letter?

A. Yes.

Q. Did you recognize it at that time as the handwriting of

Kevin Nicholas - Direct

Timothy McVeigh?

A. Yes, sir.

Q. And did you read the letter in its entirety?

A. Yeah.

Q. And did it have enclosures or attachments of any sort?

A. Yes, sir.

Q. Did you review those as well?

A. Just kind of glanced at them. I didn't much care about them.

Q. Let me direct your attention to Government's Exhibit 26. That's in the folder before you. Do you see that?

A. Yes, sir.

Q. Do you recognize what Government's Exhibit 26 is?

A. Yes. That's the letter.

Q. Is that the same letter you read at the Strider residence in April of 1995?

A. Yes.

Q. Let me direct your attention to Government's Exhibit 26B. Do you find that before you?

And is that a more legible copy of that same exhibit?

A. Yes.

Q. Do you recognize the handwriting that appears in the letter, Government's Exhibit 26?

A. Yeah.

Q. And whose handwriting is that?

Kevin Nicholas - Direct

A. Tim's.

MR. MACKEY: Your Honor, I move to admit Government's Exhibit 26 and 26B.

MR. NIGH: Your Honor, I object to both on the grounds of foundation, also under Rule 402, relevance; 403, misleading; and 404(b).

In reference to foundation, your Honor, I would submit there is not a proper predicate concerning where and under what circumstances the letter was sent or received, if any at all, and the context of it.

MR. MACKEY: Your Honor, this exhibit was the subject of earlier briefings to the Court.

THE COURT: Well, 26B is simply --

MR. MACKEY: A more legible copy of the letter.

THE COURT: How did it become more legible?

MR. MACKEY: 26 has the handwriting processes on it. A copy was made before it was subjected to those processes -- fingerprints. I'm sorry.

THE COURT: All right. The objection to foundation is overruled. It can be received on the basis of the witness' testified-to identification of the handwriting.

I haven't read the contents.

All right. That objection is overruled as well. It's received.

26B is received as simply a copy.

Kevin Nicholas - Direct

MR. MACKEY: That could be read, yes, your Honor.

THE COURT: All right.

BY MR. MACKEY:

Q. Mr. Nicholas, this letter is dated 10 February 1995?

A. Yes, sir.

Q. And it's addressed to Gwenn. Is that correct?

A. Yes.

Q. Before coming to court today, did you read again the content of Exhibit 26B?

A. Today?

Q. Before coming to court today, did you read this exhibit as it appears?

A. Oh. Yes. Yes.

Q. Does it begin by saying, "Kevin hurt his back, eh?"

A. Yes.

Q. And then goes on to say, "As far as the main context of your letter, I really don't know what to tell you, except write your representatives in Congress - they represent the people and they listen to them." Paren., "(Yea, right!)."

It goes on to say, "No, really, let me try to explain - I was in the educational/literature dissemination," and then in parentheses, "(desert wind is wreaking havoc on my already scratchy writing)," end of parentheses, then goes on to say, "field for quite some time." Then goes on to say, "I was preaching and," quote. "'passing out.'" end of quote. "before

Kevin Nicholas - Direct

anyone had ever heard the words," quote, "'patriot' and," quote, "'militia.'" Then it goes on, "=C4=C4 Just got out of the wind =C4=C4"

And then underlined in quotes, "'Onward and upward,' I passed on that legacy about a 1/2 year ago. I believe," quote -- excuse me -- excuse me. "I believe the," quote, "'new blood,'" end of quote, "needs to start somewhere; and I have certain other," quote, "'militant' talents that are short in supply and greatly demanded. So I gave all my informational paperwork to the," quote, "'new guys,'" end of quote, "and no longer have any to give. What I can send you, is my own personal copies; ones that are just" getting dust -- or "gathering dust, and a newsletter I recently received.

"If you are willing to write letters, I could pass your name on to someone; but let there be no doubt, with the letters I have in mind, the literature that would be forwarded to you for copying; etc., you would probably make a list." Parenthesis, "(Currently, there are over 300,000 names on the

Cray Supercomputer in Brussels, Belgium; of," quote, "'possible and suspected subversives and terrorists,'" end of quote, "in the U.S., all ranked in order of threat,)" end of parentheses. "Letters would be of an," quote, "'on notice,'" end of quote, "nature, like the ones many people," quote, "(myself included)," end of quote, "wrote to Lon Horiuchi," quote, "(The FBI sniper who blew Vicki Weaver's head off)," end of quote,

Kevin Nicholas - Direct

"saying, in effect:" quote, "'What goes around comes around'"

"Hey, that's just the truth, and if we're scared away from writing the truth because we're afraid of winding up on a list, then we've lost already."

Quote, "'To sin by silence when they should protest makes Cowards of men,'" end of quote. "Abe L."

"If the founding fathers had been scared of a," quote, "'list,' we'd still be under the tyrannical rule of the crown.

"They knew, without a doubt, that by signing the Declaration of Independence, they would be sentenced to death, for high treason against the crown. But they realized something was more important than their soul or collective lives - the cause of liberty.

"Hell, you only live once, and I KNOW you know it's better to burn out, then rot away in some nursing home. My philosophy is the same - in only a short 1-2 years, my body will slowly start giving away - first maybe knee pains, or back pains, or whatever, but I won't be," quote, "'peaked' anymore. Might as well do some good while I can be 100% effective!

"Sorry I can't be of more help, but most of the people

sent my way these days are of the direct-action type, and my whole mindset has shifted, from intellectual to animal," quote -- or parentheses, "(Rip the bastards heads off and shit down their necks! , and I'll show you how with a

Kevin Nicholas - Direct

simple pocket knife...etc.)

"So take your time, read all the enclosed paperwork, and maybe pass it on to other interested parties. If you want to go on a propaganda mailing list, let me know."

And then it's signed, "Seeya, The Desert Rat."

Is that an accurate read of the letter that you saw at the Strider residence?

A. Yes.

Q. In April of 1995?

A. Yes, sir.

Q. Mr. Nicholas, before coming to court today, did I ask you to examine a series of photographs that depict an individual?

A. Yes, sir.

MR. MACKEY: May I approach, your Honor?

THE COURT: Yes.

BY MR. MACKEY:

Q. Mr. Nicholas, for the record, I've handed you six photographs that constitute part of Government's Exhibit 340C, each bearing time frames between 3:57:09 through 3:57:12. Have you seen each of those photographs?

A. Yes, sir.

Q. Have you studied them? And do you recognize the person depicted walking in each of those photographs?

A. Yes, sir.

Q. Who is that?

Kevin Nicholas - Direct

A. Tim.

Q. Is that Timothy McVeigh?

A. Yes.

MR. MACKEY: I have nothing else, your Honor.

THE COURT: Mr. Nigh, do you have questions?

MR. NIGH: Yes, your Honor. Thank you, your Honor.

CROSS-EXAMINATION

BY MR. NIGH:

Q. Good morning, Mr. Nicholas.

A. Good morning, sir.

Q. When you began speaking to Mr. Mackey this morning, you told us a little bit about your background, but you didn't go into very much detail. As I understood it, when you were growing up in the Thumb area of Michigan and when you started working originally, you started doing farm work.

A. Yes.

Q. Is that primarily what you did in the beginning of your working days?

A. Well, I did three years in the service when I was right out

of high school. Then I come back and then I worked at Active Industries for -- off and on. I was laid off more than I worked; and that's when I went into farming, and I worked; but I farmed with my dad all the way up since I was --

Q. You started with your dad?

A. I helped him, rode tractor, drove tractor.

Kevin Nicholas - Cross

Q. Did the things that needed to be done?

A. Yeah.

Q. All right. Then right after high school, you went into the Army?

A. Yes, sir.

Q. Where were you stationed, by the way?

A. Kansas for, oh, ten months, Fort Riley, and then over in Fulda, Germany, for 22 months.

Q. All right. Fort Riley, Kansas, same place Tim was stationed?

A. Yes.

Q. Not at the same time, however.

A. No.

Q. All right. Then after you got back from the service and you worked at the radiator plant for a while, then you went back to doing farming and you got your own apartments?

A. Yes.

Q. Which you maintain and rent out to folks there in the Thumb area; is that right?

A. Yes, sir.

Q. Now, when Mr. Mackey was asking you questions a little earlier, you said that you met Tim probably in -- Mr. McVeigh in about 1992?

A. Yeah, roughly around there.

Q. All right. And was that while you were doing farming

Kevin Nicholas - Cross

for --

A. Yeah, for James, worked on the Nichols Farm.

Q. The James Nichols Farm?

A. Yeah.

Q. You also mentioned, I believe in your direct examination testimony, a person named Joyce?

A. Yeah. She's the mother of Terry and James.

Q. The mother of Terry and James Nichols?

A. Yeah.

Q. Is that Joyce Wilt?

A. Yeah.

Q. And she was actually the owner of most of these farms?

A. Yes.

Q. You also described a period of time beginning in late 1994 when Mr. McVeigh came to see you. Do you recall that?

A. Yes.

Q. Did he play a little bit of joke -- of a joke on you when he arrived that fall of 1994?

HE ARRIVED THAT FALL OF 1991.

A. Oh. Yeah. Yeah.

Q. And what -- how did that come about? Did he call you?

A. Yeah. He called me on the phone and says, "My basement is flooded and water is squirting out all over and stuff," and then he just hung up. There was no -- no person, what apartment it was, you know, nothing. I didn't know. But I could tell by the voice, you know, after I listened to it that

Kevin Nicholas - Cross

it was Tim; and that was the day before I think he showed up, or something, or a couple days.

Q. So when you received that message, you thought it was one of your tenants?

A. At first, yeah.

Q. That was having some pretty serious water problems that you were going to have to deal with?

A. Yeah.

Q. All right. Now, you also described a few moments ago a gun show that you attended in December of 1994 with Mr. McVeigh?

A. Yes.

Q. Now, that would have been the Grand Rapids gun show. Is that right?

A. December of '94?

Q. Right.

A. No. Kalamazoo.

Q. I'm sorry. Okay. The first one was in January of 1994.

A. That was Grand Rapids.

Q. I got the order mixed up. When you went to the January, 1994 gun show, that would have been Grand Rapids?

A. January of 1994?

Q. Right.

A. Yes.

Q. The first one you went to with Mr. McVeigh?

A. Yes.

Kevin Nicholas - Cross

Q. How far was that gun show from where you lived?

A. Three-hour drive.

Q. Did you drive that with Mr. McVeigh?

A. Yeah.

Q. And what did you take with you to the gun show?

Well, did you take some items to sell or did Mr. McVeigh take some items to sell?

A. Oh, yes. Long guns, books, videotapes. I don't know, a little bit of everything. Toaster, I think.

Q. All right.

A. Miscellaneous stuff. Oh, bumper stickers.

Q. Bumper stickers?

A. Yeah. There was all kinds -- a little bit of everything, you know.

Q. Books, videotapes?

A. Yeah.

Q. And some long guns, right? Meaning rifles and shot guns?
A. Correct.
Q. And the two of you put all of these items out on tables and tried to sell them to customers there at the gun show?
A. Yes.
Q. Was Mr. McVeigh the only person at the gun show selling books and bumper stickers?
A. No. There was all kinds there.
Q. Bumper stickers, videotapes?

Kevin Nicholas - Cross

A. Yeah. There was -- yeah, people selling, I don't know, it was like a flea market, I guess.
Q. Were some of the other gun dealers or people at the display table at this gun show selling bumper stickers and books of a political nature?
A. Yeah.
Q. And videotapes as well?
A. Yes.
Q. Now, was it at that first January, 1994 gun show that you met this individual named Paulsen?
A. No.
Q. That was in the December, 1994 gun show?
A. Correct.
Q. All right. Well, let's move on to the December, 1994 gun show, then. Where was that gun show held?
A. Kalamazoo.
Q. How far was Kalamazoo from where you and Mr. McVeigh were staying at the time?
A. About the same. About two, three hours. Probably three hours. A good three-hour drive.
Q. Is that still in the thumb of Michigan?
A. No. It's more on the west side of the state.
Q. More in the palm?
A. Yeah. There you go.
Q. All right. Was Mr. McVeigh living with you and your family

Kevin Nicholas - Cross

at the time?
A. Yeah, kind of. He was in and out though. He stayed there.
Q. Did he spend the night there with you?
A. Yeah.
Q. And with you and -- was it your girlfriend at the time or your fianc=82e?
A. Yeah, girlfriend.
Q. All right. What kind of items did you take to that gun show in December of 1994?
A. Same stuff. There was, you know, long guns, books. There was books. Badges, like Army stuff. You know, badges, stuff like that.
Q. Military paraphernalia?
A. Yeah.

Q. All right. Did Tim have -- Mr. McVeigh have some guns with him that he had just recently obtained?

A. Yes, sir.

Q. Where did he obtain these guns?

A. From his grandfather's estate.

Q. Had his grandfather recently passed away?

A. As far as I knew, yes.

Q. And he obtained these guns from his grandfather's estate and brought them to where you lived in December of 1994? Is that right?

A. Yes.

Kevin Nicholas - Cross

Q. Did that include some SKS rifles?

A. From New York, he brought them, now? From his grandfather's estate, you're saying?

Q. Yes.

A. No.

Q. Was that in the earlier time?

A. No.

Q. Okay. Did he sell some in January of 1995?

A. SKSs?

Q. Yes.

A. I don't recall. I don't know.

Q. That's all right. If you don't recall.

MR. NIGH: Your Honor, may I have just a moment?

THE COURT: Yes.

BY MR. NIGH:

Q. I'm sorry. I got it wrong, Mr. Nicholas. Did he trade some of the guns from his grandfather's estate for some SKS rifles?

A. Yes.

Q. All right. I apologize about that.

A. That's okay.

Q. I just had it wrong in my notes.

Now, was that at one of these gun shows, the one in Kalamazoo or the one in Grand Rapids?

A. Grand Rapids.

Kevin Nicholas - Cross

Q. Now, while Mr. Mackey was asking you questions earlier, you made reference to Mr. McVeigh being in a wreck and calling you and asking you for help.

A. Yes.

Q. And he had some Christmas packages with him?

A. Yes.

Q. And he told you that there were blasting caps in those Christmas packages?

A. Yes, later on. Yes.

Q. All right. Did you pick up those packages yourself?

A. No.

Q. Did you see him pick them up?

A. Yes.

A. Yeah.

Q. Could you tell by him picking them up whether or not they weighed anywhere close to a thousand pounds?

A. No, I don't -- no.

Q. He was able to carry them?

A. Yeah.

Q. Now, if I understood you also correctly, you said that Mr. McVeigh went on a trip a little later. Is that right? With James Nichols?

A. Yes.

Q. And did you know where he was going?

A. First time was -- I knew it was to collect some money for James, ride along.

Kevin Nicholas - Cross

Q. And the second time was to sell those blasting caps, wasn't it?

A. Yes.

Q. And he was going to try to sell them to Mr. Paulsen?

A. Correct.

Q. All right. Did he ever tell you there was anything else he was going to do with them other than sell them?

A. No.

Q. Did Mr. McVeigh ever say anything to you about ammonium nitrate fertilizer?

A. No.

Q. Did you -- did Terry Nichols ever say anything to you about ammonium nitrate fertilizer?

MR. MACKEY: Objection. Hearsay.

THE COURT: Overruled.

BY MR. NIGH:

Q. That means you can answer.

A. Okay. Yes.

Q. Did he -- what did he say to you about the ammonium nitrate fertilizer?

A. He sells it at gun shows, bottles it in little containers and sells it.

Q. Did he say that he bought it in big packages and sold it in small ones?

A. Yes, small quantity.

Kevin Nicholas - Cross

Q. For the purposes of making a profit?

A. Yeah.

Q. You also testified on direct examination, Mr. Nicholas, about a conversation about a fella named Bob in Arkansas. Do you remember that?

A. Yes.

Q. You made reference to tracer ammunition?

A. Yes, sir.

Q. Do you know what tracer ammunition is?

A. Yeah. Just kind of shows where your bullets are going after dark, kind of lights them up.

Q. Lights up as it goes?
A. Red or green.
Q. Kind of pretty?
A. Yeah.
Q. When did he have this conversation with you?
A. That was in -- that was before the '94 gun show in Grand Rapids.
Q. Wasn't it, in fact, when you -- were you at one time married to a woman named Jo Lynn?
A. Yes. I was married to Jo Lynn at the time.
Q. And wouldn't that make it approximately 1992?
A. No, because he went with me to my divorce -- let me think.
I don't think so. I think it was in '94.
Q. Okay. Now, you also identified while Mr. Mackey was asking

Kevin Nicholas - Cross

you questions this letter to Gwenn.
A. Uh-huh.
Q. Do you remember that?
A. Yes.
Q. Did Mr. McVeigh ever say -- you knew him pretty well back in December of 1994 and early 1995; is that right?
A. Yeah. Yes.
Q. Travelled with him for hours in a car?
A. Yeah, to go to shows and stuff.
Q. Had conversations with him there in your house?
A. Yeah.
Q. Did he talk politics with you?
A. Not so much, no.
Q. He did talk about Waco, did he not?
A. Yeah, he did. A little bit there when it was going on and stuff.
Q. And even after, he showed you some videotapes about it, didn't he?
A. Yes, I did see videotapes on it.
Q. And did he say that any action should be taken in reference to what the government had done at Waco?
A. No, not in a sense, no.
Q. Did he ever say that he thought that he should take any action against the government as a result of what had happened at Waco?

Kevin Nicholas - Cross

A. No.
Q. In fact, have you described his politics and what he said to you about his politics in the past as "he would just voice his opinion good, and that was it, you know"?
A. Yeah, he didn't rag on about nothing.
Q. Did Mr. McVeigh ever say anything to you about racing fuel of any kind?
A. No.
Q. Or anhydrous hydrazine?

A. No. Don't know what it is, so no.

Q. Or ammonium nitrate?

A. No.

Q. Or the Alfred P. Murrah Building in Oklahoma City?

A. No, never.

MR. NIGH: That's all I have, your Honor.

THE COURT: Mr. Mackey, do you have any additional?

REDIRECT EXAMINATION

BY MR. MACKEY:

Q. Mr. Nicholas, just a few additional questions, please.

With reference to firearms from the McVeigh estate --

A. Uh-huh.

Q. -- how many guns do you know Timothy McVeigh got from that source?

A. Maybe 10 at the most.

Q. And how many SKSs?

Kevin Nicholas - Redirect

A. Got from that estate?

Q. Yes.

A. None that I ever seen.

Q. This was just the conversion, a trade for something else.

A. Right.

Q. That was the only source for those weapons?

A. Right.

Q. Would you describe yourself as a political person?

A. No, I don't think so.

Q. And did you make that clear to Tim McVeigh in the course of your relationship with him?

A. Yeah, pretty much, you know, I just more or less like keep to myself and -- I don't know. I live a peaceful life, I guess. I don't know.

Q. Good enough. You were asked some questions about Terry Nichols and statements he made to you concerning purchase and use of ammonium nitrate. Is that -- remember those questions and your answers?

A. Yeah.

Q. And that was information that you had disclosed to the defense -- representative of the defense in October of '95. Do you remember that?

A. Yeah.

Q. Do you remember -- you know who Neil Hartley is?

A. Yes.

Kevin Nicholas - Redirect

Q. You met with him more than once?

A. Yes.

Q. And who is he?

A. A detective for the defense.

Q. And do you remember telling Mr. Hartley back in October of '95 the information you told this jury about Terry Nichols acquiring ammonium nitrate and then reselling it?

A. Yes.

Q. In your circuits on the gun show, or at least the three that you attended, did you ever see people selling ammonium nitrate?

A. No.

Q. In the same interview with Mr. Hartley back in October of 1995, did you tell him that Mr. McVeigh had talked to you about storage sheds that he had in the state of Kansas?

A. I never knew of any storage sheds that he had.

Q. Did you tell Mr. Hartley in October of 1995 that Tim McVeigh told you he shared storage sheds with Terry Nichols in Kansas? Did you make that statement to him?

A. I don't think so.

Q. Finally, Mr. Nicholas, in December of 1994, when you helped Mr. McVeigh out with the Christmas-wrapped boxes that he later told you was blasting caps, do you know from any source whether he had control over yet additional quantities of blasting caps at that same time?

Kevin Nicholas - Redirect

MR. NIGH: I object, your Honor.

THE COURT: Well, the source of information is going to be critical to that; so the question as phrased, the objection is sustained.

MR. MACKEY: All right.

BY MR. MACKEY:

Q. Mr. Nicholas, did you and Mr. McVeigh ever have any other conversations where you discussed his control over quantities of blasting caps?

A. No, sir.

MR. MACKEY: I have nothing else.

MR. NIGH: No --

THE COURT: Any recross?

MR. NIGH: No further questions, your Honor.

THE COURT: This witness now to be excused?

MR. MACKEY: Yes, your Honor.

THE COURT: Do you agree?

MR. NIGH: Yes, your Honor.

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

Mr. Nicholas.

Well, it's 5 minutes to 12. We'll recess at this time, members of the jury, for our usual hour and a half till 1:25, during which, as usual, please avoid conversation among yourselves and with all other persons concerning any aspect of this trial; and continue to keep open minds and stay away from anything outside the evidence which could affect your decision on the issues.

You're excused till 1:25.

(Jury out at 11:55 a.m.)

THE COURT: We'll be in recess.

(Recess at 11:55 a.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
26 & 26B	7697	7698			
268 - 270	7691				
268 - 270	7692	7693			
1076	7671	7671			

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 8th day of May, 1997.

Paul Zuckerman

Bonnie Carpenter