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Tuesday, May 13, 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 93)

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 13th 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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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, sir.

MR. JONES: Yes, your Honor.

THE COURT: Okay.

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

THE COURT: Members of the jury, good morning. We're ready to resume with further testimony on cross-examination from Mr. Fortier.

Mr. Fortier, will you please resume the stand under your oath.

(Michael Fortier was recalled to the stand.)

THE COURT: Mr. Jones, you may continue.

MR. JONES: Thank you, your Honor.

CROSS-EXAMINATION CONTINUED

BY MR. JONES:

Q. Mr. Fortier, after court yesterday and before coming in this morning, did you talk with anyone?

A. Yes, sir, I spoke with my lawyer.

Q. And how long did you speak with him?

A. For just a few minutes yesterday and a few minutes this morning.

Q. Did you speak with anyone else?

A. Just with the U.S. marshals.

Q. Okay. Now, do you wish to change any of the testimony that you gave yesterday under oath?

A. No, sir.

Q. Okay. In the intervening time between last night and this morning, have you remembered how to get into downtown Oklahoma

Michael Fortier - Cross

City off Interstate 35?

A. No, sir.

Q. You remember that yesterday I questioned you concerning whether there had been a disagreement between you and your lawyer and Mr. Hartzler concerning the question of doubt or suspicion or concern as to whether this was in fact a robbery of Roger Moore's weapons?

A. Yes, sir.

Q. And I ask you again if there was a meeting out at the place where you were held in detention before this trial started in which yourself and Mr. Maguire and Mr. Hartzler and one other prosecutor were present and there was a heated discussion, a strong discussion, about whether in fact there had been a robbery of Roger Moore.

A. Sir, there was a heated discussion, but it did not pertain to the weapons being stolen or not.

Q. What did it pertain to?

A. Discovery and the legality of the wiretaps at my home in Kingman, Arizona.

Q. I see. So your statement is -- and I want to be sure I understand it -- you deny under oath that there was a heated discussion by you or your lawyer with the prosecutors while you've been in detention concerning the Roger Moore robbery?

A. Yes, sir.

Q. Now, Mr. Fortier, yesterday Mr. Hartzler asked you about

Michael Fortier - Cross

how many times you had met with him. Do you remember that?

A. Yes, sir.

Q. Originally you had not met with him prior to May 17 of 1995; is that correct?

A. Yes, sir.

Q. And when was your first meeting with Mr. Hartzler?

A. Shortly thereafter.

Q. And between that date and the date of the return of the indictment on August the 10th, 1995, how many times did you meet with Mr. Hartzler?

A. Approximately six times.

Q. And those meetings that you had lasted how long?

A. Each time we met, we either met for either one day or maybe two days, and they lasted between four and six hours a day.

Q. So when you say you met six times, are you counting the second day as one of the six?

A. Yes, sir.

Q. During that same period of time, did you meet with any other prosecutors other than Mr. Hartzler when Mr. Hartzler was not present?

A. At first I met with some other people before I met Mr. Hartzler. But after I believe he was appointed to the case, I met with him each time.

Q. Prior to the time that you met with Mr. Hartzler, how many times did you meet with people that you believe were

Michael Fortier - Cross

prosecutors in this case?

A. No more than three times.

Q. After the return of the indictment and the signing of the plea agreement, how many times have you met with Mr. Hartzler?

A. I believe between seven to ten times.

Q. Seven to ten times?

A. Yes, sir.

Q. And that's all?

A. Yes, sir.

Q. And how long would those sessions be?

A. The same duration as the others.

Q. So in other words, could be one or two days at a time?

A. Yes, sir. Between four, six hours a day.

Q. And within the last 60 days, how many times have you met with Mr. Hartzler?

A. Between seven to ten times.

A. I believe twice.

Q. And how long were those sessions?

A. For the same durations.

Q. Now, when you say you've met with him twice in the last 60 days, is that included in the number that you gave me since August of '95, or is that in addition to it?

A. It's including.

Q. Leaving aside Mr. Hartzler for a moment, have you met with other prosecutors since August of '95 in which Mr. Hartzler was not present?

Michael Fortier - Cross

A. Yes, I believe I met once with Mr. Goelman and an FBI agent.

Q. All right. Thank you. Now, have you met with agents of the FBI since August of 1995 where prosecutors were not present?

A. Yes, sir, only once.

Q. And do you recall when that was?

A. Yes. In September of 1995 or thereabouts.

Q. And then since August of 1995, after you entered the plea of guilty and after the completion of the plea agreement, how many times have you met with your attorney, Mr. Maguire?

A. Numerous times.

Q. More than two dozen?

A. After August of 1995, I would estimate about 15 times.

Q. And within the last 60 days, how many times with Mr. Maguire have you met?

A. Counting last night, three times.

Q. Mr. Fortier, I believe yesterday I was asking you when you were on the stand, the testimony that you are giving here is different than the statements you made prior to May 17; is that correct?

A. Yes, sir.

Q. And in addition your manner of speech, your appearance, even down to the way in which you comb your hair and your clothes have changed; would you agree with that?

Michael Fortier - Cross

A. From the time period that the media started scrutinizing me, yes.

Q. Well, you were dressed like that before the media started scrutinizing you, weren't you?

A. I combed my hair this way before the media started scrutinizing me. I've also spoke this way. My speech hasn't changed. I may have picked up a few words.

Q. You think that your speech here in court is consistent with what's on those tapes?

A. Well, of course, I'm curbing my language. I'm not going to sit here and curse in front of all these people.

Q. Well, I'm talking about speech, yes. When you were on the tapes, you were speaking with friends and associates, weren't you?

1-11

A. Yes, sir.

Q. And that was your ordinary, normal, everyday speech, then, wasn't it?

A. Yes.

Q. Would you agree with me, Mr. Fortier, that you have transformed yourself?

A. No, sir, I wouldn't agree with you.

Q. Well, certainly you would agree with me that your testimony and statements today are different than the ones before, aren't they?

A. Before May 17, I was lying to the FBI and to the media and

Michael Fortier - Cross

other people.

Q. That wasn't the question I asked you, Mr. Fortier. The question I asked you is whether your statements today are different than the ones before May 17.

A. Yes, they are.

Q. Now, in these sessions with Mr. Hartzler, did you go over things like responding to my question by saying, "Well, I was lying then and I'm not lying now"?

A. Mr. Hartzler has never coached me on what to say.

Q. I didn't ask you whether he coached you. I asked you whether you had discussed those matters. And incidentally, was it suggested that you answer by saying, "I haven't been coached"?

A. No, sir, it wasn't.

Q. Well, then, let's go back to my original question. When you met with Mr. Hartzler or any of the prosecutors, did you go over with them the questions that would be asked?

A. Yes, there was a mock cross.

Q. There was a mock cross?

A. Yes, sir.

Q. But that's not coaching?

A. Not in my opinion.

Q. Not in your opinion. What would you call it, Mr. Fortier?

A. Preparation.

Q. Preparation. I see. Well, when you were in preparation

Michael Fortier - Cross

for your testimony here, did you discuss the answers that you would give to the questions that were asked?

A. No, sir. I just gave the answers, and they accepted them.

Q. So you'd give an answer and they'd automatically move on to the next question and not discuss your answer one bit?

A. That's correct.

Q. Never.

A. Not that I can recall.

Q. And in the mock cross, were your answers discussed?

A. No, sir.

Q. What was the purpose of the mock cross-examination, Mr. Fortier?

A. To give me a feel of the difference between a direct and a cross.

Q. And did someone suggest you respond with that answer?

A. No, sir.

Q. When you were meeting with Mr. Hartzler, was it brought to your attention that some of the questions that he asked you in the last 45 minutes of your direct were the same questions or very similar to the questions that I'd asked Mrs. Fortier?

A. Would you repeat the question, please?

Q. Yes, sir. In your sessions of preparation with Mr. Hartzler, was it brought to your attention that some of the questions that would be asked of you and were asked of you yesterday afternoon were very similar to the questions that I

Michael Fortier - Cross

had asked Mrs. Fortier?

A. No, sir.

Q. And was it suggested to you that the Government wanted to get out the bad parts of what might be asked by me through Mr. Hartzler?

A. No, sir, that was not discussed between me and the prosecution.

Q. Okay. I notice you limit your answer to you and the prosecution. Is that correct, Mr. Fortier?

A. Yes, sir.

Q. How many times has your lawyer met with Mr. Hartzler?

A. I could not give an accurate count on that.

Q. I see. Well, as near as I can figure it out, then, you've met with Mr. Hartzler almost 20 times. Well, counting Mr. Goelman.

A. Altogether --

Q. Yes.

A. -- between 15 and 20.

Q. And these average sessions were somewhere between four to six hours?

A. Yes, sometimes running into two days.

Q. Okay. So that would mean that you've met with him pretty close to somewhere between 75 to 100 hours.

A. That would be fair.

Q. Prior to yesterday, you had declined all interviews with

Michael Fortier - Cross

me, hadn't you?

A. Yes, sir.

Q. So until you testified yesterday, you and I had never talked about your knowledge or claimed knowledge about the facts of this case; is that correct?

A. Yes, sir.

Q. And in addition to speaking with Mr. Hartzler and the other prosecutors, you of course spent hundreds of hours with FBI agents, didn't you?

A. In exclusion of the prosecution? I didn't understand the

question.

Q. Yes, with the exclusion of the prosecution, just with the agents.

A. I don't believe it would reach into the hundreds of hours.

Q. Well, it would certainly reach a couple hundred hours, wouldn't it, because you took all these road trips with them?

A. That would only -- I believe I was only gone two days with the FBI on that road trip.

Q. Uh-huh.

A. So there would be 50 hours.

Q. Well, tell me what hour figure you're comfortable with.

A. No more than a hundred.

Q. A hundred. So somewhere before yesterday you had spent 150 to 175 hours with representatives of the Government?

A. Yes, sir.

Michael Fortier - Cross

Q. Now, to be fair, that includes the time before May 17? Or does it?

A. Yes, I could include that in there.

Q. Well, if we were to include the time before May 17, that would only be maybe a dozen hours, wouldn't it?

A. Excuse me?

Q. If we were to include the time you spent with the FBI before May 17, 1995, that wouldn't be more than a dozen hours, would it?

A. No more than a -- no more than two dozen.

Q. All right. Now, do you know of any other witness where the prosecutors and the FBI agents have spent more time with than you?

A. No, sir.

Q. And even though they've spent close to 150 to 175 hours with you, you still believe you're not crucial or important to their case?

A. I only know what they've told me.

Q. Now, yesterday Mr. Hartzler inquired of you about if you didn't plead guilty to every count that was charged against you, and you said yes. Do you remember that?

A. Would you repeat the question, please?

Q. Yes, sir. Mr. Hartzler asked you yesterday, didn't he, if you pled guilty to all of the counts against you in the indictment?

Michael Fortier - Cross

A. Yes, I did.

Q. All right. Well, now, Mr. Fortier, the number of counts that you were going to plead to was the subject of negotiation between Mr. Maguire and the Government, wasn't it?

A. I wasn't present for any negotiations.

Q. Well, I didn't ask you that. I said wasn't it a topic of negotiation, whether you were present or not. Wasn't it a topic of negotiation?

A. My lawyer had told me he had spoken to Mr. Hartzler about

A. My lawyer had told me he had spoken to Mr. Hartzler about the plea agreement.

Q. Mr. Fortier, your lawyer was negotiating on your behalf, wasn't he?

A. I wasn't present for any negotiations, sir. I wouldn't know -- he didn't tell me how . . . deeply he got into conversation with Mr. Hartzler concerning that matter.

Q. Was he doing a good job for you?

A. Yes, I'm pleased with Mr. Maguire.

Q. Was he meeting with the Government?

A. At times, yes.

Q. A lot of times between May and August of '95, wasn't he?

A. Without me, not maybe that I'm aware of.

Q. Well, there was a whole shopping list of charges that could have been brought against you, wasn't there?

A. I'm not sure. I don't know what the prosecution would -- could have charged me with.

Michael Fortier - Cross

Q. You're just in the dark about all of that?

A. I wouldn't say I'm in the dark. I just don't know what all they were thinking about charging me with.

Q. So you don't even know whether your lawyer that you're satisfied with was negotiating the number of charges to be filed against you?

A. Prosecution approached me with those four charges, and I was in agreement with it. I didn't see a need to negotiate.

Q. Well, before they approached you, was there any negotiation?

A. Not that I was present for.

Q. Didn't ask you that. Was there any negotiation before they approached you with the charges?

A. My lawyer had told me that he had conversation with Mr. Hartzler. I wouldn't call it negotiation. I would just call it they were just talking about it.

Q. Just talking about it; talking about what? The number of charges?

A. Yes, sir.

Q. And that's not negotiation.

A. I don't know exactly what was said in the conversation between them, so I'm at a loss to answer this question.

Q. You don't know exactly what was said; is that correct?

A. That's right.

Q. You have a pretty good idea of what was said, though, don't

Michael Fortier - Cross

you?

A. Just what I've already told you.

Q. Are you as forthcoming on your answers to that question as you are to your other answers?

A. Yes, sir.

Q. Now, while you have been in custody, have you been allowed physical contact visits with Mrs. Fortier?

- -
A. Yes, sir.
Q. You mentioned yesterday that there was a black hat that Mr. McVeigh had that had some simulated ATF bullet holes?
A. Yes, sir.
Q. Now, that's a widely manufactured item, isn't it, Mr. Fortier?
A. I wouldn't know. That's the only one I've ever seen.
Q. You didn't see them stacked on tables at gun shows after Waco?
A. Excuse me. No, sir.
Q. Well, did you imagine that Tim McVeigh got the hat and got some thread and sewed that in there, or did it look mass manufactured?
A. It did look manufactured.
Q. Now, you indicated yesterday in response to questions from Mr. Hartzler that you and Mr. McVeigh had had a discussion about the United Nations.
A. Yes, sir.

Michael Fortier - Cross

Q. Now, that's not unusual, is it?
A. Not for us.
Q. Well, not for you. There are a lot of people that have differing views about the United Nations, aren't there?
A. Yes.
Q. From the Congress on down.
A. I believe so.
Q. And there's a wide body of opinion that feels that the United States should not be a member of the United Nations; wouldn't you agree with that?
A. Yes, I would.
Q. And there's a lot of people that feel we shouldn't contribute to it.
A. Yes, sir.
Q. And there were an awfully lot of people, including members of Congress, that thought it was a mistake for us to be in Somali Land under the UN flag; isn't that right?
A. I'm not sure on the opinions of members of Congress on that matter.
Q. Well, you know that there was a wide disagreement about that military expedition and our association with the UN, don't you?
A. Yes, sir.
Q. So when you and Tim were talking about it, that wasn't really much different than what a lot of other people think,

Michael Fortier - Cross

was it?
A. I didn't think so.
Q. Now, you said yesterday that "we talked conspiracy theories"; do you remember that?
A. Yes, sir.

Q. What do you mean by that?

A. Different theories for things that are happening in the United States.

Q. Well, whose idea was it to call them "conspiracy theories"?

A. I'm not sure who coined the phrase.

Q. Well, is that maybe a phrase you picked up from the Government in these preparations that you were doing?

A. No, sir, not at all.

Q. Well, when you and Tim McVeigh were talking about them, you weren't calling them "conspiracy theories," were you?

A. Yes, I was.

Q. You were?

A. Yes, when Tim would show up at my house after he had been gone a while, I would ask him that, what new theories did he have, you know, what's the new gossip.

Q. Oh, what was the new gossip, what were the new theories?

A. Yes, and I was using the term "conspiracy theories."

Q. I see. Well, you believed some of those, didn't you?

A. Some of them.

Q. Now, you told yesterday in response to a question from

Michael Fortier - Cross

Mr. Fortier (sic) that you and Tim had suggested or the two of you had, rather, gone over the fence at the National Guard armory to see if there were any UN vehicles there.

A. Yes, sir.

Q. Or to see if there had been a substantial buildup of military equipment at the National Guard armory.

A. Yes, sir.

Q. Whose idea was it to do that?

A. Tim approached me with that idea.

Q. Okay. And then when you all got in there and you were poking around looking at these vehicles, there was a headlight that came on.

A. There was a -- the National Guard armory is right next to the off ramp of the highway.

Q. Right.

A. And there was a diesel that was using the off ramp, and it was the diesel's headlights that shown across the yard.

Q. And then you scampered under a truck or something to hide?

A. Yes, sir, a Humvee.

Q. A Humvee. And while you were there, you noticed a shovel, a pick, and an ax?

A. Yes, sir.

Q. And you suggested those be taken?

A. Yes, I did.

Q. And you took them?

Michael Fortier - Cross

A. Yes, we each took a pair of -- what they're called is "pioneer tools," and they're attached underneath the Humvee.

Q. Now, when did you tell the Government about that?

A. As soon as I recalled the memory.

A. AS SOON AS I RECALLED THE MEMORY.
Q. Well, how long did it take you to do that?
A. It was while I was incarcerated. I told them about that the first time, maybe nine months ago.
Q. How many times have you climbed over a fence in the National Guard armory, Mr. Fortier?
A. Only one time.
Q. Well, is that an event that you're likely to forget?
A. I don't know how likely it is. I did forget it, though.
Q. So you didn't even think about it until you were incarcerated?
A. Yes, sir.
Q. Well, was your memory refreshed by something that the Government -- that the defense filed in this case?
A. No, sir.
Q. It wasn't?
A. No, it was not.
Q. And the Government didn't come to you and ask you about that?
A. No, I approached the Government about this issue.
Q. I see. Did you read about it in the newspaper, Mr. Fortier?

Michael Fortier - Cross

A. No, sir.
Q. You had access to the newspaper in prison, didn't you?
A. Yes, sir.
Q. Now, this oxygen bottle, where did you get that?
A. Off a plane in the Kingman airport.
Q. Now, was Mr. McVeigh with you on that, too?
A. No, he wasn't.
Q. That was just you?
A. And my neighbor and a friend of his.
Q. All right.
A. Excuse me, a friend of ours.
Q. Now, when did you tell the Government about the oxygen bottle?
A. In the summer of 1995.
Q. In the summer of 1995.
A. Yes, sir.
Q. Okay. When you say the summer, that's three months. Can you be a little more specific?
A. I really couldn't.
Q. And did you tell Mr. Hartzler that in the meeting, or was it just with the FBI?
A. I do not recall.
Q. Now, did you also take some nails that didn't belong to you from TruValue hardware store?
A. No, sir.

Michael Fortier - Cross

Q. You didn't?
A. No, sir.

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Q. You're sure?

A. Yes.

Q. Now, this oxygen bottle, where did you put it?

A. I put it in the storage shed that Tim had rented in Kingman. Or I believe Tim had rented it.

Q. Well, you said yesterday that before Mr. McVeigh told you that he had rented a storage shed, you and Lori had gone out looking for a storage shed.

A. Yes, sir, we did.

Q. And -- but you said you did that because Mr. McVeigh asked you to.

A. Yes.

Q. But then Mr. McVeigh showed up, according to you, with Mr. Nichols and called you from the outskirts of town and said he was in the Kingman area; right?

A. No, sir.

Q. All right. Where did he call you from?

A. I'm not sure where he was.

Q. Well, how long did it take him to get from where he called to where you were?

A. He called me and said he would be in Kingman in a couple days.

Q. All right. Well, okay, a couple of days. And did he tell

Michael Fortier - Cross

you that he had already rented a storage shed?

A. No, sir, he asked me to rent a storage shed for him.

Q. But there came a time when he came in and he told you he already had one, didn't he?

A. Yes, he did.

Q. Okay. When was that?

A. A few days later.

Q. And did he call you on the phone?

A. No, he just showed up at the house.

Q. Okay. And you told him that you hadn't been able to rent a storage shed.

A. Yes, that's right.

Q. Was that the first time you'd told him that?

A. Yes, sir.

Q. But he said, "Well, I already rented one."

A. Yeah, he did -- what Tim told me was: "Don't worry about it. We already got one."

Q. Well, how did he know you hadn't been able to find one?

A. I don't know.

Q. Well, is it possible, Mr. Fortier, that what really happened is that you and your wife went out to find a storage shed on your own, didn't have anything to do with Tim McVeigh, you needed someplace to put this stuff that you had stolen from other people, 'cause you didn't want to leave it in your house?

A. No, sir, that's not true.

Michael Fortier - Cross

Q. That's not true?

A. Not at all.

Q. Well, then, perhaps you can help me with my question. How did Mr. McVeigh know to rent a storage shed if you hadn't told him you hadn't been able to find one?

A. I don't know. I don't have an answer for that.

Q. Did you tell the grand jury about the burglary at the National Guard armory?

A. No, sir.

Q. Did you tell the grand jury about stealing the oxygen bottle?

A. I don't recall.

Q. At the time that you testified in front of the grand jury, had you told the prosecutors about the oxygen bottle?

A. Yes, sir.

Q. Had you told the prosecutors about the burglary at the National Guard armory?

A. No, sir, I remembered that later.

Q. Now, yesterday you said that when you and Mr. McVeigh parted, as I understood it, that you thought he was going up to meet some people in Colorado.

A. Yes, sir.

Q. When did you remember that he was coming to Colorado,

Mr. Fortier; after the change of venue was granted to Colorado?

A. No, sir.

Michael Fortier - Cross

Q. You remembered that before?

A. That's what I had thought before. Even before the bombing.

Q. Even before the bombing?

A. Yes, sir.

Q. Well, then, surely you told the FBI that and it will be in the 302, won't it?

A. I have no control over what they put in the 302's, but I did say that.

Q. Well, have you seen a 302 that says Tim is coming to Colorado?

A. No, I have not.

Q. Or is that something you just remembered to kind of prejudice us with the jury?

A. No.

Q. Did you tell the grand jury that he was coming to Colorado, back there when you were telling the truth, the whole truth, and nothing but the truth?

A. I don't recall if I did or not.

Q. Now, you said yesterday that Mr. McVeigh gave you a book or loaned you a book called Armed and Dangerous?

A. I believe that's the name.

Q. Okay. Did you read that book?

A. No, sir.

Q. Well, that's a book critical of The Order, isn't it, and the far-right movement?

Michael Fortier - Cross

A. I'm not sure. I didn't read the book. I read bits and pieces of it, but I'm not sure of the content.

Q. Well, from the bits and pieces you read, isn't that what it's about?

A. I don't recall what it was about.

Q. Well, I'll ask you, sir, from your review of the book -- did you look at it?

A. Briefly, yes.

Q. Did you read on the back what it was about?

A. I may have. I don't remember doing so.

Q. Well, it's a book that's written critical of the ultra right, isn't it? That's why the title is there, Armed and Dangerous.

A. I would have to view the book now to be sure of that.

Q. You don't remember?

A. That's correct.

Q. Now, was the chapter on The Order in that book or was that in another book?

A. I'm not sure. But Tim did give me two books to review.

Q. Well, was the other book critical of the far right?

A. From what I read of Chapter No. 2, I would say not. It was just like a history.

Q. Well, is Chapter No. 2 on the order of Chapter 2 in Armed and Dangerous?

A. I believe so.

Michael Fortier - Cross

Q. And did you read that chapter?

A. I read some of it.

Q. Do you remember today?

A. Some of it.

Q. Well, has your memory been refreshed now to know that that's a chapter critical of The Order, not supportive of it?

A. No, sir. I don't recall whether it's critical or supportive.

Q. Now, you indicated that Mr. McVeigh liked to go out into the desert.

A. Me and Mr. McVeigh went to the desert to shoot weapons and walk in the hills.

Q. Well, there's not anything wrong with that, is there?

A. Not in my opinion.

Q. Well, in fact, Mr. McVeigh liked to sleep the night in the desert, didn't he?

A. I don't know if he liked it or not.

Q. Well, he did, didn't he?

A. He did.

Q. You don't think people sleep in the desert if they don't want to, do you?

A. I believe he was just trying to save money whenever he slept in the desert.

Q. But he could stay inside of town with you

Q. But he could stay inside of town with you.

A. Yes.

Michael Fortier - Cross

Q. Or sleep in his car.

A. I'm sure he could have.

Q. And these motels along the highway, he certainly stayed there, didn't he?

A. As far as I know, he did.

Q. Well, he had fought in the desert, hadn't he?

A. Are you referring to the Gulf War?

Q. Yes, sir, I believe that was in the desert.

A. Yes, sir.

Q. And he had a nickname, didn't he? Wasn't it "Desert Rat"?

A. I have no knowledge of that.

Q. Didn't you know from your Army buddies that he liked doing that in the desert?

A. Doing what in the desert, sir?

Q. Going out there, shooting, sleeping, camping, walking, hiking, climbing?

A. I don't know much of Tim's experiences in the Gulf War.

Q. You mean he didn't share them with you?

A. Not many of them.

Q. Well, you knew a lot of his friends because when your name got in the newspaper, they all called you -- or not all -- but a number of them called you on the phone, didn't they?

A. No, sir.

Q. So you didn't keep in touch with these old Army buddies?

A. Only one.

Michael Fortier - Cross

Q. Who was that?

A. Lonnie Hubbard.

Q. Okay. Was Mr. Hubbard in the war?

A. No, sir.

Q. Now, you indicated that there came a time when you and Mr. McVeigh went to some storage shed in Kingman. This is the one that he had rented? Or you thought he had rented or somebody rented.

A. I believe he had rented it or him and Mr. Nichols had rented it.

Q. All right. And you went in, and tell me again what you saw inside.

A. There was junk and tools lining the sides. In the back there would appear to be some boxes that were covered by a tarp or a blanket; and Tim had reached up underneath there and brought out a box, and he laid his flashlight down so that the beam of the light shined on the diamond that was on the box. And then he showed me some type of explosives out of that box.

Q. So he got one box out.

A. Yes, sir.

Q. Well, then, I take it you didn't look behind the blanket?

A. No, sir, I did not.

Q. So you don't know what was behind the blanket?

A. That's correct.

Q. You indicated -- well, strike that.

Michael Fortier - Cross

Did Mr. McVeigh ever tell you he had gone up Sturgis, South Dakota, where they have all those bikers?

A. Yes, sir.

Q. And he told you as a matter of fact that he sat at a table and come to find out Peter Fonda was sitting at the same table?

A. Yes, he told me that story.

Q. And he was up there during that annual event where all the bikers come up?

A. That's correct.

Q. And had he also been out to California to a biker event?

A. Not that I know of.

Q. To your knowledge, did Tim ride a motorcycle?

A. No, sir.

Q. Did he tell you why he went up to Sturgis?

A. No, sir, I was pretty surprised to find out that he was -- attended Sturgis.

Q. Now, you indicated yesterday that you got a false ID kit.

A. Yes, sir.

Q. And you found that in the back of, what, Soldier of=20 Fortune?

A. Yes, sir.

Q. Do you subscribe to Soldier of Fortune?

A. I had a subscription.

Q. So you found out where this place was and you -- and then Tim asked you to write off for it?

Michael Fortier - Cross

A. No, I offered Tim I would do that for him.

Q. Okay. So it was your idea.

A. Tim had been asking me to max out my credit cards to support him.

Q. Right.

A. And I told him I would not do that, but what I would do is try to get him some ID and if he could get some credit cards, then so be it.

Q. So Tim wanted you to max out your credit cards to support him.

A. Yes, sir.

Q. And when was that?

A. In the fall of 1994.

Q. Well, wasn't Tim going on the gun-show circuit then?

A. He had did one gun show in the Kingman area at that time. But other than that, not that I know of.

Q. Well, then, you don't know whether he was or he wasn't. You just know he went to one in Kingman?

A. That's right.

Q. Well, so you wrote off for a false ID kit. And what were

you to do with that? How was that going to help Tim?

A. My understanding was he was going to try to obtain a credit card underneath a false name, and that way he could max out the credit cards and live off the money.

Q. All right. Well, why didn't Tim just do that; what did he

Michael Fortier - Cross

need you for?

A. What he was doing was asking me to do it, and this was my way of getting Tim off my back on that issue. He had asked me more than once to do that.

Q. Mr. Fortier, are you familiar with the word "no"?

A. Yes, sir.

Q. So Tim asked you, if I understand it, to commit a crime; that is, to max out your credit cards and give him the money?

A. Yes, but that would not be a crime.

Q. Oh, because you were going to pay them back?

A. My credit cards?

Q. Yes, sir.

A. Yes.

Q. So then you decided to help him commit a crime to get a false ID?

A. That's correct, to get him off my back.

Q. To get him off your back.

A. Yes.

Q. Well, what else are you willing to do to get somebody off your back, Mr. Fortier?

A. I don't understand the question.

Q. Like the FBI. What are you willing to do to get them off your back?

A. I was willing to lie to them.

Q. No, you were willing to cooperate with them, weren't you?

Michael Fortier - Cross

A. No, sir, actually I was willing to lie to them to get them off my back.

Q. But they didn't get off your back?

A. That's right.

Q. And so when they didn't get off your back, you changed your story --

A. That's right, I became --

Q. -- which you previously said you were fully capable of doing, didn't you?

A. I don't understand the question.

Q. You had previously told your friends you were fully capable of changing your story.

A. I believe I said I was fully capable of telling a story. Or a fable.

Q. Oh, okay. Telling a story. Is that right?

A. Yes, sir.

Q. Now, let's go back to Mr. McVeigh when you wanted to get him off your back. So you then sent in an application in the name of Tim Tuttle

NAME OF TIM TUTTLE.

A. Yes, sir.

Q. And the reason that you did that was because that was an alias of Mr. McVeigh's, and it was for him?

A. Yes, sir.

Q. Okay. Mr. Fortier, was there a Timothy Tuttle living in Kingman at this time?

Michael Fortier - Cross

A. Not that I'm aware of.

Q. You're not aware of that?

A. That's correct.

Q. Born in 1968?

A. I don't know anybody by the name of Tim Tuttle, besides Mr. McVeigh.

Q. The FBI didn't ask you if you knew a Timothy J. Tuttle?

A. No. The FBI only asked me if I knew if Tim ever used that alias.

Q. So you sent in the name of Tim Tuttle because it was for Tim.

A. Yes, sir.

Q. And then you got the false ID kit?

A. Yes, sir.

Q. And the false ID kit had a blank birth certificate; right?

A. Yes, sir.

Q. A blank Social Security card?

A. Yes, sir.

Q. And a blank driver's license?

A. Excuse me, yes, sir.

Q. Now, were these black and white or in color or what?

A. The birth certificate was black and white. The other two items were in color.

Q. Okay. Now, did Mr. McVeigh take the driver's license that was blank?

Michael Fortier - Cross

A. I couldn't say. I never seen Tim with those items in his hand. He rustled around in my desk looking for the items. If he found them or not, I couldn't say.

Q. How do you know he rustled around in your desk?

A. Because one day in the winter/spring of 1995, he asked me for them, and I told him they should be in my desk, and he went to my desk.

Q. Oh, okay. So when he went to your desk, it was with your knowledge?

A. Yes, sir.

Q. All right. Well, did he find them?

A. I'm not sure.

Q. Well, have you -- do you have this blank birth certificate?

A. No, sir.

Q. Do you have the blank driver's license?

A. No, sir.

Q. Or the blank Social Security card?

-
A. No, I do not.
Q. Well, of course you could have destroyed those, couldn't you?
A. I did not destroy them.
Q. I understand that you claim you didn't, but you could have.
A. I could have done many things.
Q. Yes.
A. I did not do that, though.

Michael Fortier - Cross

Q. Well, it sounds like you've done many things, Mr. Fortier, would you agree?

MR. HARTZLER: I object.

THE COURT: Sustained.

BY MR. JONES:

Q. Well, certainly to get rid of those items, you wouldn't need to put them in a box and hand them over the fence to Mr. Rosencrans, would you?
A. I wasn't concerned about those items.
Q. I didn't ask you that. To get rid of them, you wouldn't need to put them in a box and hand them to Mr. Rosencrans, would you?
A. I suppose I would not.
Q. You could just tear them up or flush them down the toilet or burn them?
A. Or eat them.
Q. Or eat them or put them in your pocket and take them out, couldn't you?
A. Yes, sir.
Q. Has the Government shown you, the FBI agents shown you, any false ID or false Social Security card or false birth certificate that they found in Mr. McVeigh's belongings or someplace where he had been?
A. No, sir.
Q. Now, during the period of time in the spring of 1995, the

Michael Fortier - Cross

early spring, Mr. McVeigh was staying at your house?
A. Yes, sir.
Q. And there came a time when you needed to go down to Prescott to the VA Hospital?
A. Yes, sir.
Q. And he continued to live in your house and stay in the guest bedroom?
A. That's right.
Q. Did Mrs. Fortier come down to see you in Prescott?
A. Yes, almost every day.
Q. Do you know whether she used her maiden name while she was in Prescott?
A. No, I do not.
Q. Do you know any reason why if she did -- if she did, why she would?

A. No, I don't think she did. Her mother came with her. That may be the name you're referring to.

Q. No, I'm referring to an FBI interview with Lori Fortier, with Mr. Zimms and Mr. Volz is what I'm referring to. And you're stating that your wife never said she used her maiden name.

A. That's correct.

Q. When she came to see you in Prescott?

A. That's right.

Q. Now, Tim was known by you as a survivalist, wasn't he?

Michael Fortier - Cross

A. Yes.

Q. And what does that mean?

A. Tim told me that he wanted to be prepared in the case of any type of natural or unnatural disaster.

Q. And how would he be prepared?

A. He wanted to have weapons to protect himself with, food to -- food and water and supplies of that nature.

Q. And bedding?

A. I don't think he ever referred to bedding.

Q. Well, presumably these people that are going to survive are going to sleep someplace; right?

A. Yes, sir, you could assume that.

Q. Did he ever take bedding into the desert?

A. I could only assume he did, whenever he slept in the desert.

Q. Well, now, when you read Soldier -- or when you read Soldier of Fortune magazine, you know that there were a large number of people that consider themselves survivalists, didn't you?

A. Yes, sir.

Q. They had little ads in the back of Soldier of Fortune about that very thing?

A. I believe they do.

Q. How to survive in the woods for 30 days?

A. Something like that, yes.

Michael Fortier - Cross

Q. And presumably there was a market of enough people interested in that that they would advertise for it, wouldn't they?

A. Yes, sir.

Q. Now, when you handed Mr. Rosencrans this pipe-bomb components and the ammonium nitrate, you remember that?

A. The ammonium nitrate and some pipe, yes.

Q. Was there also some marijuana in the box?

A. No, sir.

Q. You didn't hand him any marijuana?

A. Not at that time.

Q. When did you hand him the marijuana?

A. On another occasion.

Q. Directing attention to Exhibit 100

Q. Before or after April 19?

A. I believe after.

Q. And what was that occasion?

A. I asked him if he could take this and sell it for me.

Q. Okay. Now, were you using drugs at the barbecue that was held on May 8?

A. We were drinking beer, and I'm not sure. We may have smoked a little bit of marijuana.

Q. Who is "we"?

A. Me and my friends.

Q. Now, even during the period of time that the FBI was following you and keeping you under surveillance, you would

Michael Fortier - Cross

discuss with your friends on the telephone about getting some drugs.

A. I remember one occasion where I jokingly talked with Lonnie about that issue.

Q. You jokingly talked with Lonnie?

A. Yes.

Q. What did you say that was joking?

A. He says something about its being the season for mushrooms to grow underneath cow dung.

And I jokingly said, "Well, if I can stay out of jail, you'll have to send me a package of it."

Q. You said more than that; you gave the name of them, didn't you?

A. The name of the mushroom?

Q. Yes, sir. You referred to them as hallucinogenic mushrooms.

A. I don't remember exactly how I referred to them.

Q. Well, what was joking about that?

A. The whole issue.

Q. Well, actually, what happened was that after you told him that, didn't he say something like, "Better be careful, this phone could be bugged."

And you said, "Oh, okay, forget the last sentence."

Is that you what mean by joking?

A. Yes, I said, "Please disregard the last sentence" as if I

Michael Fortier - Cross

was talking to the agent that was listening. Yes, it was all a joking thing.

Q. Was it joking before he reminded you that you might be tapped?

A. Yes, sir.

Q. Well, Mr. Fortier, have you actually listened to some of these tapes?

A. Yes, I have.

Q. Well, on some of those tapes, don't you sound stoned?

A. On one in particular I remember I was smoking some marijuana while talking on the phone.

Q. On just one of them?

2. ON JUST ONE OF THEM.

A. Yes.

Q. Which one was that?

A. Again, speaking with Lonnie.

Q. Mr. Fortier, yesterday Mr. Hartzler asked you if you had committed any other crimes. Do you remember that?

A. Yes, sir.

Q. And aside from the ones you pled to.

A. Yes, sir.

Q. And what were those crimes?

A. Conspiracy to transport weapons --

Q. No, sir, I didn't make my question clear. Leaving aside the ones you pled to, what were the others that you told Mr. Hartzler you had committed?

Michael Fortier - Cross

A. I told Mr. Hartzler about all of the crimes that I had committed.

Q. Yesterday.

A. I don't recall exactly what I said yesterday.

Q. Well, what are the crimes that you have committed aside from the ones that you pled guilty to?

A. Drug use, theft. I believe I have driven under the influence on occasion.

Q. When you say "drug use," you mean drug possession.

A. Yes, sir.

Q. And that also includes selling drugs, doesn't it?

A. Yes, sir.

Q. Any others?

A. None that I can recall.

Q. All right. So by drug use, you're referring to using it, possessing, and selling; correct?

A. Yes, sir.

Q. Which you certainly did several times; that is, used, possessed or sell, you did more than just a few times, didn't you?

A. Yes, sir.

Q. And do you know what the statute of limitations is on those, those crimes?

A. No, sir.

Q. Do you know whether those crimes are federal crimes?

Michael Fortier - Cross

A. I believe they are.

Q. And do you know or believe that each separate possession and each separate sale is a separate federal crime? Do you know that?

A. No, sir.

Q. You didn't know that?

A. No, sir.

Q. You know it now.

A. Now that you've told me, yes.

Q. And the theft that you talk about, are those the incidents

that you mentioned earlier concerning the oxygen bottle and the pick and ax and shovel?

A. Yes, sir.

Q. And that's the only crime you've committed, other than the ones you pled guilty to?

A. There may have been some traffic violations. Yes.

Q. Well, Mr. Fortier, in addition to those crimes, you violated the firearms law, didn't you?

A. I don't know.

Q. Well, in early -- or in 1994 -- I'll get you the exact date. On April 18, 1994, you purchased a Glock Model 21 .45 caliber semiautomatic pistol, did you not?

A. Yes, sir, I believe it was around that date.

Q. And to do that, when you purchased it, you had to fill out a firearm-transaction record over the counter, didn't you?

Michael Fortier - Cross

A. Yes, sir.

Q. Do you have Exhibit P61 in front of you?

A. Yes, sir.

Q. And do you recognize your signature there where it says "Transferee Signature"?

A. Yes, sir.

Q. And that's your signature?

A. Yes, sir, it is.

Q. And --

MR. JONES: Your Honor, at this time I move the admission of P61.

MR. HARTZLER: No objection.

THE COURT: Received, P61.

MR. JONES: May I publish, your Honor?

THE COURT: You may.

BY MR. JONES:

Q. Now, Mr. Fortier, I call your attention to a series of questions beginning with 8A. Do you see that?

A. Yes, sir.

Q. Now, would you look over to Question 8D.

A. Yes, sir.

Q. And would you read the question.

A. "Are you an unlawful user or addicted to marijuana or any depressant, stimulant or any narcotic drug or any other controlled substance?"

Michael Fortier - Cross

Q. And what did you answer it?

A. I answered it no.

Q. And that was a false statement, was it not?

A. Yes, sir, and I stand corrected, I am also guilty of this crime.

Q. And at the same time you made that statement, you were a user of both marijuana and methamphetamines; is that correct?

A. Yes, sir.

Q. Now, just above your signature, do you see something, some writing?

A. Yes, sir.

Q. And would you read what it says beginning with "I hereby certify . . ."

A. ". . . that the answers to the above are true and correct."

Q. Go ahead.

A. "I understand that a person who answers yes to any of the above questions is prohibited from purchasing or possessing a firearm except as otherwise provided by federal law. I also understand that the making of any false oral or written statement or exhibiting of any false or misrepresented identification with respect to this transaction is a crime punishable as a felony."

Q. And you signed it?

A. Yes, sir.

Q. And it was a false statement?

Michael Fortier - Cross

A. Yes, sir, it was.

Q. And this is a false statement made to the government?

A. Yes. Through this form.

Q. Now, do you see Exhibit P62 in front of you?

A. Yes, sir.

Q. And again does that bear your signature?

A. Yes, it does.

MR. JONES: Your Honor, I move the admission of P62.

MR. HARTZLER: No objection.

THE COURT: Received. You may publish.

MR. JONES: Thank you.

BY MR. JONES:

Q. Now, this is a form that you filled out on the same date entitled "Statement of Intent to Obtain a Handgun."

A. That's correct.

Q. And again the same question was asked, "Are you a lawful --" I'm sorry, "an unlawful user of or addicted to marijuana or any depressant, stimulant or narcotic drug or any other controlled substance."

A. Yes, sir, and I marked it no.

Q. And that was false, was it not?

A. Yes.

Q. And again, you signed the statement immediately below the certification that advised you that a false statement was a felony.

Michael Fortier - Cross

A. Yes, sir.

Q. So would you agree with me that you made a false statement and committed the felony referenced on the ATF form?

A. Yes, I did.

Q. Do you have P63 in front of you?

A. Yes, sir.

Q. Is that a similar form dated July 17, 1993?

Q. Is that a similar form dated July 17, 1995?

A. Yes, sir.

Q. And on that date, you were purchasing a Mini 14 223 rifle and a .38 caliber Charter Arm revolver?

A. Yes, sir.

Q. Do you recognize your signature on P63?

A. Yes, I do.

MR. JONES: I move the admission of P63.

MR. HARTZLER: No objection.

THE COURT: Received. May be published.

BY MR. JONES:

Q. And again you were asked the same question; is that correct?

A. Yes.

Q. And again you made a false statement and said no?

A. That's correct.

Q. And again after being specifically advised that it was a felony to make a false statement, you went ahead and completed the transaction and signed your name.

Michael Fortier - Cross

A. Yes.

Q. So your making false statements didn't originate with April 19, 1995, did it?

A. Certainly these were false statements.

Q. Is the answer to my question that it didn't originate then on April 19?

A. Yes.

Q. Mr. Fortier, yesterday I asked you about certain conversations that you had with the FBI on May 17.

A. Yes, sir.

Q. Do you remember that?

A. Yes.

Q. Now, prior to May 17, there came a time before you came to Oklahoma City in which you and your wife in your home had a discussion about how vulnerable you could be if your stories didn't correlate; do you remember that?

A. Yes, sir.

Q. And at that time the FBI had a hidden court-approved microphone in your house. Correct?

A. Yes, sir.

Q. And that microphone picked up and recorded the conversation that you and Mrs. Fortier had on that date, didn't it?

A. Yes, sir.

Q. And have you since listened to that conversation?

A. Yes.

Michael Fortier - Cross

Q. It took place on May 6, 1995, didn't it?

A. I'm not sure.

Q. It took place shortly before you got the proffer letter, didn't it? That took place on May 10, didn't it?

A. I'm not sure if the conversation took place before or after

that.

Q. All right. Well, the record will show it, but let me just ask you if the proffer letter was on or about May 10.

A. Yes, sir.

Q. And it was about 6:00, between 6:00 and 7:00 in the morning on the 12th that you approached an FBI agent in his automobile about getting a copy of the proffer letter. Do you remember that?

A. Yes, sir; I also wanted a picture of a individual that they had shown me the day before.

Q. Right. Okay. In this conversation that you had with Mrs. Fortier, you and Mrs. Fortier talked about getting your stories straight, didn't you?

A. What we were discussing was the grand jury. I was telling her that I didn't think I could go before a grand jury and lie. Or I was worried about doing so. And she just -- and she said, "Just make sure that you corroborate everything."

And I said, "How?"

Q. Well, this is actually what you said and what she said, isn't it? Didn't she say, "Well, they would indict you already

Michael Fortier - Cross

if they could indict you. You know that's what they are doing to Tim. This is his grand jury indictment hearing. You are not indicted yet."

And didn't you say to her, "Yeah, but, you know, if you say one little thing that doesn't correspond --"

And didn't Mrs. Fortier respond, "Well, correspond at all."

Didn't you say, How?"

A. That's correct.

Q. And didn't she then laugh?

A. Yes.

Q. And when you went out there on May 17, you were talking with the FBI, and they left the room twice during that conversation, didn't they? So you could talk to your wife privately?

A. I can only remember once right now.

Q. You remember once.

A. Yes.

Q. All right. When they came back, was it Mr. Zimms that asked you if you wanted to correct your statements?

A. No, sir, I believe it was Mr. Volz who did most of the talking.

Q. All right. Mr. Volz. And you suggested that your wife go first, didn't you?

A. That's what the 302's reflect.

Michael Fortier - Cross

Q. Well, do you think they wrote it down wrong?

A. I can't say either way. I just don't remember that interplay of words.

Q. Well, they have an exact quotation from Mrs. Fortier.

Doesn't she say, "No, you correct yours first"?

A. Yes, I agree that's what the 302's say.

Q. Why did you want Mrs. Fortier to correct hers first?

A. I can only assume that I was scared.

Q. Either that or you were offering her up, weren't you?

A. No, sir.

Q. And then when she said, "No, you go first," was she offering you up?

A. I can -- no, sir. If that took place, I would say no, that's not what she was doing.

Q. Well, the two of you did correspond at all, didn't you?

A. No, sir.

MR. JONES: Nothing further.

THE COURT: Do you have any redirect?

MR. HARTZLER: Could I have just one moment?

THE COURT: Yes.

MR. HARTZLER: Sorry, your Honor, pardon me. Do you mind if I do this at the side of the podium? I only have a few questions.

THE COURT: That's agreeable, yes.

REDIRECT EXAMINATION

Michael Fortier - Redirect

BY MR. HARTZLER:

Q. Mr. Fortier, do you recall when you and I first met we took my van with the agents and you directed us around the Murrah Building and pointed out the place where Mr. McVeigh said he would park his getaway car? Do you recall that experience?

A. Yes, sir, I do.

Q. And can you give us an approximate time of that little trip that we took together?

A. The time that it took us to complete the trip?

Q. No, no. When that happened.

A. In June or July it was, I believe.

Q. So in the summer of 1995.

A. Yes, sir.

Q. Shortly after you and I first met?

A. Yes, sir.

Q. At that time had you heard any news, read any information, that related this YMCA building to this case?

A. I'm not sure on that.

Q. Did you have any information that related the alley behind the YMCA building to this case?

A. No, I don't believe that was in the media as of yet.

Q. Did you have that information outside the media? Did the agents say anything to you about that alley, or did I say anything about that alley?

A. No, sir.

Michael Fortier - Redirect

Q. So you independently on your own directed us to that alley and told us about that alley and where Mr. McVeigh was going to

and told us about that alley and where Mr. McVeigh was going to park?

A. Absolutely.

Q. Did you know at that time that the FBI had found the key to the Ryder truck in that alley?

A. No, sir. This is the first I've heard of that.

MR. HARTZLER: Nothing further.

THE COURT: Mr. Jones.

MR. JONES: Yes, sir.

RE-CROSS-EXAMINATION

BY MR. JONES:

Q. Mr. Fortier, if you didn't read the newspapers, how do you know whether it was in the paper or not?

A. I do not. I do not know.

Q. And the truth is you don't know what the Oklahoma City television and newspapers were saying about the Journal Record parking lot and the parking lot by the YMCA, do you? Or do you?

A. This is the first -- I don't understand the Journal Record parking lot.

Q. Well, that's the parking lot across from the Murrah Building.

A. No, I'm not aware what the papers were saying about those parking lots.

Michael Fortier - Recross

Q. Well, you came to Oklahoma City on May 17, didn't you?

A. Yes, sir.

Q. And Mr. Hartzler says that this place where you showed them took place in June or July?

A. Yes, sir.

Q. Well, from May 17, how much longer did you stay in Oklahoma City?

A. I believe I traveled back to Kingman at least once, but I mostly stayed in the Oklahoma City area that whole summer.

Q. All right. So most of the time after May 17, with the exception of a short trip back to Kingman, you were in Oklahoma City?

A. Yes, sir.

Q. And talking with your lawyer?

A. Yes, sir.

Q. And the Government?

A. Yes.

Q. And the FBI.

A. Yes, sir.

Q. And your wife was talking to her lawyer.

A. Yes, sir.

Q. And the lawyers were talking to the FBI.

A. I believe so.

Q. And the prosecutors.

A. May I take that back. I'm not sure if the lawyers were

Michael Fortier - Recross

speaking with the FBI independently. They certainly were talking with the prosecution.

Q. All right. And you were reading the newspapers about this case, weren't you?

A. I was mostly watching TV.

Q. Well, you say "mostly." So you were reading the newspapers some?

A. Some, yes.

Q. And you were mostly watching television.

A. Yes, sir.

Q. Because you were now a central figure, weren't you?

A. That's how the media was portraying me.

Q. Well, you were a central figure, weren't you?

A. I wouldn't say that. I would say I was a central witness.

Q. Central witness. Key witness?

A. That's how the media portrays me.

Q. Well, that's how you portrayed yourself.

A. In a joking manner.

Q. Oh, I'm sorry. Joking.

Well, in any event, you were following the events in Oklahoma City?

A. Yes, sir.

Q. And are you saying under oath that there was nothing in the Oklahoma City media about Mr. McVeigh being seen at the YMCA parking lot or his car being seen or Mr. McVeigh being seen or

Michael Fortier - Recross

his car being seen at the Journal Record parking lot?

A. What I am saying is that nothing that I've seen or read in the media has influenced my testimony. Everything that I have said I got independently through what I have done, my actions, or from what Tim had told me.

Q. Now, sir, could you answer the question that I asked you.

A. Yes, sir.

Q. Go ahead.

A. Could you repeat the question, please?

Q. Sure. Are you saying under oath that there was nothing in the Oklahoma City media that you read or saw after you were in Oklahoma City that didn't discuss the possibility of witnesses seeing Mr. McVeigh in the Journal Record parking lot or the YMCA parking lot or a number of other parking lots?

A. I know there was news accounts of seeing Tim in the area, but I don't recall any particular spot such as those parking lots.

Q. You don't specifically remember front-page stories in the Daily Oklahoman about these parking lots?

A. I didn't read the papers every day.

Q. Well, you read them some days, didn't you?

A. Only a few days.

Q. Now, incidentally, when you were out in Kingman before you became a cooperating witness, you believe the Government was planting evidence against you, didn't you?

Michael Fortier - Recross

A. No, sir, I only believed that they may have been modifying the sketch to fit my face.

Q. And putting earplugs in your car.

A. No, I think if that was an FBI agent that did that, he just dropped it, it was an accident.

Q. An accident.

A. Yes.

Q. All right. Thank you, sir.

MR. HARTZLER: Nothing further. May he be excused?

THE COURT: Are you agreeing to excuse the witness?

MR. JONES: Yes, your Honor.

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

Next witness, please.

MR. HARTZLER: The Government calls Dawn Hester. Miss Wilkinson will question her.

MS. WILKINSON: Your Honor, may Mr. Hersely prepare the model? Just take a second.

THE COURT: Yes.

THE COURTROOM DEPUTY: Would you raise your right hand, please.

(Dawn Hester 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: Dawn Dimitria Hester, H-E-S-T-E-R.

THE COURT: Ms. Wilkinson.

MS. WILKINSON: Thank you, your Honor.

DIRECT EXAMINATION

BY MS. WILKINSON:

Q. Miss Hester, where do you live?

A. Houston, Texas.

Q. Where do you work?

A. FBI.

Q. Tell us how long you've been with the FBI.

A. About 19 1/2 years.

Q. What do you for the FBI?

A. Photographer.

Q. How long have you been a photographer?

A. About 18 years.

Q. Could you just tell us where your first assignment was as a photographer with the FBI.

A. Headquarters, Washington, D.C.

Q. What did you do for them at headquarters?

A. I started out in the Photo Processing Unit, and then I ended up in the Forensic Photography Section.

Q. What did do you in the Forensic Photography Section?

A. Fingerprint impressions, shoe impressions, things of that nature.

Q. And did you have the opportunity to often -- sometimes

compare evidence to a photograph to determine whether the photographs were accurate?

A. Yes.

Q. Now, on April 19, 1995, where were you early that morning?

A. I was at work.

Q. And did there come a time when you found out about the bombing in Oklahoma City?

A. Yes, I was taking a break and I was downstairs having a break.

Q. Now, you said you were assigned to Houston at that time; is that right?

A. Yes.

Q. Were you a member of any special team in the Houston office?

A. ERT, Evidence Response Team.

Q. And what was your job as a member of Evidence Response Team?

A. Photographer.

Q. Now, did you travel with the rest of the Evidence Response Team to Oklahoma City on or about April 19?

A. I went the day after.

Q. And did you start working at the crime scene after you arrived?

A. Yes.

Q. Tell us generally what your job was at the crime scene.

Dawn Hester - Direct

A. Anytime they found any type of evidence, I went and photographed it when they asked me to.

Q. Did you photograph the evidence when it was in place before it was seized by the FBI agents?

A. Yes.

Q. And what was the purpose of that?

A. When they collect evidence, we photograph it before it was moved out of place.

Q. Now, let's turn to April 22, 1995. Were you working at the crime scene on that day?

A. Yes.

Q. And do you remember what the weather was like that day?

A. It was cold, windy, and rainy.

Q. And what were you doing while the rest of your Evidence Response Team were out looking for evidence?

A. I stood by until they found something for me to photograph before they moved in.

Q. And would they call you over when they wanted a photograph taken?

A. Yes.

Q. Do you recall what area you were searching on the morning of April 22, 1995?

A. We were in the alley.

Q. And where is that alley located?

A. It's off of Robinson.

Dawn Hester - Direct

MS. WILKINSON: Your Honor, may the witness step down to use the model?

THE COURT: Yes.

BY MS. WILKINSON:

Q. Miss Hester, if you could step down, give you this pointer.

Okay. Could you describe for the jury where you were with the search team on April 22?

A. I was in this alley; right here.

Q. And is that behind the one --

MR. NIGH: Your Honor --

THE COURT: It's pretty difficult for the reporter to hear.

MR. NIGH: Your Honor, may I get closer?

BY MS. WILKINSON:

Q. Miss Hester, you need to keep your voice up because you're not near a microphone.

A. I'm sorry.

Q. You were pointing that you were in this alley; is that right?

A. Yes.

Q. Do you want to come around here so you can show the jury and Mr. Nigh where you were pointing to.

And is that behind the YMCA building?

A. Yes, it is.

Q. And did an agent call you over to photograph a certain

Dawn Hester - Direct

item?

A. Yes, he did.

Q. And where was that item located?

A. Right here.

Q. Where are you indicating? Can you describe it for the jury?

A. It's on the side of the alley, near a dirt area with a lot of grass.

Q. Now, on the model, is there a little hole there with the fiberoptic indicating where you found that piece of evidence?

A. Yes, it is.

Q. Okay. You can take your seat.

Tell us what you took a picture of there on the side of the alley.

A. I photographed a key.

Q. What did you do after you took a picture of that key?

A. I wrote in a log that I always keep what it was.

Q. Tell us about the log that you keep.

A. Every time I take a photograph, I keep a log in place so we know what it was that I took at that particular moment.

Q. And did you specifically describe in that log that you took a photograph of a key?

A. Yes.

MS. WILKINSON: Your Honor, may I approach the witness and show her the photograph also?

Dawn Hester - Direct

THE COURT: Yes.

MS. WILKINSON: I'll hand her.

BY MS. WILKINSON:

Q. Miss Hester, I'm going to leave these here so you can examine them until they get into evidence. Okay?

A. Okay.

Q. Tell the jury what Government's Exhibit 703 is there in front of you.

A. It's a key.

Q. Is that the key that you photographed on April 22, 1995?

MR. NIGH: I'm going to object, your Honor, unless it can be established a basis for her knowing how it would be the key.

THE COURT: Well, that's another question. It hasn't been offered yet, so wait till it's offered.

Proceed.

BY MS. WILKINSON:

Q. Is that the key that you photographed on April 22?

A. Yes, it is.

Q. Tell the jury how you know that's the same key that you photographed on April 22.

A. Just the way it's shaped and formed and everything.

Q. Okay. Look at Government's Exhibit No. 700 there, the first photograph. Do you recognize that photograph?

A. Yes, I do.

Dawn Hester - Direct

Q. Did you take that photograph?

A. Yes, I did.

Q. When did you take that photograph?

A. April 22.

Q. Is that the one you were just telling the jury about, about the --

A. Yes.

Q. -- when you photographed the key?

MS. WILKINSON: Your Honor, Government offers 703.

MR. NIGH: I'm sorry --

THE COURT: I'm confused about which is which here.

MS. WILKINSON: I'm sorry, 700. I gave you the wrong number. 700 is the photograph.

MR. NIGH: I object on the grounds of relevance and misleading --

THE COURT: Overruled. 700 is received.

MS. WILKINSON: If the marshal could put the photograph up on the easel, please.

BY MS. WILKINSON:

Q. Miss Hester, after you took that photograph and it was developed, did you compare Government's Exhibit No. 703, the key, with the photograph, Government's Exhibit No. 700?

A. Yes.

Q. Were you able to determine that Government's Exhibit 703

was the same key as the one in the photograph you took?

Dawn Hester - Direct

A. Yes.

Q. Did you compare the cuts in the key?

A. Yes.

Q. Did you compare the shape of the key?

A. Yes.

MS. WILKINSON: Your Honor, we offer Government's Exhibit 703.

MR. NIGH: Your Honor, may I voir dire?

THE COURT: Yes.

I'm confused about this designation. It's different from the exhibit list.

MS. WILKINSON: I'm sorry. Can I check with Agent Hersely? I may be wrong.

THE COURT: Yes.

MS. WILKINSON: Your Honor, I am wrong. I apologize. 699 is the key and 700 is the photograph, so we've offered and moved in 700. Now I'm offering 699. I apologize.

THE COURT: All right.

Mr. Nigh, you may voir dire.

MR. NIGH: May I approach? I have my own key.

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. NIGH:

Q. Miss Hester, I've placed in front of you what I've marked for identification as Defendant's Exhibit U1, an envelope.

Dawn Hester - Voir Dire

Would you look inside that envelope.

What do you find there?

A. Two keys.

Q. Do they appear to be duplicate Ford keys or duplicates of Ford keys?

A. I believe so.

Q. And do they look almost identical to the key that Ms. Wilkinson handed you?

A. They have different cuts.

Q. Comparing the keys that I handed you to your photograph, which is Government's Exhibit 700, can you tell that the cuts in the keys that I handed you are not identical to the key -- cuts in the key in your photograph, just by looking at the photograph?

A. It's hard to tell.

Q. But it's clear to you that the cuts in the key that I handed you are different than the cuts in the key that Miss Wilkinson handed you?

A. Yes.

Q. Is that right?

A. Yes.

Q. And there's no way to tell from your photograph which key is depicted, isn't that right?

is depicted; isn't that right?

A. To the best of my ability, this look like the key in the photograph.

Dawn Hester - Voir Dire

Q. It also looks like the key that I handed you, didn't it, in the photograph?

A. I can see different cuts in the two.

Q. Based upon the photograph, or based upon the --

A. Based upon the key.

MR. NIGH: Your Honor, I object to the admission of the exhibit.

THE COURT: Well, the way I understand your testimony, the only way you can identify 699 is to compare it to your photograph. Is that what your saying?

THE WITNESS: Yes, sir.

THE COURT: Objection sustained to 699.

MS. WILKINSON: Your Honor, may I offer up the packaging materials for her to take a look at?

THE COURT: Yes, sure.

You want to retrieve your key?

MR. NIGH: Yes, your Honor. For the Court's information, that's a duplicate of the key to Mr. Tritico's van.

THE COURT: I'm not interested where it came from.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Miss Hester after you took that photograph, did you see an agent take custody of the key?

A. Yes, I did.

Dawn Hester - Direct

Q. And can you look at the packaging materials there in front of you. Was the key contained in those packaging materials when you first reviewed it prior to coming to trial today?

A. Yes.

Q. And do you see a designator on there with a Q number?

A. Yes.

Q. And what's the Q number marked on the packaging?

A. Q2323.

Q. Is there a Q number marked on the key?

A. Yes.

Q. And when you conducted your analysis where you compared that key to the photograph before you came to court today, did you try to match up that key marked Q2323 with the key in the photograph?

A. Yes.

Q. And did it match exactly?

A. Yes.

MS. WILKINSON: Your Honor, we'd offer Government's Exhibit 699.

THE COURT: Is part of the numbers and letters Q2323 on the key?

THE WITNESS: Yes.
MR. NIGH: I still object, your Honor.
THE COURT: Well, your objection is overruled now.
Received.

Dawn Hester - Direct

MS. WILKINSON: No further questions, your Honor.

THE COURT: Any cross-examination?

MR. NIGH: Yes, your Honor. May I approach for a moment?

THE COURT: Yes.

MR. NIGH: Look at the key.

MS. WILKINSON: Your Honor, I do have -- could I go back? I have one other photo I did want to show Miss Hester. I apologize.

THE COURT: Okay.

BY MS. WILKINSON:

Q. Ms. Hester, do you see the photo there next to you?

A. Yes.

Q. What's it marked; do you see the Government's sticker?

A. 703.

Q. Do you recognize that photograph?

A. Yes, the photograph of the alley.

Q. Where you found the key?

A. Yes.

Q. And would that assist you in pointing out to the jury where the key was located?

Don't show it to them yet. Don't show it to them yet.

A. I'm sorry.

Q. Would it assist you in showing where it was found?

A. Yes.

Dawn Hester - Direct

MS. WILKINSON: We offer Government's Exhibit 703, your Honor.

MR. NIGH: Your Honor, I'd make the same objections.

THE COURT: Overruled.

MS. WILKINSON: Could you put that up, or have the marshal put it up on the easel, please.

THE COURT: 703 is now received.

MS. WILKINSON: Thank you.

May I approach, your Honor, and give the pointer to her?

THE COURT: Yes.

BY MS. WILKINSON:

Q. In the photograph that you took, Ms. Hester, that was a close-up of the key; is that right?

A. Yes.

Q. Now, is this photograph from a little farther back --

A. Yes.

Q. -- in the same area where you found the key?

A. Yes.

Q. Can you show the jury exactly where the key was located?
And describe for the record what area you're pointing to, please.

A. It's on the side of the alley near a telephone pole with wires and everything.

Q. And is it in a dirt area there on the side?

Dawn Hester - Direct

A. Yes, dirt and grass area.

MS. WILKINSON: No further questions, your Honor.

THE COURT: All right, Mr. Nigh.

MR. NIGH: Your Honor, would it be possible for us for take our break now?

THE COURT: I want to finish this witness. Go ahead.

MR. NIGH: May I examine the key?

THE COURT: Yes.

MR. NIGH: Do you have the key?

Your Honor, may I use the ELMO to publish these keys?

THE COURT: Yes. Are you publishing something not in evidence?

MR. NIGH: I would move for the admission of Defendant's Exhibit U1.

THE COURT: For what purpose?

MR. NIGH: Demonstrative purposes of comparison.

THE COURT: Any objection?

MS. WILKINSON: No, your Honor. No objection.

THE COURT: Okay, go ahead. Received for that limited purpose.

CROSS-EXAMINATION

BY MR. NIGH:

Q. Looking at the television screen in front of you, Miss Hester, do you see what's been marked as Q2323?

A. Yes.

Dawn Hester - Cross

Q. Now, the markings are on a piece of tape on the key; is that right?

A. Yes, sir. Yes.

Q. And did you put those markings there?

A. No.

Q. Did you see somebody put those markings there?

A. No.

Q. Do you have any personal knowledge of how those markings got there or the piece of tape got on the key?

A. No.

Q. Who called you over to take a photograph of the key?

A. FBI agent.

Q. FBI Agent who?

A. Mark Young.

Q. Do you know if Mark Young is still an agent with the FBI?

A. Yes.

Q. Do you know where he's assigned?

A. Houston division.
Q. Still work with you?
A. Yes.
Q. Now, if I understand your testimony correctly, it wasn't you that found this key?
A. No. I photographed the key.
Q. It was Agent Young who found the key.
A. Yes.

Dawn Hester - Cross

Q. And you didn't put any initials on it?
A. Excuse me?
Q. And you didn't put any initials on it?
A. No, sir.
Q. Or any numbers on it?
A. No, sir.
Q. And you didn't pick it up?
A. No, sir.
Q. Did you take a photograph of the other side of the key?
A. No, I took it as it was.
Q. Did you ever measure the cuts in the key, yourself?
A. No, sir.
Q. Did you ever measure the cuts that are depicted in your photograph of the key?
A. No, sir.
Q. Did you see the key get put in an evidence bag?
A. Yes, I did.
Q. Did you see what the bag was marked?
A. It's right here.
Q. Did you see that when it happened?
A. I watched him as he marked it, yes.
Q. Oh. Was the bag also marked "miscellaneous debris"?
A. The bag, I don't know. No.
Q. Do you know how it was inventoried on the evidence recovery log?

Dawn Hester - Cross

A. No, I don't.
Q. You don't know if it was inventoried as "miscellaneous debris"?
A. I -- no.
Q. Was there anything else in the bag marked Q2323?
A. I don't know.
Q. Did you see him put anything else in the bag marked Q2323?
A. No, I didn't.
Q. Did he seal the bag?
A. I believe he did.
Q. Do you remember him sealing the bag?
A. I remember him putting them in the bag.
Q. My question is did you see him seal the bag?
A. No, I didn't see him seal it.
Q. Did you see what he did with the bag when he was done?
A. No. I didn't.

... No, I mean it.

Q. Now, I'm going to place up on the screen in front of you what's been marked as Defendant's Exhibit U1 for demonstrative purposes. Is that an almost identical key?

A. No.

Q. Not anywhere close?

A. No. I'm not expert on it, but no.

Q. You're not an expert on that; is that right?

A. No.

Q. Is that right?

Dawn Hester - Cross

A. Yes.

Q. And isn't it also true that you can't tell if Q2323 is in fact the key that you took a picture of?

A. That's the key.

Q. I understand that it's the key. But isn't it true, Miss Hester, that you can't tell from your photograph that Q2323 is the same key?

A. Looking from the naked eye, yes, I think it's the same key.

Q. Did you measure -- did you measure the cuts that are depicted in the photograph?

A. No.

Q. Did you measure the cuts that are actually on the key that is Q2323?

A. No.

Q. And make a comparison that way?

A. No.

Q. Would you agree with me that the two keys that appear on your screen appear substantially similar in almost all respects?

A. They're similar.

Q. And the only way that you knew the cuts was different was by comparing the keys themselves; isn't that right?

A. Yes.

Q. You couldn't tell that the cuts into the key U1 were different than the cuts depicted in your photograph by

Dawn Hester - Cross

comparing the key to the photograph, could you?

A. I'm sorry. Say it again.

Q. Certainly. Looking at your photograph --

A. Uh-huh.

Q. -- and looking at the key that is U1, you could not tell that the cuts in the key are different simply by comparing those two; isn't that right?

A. Right.

Q. When was it that you took the photograph of the key in the alley?

A. April 22.

Q. Do you know how long that alley had been roped off as part of the crime scene?

A. No, I don't.

Q. Do you know how many civilians had been up and down that alley prior to the time it got roped off?

A. No.

Q. Did you see any Ryder trucks in the area that day?

A. No.

Q. Did you see any Ford trucks or Ford cars in the area that day?

A. No.

MR. NIGH: Your Honor, that's all the questions I have. But I still object to the admission of the key.

THE COURT: The ruling stands. The key is in evidence.

Do you have any follow-up questions?

MS. WILKINSON: No, your Honor.

THE COURT: Excusing this witness?

MS. WILKINSON: Yes, your Honor.

MR. NIGH: Yes.

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

Members of the jury, we'll take our morning recess at this time. And again, of course, I'll reemphasize the caution always given that we're moving along, but there's a long way to go. And accordingly, you've got to wait until you hear it all before in your own minds you make any judgments with respect to this case. By "hearing it all," of course, I mean not only all the testimony and the evidence but the arguments and instructions and all those things that I mentioned to you that constitute the four phases of every trial. So please again continue to follow the cautions of not discussing anything about the case and avoid anything outside the evidence that could in any way influence you.

You're excused now. 20 minutes.

(Jury out at 10:26 a.m.)

THE COURT: Recess.

(Recess at 10:27 a.m.)

(Reconvened at 10:46 a.m.)

THE COURT: Be seated, please.

(Jury in at 10:47 a.m.)

Next witness.

MR. HARTZLER: Government calls Matt Cooper. Mr. Ryan will question.

MR. NIGH: While the witness is coming in, could I have permission to redesignate U1 as U1A? I'm told that U1 was already taken.

THE COURT: All right. U1A. The key?

MR. NIGH: That's correct. Thank you, your Honor.

THE COURT: All right.

MR. RYAN: Your Honor, could I get the charts in order before we call this witness?

THE COURT: Yes.

MR. RYAN: This isn't Matt Cooper.

THE COURTROOM DEPUTY: Sorry.

MR. RYAN: That's all right.

THE COURTROOM DEPUTY: Would you raise your right hand, please.

(Matthew Cooper 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: My name is Matthew Henry Cooper. Last name is spelled C-O-O-P-E-R.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Ryan.

MR. RYAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. RYAN:

Q. Good morning.

A. Good morning.

Q. Captain Cooper, where do you live?

A. I currently live in Woodbridge, Virginia.

Q. What do you do there?

A. I'm a captain in the Marine Corps stationed at Quantico.

Q. And how long have you been stationed at Quantico?

A. I've been there for almost a year now, 10 months.

Q. Do you always wear your hair that way?

A. I sure do.

Q. What have you just completed in Virginia?

A. I just completed a year-long course of study to career-level school in the Marine Corps called Amphibious Warfare School for Marine captains.

Q. Where were you born and raised?

A. I was born in Little Rock, Arkansas, and I was raised in Conway, Arkansas.

Q. Where did you go to school?

A. I graduated from Conway High School in 1986. From there I received an appointment to Annapolis, and I was -- I graduated from the Naval Academy in May of 1990 and received a commission

Matthew Cooper - Direct

in the Marine Corps.

Q. What was your degree in from Annapolis?

A. I have a B.S. in economics.

Q. What did you do after completing your Annapolis degree?

A. I was commissioned in the Marine Corps. I spent six months at Quantico at the Marine Corps basic course. From there, I went to Fort Sill, Oklahoma, for five months' training as an artillery officer.

Q. What did you do following your work at Fort Sill?

A. Following Fort Sill, I reported to Camp Pendleton, California, and spent two and a half years with the First Marine Division.

Q. What did you do after the time at Pendleton?

A. Following my assignment there, I received orders to recruiting duty to a Marine Corps Recruiting Station in Oklahoma City.

Q. When were you assigned to the Marine Corps Recruiting Station in Oklahoma City?

A. January of 1994.

Q. And where was the Marine Recruiting Station in Oklahoma City located?

A. We were located -- our headquarters was located on the 6th floor of the A. P. Murrah Federal Building in downtown Oklahoma

FLOOR OF THE A. F. MURRAH FEDERAL BUILDING IN DOWNTOWN OKLAHOMA City.

Q. Would you briefly describe the function of the Marine

Matthew Cooper - Direct
recruiting office at the Murrah Building?

A. Our office on the 6th floor of the Murrah Building served as the headquarters unit for Marine recruiting forces to cover all of Oklahoma and the southern one-third of Kansas. And as such, we were responsible for supervising all recruiters in that region and also supporting them in their day-to-day efforts of recruiting new applicants into the Marine Corps.

Q. You had been assigned there slightly over a year prior to the bombing?

A. Yes, sir, that's correct.

Q. How many worked in the Marine Corps office in the Murrah Building?

A. 14 people were assigned to the headquarters office.

Q. How many of those were civilians?

A. One civilian.

Q. How many Marines?

A. 13 Marines.

Q. What floor were you?

A. The 6th floor.

Q. Were any other offices located on the 6th floor other than Marine Recruiting Station?

A. Not at the time of the bombing, no, sir.

Q. What had previously been there?

A. Previously had been the -- on the other side of the 6th floor was the SBA, Small Business Administration, and they

Matthew Cooper - Direct
moved out a few months before the bombing.

Q. And did they occupy the balance of the floor?

A. Yes, they did.

Q. Do you know approximately how many people worked there?

A. No, I do not know.

Q. Now, give me just a moment, please.

I'm going to pull up on your screen an exhibit that's already been admitted in evidence. It's the floor plan of the 6th floor.

Do you have it there?

A. Yes, sir.

Q. Now, if you would, using the pen that you have there at your desk, would you tell us where you would enter the Marine Corps office from the 6th floor after someone exited from the elevators. Okay.

A. Okay.

Q. And then take us through the office and tell us who worked there.

A. Yes, sir. Okay.

Do I actually write on the computer screen?

Q. No, down below the screen.

- A. Right.
Q. Down below -- under the desk.
A. Okay.
Q. Right on the screen itself. Do you see what I'm saying?

Matthew Cooper - Direct

- A. Yes, sir.
Q. Okay.
A. Okay. If a person were exiting the elevator, they would move through these two passageways, and the only entrance to our office was right here. And as you entered the office, you could take either a left or a right into our spaces. If you took a left around this way, the first office you'd come to is right here. That was our sergeant major's office, Sergeant Major Philly Iowa.

If you continued on, we had two admin. personnel working out in the lobby of the office, Anthony Elder and Max Monty.

The next office right here was Captain Randy Guzman's office, our executive officer.

The corner office -- did I just erase that?

- Q. That's all right. Go ahead.
A. The corner office right here was our commanding officer, Major Don Geffing.

And this next office, we had two recruiter instructors, Pat Waters and Gunnery Sergeant Walter Atwood. And that was everybody on this side of the building.

Now, as you entered the passageway, if you came around to the right, you would enter the operations section of the office. The first person you would run into, Sergeant Ben Davis. He sat about right here. He was the operations clerk.

Matthew Cooper - Direct

My desk was located right here, and sitting right next to me was my operations chief, Gunnery Sergeant Maureen Kyle.

The office right here on the aisle was Barb Hedrick, our civilian computer operator.

And if you continued through this way and into the back, this was our supply area. We had two Marines who worked back here, Gunnery Sergeant Earl Bussel and Sergeant Ted Snedicker.

- Q. Do I understand from what you've just said that your office faced the north side of the Murrah Building?

A. Yes, sir, it did.

Q. Now, what I'd like to do, Captain Cooper, is turn to the morning of April 19, 1995. And if you would, simply tell us what you did that morning when you got up and where you went and what you did when you got there.

A. Yes, sir. I was normally the first person into the office every morning, and April 19 was no exception. I entered the office and unlocked it between 6 and 6:15 that morning. The rest of the people who were stationed in the office would

normally trickle in, and normally everybody would arrive by 8:00.

On that particular morning, several people were out of town on the road with recruiters. I guess work was pretty much going by zero eight. That's when it got relatively busy for us. My job was busy early in the morning because at that time

Matthew Cooper - Direct

I would take calls from our recruiters on the street who would give me their numbers, and we would process their numbers from the previous day. We would discuss any new applicants that they were working to enlist in the Marine Corps and whatnot.

Q. Let me stop you there. "Zero eight," for those of us who weren't military, means 8 a.m.?

A. 8 a.m. Yes, sir.

Q. Go ahead.

A. So we were working busily at that time. At about 8:30, a Marine who was not assigned to the Murrah Building came in and asked to speak to me privately. He had some problems he wanted to discuss. His name was Staff Sergeant Jack Hoxing. He wanted to speak to me; so he and I -- can I erase what I have?

Q. Why don't you keep punching the side of that pen until they're all gone.

A. Okay. Well, I got a new color, anyway. There we go.

As I was saying, Staff Sergeant Jack Hoxing arrived at about 8:30 and asked to speak to me privately. He and I went to a side office right here that I kept -- that I kept for myself where I interviewed applicants.

We were in this space talking about 30 minutes when the bomb went off.

Q. How many Marines were in the Marine space on the 6th floor of the Murrah Building at the time of the explosion?

A. Okay. Besides the two of us that were right here, as I've

Matthew Cooper - Direct

just noted, we had -- Sergeant Ben Davis was located about right here.

Q. Okay.

A. Captain Randy Guzman had moved to my desk and had assumed my duties at that time, because I was receiving a lot of calls that I couldn't take at that time.

Q. So Captain Guzman is now sitting in your chair facing the north side of the building.

A. With his back to the north side of the building, yes, sir.

Q. All right. And Sergeant Davis was just in front of him to the south?

A. About 10 feet in front of him to the south. That's correct.

Q. All right.

A. Barb Hedrick was in her office right here.

Gunnery Sergeant Paul Cooper was at his desk over here.

We had two individuals in custody. Both individuals

we had two individuals in supply -- both individuals, I should say, Gunnery Sergeant Earl Bussel and Sergeant Ted Snedicker. And we had -- Captain Randy Norfleet had come into the building. He was an officer -- selection officer permanently assigned to Stillwater, Oklahoma, but he had come down to pick up some supplies; and he had moved into the building, and he was about right here.

Q. All right. Tell us what happened then when the explosion

Matthew Cooper - Direct

occurred.

A. Hoxing and I were facing one another in this office, discussing some things that were of concern to him.

I heard the explosion. It was just an enormous sound. I felt the shock wave and the concussion.

The next thing I felt -- and it was continuous; there was no disruption -- was ceiling tiles, light fixtures, the walls, everything in the building was coming down on top of us. There was a tremendous amount of dust and debris flying through the air. A lot of metal rebar and whatnot was coming down on top of us. And this continued, I would say, for 30 or 45 seconds, just a continuous crash like an enormous earthquake as the concrete structure fell down around us.

Q. All right. What happened to you?

A. I was buried under some rubble, and I was able to free myself relatively quickly. And I got up and I looked around, and the first thing that struck me was there was an enormous amount of black smoke coming into the building. Right over my back as I had been sitting right here -- over my back, the building was gone; and as I turned around, I was looking out on the street. And from down below, there was a huge amount of black oil smoke pouring into the building.

Q. Did you try to go to your office where Captain Guzman had been sitting?

A. At that time, I did not. There was a lot of smoke coming

Matthew Cooper - Direct

into the building, and I thought the building was on fire. And the next thing I noticed was Barb Hedrick had been blown -- literally blown from her office right here into this part of the building, and she was screaming. She was covered with blood, crying extremely loudly. She didn't know where she was or what had happened, and she was crying for help to get out of the building.

And I went to her first. The floor was covered in rubble up to my waist, so there was no clear path. I basically had to clear a path to Barb. And I helped her to the stairwell to get out of the building.

Q. All right. Where did you take her? Over to the stairwell area?

A. I cleared a path -- helped her clear a path to the stairwell and pointed her in the direction of -- to the stairwell, because at this time she had -- her back had been

-----, -----
facing the blast and she had taken a lot of glass in her scalp and her face was covered with blood. She is disoriented and could not see very well at all. So I pointed her in the direction -- but she could walk; and so I pointed her into the direction of the stairs and told her to get out of the building.

Q. What did you do next?

A. I went back to where I had been in this area. As I came back through the wreckage of the office, Gunnery Sergeant Earl

Matthew Cooper - Direct

Bussel and Randy Norfleet passed me on their way out of the building. Both of them were visibly injured, seriously injured, with an incredible amount of blood. They were both holding rags to their head, but they were able to leave the building under their own power.

I passed them on their way out of the building, went back to where I had been with Hoxing. By this time, Sergeant Ted Snedicker had made his way over to Hoxing, and we helped together -- we got all the rubble and whatnot off of Hoxing.

He was bleeding severely. His face was cut up. His upper lip looked like it was almost cut off. He was bleeding seriously all about his head, and he had a huge gash on his leg.

I put him over my shoulder and helped him walk to the ladder well -- to the stairwell, and I got him down to about the third floor where there were some other people from some other agencies leaving the building. I turned Hoxing over to one of these individuals so they could escort him out, and I went back up to help Snedicker some more.

Q. Went back up to the 6th floor?

A. Yes, sir.

Q. All right. Then what did you do?

A. By this time Snedicker had made his way to Gunnery Sergeant Cooper, who was located right in this area. He was right on the edge of the collapsed portion of the building; and because

Matthew Cooper - Direct

of that, apparently a lot of concrete had fallen down on top of him. And together, it took about 10 minutes for us to clear the concrete off of him, throw it off on the side.

Like Hoxing, he was seriously injured, bleeding profusely; and I put him over my shoulder and I escorted him down to the curb and turned him over to one of the emergency personnel, who by this time had arrived out on the street.

Q. All right. What did you do next?

A. Next, I went back up to the 6th floor, and Snedicker was still up there. It had taken us almost this long really to get our bearing and figure out what part of the building had collapsed; and when we realized that, we concluded that Captain Guzman and Sergeant Davis were probably in the part of the building that had fallen down.

Q. Did you go to your office to find Captain Guzman?

A. Yes, sir. I went back to my office.

Q. What did you see when you got there?

A. What I saw when I got there was the smoke had cleared out quite a bit by this time and where my office -- my desk had previously been was an open space out onto the street.

Q. All right.

A. And Sergeant Snedicker was still there, still searching the 6th floor in hopes that they might have been blown clear of that part of the building and perhaps buried somewhere else.

Q. At this point, had you accounted for all the Marines except

Matthew Cooper - Direct

for Sergeant Davis?

A. Yes, sir; that's correct. We had accounted for all but those two.

Q. And Captain Guzman?

A. Yes, sir.

Q. So what did the two of you do next?

A. Sergeant Snedicker continued to look on the 6th floor, as I said, in hopes that perhaps they had been blown free of the pancaked part of the building, perhaps knocked unconscious and were somewhere on the 6th floor. I looked over the edge; and from what I could see, it appeared to me that a great portion of the building had collapsed and settled somewhere in the vicinity of what had previously been the third floor. So I went back down to the stairwell and went down to the third floor in hopes that if they had fallen down, I might find them there.

And when I got down to the third floor, obviously there was no sign of them there; but there were some civilians from the agency on the third floor who were trapped, and I helped -- assisted to get them out, try to get them out.

Q. Eventually, were you ordered out of the building?

A. Yes, sir. After about 30 minutes had passed -- I would estimate 30 minutes -- some firemen arrived then, some FEMA workers arrived then. And the other people on the third floor who I was helping at this time had obviously not been in the

Matthew Cooper - Direct

blast. They had come from offices across the street from the downtown area to help. When they arrived and saw me and could tell that I had been in the blast, they asked me to leave the building and escorted me down to the street and put me on a bus to the hospital.

Q. All right. After you got treated at the hospital, or after you were treated at the hospital, what did you do?

A. I went to Southwestern Hospital, received about 25 stitches. From there -- at the time I was living in Norman, Oklahoma, which is about 30 miles south of the city. I drove home -- got a ride home, actually -- took a shower, and put on some fresh clothes. And from there, I went to the Marine

Reserve Center on Douglas Boulevard in Oklahoma City and tried to reestablish our office as best we could, with an office loaned to me by a reservist, and a couple of telephones. I still had two Marine applicants scheduled to ship out for training that we were trying to get out that day.

Q. Did you ever miss a day of work?

A. No, sir.

Q. Do you know when the bodies of Captain Guzman and Sergeant Davis were found?

A. Yes, sir, I do. They were found late on the following Monday night, the 24th. Captain Guzman first. Late the night of the 24th -- 23d into the morning of the 24th.

Q. When was Captain -- or Sergeant Davis --

Matthew Cooper - Direct

A. Sergeant Davis's body was pulled out the following day.

Q. What happened or what occurred at the building site when the two Marines' bodies were removed?

A. As I said, Captain Guzman's body was discovered first; and a FEMA worker who had come in from New York City discovered Captain Guzman. And he found him buried under the pancaked part of the building, and he saw Captain Guzman's leg sticking out. And Captain Guzman obviously had on his uniform at that time.

On recruiting duty, we wear dress-blue trousers with the red blood stripe. And this FEMA worker from New York City was a former Marine, and he recognized the fact that Captain Guzman was obviously a Marine. And at that time -- at that time, bodies were pulled out in accordance with who -- which ones were the easiest to remove and which ones would be the least dangerous.

Captain Guzman's didn't really meet that criteria; but this man, being a Marine, knew that we take care of our own. And it's a code we live by. And he was able to, through the FEMA director, stop work on the rest of the building and was allowed two hours to pull Captain Guzman out; and he put together a team of four former Marines, and together they pulled Captain Guzman out.

In the meantime, our office had been notified that Captain Guzman's body had been found and was in the process of

Matthew Cooper - Direct

being removed; so we dispatched an escort to the site. And when Captain Guzman's body was brought out and on the gurney, it was draped in an American flag and he was given a Marine escort out of the building.

Q. Did you attend the funerals of Sergeant Davis and Captain Guzman?

A. Yes, I did.

Q. Were either of these Marines able to have an open-casket funeral?

A. No, sir, they were not.

Q. Now, if you would help the marshal there, would you pull

Q. Now, if you would help the marshal there, would you pull the first exhibit out, please. And before we do that, Captain Cooper, did you look at the photographs of Sergeant Davis and Captain Guzman and satisfy yourself that this exhibit was, in fact, the photographs of these two Marines?

A. Yes, sir, I did.

MR. RYAN: Your Honor, we would offer into evidence Government's Exhibit 1168.

MS. RAMSEY: No objection, your Honor.

THE COURT: Received.

MR. RYAN: And I ask you to please place that on the easel.

BY MR. RYAN:

Q. Now, would you please call them by name and state what they did in the Marine Corps.

Matthew Cooper - Direct

A. On the left of the poster here, Sergeant Benjamin Davis. He was an administrator in the Marine Corps for the RS, Oklahoma City. He served as my operations clerk. In that capacity, he was responsible for processing all of the paperwork on every applicant who enlisted and shipped to recruit training through our office.

Q. Was he an enlisted man?

A. Yes, sir, he was. Sergeant Davis was an enlisted man. He was 29 years old and spent about seven years' active duty in the Marine Corps, spent the early part of his youth growing up in South Central Los Angeles before he came in the Corps.

Q. What happened vis-...-vis Sergeant Davis besides his death on

April 19, 1995?

A. Sergeant Davis prior to coming to Oklahoma City at his previous command on his own time completed an associate's degree. And as such that made him eligible for a very competitive commissioning program in the Marine Corps. And for about the six months prior to the bombing, Sergeant Davis and I were -- put together a package to submit on him to headquarters Marine Corps for a commission. And we had gotten it out -- made it out about a month before the bombing, and an official Marine Corps message came out on April 19 after the bombing that Sergeant Davis had been accepted into this program and would be shortly thereafter receiving orders to Officer Candidate School.

Matthew Cooper - Direct

Q. Did he ever get that message?

A. No, sir, he did not.

Q. And Captain Guzman, please.

A. Captain Guzman, Randy Guzman, is from northern California. He was raised in northern California. As you can tell, he's a Filipino-American. Prior to coming on active duty as an officer in the Marine Corps, he, too, was enlisted. He was an

enlisted reservist while he attended Cal. State Hayward. After he graduated, he was commissioned in the Marine Corps as an infantry officer. He served a tour with the Third Marine Division in Hawaii. He was a Persian War veteran with the Third Marine Division as an infantry officer. He reported to Oklahoma City in the summer of 1993.

Q. Thank you.

A. Sure.

MR. RYAN: Now, if I could ask the marshal's assistance here to please remove that exhibit.

And the next exhibit, if you can find that one, is the 6th floor of the Murrah Building, which has already been admitted as Exhibit 952.

BY MR. RYAN:

Q. Captain Cooper, you have a folder there at your desk. If you reach inside that folder, you'll find three name plates, one for the Marines, one for Sergeant Davis, and for Captain Guzman. Would you please place those in the appropriate

Matthew Cooper - Direct

locations on the 6th floor-floor chart. The Marine you can just place anywhere there on the floor space. But place the name of Captain Guzman, where he was located at the time of the blast, and Sergeant Davis' where he was located.

After the morning of April 19, I take it you did not see either these two men alive?

A. No, sir, I did not.

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

THE COURT: Any questions?

MS. RAMSEY: No, your Honor.

THE COURT: Witness excused?

MR. RYAN: Yes, your Honor.

THE COURT: Agreed?

MR. JONES: Your Honor, may we approach the bench before the next witness?

(At the bench:)

(Bench Conference 93B1 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

THE COURT: Do we have the next witness?

MR. HARTZLER: The Government calls Eric McKisick.

Mr. Ryan will question him.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Eric McKisick affirmed.)

THE COURTROOM DEPUTY: Have a seat, please.

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

THE WITNESS: My name is Eric McKisick. It is spelled M-C-K-I-S-I-C-K.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Ryan?

DIRECT EXAMINATION

BY MR. RYAN:

Q. Good morning.

A. Good morning.

Q. Would you please restate your name for the jury's benefit, please.

A. It's Eric McKisick.

Q. Mr. McKisick, where do you live?

A. I live in Oklahoma City, 11909 Blue Way Avenue.

Q. What do you do there?

A. I'm a member of the Social Security office. I'm a staff assistant there.

Eric McKisick - Direct

Q. And you work for Social Security?

A. Yes, sir, I do.

Q. Where were you born and raised?

A. I was born and raised in Forest City, Arkansas.

Q. Tell us about your education, if you would, sir.

A. Graduated from Forest City High School in 1977. I went to Harvard University and graduated from there in 1992 -- 1982.

Q. What was your degree at Harvard in?

A. American history.

Q. And did you -- are you married?

A. Yes, I am.

Q. Any children?

A. Two children, Sheridan and Justin.

Q. When did you begin your career with the Social Security Administration?

A. Almost 13 years ago this month, May 29.

Q. Could you briefly describe for us your career in Social Security.

A. Sure. In May, 1984, I started as a claims representative in the Forest City, Arkansas, Social Security office. From there I moved to the north Dallas office as an operations supervisor. In 1991 I was selected to the regional office as a program specialist assistant, and I worked there until I came to Oklahoma City in July of 1994.

Q. All right. When you came to Oklahoma City in July of 1994,

Eric McKisick - Direct

where were you assigned?

A. The Social Security office, 200 N.W. 5th, Room 111, Oklahoma City.

Q. That's the Alfred --

A. E. Murrah Building, yes, sir.

Q. Is that correct?

A. Yes, sir, that's correct.

Q. And you were on the 1st floor. Is that so?

Q. And you were on the 1st floor. Is that so?

A. Yes, sir.

Q. How many people or how many employees of the United States worked in the Social Security office of the Murrah Building in April of '95?

A. We had 62 employees there.

Q. What were the hours of operation -- let's first start with the hours for the people that worked there in the building.

A. Our office opened up as early as 7 a.m. each morning, Monday through Friday, and closed at 5 p.m. We sometimes worked overtime; but most of the time, that's our regular operating schedule.

Q. And then what time would the closing hours be for employees?

A. 5 p.m.

Q. All right. Now, what about for members of the public? When -- when were the hours of operations for the public, if they had business to conduct with the Social Security

Eric McKisick - Direct

Administration?

A. Our office hours for the public began at 9 a.m. sharp, Monday through Friday, and ended 4 p.m.

Q. Now, would you generally describe the business of the Social Security Administration there at the Murrah Building.

A. The Social Security Administration, we administer benefits to approximately 46 million people each month. It's a pretty large installation. We have 1300 installations nationwide.

In Oklahoma City, we have a service area that encompasses about four counties in the center of the state. We provide benefits to individuals who suffer losses due to retirement or disability as well as their families.

We also provide benefits to a wage-earner's family who lost the wage earner due to some tragic event, death or other things.

Q. Now, would you describe what kind of business the members of the public would have to conduct there at the Murrah Building at 9 a.m.

A. At 9 a.m., we normally have about nine or ten appointments available for individuals who are applying for retirement benefits, survivors, disability benefits, also. And normally at that time of the morning, we have those individuals as well as drop-in customers who come in there for various reasons -- same thing, retirement benefits or disability, as well as applying for Social Security cards for new babies and also the

Eric McKisick - Direct

changed names for women who may have just recently married.

Q. Now, what happens vis-...-vis the people -- the members of the public that come to the Murrah Building in the morning -- what happens at 9:00 with respect to them and their ability to enter the offices of the Social Security Administration?

A. Well, our office is located right on the 1st floor. Right

as you come into the Murrah Building, you make a quick left, and you'll be able to enter the door, waiting area for -- to conduct Social Security business.

We usually open the door a little bit early, and we allow some people to sign in so they won't have to stand in line to wait for our doors to open -- our windows to open to serve them at 9 a.m.

Q. But by 9 a.m., the offices are opened and people are allowed to enter into the waiting-room space?

A. Yes, sir, they are.

Q. Now, I'm going to ask the 1st floor, again, which has already been admitted as Exhibit 952, be displayed to the jury and on your screen; and what I would ask that you do is take this diagram and first kind of tell us where the front entrance of the Murrah Building is there on the 1st floor and then where the visitors' waiting room is that they're allowed to enter by 9.

A. The entrance to the Murrah Building is right here, this area right here.

Eric McKisick - Direct

Q. All right. Well, let's assume that someone is walking to the Murrah Building for an appointment before 9:00. Show us with that line, if you would, where they enter the building. Take us --

A. They would enter the building here.

Q. All right. And then where would they go to enter for their appointment at Social Security?

A. Right there into our waiting area to the left.

Q. And is that door open at 9:00?

A. Yes, sir, it's open at 9.

Q. And tell us what is located within that room that is designated waiting area, or waiting room. What is physically located within the confines of that building space?

A. In the waiting area, we had rows of chairs, one row occupying the south side wall, which is right here.

Q. Put, if you would -- put lines.

A. Where the chairs --

Q. On the space there where the rows of chairs are located.

A. One row would be right there in the doorway, and rows would be here and here.

Kind of difficult to see them, but here and here.

Q. All right. Now, how many chairs are located there in that space? Approximately.

A. Very close to 20.

Q. Now, did you notice in the past that people would -- who

Eric McKisick - Direct

would come with -- for appointments there at Social Security -- would they frequently have others with them?

A. Yes. Many times individuals who come in to file for benefits, retirement benefits, would have maybe their spouse.

Older members may come in with children, and a lot of times, young mothers would approach -- would come into the office to get Social Security cards for their newborns.

Q. All right. Now, did you have an appointment system there at Social Security?

A. Yes, sir, we did.

Q. Tell us about that, if you would.

A. Our appointment system is a pretty good one. We use an 800 number system to schedule most of our appointments.

Individuals will call us from any part of the country using our 800 number, 772-1213, and then we would schedule an appointment with the office closest to them. The individuals who lived in central Oklahoma would most likely be scheduled at the Murrah Building site.

The appointment times ranged from 9:00 to about 3:00 in the afternoon.

Q. Now, would everyone who comes at 9:00 -- would they have an appointment?

A. No.

Q. How about the people that are family members that come with a person with the appointment? Would they be listed on your

Eric McKisick - Direct

appointment sheet?

A. In most cases, no. Only if they had business to conduct with us, not just accompany another family member.

Q. At my request, did you research the records of Social Security and locate a record of the appointments for April 19, 1995?

A. Yes, sir, I did.

Q. And you -- I don't know if have you a copy of that --

A. I think I do here.

Q. Is there one there? If you would, turn to Exhibit -- Government's Exhibit 1009. Do you have that?

A. Yes, I do have it.

Q. Can you identify that record for us, please.

A. Yes. This is the appointment listing for the Social Security office at Oklahoma City for April 19, 1995.

Q. Is this a business record of the Social Security Administration?

A. Yes, sir, it is.

Q. Is this record kept in the ordinary and normal course of the business of Social Security?

A. Yes, sir, it is.

Q. Are you familiar with this record?

A. Very familiar.

Q. And can you vouch for its authenticity as a record of the people with appointments at Social Security on April 19, 1995?

Eric McKisick - Direct

A. Yes, sir, I can.

MR. RYAN: Your Honor, I would move into evidence

Government's Exhibit 1009

Government's Exhibit 1009.

MR. JONES: No objection, your Honor.

THE COURT: It's received.

MR. RYAN: Request the Court's permission to publish.

THE COURT: You may.

BY MR. RYAN:

Q. Would you remove the marks from the -- there you go. Thank you.

All right. I'll move it a little closer or zoom here -- a little more here in a moment; but just generally if you will from what's displayed on the screen, describe to the jury what they're looking at.

If you would, why don't you just kind of go across the top of the columns there and describe what's in each column.

A. To begin with, on the left side it shows a column that is headed by the NH name. NH stands for number-holder name.

The next column would show Social Security number -- his or her Social Security number.

The next column would be the claimant's name, the individual who is coming into the office to file for benefits, which in some cases will be the same as the number-holder name.

The next field describes the claim type; that is, what they're coming into the office for.

Eric McKisick - Direct

In the first one, you can see the individual, the number holder's name, their Social Security number and the claimant's name and the claim time, which is LSDP, which is short for the "Lump-Sum Death Payment."

The next indication is appointment type. There are two numbers that could be displayed here, the number "2" or the number "1." "2" would indicate in the office appointment and the "1" would indicate teleclaim, appointment by phone.

The next column would describe -- will show the time of the appointment on April 19.

Q. Now, would you tell us how many people had appointments at 9 a.m. with Social Security on April 19, 1995?

A. 11 people.

Q. Now, if you would, start with the -- just to demonstrate one of the names here, if you would, start with the first appointment of the day and tell us who that was and what you can tell us from the appointment log.

A. Strictly from the appointment listing, you could tell the person's last name, Argo, and the first initial, T; their Social Security number and then the claimant's name. Last name is the same as the number holder, and the initial is P. Argo. And the claim time, which is lump-sum death payment. What you'll see is a young widow or widower applying for one-time Social Security benefit on behalf of the deceased spouse.

Q. In this case, P. Argo is the surviving widow?

Eric McKisick - Direct

A. Yes. Exactly right.

... 100. ...

Q. Who had an appointment at 9 a.m.?

A. Yes, sir.

Q. And have you compared this list with a list of those that died in the Murrah Building?

A. Yes, sir.

Q. And how many people from the list here alone can you tell us died in the Murrah Building had appointments at 9 a.m. at Social Security and who are they?

A. P. Argo, D. Fritzl., R. Luster, E. Tapia, L. Treano., and -- and later found out the wife of J. Mitchell.

Q. All right. Now, if I could, I'd like to turn to the morning of the 19th and ask you what you did that morning when you went to work.

A. I arrived about 7:30 a.m. on Wednesday, April 19.

Q. What did you do when you got there?

A. Normally check and see what I have scheduled for the day. Checked -- I had an appointment at 9:00 with John Smith from Langston University, met with some of the people that we had on duty at that time. Ron Harding -- said hello to him, who later perished in the blast; Charlotte Thomas, and others, as I passed by them on my duties.

Q. Now, what did you do at 9:00 that morning?

A. Right before 9:00, I went out to the reception area. I noted that we had a considerable amount of people in the

Eric McKisick - Direct

waiting area.

Q. How many people were there, do you think?

A. It was in the middle 20's. We normally don't have a huge amount of people in the very middle of the month coming in, but it seemed kind of unusual today to have as many people as we did have there.

The first -- however, at 9:00, that's when the biggest rush of people is at our office anyway.

Q. All right. If we could, let's go back to the 6th floor on the computer, and I want you to tell us where you saw these 20-some people at 9:00.

THE COURT: I think you said the 6th floor but meant the 1st.

MR. RYAN: Excuse me. I'm sorry. The 1st floor.

THE WITNESS: I saw them in the waiting area, in this area here.

BY MR. RYAN:

Q. All right. Now, show us where the north face of the waiting area is. If you'd run the line of the pen on the north face there.

All right. That is glass, or is it wall?

A. It is glass.

Q. If someone is standing out in front of the Murrah Building or parking a car in front of the Murrah Building, are they able to see through the front there and see people who are standing

Eric McKisick - Direct

or working in the waiting area?

A. They can.

Q. All right. At 9:00, what did you do?

A. 9:00, I went out to meet with the visitor I had. His name was John Smith from Langston University. He was there to see some of the property that we were about to excess. We have a relationship with the university in Langston, where they supply us with very good students as interns, and we try our very best to provide those students with good work experience, as well as, when available, needed supplies and equipment to help the university.

Q. What did you do with him?

A. We went back to an area right behind -- not far from my desk, which housed some typewriters that we were excessing and some computer controllers to look at. He was just checking to make sure that they were equipped -- they were equipment that he could use at the college.

Q. And what happened?

A. Right after we started checking, I walked away just a brief moment, let him see the equipment and start working with it, you know, putting paper through the typewriter and making sure it worked. I walked away for a brief second, and then an explosion occurred, loud, deafening; and we were plunged into darkness.

The whole building felt like it was shaking underneath

Eric McKisick - Direct

our feet. I was pummeled around, unable to see anything. The brick -- the air was so thick and dark, the only thing you could do with it was not really breathe it but almost chew it, it was that thick with smoke, and smelled of brimstone-type -- it was a very frightening experience for all of us involved.

I stood up, was able to walk around shortly after the initial explosion on shaking, trembling legs, and felt around me. I felt the conduits from the light fixtures up ahead that had fallen down. I pulled myself up by that, didn't realize why we were plunged totally into darkness, though. I mean, we have windows out the north face of our building that should have brought light in. It was only later that I find out that where there were windows there was a crater now filled with debris from the fallen floors down to the Murrah Street -- the Murrah Building on the 5th Street side.

Shortly after gaining some composure, I was able to hear some people around me. It was surprisingly calm in light of what had occurred.

Mr. Smith yelled to me, "Don't leave me, McKisick. Don't leave me."

And I said, "I won't."

And I looked around, tried to find the best way to get out. Our normal procedure is to go toward our reception area. That's where we could check and see if there are people stranded there, then help them out if there is a fire

Eric McKisick - Direct

evacuation or drill like that.

We tried to travel to the reception area, but we couldn't. It was blocked. Just no way to get out of there.

There was a group of us at that time. The new manager on duty, Laverna Williams -- the administrative aide, Linda Logan -- they were both in her office at the time of the blast.

I could hear Gwen Greise, one of our supervisors, mention -- say that "I can't get out, I'm stuck." She was talking with one of our claims representatives, Barbara West, who was injured also. But I went over to help free Ms. Greise, just moved some things around just so -- she was just pinned in there for a brief time. We were able to move just enough stuff to get her out.

I heard more from Anita Edge. She was another claims representative there. She had been lodged, pinned inside her desk area, also; so I went around to her and helped her out. The procession started moving toward a light that we saw on the east side. We found out later that Rex Irwin, our part-time field representative, had found the exit through our break room and out the side door to the Robinson Street side; and light coming from outside on that side of the street was what we looked to and were finally able to escape through that route.

Q. Now, what were the conditions like that you were walking in on the 1st floor?

A. Where there was carpeted floor, there was rubble. I

Eric McKisick - Direct

remember moving aside a photocopy machine, helping Laverna over some debris as we walked, tried to make our way through the dark area of the Murrah Building 1st floor.

It was -- it was very difficult, extremely difficult to see anything, but all I know is just uneven ground that should have been flat.

Q. Was there water?

A. At -- after awhile we could hear -- I heard a sound of water running; and before long, the water was up to the middle of my leg. We were walking and sloshing through it back and forth. Extremely dangerous situation, if the electricity had not been cut off by the explosion. That's the only thing I can -- we were extremely fortunate to have lost the electricity at the initial blast time. If not, many more people could have been electrocuted.

Q. Did you finally make it out of the building that day?

A. I did make it out of the building.

Q. And were you helping other people as you came out?

A. Yes, sir, I did.

Q. How many other people came with you or did you help out?

A. The group would number about five to six.

Q. How many people from Social Security died on the morning of April 19?

A. We lost 16 people

A. we lost to people.

MR. RYAN: If I could ask the marshal's assistance, we

Eric McKisick - Direct

would offer into evidence the exhibit with the photographs of the members of Social Security.

THE COURT: That's 1194?

MR. RYAN: 1194, your Honor. Government offers Exhibit 1194.

THE COURT: No objection?

MR. JONES: No objection.

THE COURT: 1194 is received and may be published.

BY MR. RYAN:

Q. Can you see that from where you are?

A. Yes, I can.

Q. Would you please call each person by name and state very briefly what each did in the Social Security office?

A. The first one was Richard Allen. He was a claims representative at our office and one of the most knowledgeable people we knew. Very great resource.

Q. Next.

A. Sandy Avery. She was a development clerk/data entry operator. Pretty dynamic, Christian individual.

Q. Next person, please.

A. Oleta Bidy. She was a service representative. She was part of our initial people to look at and see everybody who came into the office, each and every day.

Q. All right.

A. Carol Bowers, supervisor of our -- one of our Social

Eric McKisick - Direct

Security units. Fantastic artist, by the way.

The next person is Sharon Chestnut. She was a claims

representative and what we termed a super floater, one of our highly motivated claims representatives.

Kathy Cregan was a service representative/data review technician, responsible for making sure that our Is were dotted and our Ts were crossed.

Margaret Goodson, the next person, was a supplemental security claims representative and an outstanding mentor for many of our younger claims representatives.

Next person is Ethel Griffin, who was also a service rep./data review technician, was a doting grandmother, outstanding individual.

MR. RYAN: Now, if you would, Marshal, there is another chart, another additional eight photographs of Social Security members, employees.

BY MR. RYAN:

Q. If you would start with the ninth person there.

A. Ninth person is Ron Harding. He was a service representative, extremely caring individual, accomplished musician.

The next person was Raymond Johnson, who worked out of our office but was officially part of the National Indian Council on Aging.

Q. Next person, please.

Eric McKisick - Direct

A. Derwin Miller. He was a claims representative, very young gentleman, also from Arkansas. Good guy.

Next person is Charlotte Thomas, who was an appointment clerk. She's been with the office for a while and was a dynamic individual, just extremely dynamic.

Q. Okay. Next?

A. Mike Thompson. Mike was a part-time field representative and supplemental security income claims representative.

Q. All right.

A. Next person is Bob Walker. He was a claims representative and Shriner, good guy, good all-around guy. His wife, Judy, works with us currently.

The next person is Julie Welch. She was a very young claims representative trainee, just got out of class. She got out of claims rep. class in February of '95, was a recent Marquette graduate, outstanding individual.

Last person is Stephen Williams. He was another supervisor, and incredible individual.

MR. RYAN: All right. Now, with the marshal's assistance, again, I would ask that the 1st floor-floor plan be placed on the easel.

BY MR. RYAN:

Q. Social Security shared the 1st floor with the General Services Administration. Is that correct?

A. That is correct.

Eric McKisick - Direct

Q. GSA. We've already heard from Mr. Williams. I believe you know him.

A. Yes, I do.

Q. Now, in the folder on your desk there will be the names of the 16 people who died in Social Security on April 19. Can you -- it will be in one of those folders.

A. Yes, sir.

Q. I apologize.

MR. RYAN: Your Honor, may I approach the bench (sic)?

THE COURT: Yes.

BY MR. RYAN:

Q. With the Court's permission, Mr. McKisick, I would ask you to leave the witness stand and to place the names of each of the people that died that morning from Social Security at the location on the 1st floor where they were at the time of the blast.

Thank you. Please be seated.

Now, in addition to the 16 people from Social Security who died, many visitors died as well in your space.

A. That's correct.

Q. You can't tell us how many of those died, can you?

A. No, but with the number of people in that waiting room that day, it's -- it would have to be virtually everyone that was there during the time.

MR. RYAN: No further questions, your Honor.

Eric McKisick - Direct

THE COURT: Do you have any questions, Mr. Jones?

MR. JONES: I do, your Honor.

CROSS-EXAMINATION

BY MR. JONES:

Q. Mr. McKisick --

A. Yes.

Q. -- Kathryn Cregan was an employee of the Social Security office, was she not?

A. Yes, Ms. Cregan was.

Q. And Charlotte Thomas also?

A. Yes, sir, they were.

Q. And Mr. Raymond Johnson?

A. Mr. Raymond Johnson was a little special situation. He was actually employed by the National Indian Council on Aging. He worked out of the Social Security office for us, though.

Q. And on the morning of the blast, all three of them were working inside the building?

A. Yes.

Q. And died inside the building?

A. It's my understanding that they were all three working inside the building that day.

Q. Yes, sir. Thank you.

Now, Mr. McKisick, you identified a waiting room there.

A. Yes, sir.

Eric McKisick - Cross

Q. And the waiting room was where people that had appointments would wait until their names were called?

A. Yes, sir, as well as individuals who came in on a drop-in nature.

Q. Sure. And were there chairs in there for these people that you've identified who were waiting for appointments or drop in to sit?

A. We had some chairs, but it was not always sufficient for the number of people we have in the waiting room.

Q. And were there hard, blue, PVC plastic chairs inside in the waiting room?

A. They were hard. I can't really tell you the color was blue, but it's probable. And yes, they were plastic.

Q. And was it your opinion that some of them possibly were made of blue molded plastic mounted on silver metal legs?

A. Yes, they were on silver metal legs.

Q. Yes. And you were of the opinion that they were possibly blue molded plastic. Is that correct?

blue molded plastic. Is that correct?

A. Again, it's quite likely that they were. I just cannot recall the color. It was not --

Q. And they also had some blue recycling bins that were occasionally brought into the lobby of the Murrah Building?

A. Yes. We had recycle bins there for our paper.

Q. And you described those as blue recycling bins; correct?

A. Yes, sir, I would think they were blue.

Jodie Carlson - Direct

MR. JONES: Nothing further. Thank you, Mr. McKisick.

THE COURT: Anything else of this witness?

MR. RYAN: No, your Honor.

THE COURT: May he be excused then?

MR. RYAN: Yes, your Honor.

THE COURT: All agreed?

MR. JONES: Yes, your Honor.

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

MR. HARTZLER: Government calls Jodie Carlson.

Mr. Goelman will question.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Jodie Carlson 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: Jodie R. Carlson, C-A-R-L-S-O-N.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Goelman.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Mrs. Carlson, where do you live?

A. I live in Tucson, Arizona.

Q. What do you do there?

A. I am a property manager for Lincoln Residential Services. I manage Brittany Court Apartments. I'm the business manager

Jodie Carlson - Direct

and property manager there.

Q. Can you describe your education briefly.

A. Yes. I am a licensed real estate agent for the state of Arizona. I have a bachelor's of science degree in business management from University of Phoenix, and I am also pursuing my master's degree in education with a specialization of academic counseling.

Q. Taking you back to October 4, 1994, Mrs. Carlson, where were you living and working at that time?

A. I was living in Kingman, Arizona, and I was working for Century 21 Barbara Ricca Realty, Property Management Division.

Q. Do you remember what your schedule was back at that -- in that period of time?

A. Yes. It was 8 to 5, Monday through Friday, and 9 to 1 on Saturdays.

Q. What kind of properties did Barbara Ricca Realty own?

A. We manage residential homes, apartment communities. Also storage-unit complexes.

Q. How many different storage-unit complexes did you manage?

A. Seven.

Q. And was one of them called Northern Storage?

A. Yes, sir.

Q. Where was that located?

A. Northern Storage was located on Northern Avenue, and the cross street was Powell Street in Kingman.

Jodie Carlson - Direct

Q. And what were your responsibilities if someone came into Barbara Ricca realty and wanted to rent a storage locker?

A. I would give the individuals the contract, the application, and other assorted paperwork to fill out and find out exactly from the individual what type of storage unit, what size they were looking for, and where I could accommodate them in that respect.

Q. Once you found out this information, what would you do?

A. I would make a copy of their driver's license and also assign them a storage unit that was vacant at that specific storage unit location.

Q. Why would you make a copy of their driver's license?

A. It was one of my responsibilities for documentation and verification of each file.

Q. Where would you make this copy?

A. Right behind my desk.

Q. And after you made a copy of the driver's license, what would you do next?

A. I would take a look at the application to verify the information with the driver's license, that the individual renting the storage unit matched the individual at the counter and that the driver's license also matched the application. I would proceed to take the individual's amount that the storage unit was, required for payment, and explain the actual terms of the contract.

Jodie Carlson - Direct

Q. Ms. Carlson, I'll ask you to look inside that folder up there. See if you can find Government's Exhibits 169, 170, 171, and 144. Do you have them?

A. Yes, sir.

Q. Do you recognize what type of documents these are?

A. Yes. This is the document information that we required to rent a storage unit at Century 21.

Q. Are all these documents part of the file for a storage-unit rental?

A. Yes, sir.

Q. What would you do after the storage unit was actually rented? What would you do with these documents?

A. They would be put in a file, designating the storage unit that was rented and they would be put in the Northern Storage

file area.

Q. These in particular would be put in the Northern Storage file?

A. Yes, under the specific storage unit that was rented.

Q. And what would happen after that storage unit was vacated? What would you do with these records?

A. They would be put in a file directly next to the active file in an inactive file.

Q. And how long would they be kept for?

A. Approximately five years.

Q. Ms. Carlson, are those Government's exhibits that you've

Jodie Carlson - Direct

looked at records that Northern Storage would make for every rental?

A. Yes, sir.

Q. And are they records that you would keep in the normal course of business?

A. Yes, sir.

MR. GOELMAN: Your Honor, we move to admit Government's Exhibits 144, 169, 170 and 171.

MR. NIGH: No objection, your Honor.

THE COURT: They are received.

MR. GOELMAN: Thank you, your Honor.

May I publish, your Honor?

THE COURT: Yes.

BY MR. GOELMAN:

Q. Okay. Can you look down at your screen, please. Do you recognize that?

A. I did (sic), yes, sir. That is a copy of the rental agreement contract.

Q. Do you recognize the writing on the top portion?

A. Yes, sir. That is my writing.

Q. And you recognize the signature on the bottom right where it says owner/agent?

A. Yes, sir. That is my signature.

Q. What's the name that's listed on the agreement for the renter?

Jodie Carlson - Direct

A. Tim McVeigh.

Q. Okay. Are you having a hard time reading it?

A. No.

Q. And can you tell what date this unit was rented?

A. 10-4 of '94.

Q. Ms. Carlson, how many units did you rent during your time at Barbara Ricca realty?

A. A couple of hundred.

Q. So do you have any particular recollection of this particular transaction?

A. No, sir.

Q. Turning your attention to the left-hand corner, the upper

left-hand corner, do you see where it says the word "copy" under occupant information?

A. Yes, sir.

Q. What does that mean?

A. That means that I made a copy of the driver's license and matched the copy of the driver's license to the face at the counter and that also we had a record on file that the driver's license was in the file.

Q. Had you made a copy of the license?

A. Yes, sir.

Q. Was that your normal practice at Barbara Ricca Realty?

A. Yes, sir.

Q. I'm showing you Government's Exhibit 171. Can you

Jodie Carlson - Direct

please -- this is a Kansas driver's license?

A. Yes, it is.

Q. Whose is it?

A. Timothy J. McVeigh.

Q. Turning now to Government's Exhibit 169, can you describe what kind of document this is?

A. Yes. This is an application for storage rental. All the individuals that came in to rent storage units were given this application to fill out as I made a copy of the driver's license.

Q. So the customer would fill this out?

A. Yes, sir.

Q. Turning to about the middle of the page where it says persons who have access to the unit, can you tell me what the customer wrote?

A. "None."

Q. And what does that mean?

A. That means that no other individuals but the individual renting the storage unit would have access to that unit.

Q. Okay. How is that policy enforced by Northern Storage?

A. It was enforced per se that I was not allowed to give any authorization to anyone else for that storage unit, if there were not any names on that list.

Q. But if someone had a key or the combination to locks, could they go into the locker on their own?

Jodie Carlson - Direct

A. Those locks were personally attained by the individuals renting the storage units. The storage units were actually open; and when individuals rented them, they put their own locks on them. We did not follow any procedure whatsoever holding locks.

Q. So you didn't have anything to do with access to those lockers?

A. No, sir.

Q. Turning to where it says "type of goods being stored," could you tell me what the renter wrote there?

A. "Household." in parenthesis. "(dishes, bathroom stuff.

A. household, in parenthesis, (kitchen, bathroom stall, etc.)"

Q. Did Northern Storage have any policy of enforcing what people actually stored in these lockers?

A. No, sir.

Q. Did you make any searches of these lockers from time to time to make sure that renters were telling the truth on their application?

A. No, sir.

Q. Look on the last line where it says "no chemicals." I think it says "of flammable fluids" but probably means "or" may be stored. Do you see that?

A. Yes.

Q. Did Barbara Ricca Realty have any way of ensuring that its Renters didn't store chemicals, flammable fluids, in

Jodie Carlson - Direct

contravention of that particular line?

A. Not that I'm aware of, no, sir.

Q. So you didn't verify what they were putting in the locker?

A. No.

Q. And you didn't verify that it wasn't flammable?

A. No.

Q. What part of the application did you verify?

A. We verified that the individual renting the storage unit was the actual name on the application and the individual renting was also the face at the counter.

Q. Ms. Carlson, were there a different set of documents that you would fill out whenever you received money for storage lockers?

A. Yes. Those were our individual records that we kept at the office in the form of a ledger card.

Q. And where in your office were they located?

A. They were to the left side of my desk.

Q. Did you fill out a receipt every time you got money from a customer?

A. Yes, we did. We had a receipt book for any individual payments that were made and the copies of those receipts -- one would be given to the individual and a copy would be kept in our office.

Q. How long would a copy be kept in your office for?

A. Approximately five years, also.

Jodie Carlson - Direct

Q. I'm going to ask you to turn to Government's Exhibits 173, 174 and 175.

Do you recognize what kind of documents they are?

A. Yes. Those are the receipts from the receipt book.

Q. From Northern Storage?

A. That's correct.

Q. And are they records that Northern Storage would make every time a customer made a payment?

A. Yes.

Q. Records that Northern Storage would keep in its regular course of business?

A. Correct.

MR. GOELMAN: Your Honor, move to admit Government's Exhibits 173, 174 and 175.

MR. NIGH: No objection.

THE COURT: They're received.

BY MR. GOELMAN:

Q. Ms. Carlson, I think you were talking a little bit earlier about something called a ledger sheet. Did you start to talk about that?

A. Yes. It's the actual written accounting ledger that we use to document the fact that an individual has paid.

Q. So Northern Storage keeps two, not one records, of every payment it receives?

A. That is correct.

Jodie Carlson - Direct

Q. Okay. And what happens to the ledger sheets after you fill them out, after a payment?

A. They are placed in a file to my left where all the ledger cards are kept.

Q. What about after a storage locker is vacated? What happens to the ledger sheet then?

A. The ledger sheet -- we document the fact that the storage unit was found vacant. We write the date on that specifically and then we take all of the paperwork that is involved with that file, the contract, etc., and put it into a file of inactive under "Northern Storage" in the right-hand cabinet.

Q. Ms. Carlson, could you please find Government's Exhibit 145. Tell me if you recognize that.

A. Yes. This is an accounting ledger card for Northern Storage.

Q. Is this a record that Northern Storage would make every time it got a payment?

A. Yes.

Q. And is this a record that Northern Storage would keep in its regular course of business?

A. Yes.

MR. GOELMAN: Your Honor, move to admit Government's Exhibit 145.

MR. NIGH: No objection.

THE COURT: Received.

Jodie Carlson - Direct

MR. GOELMAN: May I publish, your Honor?

THE COURT: Yes.

BY MR. GOELMAN:

Q. Does this indicate the name of the renter, Mrs. Carlson?

A. Yes, it does.

Q. What is that name?

A. It says Tim McVeigh.
Q. And does this indicate which particular unit at Northern Storage?
A. Yes, it does.
Q. What unit is that?
A. It states "Northern E-10."
Q. Can you tell from this document when Northern storage unit E-10 was found vacant?
A. Yes. It was found vacant 2-13 of '95.
Q. And can you tell when payments were posted on this particular storage locker?
A. Yes, sir.
Q. When?
A. On 10-10 of '94, 10-14 of '94, 10-27 of '94.
Q. Okay. And, Mrs. Carlson, are those necessarily the dates that you would have received payments on this particular locker?
A. No, they are not.
Q. What are those dates?

Jodie Carlson - Direct

A. The dates would reflect on the receipts.
Q. No, what are the dates on the ledger form, if not the dates you received the money?
A. Okay. 10-10 of '94, 10-14 of '94, and 10-27 of '94.
Q. And what do those dates signify? What do they mean?
A. Oh. Those are the dates that the individual posted those moneys, whether it be cash, money order, or check.
Q. So not necessarily the date that Northern Storage received it?
A. Correct.
Q. And where would you go to look to see the date that Northern Storage received the payments?
A. On the receipts.
Q. And turning back to the receipts -- does that receipt indicate the date that payment was made?
A. Yes, it does.
Q. And what's that date?
A. 10-4 of '94.
Q. Does that also indicate what period of time it covered?
A. Yes.
Q. What period of time is that?
A. To 11-4 of '94.
Q. So one month?
A. Yes.
Q. Will you turn to the second receipt, please, Government's

Jodie Carlson - Direct

Exhibit 174. And does that indicate that there was also a payment made -- does that indicate that there was a payment made on October 10, 1994 -- or October 13. I'm sorry?
A. Yes. It's October 13, 1994.
Q. What about the third receipt? Does that indicate that

Q. What about the third receipt? Does that indicate that there was a payment made on October 27, 1994?

A. Yes, sir.

Q. And does it indicate what period of time this payment was good for?

A. Yes.

Q. And is that 12-4 to 2-4-95?

A. Yes.

Q. So this particular locker had three payments made on it in one month in October of 1994; is that right?

A. That is correct.

Q. Can you tell how these payments were made as far as cash, or check or credit card?

A. Yes. It's documented on our ledger card as they were all made in cash.

Q. And do all these receipts have the name of the person making the payment?

A. Yes.

Q. What's that name?

A. McVeigh.

Q. Turning again to Government's Exhibit 175, the receipt, is

Jodie Carlson - Direct

that actually good until 2-5-95?

A. That's correct.

Q. And this is the same locker that was found vacant on February 13, 1995?

A. Yes.

Q. Do all these documents, Mrs. Carlson, involve the same unit, unit E-10 at Northern Storage?

A. Yes, sir.

Q. And I'm going to ask you to look at what's been -- this has already been admitted into evidence.

MR. GOELMAN: Your Honor, may I publish?

THE COURT: What is it?

MR. GOELMAN: A picture of the particular --

THE COURT: What's the number?

MR. GOELMAN: 176 and 177.

THE COURT: All right.

BY MR. GOELMAN:

Q. Can you look down on your screen.

A. Uh-huh.

Q. Is that a picture of Northern Storage?

A. Yes, it is.

Q. Can you take that light pen -- there should be a pen somewhere there on your left -- and circle unit E-10.

You have to draw on the screen itself.

A. On the screen itself.

Jodie Carlson - Direct

Q. Turning now to Government's Exhibit 177, which has already been -- if you could just click and take the mark off.

Government's Exhibit 177, which has already been

introduced into evidence. Can you circle unit E-10.

MR. GOELMAN: Thank you.

I have nothing further, your Honor.

THE COURT: Any questions, Mr. Nigh?

MR. NIGH: Yes, your Honor.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. NIGH:

Q. Good afternoon, Ms. Carlson.

A. Good afternoon.

Q. First, I'd like to talk a little bit about your procedure when renting a storage unit there at Northern Storage. I believe you indicated that when you take an application, you look at the individual's driver's license and make a photocopy of it?

A. That's correct.

Q. And you identified a driver's license that you took a photocopy of in reference to this particular unit E-10. Is that right?

A. That's correct.

MR. NIGH: Your Honor, may I use the ELMO to publish this admitted Exhibit 171?

Jodie Carlson - Cross

THE COURT: All right.

BY MR. NIGH:

Q. And is that the driver's license you took a photocopy of that day in October of 1994?

A. Yes, that is correct.

Q. And if I understood you correctly on direct examination, when you do this, you look at the driver's license and you look at the individual that's standing across the counter from you and you make sure it's the same person.

A. That's correct.

Q. And did you do that in this case?

A. Yes, I did.

Q. Do you also look at the information on the driver's license?

A. No, I don't.

Q. Don't pay any attention to that.

A. No.

Q. Directing your attention to 171, do you notice a height indication on the driver's license there in the middle?

A. Yes, I see it.

Q. Does it indicate the individual is 6-foot-1?

A. Yes.

Q. If you noticed a discrepancy in that item, would you have made a change or a note?

A. It was not my responsibility to look at height whatsoever.

Jodie Carlson - Cross

Q. It was your responsibility to make sure it was the same

person, though?

A. Yes.

Q. All right. They just didn't want you to go beyond that, or request you to go beyond that. Is that correct?

A. I was only to match the picture and the name of the driver's license.

Q. And that's what you did.

A. Yes, sir.

Q. All right. Now, directing your attention, if I may, to Government's Exhibit 145, which is this ledger, I believe -- is that right?

A. Yes, sir.

Q. It should be on the screen in front of you. If I understood you correctly on direct examination, the rent for the storage unit was paid until February 5, or February 4?

A. That's correct.

Q. 1995. And then it was vacated at that point. Is that right?

A. It was found vacated on 2-13 of '95.

Q. All right. Which would have been in accordance with the amount of money that had been paid to rent the unit?

A. Correct.

Q. All right. There came a point in time when the FBI became very interested in this storage unit, did there not?

Jodie Carlson - Cross

A. Yes, sir.

Q. They wanted to know everything that you knew about the storage unit. Is that right?

A. I believe so.

Q. They wanted all your documents; correct?

A. I was not working there at the time, so I don't know the course of things that took place.

Q. Did they come visit you about this?

A. About a year ago, yes.

Q. Did they ask you if you remembered the individual that had rented this storage unit?

A. Yes.

Q. Did they also want to know what kind of things had been stored there?

A. I don't believe that we discussed that at length.

Q. Did you discuss it briefly?

A. They asked me if I knew what things were stored in the unit, and I said no.

Q. Other than the records that you had?

A. Exactly.

Q. Now, you said that you didn't have a policy of checking things out. If something came to your attention in violation of your agreement, would you have done something about it? In other words, if somebody had stored something flammable there and you knew about it?

Jodie Carlson - Cross

Jodie Carlson - Cross

A. I was never told of any such policy, sir.

Q. So it was just a written policy that meant absolutely nothing?

A. Apparently so.

Q. Do you know if the FBI tested that storage unit for explosives residue?

A. No, I don't know.

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

MR. GOELMAN: No questions, your Honor.

THE COURT: Is she excused?

MR. GOELMAN: Yes, your Honor.

THE COURT: Agreed?

MR. NIGH: Yes, your Honor.

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

Members of the jury, we'll excuse you for the noon recess period as usual, which will be till 1:45. And of course, again, that's time when you'll be together and taking lunch. And again, you must avoid the temptation to talk about what you're seeing and hearing in the evidence in the case, remembering that you can't do that until the case is given to you for decision, which is after the entire trial is completed; so please do so and continue to keep open minds individually and avoid anything outside of our evidence that could influence you.

You're excused till 1:45.

(Jury out at 12:15 p.m.)

THE COURT: Recess, 1:45.

(Recess at 12:15 p.m.)

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INDEX

Item

Page

WITNESSES

Michael Fortier

Cross-examination Continued by Mr. Jones 8507

Redirect Examination by Mr. Hartzler

Recross-examination by Mr. Jones

Dawn Hester

Direct Examination by Ms. Wilkinson

Voir Dire Examination by Mr. Nigh

Direct Examination Continued by Ms. Wilkinson 8571

Cross-examination by Mr. Nigh

Matthew Cooper

Direct Examination by Mr. Ryan

Eric McKisick

Direct Examination by Mr. Ryan

Cross-examination by Mr. Jones

Jodie Carlson

Direct Examination by Mr. Goelman

Cross-examination by Mr. Nigh

PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
144	8632	8632			
145	8638	8638			
169-171	8632	8632			

173-175	8637	8637
699	8569	
699	8572	8572
700	8568	8568
703	8574	8574
1009	8614	8614
1168	8598	8598
1194	8621	8622

DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
P61	8548	8548			
P62	8550	8550			
P63	8551	8551			
U1	8575	8575			
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REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 13th day of May, 1997.

Paul Zuckerman

Kara Spitler