

Wednesday, June 4, 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 132)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 8:30 a.m., on the 4th day of June,
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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Defendant McVeigh.

* * * * *

PROCEEDINGS

(In open court at 8:31 a.m.)

THE COURT: Be seated, please.

Good morning.

We are convened earlier here than -- without the jury
for purposes of determining the question of whether two
witnesses have been adversely influenced by observation of
portions of the trial. Before we do that, though, I have a

letter from the Government here regarding the preliminary instructions and raising a legal question concerning the next-to-the-last paragraph on the issue of reasonable doubt. I'm going to delete the paragraph. I'm not necessarily agreeing with the Government's position, but I think there's a legal issue that needs to be decided, and I'm not prepared to decide it at this time in this case.

MR. BURR: Your Honor, that's all right with us. We have not had time, either. We just got this before we came over here.

THE COURT: And of course this in part relies on the Chandler decision, which is a case much debated since it came down; so without making the ruling with respect to the burden of proof there, I will simply delete that paragraph. And we'll deal with that legal issue before of course final instructions.

Then as I understand it, there are two stipulations here to be read at some point, and I want to -- when will these stipulations come up? When do you expect them to be read?

MR. HARTZLER: The one relating to the Government's evidence doesn't need to be read today.

THE COURT: Okay.

MR. HARTZLER: I think it's unlikely we'll present any of that evidence.

THE COURT: And the next one is the defense.

MR. BURR: Yes, near the end of the case with the defense.

THE COURT: I need to clear these stipulations with Mr. McVeigh, and he has to read them and discuss them. So we won't be dealing with them now, and you let me know when you're ready on those.

MR. HARTZLER: I may have been mistaken, I'm sorry. The paragraph 4 relates to an exhibit that could possibly come into evidence today; so if I may, I'll just advise the Court --

THE COURT: Right.

MR. HARTZLER: -- you need to address it now.

THE COURT: We need to give defense counsel opportunity to review it and Mr. McVeigh and Mr. McVeigh to discuss it with counsel. So maybe that can be done during the noon recess.

MR. HARTZLER: Thank you.

THE COURT: Now, I want to make clear and I'm sure everybody already recognizes it, but the record should show that we're going to continue the order sequestering witnesses during this phase of the case as well as has previously been the rule during the trial.

With that, I think we're prepared to provide the opportunity to voir dire these witnesses if someone will identify who they are and what they're expected to testify about and tell us what the parts of the trial they have seen.

Mr. Mackey, are you going to --

MR. MACKEY: I can begin on behalf of the witness Diane Leonard.

THE COURT: Leonard.

MR. MACKEY: L-E-O-N-A-R-D. Miss Leonard was married to Don Leonard, who was a Secret Service agent killed in the

bombing. She would testify about Mr. Leonard's career with the Secret Service that spanned more than 24 years, some of his assignments and accomplishments. She would describe the events surrounding April 19 and her first awareness of the bombing and learning of her husband's death, and then she would describe the impact of that loss on herself and three sons that she and Mr. Leonard raised. The three sons are from a previous marriage, but they were an active part of their family unit.

THE COURT: What parts of the trial did she observe?

MR. MACKEY: Of all the witnesses, your Honor, that have seen portions of the trial proceedings, she has seen the most. It may well have been virtually all of the trial. She has been, I know, to Denver on one occasion and has been in this courtroom and on other occasions watched the closed-circuit telecast in Oklahoma City.

I would expect when asked that she would assure the Court that that observation does not impact or influence the way she would describe her testimony.

THE COURT: All right. Who is the other one?

MS. BEHENNA: The other witness, your Honor, is Dora Reyes. Dora Reyes had a son and a husband who both worked for HUD. She will talk about her search for her husband and her son. Her son is injured as a result of falling, I believe, four floors from the 7th floor to the basement level. She'll talk about the search for her husband. Her husband, Tony Reyes, is killed in the building. She'll talk about the impact upon her life that event has had as well as to define Tony Reyes' loss to the community. He was very involved in the Hispanic community in Oklahoma City, and she'll give some information about that. Dora Reyes has watched one day of the trial. It's my understanding that was closing arguments, your Honor.

THE COURT: Here? Was she here?

MS. BEHENNA: She was at the closed-circuit TV in Oklahoma City.

THE COURT: Okay. All right. Well, let's start with Ms. Leonard.

I suggest what we do -- go ahead -- what we do is -- Mr. Mackey, are you going to do the direct of this witness?

MR. MACKEY: Yes, I am, your Honor.

THE COURT: Establish what you've just established with me with respect to what she has seen and so forth, and then we'll voir dire.

MR. MACKEY: And I'll turn it over.

THE COURT: Yes.

MR. MACKEY: Yes, sir.

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

(Diane Leonard 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: Diane Leonard, L-E-O-N-A-R-D.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Ms. Leonard, let me just explain to you. We're here without the jury at this time. The purpose of this having you come in before we resume with the hearing is to ask

having you come in before we resume with the hearing is to ask questions of you so that I can determine whether you will be permitted to testify.

THE WITNESS: I understand.

THE COURT: And these questions are going to relate to whatever influence there might have been or whatever effect on your testimony might result from your having seen most or all of the trial. So that's why we're here.

THE WITNESS: Okay.

THE COURT: And Mr. Mackey, I'm sure you know --

THE WITNESS: Yes.

THE COURT: -- will ask you some preliminary questions.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Good morning, Miss Leonard.

A. Good morning.

Q. Tell the Judge where you reside.

A. I reside in Edmond, Oklahoma, which is a suburb of Oklahoma City.

Q. And are you the widow of Don Leonard, former Secret Service agent?

A. Yes, I am.

Q. Who was killed in the bombing in April of '95.

A. That's correct.

Q. Since the bombing, Miss Leonard, have you had occasion to follow the trial proceedings that have just recently concluded?

A. Yes, I have.

Q. And would you outline for his Honor precisely what it is that you saw, on how many occasions you went to Denver and how many occasions you watched closed-circuit TV?

A. I came to Denver during the pretrial hearing when you made the ruling about impact witnesses. I was at every pretrial hearing prior to that time, and I attended every day of testimony. There were a couple of days I had appointments, and I had to leave; but I was in the courtroom -- in either this courtroom or closed-circuit -- every day during testimony. I

Diane Leonard - Direct (Out of the presence of the jury)
was in this courtroom only one week. Prior to today.

THE COURT: Which week was that?

THE WITNESS: Week 2.

THE COURT: Of the taking of testimony?

THE WITNESS: Right.

BY MR. MACKEY:

Q. And on other occasions, then, did you attend the closed-circuit telecast in Oklahoma City?

A. Yes, I did.

Q. Have you been mindful of his Honor's ruling concerning potential testimony offered by impact witnesses, vis-a-vis the question of how it might influence what you would say to this jury?

A. I've been very mindful of that. However, I had such a strong need to understand what had happened, and I felt like my

life has been like a puzzle; and only the border was there. The interior pieces were scattered. And it's been very helpful for me to hear what occurred, to be able to put those pieces into place.

Q. Miss Leonard, with those observations of trial both here in Denver and in Oklahoma City, can you assure the Court that you can deliver the testimony to the jury about the facts of Don Leonard's life without being unduly influenced by what you've seen in this trial proceeding?

A. Absolutely.

Diane Leonard - Direct (Out of the presence of the jury)

Q. And can you assure his Honor that you can do in similar regard a description of the impact on your life and the family members?

A. The impact has been felt for a long time. Yes, I can.

MR. MACKEY: Is that sufficient, your Honor?

THE COURT: I'll ask a couple of questions and then defense counsel may.

EXAMINATION

BY THE COURT:

Q. Understand you're not on trial here or in any way is there some suggestion that you acted inappropriately by observing the trial. What we're looking for is what -- whether your observations of the trial and your emotional reaction and all the other type of reactions, intellectually, too, that you may have had from what you've seen and heard with respect to the trial might affect your testimony. So we're trying to compare what you would be testifying about and how you would be testifying if you hadn't seen the trial as compared with the fact that you have.

A. All right.

Q. So let me just ask you a couple of questions, and please recognize that I'm not asking these in any accusatory way. But it is human nature to react to some things that happen at a trial, including the judge. I mean I'm not unmindful that my first ruling when you were present in the courtroom when I made

Diane Leonard - Examination (Out of the presence of the jury)
it, apparently, probably shocked and angered you and you had some reaction to that. I understand that. And just because we're a few feet from each other and I'm asking you these questions, I don't want you to be hesitant about telling me honestly how you felt about that.

A. I was very disappointed in that ruling, obviously, because from April 19, 1995, I wanted to learn everything I could about what had happened. There have been lots of rulings that you've made that a lot of people were not happy with, but I could find something positive, long range, about each of those rulings, except this one; and I couldn't find a long-range positive to that one, so that's why it did disturb me. Yes, it did.

Q. All right. Well, one of the reactions, I suppose, that you

could have from that -- and you know the background. The reason that you're here now is because of the efforts by many to enact legislation that required me to consider --

A. Right.

Q. -- the testimony of victims who had seen the trial, and that's why you're here.

A. Right.

Q. And one of the things, I suppose, that's fair to ask you is whether you have the view now that, Okay, I want to get in there -- and I'm paraphrasing, very crudely -- but I want to get in there and tell them what I think and this Judge has learned his lesson or something like that.

Diane Leonard - Examination (Out of the presence of the jury)

A. No, I don't feel that way at all. I just want to -- to explain who Don was and the impact this crime has had on my life, and the impact came when I saw the building and when I was informed of my husband's body had been found and when I saw him.

Q. And then of course in this trial, you've seen Mr. McVeigh?

A. Yes, I have.

Q. And I'm aware that seeing a person accused and now convicted of the crime that lost -- caused your husband's death, you can certainly have reactions about him, and I'm not asking you to detail those. I'm just asking you whether you can honestly tell us whether you can separate out any anger or feeling that you need to get revenge or anything like that from your ability to testify truthfully as to the matters that you're going to be asked.

A. I don't really understand this, but I can honestly tell you that I have never felt anger toward Mr. McVeigh -- a few days, the first few days after this occurred, I had some general anger. The first time I saw him on TV, I did not get angry. I decided early on that it took a lot of energy to be angry, and I had too many other place -- I didn't have that much energy left; and what I had left, I had too many other places to put it. So I've directed my energy in different directions other than anger.

Q. And I'm just going to add to that, of course, the concern

Diane Leonard - Examination (Out of the presence of the jury) that we might have that you feel anger to the lawyers, about the lawyers who've been representing Mr. McVeigh because that, too, is a possible human reaction, that these people have raised objections, have made arguments in his favor, have opposed the Government's case and the evidence. Tell us what your reaction to that has been and whether that may influence you as a witness.

A. I can honestly say that I felt more anger toward things that the defense said prior to the trial.

Q. Some of the motions before trial you're talking about?

A. Oh, some of the comments in the media were difficult to

near. But when I went in the closed-circuit or this courtroom each day, I've tried to approach this whole thing the way my husband would have: He -- when there was an occurrence, he would investigate, he would get all the information he could, and then continue from there. And I've just been trying to do the same thing. And when I come in the courtroom, I put on my cognitive hat rather than my emotional one, and I've just really, truly been trying to learn what occurred so I can get this puzzle together and go on to the next one.

Q. You understand that's why you're a witness here, to tell the jury what occurred, to give them information so that they can make the very difficult decision that this jury is going to be required to make.

A. Right.

Diane Leonard - Examination (Out of the presence of the jury)

Q. And that is what the sentence should be. And they have to make that as a moral judgment, and they have to make it free from any of the passions that we feel and the emotions that we feel.

A. Right. I understand.

Q. All right.

THE COURT: Well, Mr. Nigh -- who, Mr. Nigh?

MR. NIGH: Yes, your Honor.

THE COURT: You're going to ask questions of

Ms. Leonard.

You know that Mr. Nigh is one of the attorneys for Mr. McVeigh.

CROSS-EXAMINATION

BY MR. NIGH:

Q. Good morning, Miss Leonard.

A. Good morning.

Q. As I understood what you were telling Mr. Mackey when he was asking you questions, you've essentially seen almost all of the trial?

A. Yes, sir.

Q. Including the testimony of rescue workers, Mr. Avera, for example, and things like, did you see that?

A. Yes, sir, I believe I did.

Q. About the events on the 19th.

A. Yes.

Diane Leonard - Cross (Out of the presence of the jury)

Q. And if I understood, also, one of the things that you will offer testimony about is what happened with you on the 19th?

A. That's correct.

Q. And you traveled to Oklahoma City on the 19th?

A. That's correct.

Q. Did you see some of the same sights when you were there personally that you have seen in the form of exhibits when the Government was presenting its case about what happened?

A. What is --

Q. Pictures of the building or the streets or --

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A. I was there that day.

Q. And did you see some pictures during the Government's case which showed some of the same scenes?

A. Most of those things I think were on when we were at closed-circuit, and a lot of things that were shown in the courtroom were difficult to see there, but I did of course hear all the testimony.

Q. Did that help you to recall some of the things that had happened with you on the 19th, some of the sights and sounds and emotions that you felt?

A. That's not where my mind was. I was concentrating on each thing that each person was saying and trying to put an order to this -- to this tragedy in my mind.

Q. And you've described that as pieces of a puzzle --

A. Right.

Diane Leonard - Cross (Out of the presence of the jury)

Q. -- that you tried to put together.

I also understand that one of the things that you will discuss or testify about will be the impact that this has had upon your life?

A. True.

Q. And the life of your family?

A. Right.

Q. Has being present in the -- during the descriptions of these events helped you to sort through some of that, to figure out what impact that it has had upon your life?

A. Absolutely not. The impact occurred in 1995, and I have been on a quest for answers ever since; and I have asked a lot of questions along the way, a lot of the -- that type thing that I heard I had learned a lot about before. I've talked to a lot of people and tried to learn as much as I could about what happened.

Q. But the testimony didn't help you sort through any of that?

A. It helps me put the pieces of this puzzle into place, to understand what occurred.

Q. Ms. Leonard, in terms of what you intend to say about the impact upon your life, did you ever have occasion to write that out and try to put that on paper about what the impact was or how you would express the impact?

A. I have not written down what I will say, no. There have been times -- I've kept a journal, and I write thoughts, but I

Diane Leonard - Cross (Out of the presence of the jury)

have not written my impact testimony down.

Q. Has your journal covered what you feel the impact to be?

A. My journal mostly covered what was going on each day. It was more a -- it's more a cognitive journal than an emotional journal.

Q. Has that been something that you've kept, including during the time that you were watching the trial?

A. I didn't do it during the trial. I've not done it for several months. I did it like the first year, I think, about the first year.

Q. I believe that you said that you were going to offer testimony about your husband's service as a Secret Service agent --

A. Correct.

Q. -- and some of his accomplishments.

And the events that you experienced and observed on April the 19th. Is that right?

A. The events -- I'm sorry, can you repeat --

Q. What happened when you came to Oklahoma City on April 19, you're going to describe that as well?

A. I assume so.

Q. And then the impact of the loss of your husband upon yourself and the children?

A. Correct.

Q. Are there any other areas that you intend to offer

Diane Leonard - Cross (Out of the presence of the jury) testimony about?

A. Not that I'm aware of.

MR. NIGH: Thank you, your Honor, that's all the questions I have.

Thank you, Ms. Leonard.

THE COURT: Mr. Mackey.

REDIRECT EXAMINATION

BY MR. MACKEY:

Q. Just one point of clarification for the record, Mrs. Leonard. You insisted, did you not, to observe your husband's body?

A. Yes, I did.

Q. And you understand in our pretrial discussion that is not a question that I intend to ask you and you should not interpret any question by the defense to describe what condition you saw your husband's body in? You understand that?

A. Correct.

Q. That's a pledge that you can make to this court?

A. Right.

Q. And you can deliver your testimony without describing that event?

A. I can absolutely.

MR. MACKEY: Thank you, your Honor.

THE COURT: Thank you.

THE WITNESS: Thank you.

THE COURT: Now, when you come back in -- we'll discuss this. I have to give the opportunity for objections to be made and so forth, and I'll make that determination. If you come back as a witness, you'll be taking the oath again. It's just that a part of testifying is for the jury to see the witness take the oath and everything about the person testifying.

You understand that from having seen the trial.

THE WITNESS: Yes, sir.

THE COURT: All right. You can step down, and we'll get Miss Reyes.

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

(Dora Reyes 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: Dora Reyes, R-E-Y-E-S.

THE COURTROOM DEPUTY: Thank you.

EXAMINATION

BY THE COURT:

Q. Miss Reyes, you're here without the jury present, and the reason is that I've asked that you come in ahead of time so that we can ask you a few questions because Miss Behenna has explained to us that -- generally what you're going to be asked

Dora Reyes - Examination (Out of the presence of the jury) questions about and testimony concerning your husband and identified that the information that you saw one day of the trial.

A. I went to the -- last Thursday to the summation.

Q. Closing arguments, yes.

A. And Friday to the jury instruction.

Q. All right. Now, how about before the trial, did you see any of the pretrial motions and so forth?

A. Yes, in Oklahoma City, for the change of venue. And about a year ago here. I was here the day that we had to leave at noon because if we were going to be impact witnesses, we couldn't come back.

Q. So you were here the day that I made the ruling about the witnesses?

A. Yes.

Q. Not a good day for you and others, I'm sure.

And understand that you're not being accused of anything; we're just trying to sort out whether any of your experience or observations in connection with the trial could influence the testimony that you're expected to give here. So that's why you've been brought in ahead of time so that we could ask you a few questions.

Miss Behenna.

MS. BEHENNA: Thank you, your Honor.

DIRECT EXAMINATION

Dora Reyes - Direct (Out of the presence of the jury)

BY MS. BEHENNA:

Q. Miss Reyes, where do you live?

A. Edmond, Oklahoma.

Q. And you stated in response to the Judge's questions that you had seen some things, pretrial motions and hearings.

You also observed none of the trial testimony; is that right?

right:

A. None.

Q. Didn't hear about -- what any of the witnesses had to say in this case?

A. No, I did not.

Q. Your only observation of this trial once it began on March 31, would it have been the summation?

A. Right.

Q. And then the instructions given by the Judge to the jury?

A. Right.

Q. Was there anything about what you observed in the pretrial hearings that would cause you to change your testimony about the impact this crime has had upon you?

A. My testimony has nothing to do with the trial. It has to do with the impact on my life and how my life is going since the bombing.

Q. And your observation of the summation, the closing arguments, did any of that cause you to change your testimony?

A. No.

Dora Reyes - Direct (Out of the presence of the jury)

Q. And the same question, and I guess the same response with regard to watching the instructions that you watched on Friday?

A. That's correct.

MS. BEHENNA: Your Honor, I believe that's all I have.

THE COURT: All right.

EXAMINATION

BY THE COURT:

Q. Well, I'm sure you remember the day that I made the ruling here in court; that is, that the witnesses -- and you were here in the morning and then not in the afternoon. You know, I don't want to be unfair to you here. We're just a little ways apart, and I'm wearing a black robe and you're not. But you got angry about that, I'm sure, at the time.

A. I don't think it was anger as much as a feeling of frustration.

Q. Puzzlement as to why this would be, doesn't seem reasonable to you?

A. But I was willing to go through the process as it had to be done.

Q. And then of course you're here now because Congress made a change in the law and perhaps you were a part of that; I'm not asking you, you know, whether you had any initiative in that regard or anything. All I want to know is there anything about what you observed or this court's previous ruling that -- and I'm asking you to just honestly tell us what's in your mind and

Dora Reyes - Examination (Out of the presence of the jury)
heart -- that now that you may have the chance to come in here to testify, that your testimony would be different if that

hadn't happened?

A. No, it will not be different.

Q. You know, a sort of "Get back at you, Judge," type thing?

A. No.

Q. I have to ask you these questions --

A. That's fine.

Q. -- but I didn't suspect that it was the case.

Also you saw Mr. McVeigh in the pretrial hearing, and you also saw him on closed-circuit television as you saw this whole scene. Anything about observing Mr. McVeigh in court or any of his reactions that you can say influences you in any way?

Can you keep all of that out of any testimony you're asked to give?

A. Yes.

Q. And how about his lawyers: I'm sure you may have strongly disagreed with closing argument made by lawyers and some of their motions and can look at, well, these lawyers have tried everything they can to derail or obstruct the Government's case. These are things that could occur. I simply want to ask you honestly to tell us whether anything about the lawyers' conduct in the defense of Mr. McVeigh has any influence on the testimony that you're expected to give.

Dora Reyes - Examination (Out of the presence of the jury)

A. None at all.

Q. Well, what I really want to know is -- and it's not an easy question -- would your testimony be the same today as it would be if you never had seen any of the case?

A. My testimony will not change. It will be the same.

THE COURT: Mr. Burr, do you have some questions?

CROSS-EXAMINATION

BY MR. BURR:

Q. Good morning. My name is Dick Burr. I'm one of the lawyers representing Mr. McVeigh.

I on occasion had some role in arguing about whether victim-impact witnesses could be in the courtroom. Were you present for any of those times that you remember?

A. I don't.

Q. Did you have -- around the time that the ruling was made that allowed -- that had victim-impact witnesses excluded, I think you said you had not really anger but a feeling of frustration. Did you have a sense of who was responsible for that; did you sort of feel somebody was to blame for that?

A. No.

Q. Is it -- I was a little unclear about how many times you'd actually been in this courtroom. Was it just that one day when the ruling was made?

A. I keep thinking I came in May and in June. I may have been here one day in May.

Dora Reyes - Cross (Out of the presence of the jury)

Q. And you think that was before the ruling was made?

A. I think so.

Q. Do you remember the feeling that you had the first time you saw Mr. McVeigh in the courtroom?

A. I didn't feel anything.

Q. Nothing at all?

Turning to the day of the closing arguments, I believe

you were at the courtroom in Oklahoma City?

A. Uh-huh.

Q. Or the closed-circuit TV courtroom?

A. Uh-huh.

Q. Were you there for the entire day?

A. Yes.

Q. Now, in that courtroom, are there monitors -- are there monitors like this where you can see exhibits, or do you just see this whole courtroom?

A. We just had a big-screen TV sort of thing.

Q. And the only thing on there is the picture of what's going on in here?

A. Right.

Q. If exhibits were shown to the jury, did you -- could you see them in that courtroom?

A. I think some things were shown, but they were very bad pictures.

Q. Bad in the sense that you could not see them?

Dora Reyes - Cross (Out of the presence of the jury)

A. You couldn't see.

Q. Can you tell us what your thoughts and feelings were as Mr. Mackey argued the case against Mr. Veigh -- McVeigh, in closing argument?

A. I was just listening to what I consider facts as presented. I just wanted to listen to the summation.

Q. Did you at any time kind of relive the events of April the 19th and the days thereafter during the argument?

A. Towards the end.

Q. Can you tell us about that?

A. Just as has happened so much in the last two years, emotions just well up inside you for your loss, is all I can explain.

Q. Did you cry?

A. Yes.

Q. Did you talk to people after that day about the feelings that you had had during that day?

A. Not really, no.

Q. Share any of these thoughts with your children?

Were either of your children there with you that day?

A. No.

MR. BURR: No other questions, your Honor.

Thank you, Miss Reyes.

MS. BEHENNA: Nothing further.

THE COURT: All right. Miss Reyes, we'll ask you to step out now. We have to discuss this, give some legal argument about it, and then if you come back as a witness

argument about it, and then if you come back as a witness, we'll be asking you to take the oath again; and that's simply because the jury should see each witness take the oath. That's a part of evaluating the testimony of the jury -- of the witness by the jury.

And of course what we're trying to do here is to make sure that the jurors get information that's relevant to the hard decision they have to make and that this information which is from victims -- which is what you're classified as for this purpose -- is, you know, not influenced in any way by any emotional reaction that you've had to the trial. You understand?

THE WITNESS: Yes.

THE COURT: 'Cause we're trying to have this jury decide on the basis of information, not on the basis of emotion. And I'm sure you agree that that's what we should have.

Okay.

THE WITNESS: Yes.

THE COURT: Thank you. You may step down.

Well, counsel for the defendant, do you have any objections to these witnesses?

Mr. Nigh.

MR. NIGH: Yes, your Honor, it's very brief.

THE COURT: All right. You can do it from there, certainly.

DEFENDANT'S ARGUMENT ON MOTION TO EXCLUDE WITNESSES

MR. NIGH: We would object to the testimony of both of them, in that the observations of the trial cannot, I would submit, help but affect their testimony. In reference to Ms. Leonard, she intends to offer testimony about what she observed on the 19th. Certainly there has been a lot of evidence concerning the 19th. And also she is still sorting through some of these things. And she intends to offer testimony about impact upon her life, and we would submit that that cannot escape influence from the testimony in court.

And I believe the same would be true to Miss Reyes in terms of impact, and we would also stand upon the objection we previously made.

THE COURT: Yes.

MR. NIGH: The constitutional objection.

THE COURT: Yes, I understand.

RULING ON MOTION TO EXCLUDE WITNESSES

THE COURT: Well, the issue is whether the observations that these witnesses have testified about of trial proceedings create a prejudice or will cause any influence or effect on the testimony that they're expected to give concerning the effects of the crimes; and considering what the witnesses have said here and also the demeanor and manner of these witnesses, which I think is extremely important -- I mean I put these questions, myself, to them in a way in which it would seem to me that if they were influenced by this court's rulings or defense counsel's zealous advocacy or Mr. McVeigh's presence, they would have shown some reaction. They didn't. Strikes me that both of these women are quite disciplined and emotionally prepared to give relevant testimony without the

influence of any emotional reaction to the observations of the trial that they have made.

So I'm going to permit their testimony.

MR. MACKEY: Your Honor, may I speak to one matter as to Diane Leonard?

THE COURT: Yes.

MR. MACKEY: I spoke to Mr. Burr this morning. There is one photograph, family photograph, that I'd like to show Mrs. Leonard. It's Government Exhibit 1452. It depicts Mr. Leonard, Mrs. Leonard, and his three sons gathered before a fireplace. If you look carefully behind the persons, you can see some Christmas decorations, and if asked, she would say it was taken during the holiday season. I've instructed her, if we identify this photograph, she is not to use the word "Christmas." I did want to alert the Court, and I told Mr. Burr about the same matter.

THE COURT: So it isn't going to be testimony "This was our last Christmas together" or something like that.

MR. MACKEY: No.

MR. BURR: I told Mr. Mackey we did not object.

THE COURT: All right.

Now, have you decided whether there's going to be a defense opening statement immediately after the Government's opening?

MR. BURR: Your Honor, we will reserve for that time.

THE COURT: I think we'll take about a 10-minute recess before we do the openings, and then we'll do the opening statements, and then I'll do the preliminary instructions and then the single voir dire question and then any follow-up as there need be follow-up from that. So let's take 10 minutes and get ready.

(Recess at 9:12 a.m.)

(Reconvened at 9:22 a.m.)

THE COURT: Be seated, please.

I may have misspoken and said that we'd have the opening statements and then the preliminary instruction. If I did, I said that in error. We'll, of course, do the preliminary instruction and ask the general voir dire question first.

Also, we make take more frequent recesses. If I think it's necessary to recess in evaluating the jury's reaction and other things happening in the courtroom, I'll do it. So you should be prepared for the possibility of additional recesses.

All right. Let's bring in the jurors.

(Jury in at 9:23 a.m.)

THE COURT: Members of the jury, good morning.

JURORS: Good morning.

THE COURT: Please excuse the delay in starting this morning, but there were a number of things that I needed to take up with counsel before we resume the penalty phase hearing or begin the penalty phase hearing in the case, so that's why we were delayed.

PRELIMINARY INSTRUCTIONS

THE COURT: Now, before we begin, I want to give you

general overview of where we are now and what to expect in the immediate days ahead.

Now that the jury has found Timothy McVeigh guilty of crimes which carry a possible sentence of death, we begin the second phase of the trial, the part where you will be asked to decide whether Timothy McVeigh should be sentenced to death, to life imprisonment without any possibility of release, or some other lesser sentence.

Even though the jury has found Mr. McVeigh guilty of charges which carry a possible death sentence, the law requires that you approach this sentencing proceeding with open minds and be able to give meaningful consideration to all of the possible sentences, which again are death, life in prison without the possibility of ever being released, or any lesser sentence provided by law.

Before deciding on the appropriate punishment, you must consider additional information about the crimes and about the uniqueness of the defendant as an individual human being. The information you may consider includes the evidence presented at the trial. Thus you may consider the testimony, the exhibits, and the stipulations offered by both sides during the guilt phase; and there will be no need for the parties to reoffer that evidence that's already before you.

The parties will also call witnesses and other exhibits at this second hearing in an effort to prove aggravating and mitigating circumstances. The Government first will present information about aggravating circumstances which tend to support imposition of the death penalty. The defendant then will present information about mitigating circumstances which tend to support imposition of a sentence other than death.

I will instruct you in more detail at the close of this hearing regarding the questions you must answer based on all of the information which you will then have before you. Your initial responsibility will be to decide whether the Government has proved beyond a reasonable doubt that the defendant acted with the requisite intent to cause death and whether the Government has proved at least one aggravating factor from the list of aggravating factors it has alleged.

If you make these findings, you must then consider whether the Government has proved beyond a reasonable doubt additional aggravating factors called "nonstatutory aggravating factors" that it has alleged.

Next, each juror individually must consider whether the defendant has proved any mitigating factors by a preponderance of the evidence. Mitigating factors may include information about personal traits, character, or background of Timothy McVeigh.

You must ultimately determine whether the proven aggravating factor or factors sufficiently outweigh any proven mitigating factor or factors to justify a sentence of death. The weighing of aggravating and mitigating factors is not a mechanical process. You should not simply count the number of aggravating factors and mitigating factors and decide which number is greater, but instead you should consider the weight and value of each factor.

Your role in this proceeding is to be the conscience of the community in making a moral judgment about the worth of a specific life balanced against the societal value of a deserved punishment for those particular crimes. Your decision must be a reasoned one, free from the influence of passion, prejudice, or any other arbitrary factors.

As in the guilt phase of the trial, there will be four steps in this sentencing hearing:

First, counsel for the Government will make an opening statement. Counsel for the defendant will make an opening statement at a later time.

Second, the parties will present information, beginning with the Government and then the defendant and finally the Government again in rebuttal, if it wishes.

The third stage or phase will be counsel for the Government and the defendant will make closing arguments, just as they did during the trial, beginning with the Government and then the defendant's counsel and then the Government's counsel again in rebuttal.

And four, I will instruct you in detail more fully on the controlling law.

Now, once again, just as was true throughout the trial, you must keep open minds and wait until you've heard it all before making any individual decisions and before discussing the question of punishment with any other jurors.

Now, I must ask you this question: We -- of course, you recognize some of these things from the time that you were here for voir dire and you heard a lot of these same things being explained to you generally; and you responded with respect to your ability to decide the question of punishment if that should occur and to follow the law and go according to the law and the information. And we speak of "information" at this stage instead of "evidence," because technically the rules of evidence do not limit the information that can be provided during this phase.

Of course, you're going to be limited to considering what you see and hear in the courtroom, but you won't have the same type of objections being made by lawyers with respect to hearsay, for example. Hearsay, within limits, can be considered in this information. It's a different type of hearing. We're at a sentencing hearing; and the rules, so to speak, that I will be applying are a bit different.

But, of course, the fundamental rule is that the jury must fairly and impartially consider what they have heard, both at trial and during this phase and follow the law in making the decision.

So I want to ask you now: Much has happened since you first answered these questions before the trial ever started and during the time that you were selected as jurors. I must ask you now: Are there any of you who for any reason feel that you are now unable to proceed and fairly deliberate and decide the issues to be presented to you in accordance with this general instruction that I have just given to you and the detailed instructions to be given to you requiring that you

additional instructions to be given to you requiring that you base your decision on the information and law given to you in this court?

Are there any of you for any reasons of health who are unable to proceed?

Very well. We will then go forward with this hearing and call on counsel for the Government for the opening statement.

OPENING STATEMENT

MR. RYAN: Your Honor . . .

THE COURT: Mr. Ryan.

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

THE COURT: Go ahead.

MR. RYAN: . . . Mr. Jones, my colleagues, fellow prosecutors, and ladies and gentlemen of the jury.

My name is Pat Ryan. I'm the United States Attorney in Oklahoma City, where these crimes occurred. On behalf of the United States and my fellow prosecutors, it is my duty to talk to you, to prepare you to receive information about this crime. You have already heard some information, but we will present more, information that will be difficult for us to present, information that will be painful for you to hear. But it is our duty to ensure that you are fully informed with respect to all of the facts, the loss of life, the devastation, and the injuries to those affected by these crimes; and it is your duty to be fully informed before you make a sentencing decision.

We present this information on behalf of the United States not to evoke your sympathy. The victims of this crime have had all of the sympathy they can stand in the last two years.

There will be no postmortem photographs. We want you to make a decision, a sentencing decision based upon the hard, cold facts of what occurred.

By the verdict that you have found, you have made a determination that this defendant, Timothy McVeigh, committed all of the crimes charged, crimes of terrorism, crimes of killing 160 people, crimes of murdering eight law enforcement officers. Each of these crimes alone carries the death penalty; but you have also heard from his Honor this morning that not every crime, not every murder, justifies the imposition of the death penalty. There are special circumstances and cases in which that is permitted, and his Honor told you some this morning about some of the factors that you will need to consider, factors in aggravation, factors in mitigation. You've already heard some of this from the defendant, matters in mitigation. You've heard something about his life and about his record in the Army, but more information will be presented.

The Court and the law will provide you with a framework, a structure, a format of sorts to assist you and guide you in connection with this decision; matters in aggravation, and matters in mitigation. The law, however, does not define for you what weight you should give to these factors; and that, of course, is what his Honor has just talked to you about just moments ago. Some of the factors, whether

they be in mitigation or aggravation, you may attribute little weight to. Some, you may attribute a lot of weight to. Others, you may attribute tons of weight to. That decision is yours.

In the end, you will be asked to balance these aggravators and mitigators and act, as his Honor stated, as the moral conscience of the community.

Some months ago before this trial began, the United States notified Mr. Jones and his colleagues as to those aggravating factors that the United States would rely upon in this case should the defendant be found guilty; and I'm going to list for you those seven factors and then discuss each in turn with you this morning.

The first factor is that the defendant committed the offenses after substantial planning and premeditation to cause the death of one or more persons and to commit an act of terrorism.

The second factor: That the deaths or injuries resulting in death occurred during the commission of an offense under 18 United States Code Section 844(d), the transportation of explosives in interstate commerce for certain purposes; in this case, the loss of life for those who were in and around the Murrah Building and the destruction of the Murrah Building, itself.

Third fact: That the defendant committed the offenses against one or more public servants who were law enforcement officers because of these victims' status as law enforcement officers.

Fourth, the defendant, in the commission of the offenses, knowingly created a grave risk of death to one or more persons in addition to the victims, the deceased victims of this crime.

Five: That in committing the offenses charged in the indictment, the defendant caused serious physical and emotional injury, including maiming, disfigurement, and permanent disability to numerous people.

Six: That the offenses committed by the defendant resulted in multiple deaths, the deaths of 168 people.

Seven: The victim-impact evidence will be presented. This is evidence concerning the effect of the defendant's offenses on the victims and the victims' families as evidenced by the oral testimony and victim-impact statements that identify the victim of the offenses and the extent and scope of injury and loss suffered by the victims and the victims' families.

With the Court's permission, I'm going to ask that each of these factors, which are contained on Government's Exhibit 1531, which we are offering only for illustrative purposes, be shown to you on the screen as I go through each of these factors.

THE COURT: You may do so.

MR. RYAN: Thank you, your Honor.

I'll first start with the factor involving substantial planning and premeditation. Now, over the course of the past

six weeks, you have heard evidence with respect to the degree of planning and preparation used by this defendant in connection with this bombing. You've heard it in bits and pieces; but together, taken together, it shows to you the fabric of the defendant, the person who thought out, who planned, carefully planned, and executed these crimes.

Frequently, murders are committed with little or no planning, with seconds of premeditation, sometimes in the heat of passion. And as you reflect on this evidence that you have heard, you will think about the fact that months and months and months prior to this bombing, the defendant hatched his plan and set about the course of events that culminated on April 19.

I know you recall the evidence, and I'm not going to spend much time talking to you about it this morning. I know that you recall the letter that Mr. McVeigh wrote to Gwenn Strider dated February 10, 1995, in which he told her, "Onward and upward. I passed on that legacy about a half a year ago. My whole mind-set has shifted from intellectual to animal."

And you recall what happened six months before that Strider letter. The defendant and Terry Nichols purchased 4,000 pounds of ammonium nitrate fertilizer from McPherson's. The defendant rented storage sheds in false names in Herington, Kansas, and Council Grove. The defendant made 29 telephone calls to chemical companies, to friends, to raceways to try to purchase nitromethane.

You'll recall that nitromethane is the ingredient in the bomb book that Mr. McVeigh purchased a month after Waco. You'll recall that the defendant made at least two trips to racetracks to buy anhydrous hydrazine or nitromethane.

You'll recall that the defendant and Terry Nichols burglarized a quarry where they stole Tovex explosives and blasting caps. You will recall that they traveled then to Kingman, Arizona, where they rented a storage shed there to store the explosives. You will recall they made calls to barrel companies to buy the 55-gallon containers to hold the bomb.

The defendant made dozens and dozens and dozens of calls on a debit card, telephone card, that was purchased under the false name of Daryl Bridges. Each time he made one of those calls, he must have thought about what would occur when the bomb exploded.

In 1994, December, the defendant cased the Murrah Building to take a look at the building and its people that he would bring down. While there, he planned his escape route to ensure that he was not injured when he tried to get away from the bomb. You heard evidence that he forged a driver's license in the name of Robert Kling from Redfield, South Dakota. And what date did he put on the birthday of Robert Kling?
April 19.

And you heard that he even selected the date that he was going to commit these crimes: Liberty Day, April 19, the two-year anniversary of the tragedy at Waco.

And as the defendant gathered his bomb components and thought about his plan, he knew exactly what the effects of this bomb were going to be. You'll recall there was talk about The Turner Diaries in the case, a book that Mr. McVeigh read and tried to get others to read. It tells us on pages 35 to

and tried to get others to read. It tells us on pages 35 to 40

exactly what was going to happen after McVeigh exploded his bomb, Mr. McVeigh exploded his bomb.

On page 35 of The Turner Diaries, it states: "What we have is a little under 5,000 pounds, and nearly all of that is ammonium nitrate fertilizer. Able to pick up 400 pounds of dynamite from another subway shed. Sensitized with oil and tightly confined, it makes an effective blasting agent where the aim is simply to move a quantity of dirt or rock. Our original plan for the bomb called for it to be essentially unconfined and to be able to punch through two floors of concrete flooring while producing an open-air blastway." Strong -- excuse me. "Powerful enough to blow the facade off a massive and strongly constructed building."

Page 38 it states: "At 9:15 yesterday morning, our bomb went off in the FBI's national headquarters building."

Where at page 39 it continues: "We were still two blocks away when the pavement shuddered violently under our feet. An instant later, the blast wave hit us, a deafening kawoompf, followed by an enormous roaring, crashing sound, accentuated by the high-pitched noise of shattering glass all around us. The plateglass windows in the store beside us and dozens of others we could see along the street were blown to splinters. A glittering and deadly rain of glass shards continued to fall into the street from the upper stories of nearby buildings for a few seconds as a jet-black column of smoke shot straight up into the sky ahead of us.

"Dozens of people were surging around the freight entrance to the central courtyard, some going in, and some coming out. Many were bleeding profusely from cuts, and all had expressions of shock or dazed disbelief on their faces. The scene of the courtyard was one of utter devastation. The whole Pennsylvania wing of the building, as we could then see, had collapsed partly into the courtyard in the center of the building and partly into Pennsylvania Avenue. A huge gaping hole yawned into the courtyard pavement just beyond.

"The rubble of" mason -- "of collapsed masonry, overturned trucks and automobiles, smashed office furniture, and building rubble were strewn wildly about. And so were the bodies of a shockingly large number of victims."

The defendant selected ammonium nitrate because he knew from The Turner Diaries it would bring down a strongly constructed building. And he knew it would cause the loss of life because he had read in The Turner Diaries what a bomb of this size would do to an office building filled with people.

We believe that this aggravating factor of substantial planning and premeditation has been established by the evidence that we have already proven to you. I know you recall the evidence, and we will not repeat this evidence in this penalty phase.

The second aggravating factor that I wish to talk to you about briefly this morning is the fact that the defendant, committing the crimes that you have found he committed, also violated 18 United States Code 844(d) because he transported in

interstate commerce explosives in an attempt to cause the death of the people in and around the Murrah Building and to cause the destruction of the Murrah Building.

And I know you recall this evidence. It's fresh on your mind. You recall that he obtained the ammonium nitrate in Kansas; you know that -- that he obtained the blasting caps and the Tovex sausages from a quarry in Kansas. You know that he rented a truck in Kansas. You heard that he purchased nitromethane in Texas. And you know what "interstate commerce" means. It means simply taking these items, these bomb components, across state lines. And he obviously did, because the bomb, of course, went off in Oklahoma City.

Again, I'm not going to spend any more time -- we're not going to spend any of your time in sentencing presenting additional evidence as to this factor. It's already been presented, and we know you recall the evidence.

The third factor involves the death of law enforcement officers because of their status as public servants, because they were law enforcement officers. And I know that you recall the venom that flowed from the defendant's letters. You heard his testimony -- the testimony of his sister, Jennifer, as she told you of the things that Mr. McVeigh placed on the computer in their home. You heard of his desire to see federal law enforcement officers "swinging in the wind," and you recall the statements from the Strider letter about "ripping the bastards' heads off." And I won't repeat the rest, because I know you recall it.

The defendant killed 160 people to accomplish his goal of killing law enforcement officers. He did it. But he had to kill all these innocent people to accomplish the goal of killing these officers.

There were eight law enforcement officers, and I know you recall their names, because you found that the defendant had murdered each one of these people: Cindy Campbell-Brown from the Secret Service, Mickey Maroney from the Secret Service, Don Leonard from the Secret Service, Alan Whicher from the Secret Service, Kenny McCullough from the Drug Enforcement Agency, Paul Ice from United States Customs, Claude Medearis from United States Customs, and Paul Broxterman with the Inspector General's Office of Housing and Urban Development.

The families of each of these people have one thing in common in addition to having a law enforcement relative. Each of these families knew how to wait. They had all waited many nights for these men and these women -- and this woman -- to come home. These people were charged with the responsibility of enforcing our nation's laws. They sometimes were out on missions that required great danger, protecting our nation's leaders, arresting drug criminals, interdicting drugs from entering our country. One of these officers had been shot, all had been scared, and all of their families had waited long nights.

And on April 19, their wait began. Cindy Campbell-Brown was a brand-new officer with Secret Service.

She had only been a law enforcement officer for about a year. About a month prior to the bombing, she had married Ron Brown, another Secret Service officer. Her father, Gary Campbell, had last seen his daughter on her birthday, April 15, shortly prior to the bombing. When Ron Brown and Gary Campbell heard about the bombing, their wait began, but because Cindy Campbell-Brown was on the 9th floor, their wait was not long. Cindy Campbell-Brown was the very first person who was identified by the medical examiner's office among the 168 who died.

You recall the testimony of Mike Shannon. He was the burly fireman who sat up there on the witness box and showed you his forearm and told you the distance from his elbow to his hand was the distance between the floors that had pancaked in the Murrah Building. And the reason Cindy Campbell-Brown was quickly identified was because only one floor had collapsed on top of her: The top floor.

And that is true for four other law enforcement officers as well as. In total, five of these officers officed on the 9th floor. Mickey Maroney, another Secret Service agent, officed on the 9th floor. He and his wife, Robbie, lived in Oklahoma City with their children. Robbie worked at a local hospital, McBride Clinic, which is about a mile from the Murrah Building. She heard the thunderous explosion from where she was officed, and she came running to the Murrah Building. When she got there, the evidence will be that she looked at the building and knew the chances of her husband living were not good. And she was right. Not one person from Secret Service lived.

With despair, she called her children down; and they waited together till midafternoon. And finally, she sent them home so that she could further check and try to get information about her husband; and she waited, and she waited. And finally, Friday, April 21, Mickey's partner, Don Newsome, came to her door and told her the news that her husband had died. Mickey was the 14th victim identified by the medical examiner's office.

The third Secret Service agent who died was Alan Whicher. Alan had a distinguished career with Secret Service. He had provided security and protection to presidents, to Margaret Thatcher, to Prince Charles, even to the Pope. He and his wife, Pam, lived in the Oklahoma City area. And at 8:45 that morning, after he had arrived at work, he called his wife, Pam, to tell her he was thinking about her and to let her know that he wished her well because she had to make a presentation to a Bible study group later that morning. He knew she was nervous, and he wanted to show his support for her. 17 minutes later, the roar of the bomb ripped through her house. Her wait began. Friends, neighbors, relatives poured into her home to

provide support and to help her while she waited.

Alan Whicher had a good friend with Secret Service. His name was Steve Calo. Prior to Alan's death, he had talked to Steve. They knew their work was dangerous. And they knew they might die in the line of duty someday. And they made a pact that if anything ever happened to one of them, the other

would be there to support the other's family and their children. And at 11:00 that night on the night of April 19, Steve Calo flew in from Washington, D.C., and showed up on the doorstep of Pam Whicher. And he sat there and waited with her and her family until Alan's body was recovered and identified on April 21.

The fourth officer with Secret Service who died was Don Leonard. Don Leonard had a 24-year career with Secret Service. He had provided protection and security for seven different presidents of the United States. His wife, Diane, will testify in this case; and she will tell you about the times that he worried, that she worried and waited while he was on assignments. And she will tell you that one thing she never worried about, though, is when he went down to the Murrah Building to his office.

On April 19, Diane was in Tulsa. She was a sales representative for a company, and she was with a customer. And she did not hear anything about the bombing until 2:00 that afternoon. And when she did, she jumped in her car and frantically drove to Oklahoma City. She immediately went to St. Anthony's Hospital. St. Anthony's Hospital was the place designated to keep lists of those who were injured in the bombing. And she searched that list hoping that she would find her husband's name on there, hoping he was injured. But he wasn't. His name wasn't there.

Her wait began. And on Friday night, she, too, was notified of his death. She went to the funeral home because she had never told her husband good-bye. She was told not to look at his body. She did it anyway. Don was the 30th victim to be identified.

The fifth officer was Ken McCullough, from the Drug Enforcement Agency. Ken had graduated from Texas A & M. He had worked for the Defense Investigative Service and gone to work thereafter with the Drug Enforcement Agency. He had many times been out on drug assignments, dangerous assignments. And when his wife heard of his -- heard of the bombing of the Murrah Building, she immediately turned on a television. She was teaching in a classroom in Oklahoma City. When she heard the news, she called the school where her children attended, Jessica and Patrick; and she told the authorities at the school, "Don't let my children see a TV." But Jessica already had.

She went and picked her children up and took them to a command center so she could find out information; and while there, her son, Patrick, accidentally saw the pictures that you've seen, the images of the Murrah Building, and began screaming. She calmed him. She comforted her children, and she waited.

And on Saturday, April 22, officers of the Drug Enforcement Agency brought her his badge and his wallet. He was the 32d victim to be identified in the bombing.

The sixth officer was Paul Ice, an officer with the United States Customs Service. Paul was the middle child of Jack and Neva Ice, who grew up in a suburb outside of Oklahoma City. After Paul graduated from high school, he went into the Marine Corps. He served on active duty and in the reserves and

marine corps. He served on active duty and in the reserves and altogether served 20 years, graduating -- excuse me -- retiring with 20 years of service as a lieutenant colonel.

On April 19, he was an officer for the United States Customs Service. He'd engaged, also, in a number of high-risk operations, and his family had worried as well. When Paul's family found out about the bombing, they, of course, were worried, like all the others. But that night, they found out that the chances of Paul surviving were not good, because they talked to the same person that talked to you, Priscilla Salyers. You recall Priscilla: She was the secretary at her work at Customs, who, when the building exploded, she fell into the rubble and was buried and had to wait for four hours for firemen to find her and bring her out.

Well, she told Paul's family the same thing that she told you: She was sitting at her desk, and Paul came up to ask a question. She turned to look at him, and he disappeared. But because Paul and the United States Customs Service was located on the 5th floor, it took a lot longer to get him out. Paul's family had to wait eight days for Mike Shannon, the other fireman, to pull pancaked floor off of pancaked floor to find him. He was the 94th victim to be identified.

Claude Medearis is the seventh officer who died. Claude graduated from high school down in Colorado Springs. Afterwards he went in the military, just as Paul Ice had done, only he went into the Army. After finishing his tour of duty with the Army, he joined the Customs Service where he provided border control along the Texas border. In 1991, they were brought to Oklahoma City because their oldest daughter's husband had died on the last day of Desert Storm, and they came to Oklahoma to provide comfort and support and stayed there in Oklahoma until the Murrah Building bombing.

His wife, Sharon, will tell you on the morning of the 19th, Claude had told her that he was going to the Murrah Building but that he also had to go to the federal prison in El Reno about 40 miles from Oklahoma City. So when she saw the images on television, she prayed that he had already left the Murrah Building, gone to El Reno, and she waited and waited for ten days.

Claude was the 109th victim to be identified.

The eighth law enforcement officer was Paul Broxterman. He was with the Inspector General's Division of Housing and Urban Development. He had only been to Oklahoma City and worked at the Murrah Building for three days. You heard Susan Hunt on the very first day of this trial tell you about the offices of HUD and that they were located on the 7th and 8th floors, but Paul was the exception. Because of the nature of his work involving Inspector General's work, he was located by himself on the 4th floor of the building. And because he was on the 4th floor, his family had to wait 13 days for him to be identified.

And when he was identified, he was the 134th victim.

After you have heard the evidence with respect to the law enforcement officers and the defendant's intent with respect to these law enforcement officers, we believe you will find that this aggravating factor has been met.

The fourth aggravating factor is that the defendant created a grave risk of death to others; people in addition to the 163 people who died in the Murrah Building.

The defendant's plan to cause the maximum destruction in Oklahoma City did not stop with buying ammonium nitrate or debit telephone cards or nitromethane or even targeting the law enforcement officers. This defendant wanted to make sure that the maximum impact was caused from his bomb. He wanted to make sure that blood flowed in the streets of America. What time did he pick for this bomb? 9:02 on a weekday in a crowded, bustling, major city in America, a time where all of the children in the day care would be there, all of the men and women of the Murrah Building would be at their offices, at their desks at work; that the people who gathered, the visitors at Social Security, would have gathered there in the visiting room just outside the glass wall, the people of the credit union would have gathered for its opening at 9:00, for the men and women of Oklahoma City to be at work.

As he drove this Ryder truck on 5th Street, I hope you'll recall that he stopped for 23 seconds in front of the Regency Tower apartment complex. You saw his truck there in the frames that were shown to you. And you'll also recall that you saw Richard Nichols' red Ford Festiva parked in front of the Murrah Building, and you'll recall that Mrs. Nichols had said that they needed to take their nephew Chad to the doctor that morning, and she had gone into the Regency Tower to get Richard so they could go to the doctor's office. Fortunately Chad was moving from the front seat to the back seat, because when the bomb exploded, the rear axle whirled its way towards the Nichols' family car. The Nichols family was exposed to the grave risk of death, even though none died.

And you'll recall that as he drove his truck further east on 5th Street, he went by the Water Resources Building. You probably recall Lou Klaver, the very first witness in this case, was a lawyer that worked in the Water Resources Board. There were 65 people at work in that building that morning. Lou told you that she was conducting a meeting, fortunately for her, on the north side of that building, away from the Murrah Building. And you heard the sounds of the people in the building and their fright. When the bomb exploded, two people in that building died. Trudy Rigney died, dead on arrival at the hospital. Robert Chipman died two days later in the hospital after his family was forced to make the agonizing decision to discontinue life support. All 65 people in that building were exposed to the grave risk of death. 63 lived, and two died.

The Ryder truck next passed the Athenian Building, a small building just east of the Water Resources Building, almost directly across from the Murrah Building. There were five people in the Athenian Building. One of them was Anita Hightower. You may remember Anita. She was the lady that Helena Garrett told you about. You may recall that Helena told you that Anita had a booth in front of the Murrah Building a few weeks before the bombing and Helena had seen her, they were old friends. But Anita didn't know that Helena had a child, had had Tevin, so they stopped and they talked and Tevin came

to the window and they waved at Tevin. That's Anita Hightower. She died when the Athenian Building collapsed on her.

As Mr. McVeigh pulled the Ryder truck in front of the Murrah Building, just feet separated the glass wall, the glass windows of the Murrah Building, where a couple of dozen people had gathered for 9:00 appointments at Social Security. You remember the log that Eric McKisick from Social Security showed you. It didn't have all the names of the visitors, but it had the visitors who had made appointments that morning.

Across the street from the Murrah Building was the Journal Record Building. It was that building where Helena Garrett worked, and so did Susan Urbach. You'll hear from her.

Helena told you that she was wanting to go over to the Murrah Building to get Tevin, to see Tevin and move her car at 9:00. But on her way out of the Journal Record Building, she was delayed. She ran into a friend and didn't get over there at 9 like she had planned. As a result, she lived, Tevin died.

As Mr. McVeigh got out of his truck, the children in the day care were playing. Their cribs were up against the north wall. You heard that testimony. Right up against the glass where they were visible from the street.

As Mr. McVeigh got out of the car, out of the truck, Royia Sims was looking out the window of the Journal Record Building. She was a lady that worked on the south side of the Journal Record Building. She had a window that faced directly the Murrah Building. And as the bomb exploded, the plateglass window of the Journal Record Building rocketed to her face in shards and jagged pieces. You'll witness the results.

And as the defendant crossed the parking lot on his way behind the YMCA, Kathy Ridley, a young lady, was walking across the parking lot. Although the defendant knew what she didn't, he would reach the safety of the YMCA behind the building and she would burn to death from the blast and the fire that crossed 5th Street.

Directly ahead of the Ryder truck and the YMCA where the defendant hid behind were 165 people, some of them exercising in the facilities of the YMCA, some of them working in its offices, some of them attending the YMCA day care. You saw the pictures of the YMCA children. You may not have known who they were. When we showed you video footage at the beginning of the trial of what happened, those were the faces of the children, frightened, blood-stained. Those were the YMCA day-care children. All exposed to the grave risk of death.

At the very instant when the defendant left the scene, Randy Norfleet, the second witness who testified, told you that he had just gotten up to the 6th floor, he had talked to Sergeant Ben Davis, Sergeant Davis was awaiting word as to whether he would be accepted into officers' candidate school. And Mr. Norfleet walked away from him, the explosion happened; Sergeant Davis died, Randy Norfleet lived.

You heard Priscilla Salyers tell you that when Paul Ice came up to her, the bomb went off, he disappeared; she lived, he died.

You heard Captain Matt Cooper tell you that he was at

You heard Captain Matt Cooper tell you that he was at his office against the north window there on the 6th floor; moments before the bomb went off, he left his office. He wanted to go talk to another Marine on the floor; Captain Randolph Guzman came and sat down in his chair. Captain Guzman died, Matt Cooper lived. Death was random on April 19.

There were 361 people in the Murrah Building at the time of the blast. You'll hear evidence of that from Sue Mallonee, a state epidemiologist in Oklahoma who conducted a study. 163 of those 361 died, 198 lived, but all were exposed to the grave risk of death.

At the conclusion of the evidence, we will ask you to find that this aggravating factor has been met; the defendant did create a grave risk of death to many, many people.

The fifth aggravating factor is that serious and permanent injury occurred to the people of Oklahoma City. Of course we will not bring the hundreds of people who were injured in the bombing before you. We will only bring a few. But we want you to have a sense about the injuries that people received. One of the victims who was seriously injured you've already heard about, Daina Bradley. You'll recall Daina. She was the witness the defense called in the case who was in the Social Security waiting room. She testified about what she thought she saw. Daina Bradley had gone down to Social Security that morning with her mother; with her sister, Falesha; with her two children, Gabreon and Peachlyn. When the bomb went off, Gabreon, Peachlyn and her mother, Sharon, all died. She and Falesha were seriously injured.

When the firemen and the rescuers went into the building, they tried to find all of the survivors. They finally located Daina. She was buried in rubble in a small cave. Americans have always been heroic but never -- or rarely more so than on April 19. They, the rescuers, called Dr. Andy Sullivan, a orthopedic surgeon in Oklahoma City, to come down and try to help Daina. He came down. The building was still smoldering and shuddering. He crawled into the tiny space where she was. He had to lay on top of her because there was so little space in this cave.

He will tell you about having to cut her leg off while he laid on top of her. And he will tell you about the fear he felt, the fear she felt, and the fear they all felt with their lives hanging in the balance.

21 children left the safety of their parents' arms on April 21st (sic) to attend day care at the Murrah Building. When the rescuers poured to the building, they were told, There are day-care children here, find them.

You recall the testimony from Mike Shannon when he went to help the ladies who were laid down on the first floor. They grabbed him by his collar, told him to go find those children, and they did. Unfortunately most were dead, but six of the children lived and were taken to area hospitals. Joe Webber, Chris Nguyen, Rebecca Denny, Brandon Denny, P. J. Allen, Nekia McCloud. We're not going to bring these children to you. They're not going to be in the courtroom for you to examine. Instead we've made a videotape of three of these children so you can see what problems they're having, not for

emotion, for facts. You need to know the facts.

You'll see the video of Brandon Denny. This is a child who a ceiling tile pierced through his skull and deeply embedded in his brain. He had to have seven brain surgeries to remove this ceiling tile.

You'll see him on the video with his therapist Michelle Kirby. And you will see the things that are very difficult for him to do as he tries to use his dominant, his right, arm and is unable to.

You will see the video of P. J. Allen as he -- a child who is terribly burned in the bombing. You will see the evidence of how he rasps as he tries to breathe through his tracheostomy.

You will see the video of Nekia McCloud, a young black girl, little girl, who suffered profound brain damage. You will hear the testimony on the video of her doctor, Dr. Morris Gessouroun, who cared for her, and you will see her frustration as she tries and she fails to follow the simplest of commands.

When you've heard all the evidence, you'll be satisfied that this aggravating factor has been established.

The sixth aggravating factor is that multiple deaths were caused, the deaths of the 168 people. It would be easy for you as a jury to think of this as one mass murder. Don't. There are 168 people, all unique, all individual, all had families, all had friends, and they're different. They went to church, they coached Little League, they designed highways, they liked to watch their children dance, they tried to prevent disease, they played on their beds with their kids, they enforced our nation's laws, they had unique smiles and ways of greeting people at the credit union, they had unique abilities to recruit men and women into our armed forces. Some knew how to run machinery and keep a building going. Some nursed and comforted the sick. Some helped others obtain Social Security, some protected presidents and even popes. And all brought enjoyment and love to others.

The evidence will be that these 168 people all died a violent and frightening death. When we have concluded with our evidence, you will be satisfied that this aggravating factor has been established.

And finally, the seventh aggravating factor, that of the impact this crime had on the many, many victims. You will come to know some of the people who died without warning. You will get a glimpse of the devastation, of the broken dreams, and the lost lives. Again, we can't and we won't bring you all of these people. We will bring you a few. We will bring to you some mothers, some fathers, some parents, some grandparents so that you can understand as they testify that maybe only this one wife is testifying, but you can remember that there were many wives involved.

Dora Reyes will testify. She lost her husband, Tony, who worked at HUD. She will tell you about Tony, what he meant to the Oklahoma City community and what he meant to her. She will tell you about the impact of his death upon her. The defendant killed many husbands.

Greg Sohn will testify. He will tell you that he lost his wife, Vickie, who worked in the Army recruiting space on the 4th floor. He will tell you about Vickie, about her qualities, he will tell you about the impact of her death upon him. The defendant killed many wives.

Susan Chavez Pate will testify about her grandson Zackary. She'll tell you about Zackary; he attended the day care there, he was three years old. She will tell you about what he was like and the impact of his death on her. The defendant killed many grandchildren.

Tillie Westberry's husband, Robert, died; he worked for the Defense Investigative Service. She'll tell you about Robert, and she'll tell you about the impact of his death upon their grandchildren. The defendant killed many grandparents.

Cindy Ferrell's sister, Susan, died; Susan worked in HUD. Cindy will tell you about her sister, Susan, about her qualities, and will talk to you about the impact of her sister's death upon her. The defendant killed many sisters.

Mike Lenz's wife, Carrie, died. She was the one that you heard about was up at the building that day with the ultrasound films. She had just had an ultrasound the day before, and she was pregnant. Mike will tell you about the loss of an unborn child. The defendant killed three unborn children.

Todd McCarthy's father, Jim, died. Todd will tell you about his father, Jim, and the impact of his death upon him. The defendant killed many fathers.

Clint Seidl's mother died, Kathy; she also worked for Secret Service. Clint's a young boy. He will tell you about his mother. And he will tell you about the impact of his mother's death on him. The defendant killed many mothers.

David Klaus's daughter, Kimberly, died. David will tell you about his daughter, Kimberly; she worked in the credit union. He will talk to you about the impact of his daughter's death upon him. The defendant killed many daughters.

Laura Kennedy's son, Blake, died; he was a credit union -- excuse me, he was one of the day-care babies, 18 months old. Laura will tell you about her son, Blake, what he was like. She will talk about the death and the impact of the death of children. There were 19 children that died on April 19. Baylee Almon, Danielle Bell, Zackary Chavez, Antonio Cooper, Anthony Cooper, Aaron Coverdale, Elijah Coverdale, Jaci Coyne, Tylor Eaves, Tevin Garrett, Kevin Gottshall, Blake Kennedy, Dominique London, Chase Smith, and Colton Smith. 15 children died in day care, and four other children died who were simply visiting the Murrah Building. Ashley Eckles, she died with her grandparents, the Treanors, who had taken her down to Social Security that morning. Kayla Haddock Titsworth was with her dad, Sergeant Titsworth who was reporting at the Murrah Building in the Army space. And of course Daina Bradley's children: Gabreon and Peachlyn. All of these children were not yet of the age of school, all under the age of six.

After you've heard the evidence, you will be satisfied

satisfied

that the victims in Oklahoma City and their relatives throughout the country were greatly impacted by this crime. Ladies and gentlemen, at the end of this case, after you've heard all of the evidence, we will ask you to return a verdict of death, the only verdict that justly fits this crime. Thank you.

THE COURT: Members of the jury, we will take our morning recess at this time. And then we'll be proceeding. I remind you what I said in the instructions. You will hear from defense counsel with an opening statement also, but that will be reserved until after you have heard from the witnesses called here by the Government. So under this procedure the defense will give you an opening statement before they present information concerning the mitigating circumstances.

Now, we're going to go, as we were throughout the trial, to you're not being sequestered, kept separate and apart from other persons during the time of the presentation of this information to you in this hearing. We again return to holding you to your oath and on your honor; avoid anything outside what's being presented to you in this courtroom that could in any way influence you on the questions that you're going to have to decide. Also as a part of maintaining open minds until you have heard everything that you're going to hear that relates to these issues, please do not discuss this with other jurors or of course with any other person. I'm going back to what you've heard me say over and over again during the trial, but it's just as important during this phase of the case as well, during this proceeding. So I'm sure you will cooperate with us and follow these cautions. You're excused now for 20 minutes.

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

THE COURT: We'll recess, 20 minutes.

(Recess at 10:32 a.m.)

(Reconvened at 11:50 a.m.)

THE COURT: Be seated, please.

Did counsel want to approach?

(At the bench:)

(Bench Conference 132B1 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

(Jury in at 1:53 a.m.)

THE COURT: All right. We'll ask for the next witness.

MR. HARTZLER: Government calls David Klaus, your Honor.

THE COURT: Thank you.

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

(David Klaus 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: David William Klaus. K-L-A-U-S.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Hartzler.

MR. HARTZLER: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. HARTZLER:

Q. Good morning, Mr. Klaus.

A. Good morning, Mr. Hartzler.

Q. How are you doing?

A. Pretty well.

Q. Are you going to be able to go through this?

A. Sure. A little nervous --

David Klaus - Direct

Q. Sure. Start off by telling us where you live.

A. I live in Evergreen, Colorado, which is a suburb of Denver.

Q. And how long have you lived in Evergreen?

A. We've lived there for 22 years.

Q. 22 years in the state of Colorado as well?

A. That's correct.

Q. Are you married?

A. I am married.

Q. And how long have you been married?

A. I've been married for 34 years.

Q. Tell us what your anniversary date is.

A. April 19.

Q. Okay. Are you ready to --

A. I'm sorry. 1963.

Q. No, but I was trying to list the month and the date, and you've satisfied that. Are you prepared to talk about your daughter?

A. Yes.

Q. Tell us first of all how many children you and your wife had.

A. Two. Our daughter, Kimberly, and our son, Michael.

Q. And your daughter, Kimberly, is no longer with us. Is that correct?

A. That's correct.

Q. What happened to her?

David Klaus - Direct

A. She died in the Oklahoma City bombing.

Q. And at the time she died, how old was she?

A. She was 29.

Q. For approximately how many years did Kimberly live with you in your household?

A. About 22 years.

Q. And was most of that in Colorado?

A. Most of it was in Colorado, yes. Part of the time was in California, when we lived in the Los Angeles area and then in the San Francisco Bay area.

Q. Did she attend school then in Colorado?

A. She did.

Q. And I assume that you saw her on a regular, daily -- almost daily basis when she lived with you?

A. Absolutely.

Q. Prior to Kimberly's death, when was the last time that she lived with you and your wife?

A. It was about 18 months before her death. She lived with us right up until she was married and moved to -- to Oklahoma.

Q. All right. Without identifying the occasion, you have presented us with a photograph of yourself and your daughter prior to her leaving your home.

A. Yes, sir.

Q. Prior to her marriage; is that right?

A. Yes, sir.

David Klaus - Direct

Q. Let me show you on your screen initially, and then the rest of us may have an opportunity to see it, what's been marked as Government's Exhibit 1481.

A. All right.

Q. Can you identify that?

A. Yes. That was taken in our family room at Christmas, 1993.

Q. Okay. And who is the handsome gentleman in that photo?

A. That's me.

MR. HARTZLER: Your Honor, I move the admission of Government's Exhibit 1481.

MS. RAMSEY: Your Honor, we would object.

THE COURT: Overruled. Received.

BY MR. HARTZLER:

Q. You indicated that your daughter moved out of your house after she got married?

A. That is correct.

Q. And who did she marry?

A. She married Damon Burgess.

Q. Where did Kimberly go after she got married to Mr. Burgess?

A. They moved to Oklahoma City -- actually, to Midwest City originally and then on base housing at Tinker Air Force Base.

Q. So he was with the Air Force?

A. That's correct, sir.

Q. And that would have been sometime in approximately 1993?

A. Late '9 -- yes, that's correct. Late '93.

David Klaus - Direct

Q. And after her marriage, did she assume his last name?

A. Yes.

Q. So she became Kimberly Burgess?

A. That's correct.

Q. Did she get a job after she moved to Oklahoma City?

A. Yes, she did. She worked at -- I'm sorry. Yes, she did. She worked at the Federal Employees Credit Union.

Q. How soon after she moved to Oklahoma City did she get that job?

A. Within several months is my recollection.

Q. Okay. Mr. Klaus, did you ever visit her at that office?
A. No, I did not.
Q. And did you know what building that credit union office was in?
A. No. I did not. I did not remember. I had originally known, but I had forgotten.
Q. And did she show you something to educate and inform you about her work and her office and her officemates?
A. Yes, sir.
Q. What did she do?
A. She had done a videotape of the Murrah Building and the credit union offices and many of her co-workers.
Q. So it contains her voice and her picture and --
A. Contains her voice and her picture.
Q. That is difficult for you to watch?

David Klaus - Direct

A. Somewhat.
Q. How much contact did you have with your daughter after she and her new husband moved to Oklahoma City?
A. We talked at least once a week, sometimes more often.
Q. By telephone?
A. By telephone, yes.
Q. And did you see her again after she got married and moved from Colorado?
A. She was home from Christmas in 1994, Christmas in 1993, and we took a family vacation to northern California for a lifelong friend of hers wedding; and that was in early 1995, February, if my memory serves me correctly.
Q. I think you may have misspoken when you say Christmas of '93. You meant Christmas of '94 that she was home as well?
A. She was home as well, yes. She was home for almost all Christmases.
Q. And when was the last time you saw your daughter?
A. Last time we saw Kim was in February of 1995.
Q. What contact did you have with her after February and before her death?
A. Telephone, frequent telephone conversations. She would call us and we would call her.
Q. Mr. Klaus, could you describe your relationship with your daughter for us?
A. Very, very close. I think it's best described as a typical

David Klaus - Direct

dad/daughter relationship. We were very close. She was very special to me, right from the moment of her birth.
Q. She was your oldest child?
A. Yes.
Q. Your younger child is a boy; correct?
A. That's correct.
Q. You mentioned that April 19 is your wedding anniversary.
A. Yes.
Q. Has that presented some difficulty for you because of the

Q. Has that presented some difficulty for you because of the bombing occurring on the same day?

A. Yes. We've just arbitrarily picked another date to celebrate our wedding anniversary because it's -- it's too hard to do on that date.

Q. I also noticed that in this photograph and in some of the other photographs that you've presented to us, you appear to be heavier than you are today. Is that fair?

A. That's correct, yes.

Q. Have you lost some weight?

A. I've lost at least 25 pounds, and I've just never gained it back. My eating habits are fairly poor now. I just don't have the appetite I used to have.

Q. So you did not lose that weight intentionally?

A. No, sir.

Q. When was it you started losing weight?

A. I think probably immediately after the bombing. We just --

David Klaus - Direct

I just did not have much of an appetite, and it just continued literally to this day.

Q. Mr. Klaus, have you experienced other physical difficulties or problems since your daughter's death?

A. Yes, I have. I've had a number of physical ailments, including hepatitis and bronchitis twice and pneumonia and suffer from depression, which I'm being treated for right now.

Q. I don't mean to offend you, but you appear older than four years from the photograph we saw.

A. I feel like I've aged 10 years in two years. I just -- I just physically feel older and I look older.

Q. Mr. Klaus, could you describe in general the impact -- this will be my last question, so you're holding up well. Thank you.

Can you describe in general the impact that the death of your daughter has had on you?

A. Well, it's been physically and emotionally just devastating for me, and I've been in counseling and I -- I'm just to this day not dealing well with this, this tragedy. There is just this huge hole in my heart that is never going to get filled up. The loss of Kim is just -- I mean, I think about her first

thing in the morning, and the last thing I think about at night is Kim and the fact I'm never going to see her again and trying to imagine how I get on with life without her, which is going to be extraordinarily difficult.

MR. HARTZLER: Thank you, sir.

Nothing further.

THE COURT: Do you have any questions?

MS. RAMSEY: No, your Honor.

THE COURT: All right. You're excusing the witness,

I
assume.

MR. HARTZLER: We are, your Honor.

THE COURT: All right.

THE WITNESS: Thank you, your Honor.

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

Next witness, please.

MR. RYAN: Alan Prokop, your Honor.

THE COURT: Okay.

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

(Alan Prokop 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: Alan A. Prokop, P-R-O-K-O-P.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Ryan.

DIRECT EXAMINATION

BY MR. RYAN:

Q. Good morning.

Alan Prokop - Direct

A. Good morning, sir.

Q. Would you please state your name for the jury.

A. Alan A. Prokop.

Q. Where do you live, Officer Prokop?

A. Oklahoma City.

Q. Where were you born and raised?

A. I was born in Denver and raised in Cheyenne and Amarillo, Texas.

Q. And after high school, what did you do?

A. Became a police officer for the City of Oklahoma City.

Q. What day did you become an Oklahoma City police officer?

A. In the beginning of 1969. I became a community service officer in 1970, and a standard police officer in September of '72.

Q. So what is the total number of years of service you have provided the Oklahoma City Police Department?

A. 29 years, sir.

Q. And in the course of that 29 years, would it be fair to say

that you have done quite a number of things in the police department?

A. Yes, sir.

Q. What were you doing in April of '95?

A. I am the municipal court liaison officer for the city of Oklahoma City.

Q. What does that job entail?

Alan Prokop - Direct

A. I work liaison between the court system, the judges, the city attorney, defense attorneys, and the police department.

Q. And where were you at 9:00 on the morning of the 19th?

A. My office is located in the basement of the Municipal Court Building, which is next door to the police station, 700, on Couch.

Q. Who was with you?

A. Officer Ron Bell had just completed his 8:00 session in court, and a city marshal by the name of Gary Yeakey is also assigned in my office.

Q. What did you hear and do at 9:00?

A. Approximately -- right after 9:00, we heard a massive explosion. We ran upstairs to make sure that it wasn't our building and check for injuries or problems in the building. We took the back stairway upstairs into the courtroom proper and checked the court building. We found that we were evacuating the building; however, there was no damage there. We checked the north windows, and we could see smoke and debris coming from the area of the federal building.

Q. How far away was the building you were located in from where the Murrah Building was located?

A. Five to six blocks, sir.

Q. And in terms of the debris that you watched, tell us what that was like five to six blocks away from the Murrah Building.

A. We exited the rear door of the court building and stepped

Alan Prokop - Direct

out into the street. The street was dark. We were receiving chunks of rock, concrete. Officer Bell reached out and grabbed a piece of paper as it floated down and said that the paper was from the federal building.

Q. What did you do?

A. My personal vehicle was parked probably 100 feet from where we were. His scout car was parked about two blocks away, so we jumped into my personal vehicle and drove to the southwest corner of the federal building, the intersection of 4th and Harvey, sir.

Q. What did you do upon arrival?

A. We jumped from my vehicle and left it partially in the street and ran towards the federal building.

Q. What side of the federal building did you approach?

A. Would have been the south -- direct south of the building up through the plaza, sir.

Q. And what did you do when you arrived there?

A. There were people running from the building towards us injured, very bloody, crying, and screaming. From the south side of the federal building, we could see the building looked intact, except for the windows were gone. There were people standing in the windows screaming for help.

I asked Officer Bell if he had any gloves and he advised no; that he had a radio -- is all he had. I had one pair of gloves; so I asked if he was right- or left-handed, and

Alan Prokop - Direct

we divided my gloves and went to work, sir.

Q. What did you do?

A. We had another officer, a new officer by the name of Officer Washington, approach us as we got to the building; and we went to the south side of the building, the east portion --

we went to the south side of the building, the east portion -- the portion that was later known, I think, as "the pit," and looked into the building. There were wires sparking inside, a real thick and heavy dust, a cloud. It was strangely quiet, except the moans and cries from inside the building.

I asked Officer Bell to contact headquarters and advise them that we needed the utilities turned off to the building, as many emergency rescue workers and ambulances as we could get and as much heavy equipment, sir.

Q. Now, after you asked Sergeant Bell or Officer Bell to cut off the utilities or see that that was done, did you enter the building?

A. Yes, sir, we did.

Q. Now, I'm going to show you an exhibit that's already in evidence, Exhibit 1012, which is the south side photograph of the building. Do you see that on your screen?

A. Yes, sir.

Q. All right. Now, when you were talking about being on the south plaza, this is where you were. Right?

A. Yes, sir.

Q. Now, let me show you a photograph that has not been in

Alan Prokop - Direct

evidence, No. -- Exhibit 1500. Tell us what that is. Can you identify that picture as what you saw that morning?

A. Yes, sir. That's the area that we entered --

MR. RYAN: We would offer Government's Exhibit 1500.

MR. BURR: No objection.

THE COURT: The exhibit is received, 1500. You may display it.

MR. BURR: Thank you, your Honor.

BY MR. RYAN:

Q. Now, Sergeant Prokop, if you would, using this exhibit tell us about entering the building.

A. As I said, we could hear screams and people crying for help. Officer Washington looked at me; and as a new officer, he asked me, "What do we do?"

And I said, "Let's get to work."

He immediately gained entry and began searching the debris while Officer Bell and I moved to the other side.

About that time I heard him holler that he had a victim and needed help.

Q. What did you do?

A. We both moved towards him. He was located in the -- probably 25 feet inside the building. He had found a pile of rubble with a concrete slab probably 10 feet tall, 6 to 8 feet wide. It was lying on its side, and he had found a victim down at the bottom of the slab. It would have been about a 6- to

Alan Prokop - Direct

7-foot drop for him.

I checked the concrete, and it seemed a little loose; so I braced against it, and he dropped down into the crevice.

And he moved the lady, picked the lady up and handed her to Officer Bell, who was halfway up in the crevice. He, in turn, handed the lady to me; and I exited the building with her, sir.
Q. Did you learn her name?

A. Yes, sir. I carried her out of the building, which took some time to get across the debris because you were going up and down. We got outside; and as we walked to the -- walked through the plaza to the very southwest corner of the plaza at street level, 4th and Harvey, where the medical people were, there were an ambulance -- there was an ambulance there and several em. care workers there on the corner taking care of the injured. I laid her down on the ground. She grabbed my neck and said, "Don't leave me." And I advised her I had to get back in the building, and she began to cry. And I think she was worried about me going back in the building.

I said, "I have to get back in there," and she let me go.

Q. Did she tell you her name?

A. Yes, sir. It was Theresa.

Q. Did you leave Theresa?

A. Yes, sir. As soon as one of the em. care units came over and put his hand on her to where she felt a little more secure,

Alan Prokop - Direct

I ran back inside the building.

Q. What did you do when you got back inside the building the second time?

A. I lost sight of Officer Bell and Washington. They had began working different areas. As I stepped back into the building, a civilian handed me a body. I took the body and walked back out of the building. They had set up a temporary morgue in the plaza directly south of the building, and the body appeared to be dead. It was not moving. It was not breathing, and I placed the body on the ground.

Q. All right. After that, what did you do?

A. I reentered the building near the picture that you showed us and a little bit to the left. A lady had run up to me and told me that there was a day care in the Murrah Building; and I didn't know that prior to this time. She said that there was 40 to 60 children in the day care and advised it was on the 2d floor. The floors had pancaked, and we really didn't know where the 2d floor was; but she pointed to the western side of the building, and that's where I intended to move to.

Q. What did you do after you got this information?

A. I gained -- I started telling the other rescue workers, and I walked into that area. As I moved to the area around the elevator shaft, I observed a hand and arm to be coming out of the debris and waving back and forth.

Q. What did you do?

Alan Prokop - Direct

A. I walked over and attempted to uncover the body connected

to the hand. It appeared to be a female. Her hand was warm. She was clutching my hand, sir.

Q. And how long did you stay there with this hand?

A. I held it as it squeezed, and I could hear muffled moans from behind the concrete. I checked the concrete that was laying on top of the lady, and it was probably 12 feet long, probably 10 feet tall. It appeared to be about 16 inches thick, and she was behind it. I could hear water running in the area, and I screamed to the other rescuers that we had to get the water turned off; that I felt she was drowning.

Q. What happened with this lady?

A. The rescue worker behind the slab hollered that that wasn't water, Alan, it's blood; and he held up his hand, sir.

Q. How long did you stay with this lady?

A. Approximately three more minutes, and then her hand got very still and started to get cold. I checked the wrist for a pulse and found none.

Q. What did you do after there was no longer a pulse in the hand?

A. I did not control myself very well, and I advised the other rescue workers that there was a lady here that they needed to handle; and I didn't feel like I could stay there anymore, so I moved into the day-care area and began to work there.

Q. All right. Tell us about that, please.

Alan Prokop - Direct

A. Approximately six to seven more steps into the day-care area, and a civilian handed me a child. It appeared to be a baby. It appeared to be a black baby. The dust and debris covering everything was a thick, fine powder; and I grabbed the baby to my chest and ran out of the building. The baby did not move. I could sense there was no life in the baby, and I reached the same plaza and the same rescue workers and left the baby there.

Q. Did anyone approach you?

A. Just the rescue workers, sir, when I let it down.

Q. And then after you gave this baby to one of the rescuers, what did you do next?

A. I worked back into the same area that I was in when they handed me the baby. A fireman by the name of Atchley and Mike Shannon had worked into that same area. We began to see toys, coloring books, different debris that made us feel like we were in the right place. One of the firemen uncovered a baby. I don't know if it was a male or female. It was young. It was crying, and it was bleeding; and they handed me the baby. And I had been in and out of the building quite a bit, and I kind of became a mule. And they handed me the baby, and I ran out of the building through the plaza into the intersection of 4th and Harvey where the medical people were.

Q. Did you hand the baby off at that time?

A. Yes, sir. As I approached the stairs that went down to

Alan Prokop - Direct

street level, there was an em. care lady there. She grabbed the baby from me, and I ran back inside the building.

Q. Where did you go this time?

A. To exactly the same area. The fireman had actually hollered at me as I left with the first baby, with the previous baby, that he had found two more. I glanced over at him when I ran out of the building, and there were two infants laying side by side. They had been covered by insulation and the heating and air ducts, and he was administering to them when I left. I ran back to that area.

Q. Did you take anyone with you?

A. Yes, sir. Detective Don Hull approached me as I ran back towards the building. I was pretty bloody; and he asked me if I had found the children, and I told him yeah, to follow me. And he followed me back inside the building to Officer Atchley.

Q. All right. After you went back inside the building, did you find Atchley?

A. Yes, sir, I did. He handed me the first baby, who was Joe Webber, and I handed that baby to Don Hull, and he immediately left the building. He then handed me the Brandon Denny child.

I cradled him in my arms and noticed that he had a head injury and appeared to have a brick sticking out of his forehead.

Q. What did you do?

A. I stabilized the brick. The boy was holding a little,

Alan Prokop - Direct

green block; and I ran from the building back down through the plaza, down the stairway, to the street level at 4th and Harvey. When I arrived there, there was an ambulance pulling away; and I ran up to the ambulance and kicked the side of the ambulance, and it stopped. The back door of the ambulance opened up, and there were people inside strapped to the gurneys. And I climbed in the back of the ambulance and laid the Brandon Denny boy on a man's stomach who was tied to a gurney and he put his arms over him and cradled him. And I told him good-bye and went back to the building.

Q. What did you do when you approached the building this last time?

A. I approached the same area, and a lot more rescue workers had entered that area. I was handed another body during this time span, which was not living. I placed it in the plaza. I entered back into the building, and the fire department had located a victim laying in a hole between the elevator shaft and the pit. There was a 6-inch sewer pipe that extend over the top of this that was dangling over the firemen, and they put me up on a pile of debris and braced my legs while I had held the pipe, while they removed a lady from the hole.

Q. Later that morning, did they tell you you had to leave?

A. Yes, sir.

Q. Officer Prokop, were you injured in the bombing?

A. We were taken to the hospital and we had problems

Alan Prokop - Direct

breathing, yes, sir.

Q. When you say "we," you're talking about you?

A. Yes, sir, me.

Q. What hospital did you go to?

A. Baptist, sir.

Q. Have you -- has this event, the events you've described, caused you problems?

A. Yes, sir.

Q. You have nightmares?

A. Yes, sir.

Q. What is your nightmare about?

A. I see the people coming towards us wanting help, and there weren't enough of us. There was no way that we could be trained for this kind of catastrophe, and there were not enough of us, sir.

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

THE COURT: Any cross-examination?

MR. BURR: No.

THE COURT: Witness excused?

MR. RYAN: Yes, your Honor.

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

You may step down. You're excused.

THE WITNESS: Yes, sir.

MR. HARTZLER: Government calls Diane Leonard.

THE COURT: All right.

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

(Sonja Diane Leonard 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: Sonja Diane Leonard, L-E-O-N-A-R-D.

THE COURT: Mr. Mackey.

MR. MACKEY: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Good morning, Mrs. Leonard.

A. Good morning.

Q. Would you tell the jury where you're from, born and raised.

A. I'm from Oklahoma. I was born and raised in Tulsa, and I now live in Edmond, Oklahoma, which is a suburb of Oklahoma City.

Q. And were you once married to a man named Donald Leonard?

A. Yes, sir, I was.

Q. And are you his widow?

A. Yes, I am.

Q. Mrs. Leonard, tell the jury when you and Don were married.

A. We were married in 1974, in November of 1974.

Q. And he died in the Oklahoma City bombing in April of '95?

A. Yes, he did.

Sonja Diane Leonard - Direct

Q. Did Mr. Leonard have children from a previous marriage?

A. Yes, he did, three boys.

Q. What are their names?

A. Brad, Jason, and Tim.

Q. And how old were those men or those boys at the time of your marriage to Don?

A. Three, four and seven -- I'm sorry. Six.

Q. Did you and Don have children of your own?

A. No, we did not.

Q. Describe what role you and Don played in raising Brad and Jason and Tim.

A. Well, Don was in touch with them every week, of course.

He talked to them all the time, and we had them for the holidays, during Christmastime and we had them in the summers. And they are my stepsons; however, they let me call them my sons.

Q. And how old were they at the time of Don's death approximately?

A. If I can think.

23 -- no, they're 21, 22 and 24.

Q. And how old was Don at the time of his death?

A. 50.

Q. Ms. Leonard, there should be a photograph up there on the stand. It's marked Government's Exhibit 1452. Is that a photograph of you and Don and the three boys taken maybe two or three years before his death?

Sonja Diane Leonard - Direct

A. Yes, it is.

MR. MACKEY: Your Honor, I'd like to admit this and display it to the jury.

MR. NIGH: No objection.

THE COURT: 1452 is received. May be published.

BY MR. MACKEY:

Q. Mrs. Leonard, could you tell us who this gentleman with the beard is on the left-hand side of the photograph.

A. That's my husband, Don.

Q. And moving from his left, who is that young man next to him?

A. That's the baby, Tim.

Q. And the gentleman next to him?

A. The middle one, Jason.

Q. And who is on the far side?

A. That's the oldest, Brad.

Q. And this is you depicted with those four?

A. Yes.

Q. With this photograph in mind, Ms. Leonard, could you tell the jury just in very brief snapshot terms the personality of Don Leonard.

A. Don was a very sensitive, warm individual. He was a very positive thinker. I remember the Saturday before the bombing, he and I were working in the backyard and we took a break for lunch, and I was stupidly complaining about what I thought had

Sonja Diane Leonard - Direct

been a hard week the week before.

And what he said to me was, "Everything is attitude, attitude, attitude. And if you approach anything with the right attitude, it will be easier."

And I've clung to those words the last two years, and they've helped a lot.

Q. And does that story you've shared with the jury exemplify your husband's life?

A. Yes, it does.

Q. Let's talk about his career, Mrs. Leonard. He was a Secret Service agent for a number of years?

A. Right.

Q. And before, in fact, you met him; is that right?

A. Yes.

Q. Let me show you an exhibit that's been previously admitted into evidence, Government's Exhibit 1179.

I'm not sure you can read this so small, but you'll see the date up here on the right-hand corner. It's November 5, 1970?

A. Correct.

Q. And it's addressed to Mr. Leonard, Donald Leonard, in Oklahoma City; correct?

A. That's correct.

Q. And you'll see that it's a letter to him announcing his appointment as a Secret Service agent.

Sonja Diane Leonard - Direct

A. That's correct.

Q. And what salary did Mr. -- your husband start with when he was first appointed as a Secret Service agent in 1970?

A. \$6,548 per annum.

Q. Tell the jury where Mr. Leonard was from.

A. He was from Oklahoma City. He was born at St. Anthony's Hospital just a few blocks from the building.

Q. And after he graduated from high school, did he go into the military?

A. Yes, he did. He served in the U.S. Army.

Q. And was he in Vietnam?

A. Yes, he was.

Q. What was his assignment while he was in the U.S. Army?

A. He ended up being an MP; and he had a security clearance, and he escorted nuclear weapons.

Q. Upon his return from the military, did he go back to Oklahoma City?

A. Yes, he did. He went back to Oklahoma City and went to college there.

Q. And while attending college, was he employed?

A. Yes, he was.

Q. For whom?

A. He worked full-time for the Oklahoma City Police Department. He worked nights

DEPARTMENT. HE WORKED NIGHTS.

Q. Went to school during the day?

Sonja Diane Leonard - Direct

A. Uh-huh.

Q. Did he eventually get his college degree?

A. Yes, he did.

Q. And when was that?

A. That was -- I can't think of the year. I'm sorry. I think that was 1970.

Q. What was his degree in?

A. He was -- the degree was in industrial arts. He had originally thought he would be a teacher.

Q. But I take it he turned his attention to the Secret Service?

A. That's right.

Q. How many different cities was Agent Leonard assigned to during his 24 1/2 years with the U.S. Secret Service?

A. He started in the Oklahoma City office. He was then transferred to Tulsa, Oklahoma, which is where we met. Then he went to Washington, D.C. We were there three years.

Then we were transferred to St. Louis. We were there 11. And then 6 years before the bombing, we were transferred to Oklahoma City.

Q. And in the course of 20 years of marriage to a Secret Service agent, did you come to know what their job entails?

A. Somewhat, yes.

Q. Tell the jury a little bit from a wife's perspective what it's like to be a Secret Service agent.

Sonja Diane Leonard - Direct

A. Well, they're on call a lot. They travel a lot. He traveled all over the world. He protected, oh, all the presidents since he started, President Nixon, President Ford, President Reagan, Bush, Carter, Clinton, the first ladies, the vice presidents. During campaign, they work with all the presidential candidates, and they're on the road a lot. And at times during campaigns they're working 24 hours a day. They don't get time to sleep a lot of times and sometimes don't get time to eat.

Q. And presidents and vice presidents have family holidays?

A. Right.

Q. And they need protection during those family holidays?

A. That's right.

Q. And what is -- what result does that have on the families of those Secret Service agents?

A. They're gone a lot on holidays.

Q. Did Agent Leonard's responsibilities take him overseas?

A. I think he's been to almost every country in the world.

Q. And did he share his observations about those world travels with you?

A. Yes, he did.

Q. What did he tell you?

A. He always said that there was no place that even compared to the United States of America.

Q. When was his last overseas detail?

Sonja Diane Leonard - Direct

A. He was in Russia in December of '94 with Pres -- Vice President Gore.

Q. In addition to the elected leaders of this country, did he also protect foreign dignitaries when they would travel?

A. Yes, he did. He's been with Gorbachev, he's been with the emperor of Japan, he's been with the Marcos family, Aristide, lots of foreign dignitaries in 20 years.

Q. This must seem like an obvious question, but did you worry about him when he was on travel and on protection details?

A. Yes, I did. There were some projects that were especially of concern to me. He was with Ted Kennedy when he was running for office, and I was very fearful at that time; and I was especially fearful when he was with Aristide.

Q. And in 24 years of travels around the world and through this country, he escaped any injury?

A. Yes, he did.

Q. Ms. Leonard, when did you worry least about the safety of your husband?

A. When he was in his office.

Q. In Oklahoma City?

A. Yes.

Q. In addition to the protection requirements of his job, did he have other law enforcement obligations?

A. Yes, he did.

Q. What were those?

Sonja Diane Leonard - Direct

A. They work theft of government securities and counterfeit.

Q. Other federal crimes that he would be responsible for investigating?

A. Right.

Q. Now, over the years with the Secret Service, did he acquire any nicknames among his agents, agent friends?

A. Yes, he did.

Q. What was that?

A. OC, which stood for "Oklahoma crude."

Q. "Oklahoma crude"?

A. Uh-huh.

Q. As in oil?

A. Right.

Q. And what was that supposed to represent about Donald Leonard?

A. Well, he was very proud of being an Oklahoman, and I think he got that nickname when he was on the vice presidential detail in Washington. He always talked about Oklahoma and how much he loved it. In fact, after the bombing one of the --

one
of our agents that was working in the building to help recover
different things had told me that he now understood why Don
loved Oklahoma so much and wanted to come back home.
Q. Was part of that love a reason why he was engaged in
community organizations and that sort of thing, like the Native
American Law Enforcement Officer Association?

Sonja Diane Leonard - Direct

A. Right. He recently, just in the last few years, found that
he was part Native American. He had always loved Native
American art, and I guess he never really knew why; but he just
found out just a few years before he died, and he was very
proud of that.

Q. Let's turn our attention now, Mrs. Leonard, to the week of
the bombing. Where were the boys during that week?

A. The oldest lives in Oklahoma City. He was there. The
youngest was living with us; and the middle son, Jason, was
home from college for the Easter holiday, so he was there.

Q. During Jason's visit home that week, did he ask his father
about playing golf?

A. Yes, he did. The morning of the 19th, he asked Don if he
could take off that morning, take some leave and go play golf.

And Don told him he couldn't because he had to be in
Tulsa the next day with Mrs. Bush and he had to prepare for
that.

Q. So instead of playing golf, he went downtown to Oklahoma
City to prepare for the next day's detail?

A. Yes, he did.

Q. With Mrs. Bush.

Where were you on the first few days of that week?

A. I was working in Tulsa, Oklahoma, which is about 100 miles
from Oklahoma City.

Q. And what were you doing there?

Sonja Diane Leonard - Direct

A. I was a sales rep. at the time, and I covered Oklahoma and
Arkansas. And I was working with customers that day.

Q. In your job at that time, was it common for you to be on
the road a lot?

A. Yes.

Q. And what routine did you and Don have in terms of nightly
communications?

A. Whoever was out of town would call home about 10:00 at
night. We always -- every day, checked in with each other,
unless he was out of the country, and then he had to call just
when he could.

Q. When did you last speak to your husband?

A. 10 p.m., April 19 -- April 18. I'm sorry.

Q. When you were in Tulsa and he was in Oklahoma City?

A. Right.

Q. On the morning of the bombing, were you with a customer in
Tulsa?

TULSA:

A. Yes.

Q. And did you come to learn of the news of the bombing in downtown Oklahoma City?

A. Yes, I did.

Q. And how and when did that happen?

A. I walked into a customer's store and she asked if I had heard about the explosion in Oklahoma City, and I had not had my radio on that morning when I was in the car; and I told her

Sonja Diane Leonard - Direct

no.

And she said, "Do you know anybody --"

I said, "Where was it?"

And she told me, "Downtown. Did you know anyone who worked downtown?"

And I said, "Well, my husband does. Where was it?"

And she said, "It was at the federal building."

And my first thought was it had to be just a gas explosion and Don is well-trained and Don will be fine.

And I said, "Well, we'll finish what I'm here for today, and then I'll go home."

She had seen the television screen, however, and she worked very hard to get me to call someone. She insisted that I call somewhere.

So I called the -- Don's office and the phone rang, which -- and was not answered; so that concerned me, because I know they have 24-hour coverage on their phones.

So I called the Tulsa office. They told me six of our

people were missing. They didn't give me the names.

So then I called home. Boys were there.

Q. Did you talk to the boys then?

A. (Witness nods head.)

Q. Is that how you first learned --

A. They told me.

Q. -- that your husband was missing?

Sonja Diane Leonard - Direct

A. Yes.

Q. Did you then travel back to Oklahoma City?

A. I did.

Q. Did you go home first?

A. I went home first. I walked in and saw the TV screen.

Until that time, I had no idea of the magnitude. I saw the TV screen, and I had to go downtown.

Q. Did you do that?

A. I did.

Q. Did you go alone?

A. I went with Don's sister.

Q. And what did the two of you do in downtown Oklahoma City?

A. We went to the family center first, and there was a table there where you just left your name. And they said, "Wait,

someone will interview you." And I -- I gave them the information; and I walked over and started thinking, Well, who are these people doing these interviews. So I walked up and asked one of them, who was interviewing a family, who he was; and he told me he was a funeral director.

And I didn't want to talk to a funeral director, because I didn't need one; so I left.

And then I went to St. Anthony's Hospital.

Q. Did you understand that's where the injured were being taken?

A. Yes.

Sonja Diane Leonard - Direct

Q. Is that why you went there?

A. Yes.

Q. And what did you and your sister-in-law do there?

A. When we walked in, there was a large room where they were putting all the families and sheets of -- about 3-by-3-foot sheets of paper lining one long wall, came around the corners; and each sheet was full of names.

She started at one end, I started at the other, and we read the names and we met in the middle. Neither of us found any names from our office and so I said, "Well, let's double-check each other." So that's what we did. Still, no Don or anyone from our office.

There were John Does and Jane Does on those lists, however; so I went to someone -- and I don't know who they were, someone behind the table -- and asked them if they could give us descriptions of the John Does. They didn't have them at that time; and I said, "If you can find them, maybe we can identify them."

As it turned out, none of those was Don.

I was concerned about one of our family members who -

-
she and her husband had just moved to Oklahoma City a few months earlier; so I called the boys and asked for her number, and I called to make sure she had people with her. Her husband was also in the building.

Q. Is that Pam Whicher?

Sonja Diane Leonard - Direct

A. Yes, it is.

Q. Alan Whicher's wife?

A. Yes.

Q. Did you --

A. And then we later went home.

Q. And at home, were the three boys there?

A. Yes.

Q. And other family members?

A. Yes.

Q. When were you notified that the rescue efforts had located

the body of your husband?

A. Friday evening, the 21st.

Q. Can you describe that to the jury.

A. The baby, Tim, was sitting on the front porch, and there were four men in suits that started -- that parked in front of the house and started walking up the driveway; and he came in the door and said, "There are four suits walking up the driveway. This doesn't look good."

And of course, it wasn't.

Q. Until the moment that you were formally notified, Mrs. Leonard, had you given up hope that your husband --

A. Not for one moment. I knew that it would take a miracle. I knew that, but I believe in miracles; and I knew that if there was any opportunity for Don to defend himself that -- that he would have.

Sonja Diane Leonard - Direct

Q. Ms. Leonard, after being notified that your husband's body had been located, did you for reasons of your personal past insist on seeing that body?

A. Yes, I did.

Q. And I don't want to ask you anything about that, other than that is something you experienced on Friday or Saturday of April 21 or 22, 1995?

A. Yes, I did. I insisted because of a previous experience on that.

Q. If you are a Secret Service agent and you serve 20 years, can you retire?

A. Yes, you can. They have a 20-year hazardous-duty retirement.

Q. And had you and your husband talked about taking retirement prior to April of 1995?

A. Yes, we had. He could have retired in 1990.

Q. Why did he postpone retirement?

A. He wanted to better prepare for retirement for his family financially.

Q. Did the two of you have travel plans and other plans that you would share together in retirement?

A. Yes, we did.

Q. Ms. Leonard, I just have a few final questions; and we talked a little bit about this and just want you to tell the jury, thinking first about the boys, Don's boys, what you've

Sonja Diane Leonard - Direct

seen in the last two-plus years. Can you describe to the jury your observations of the impact of his death on his sons?

A. One instance comes particularly to my mind. Jason, the middle one, after Don's body was found but before the funeral -- he came to me about 3:00 in the morning and he was crying very hard. And he said: "I want my dad back. I want him to see me graduate from college. I want him to meet my wife and be at my wedding. I want him to see my first child."

He's getting married next month, and there will be a rose where his father should be.

Q. And have you seen both Brad and Tim experience the same kind of suffering that you've described here?

A. Yes.

Q. Let me just turn to you, then, my final question, and ask you to tell this jury in your own terms the impact of Don's death on you.

A. I think the best way to describe it is I feel like I died, too, on April 19. I feel like my heart looks like that building. It has a huge hole and that can never be mended.

Q. Have you been forced to undergo change that you would just as soon not have experienced?

A. There is nothing in my life that is the same. I no longer do the same work. The only thing that is the same is the house that I live in, and now it's a house that's not a home, so it really isn't the same.

Sonja Diane Leonard - Direct

Q. And has your father noticed a change in you?

A. My father wants his daughter back. He wants me to be the way I was before.

MR. MACKEY: Ms. Leonard, thank you.

I have nothing else.

THE COURT: Are there any questions?

MR. NIGH: No, your Honor.

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

THE WITNESS: Thank you.

THE COURT: Next, please.

MR. HARTZLER: Jerry Flowers. Ms. Behenna will question him.

THE COURT: Thank you.

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

(Jerry Flowers 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: Jerry Flowers, F-L-O-W-E-R-S.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Ms. Behenna.

MS. BEHENNA: Thank you, your Honor.

DIRECT EXAMINATION

BY MS. BEHENNA:

Jerry Flowers - Direct

Q. Officer Flowers, where do you live?

A. Oklahoma City.

Q. Are you employed?

A. Yes, I am.

Q. How are you employed?

A. I am a police officer for the city of Oklahoma City.

Q. When did you join the police department in Oklahoma City?

Q. When did you join the police department in Oklahoma City?

A. November of 1974.

Q. So you've been there how long?

A. It will be 23 years in November.

Q. What is your current rank?

A. Sergeant, Inspector Sergeant.

Q. Are you assigned to a particular unit?

A. Yes, I am.

Q. What unit are you assigned to?

A. I work in the Gang Enforcement Unit.

Q. And what do you do there?

A. I investigate violent crimes involving street-gang members, such as drive-by shootings and assist on gang-related homicides.

Q. Do you also instruct other law enforcement officers about gang violence?

A. Yes, I did.

Q. I want to direct your attention to April 19, 1995. And I know you weren't downtown at the time. Can you tell us

Jerry Flowers - Direct

basically briefly where you were.

A. I was at the Oklahoma City Police Department Training Center, which is in the 800 block of North Portland, about 6 miles from downtown.

Q. And you felt and heard the explosion?

A. Yes, I did.

Q. And then headed downtown?

A. Yes, I did.

Q. When you arrived downtown, do you remember where you had to stop your car?

A. It was right at Dean A. McGee and North Harvey, just right down in the middle of town.

Q. And that's as far as you could go toward the building?

A. Yes.

Q. What did you do next?

A. Well, I was not alone. Myself and Sergeant Steve Carson and Don Hull were with me, and we three got out of my car and immediately ran towards the Alfred P. Murrah Federal Building.

Q. And what did you see as you got close to the building?

A. As we ran up, we were running up right on the southwest corner of the building. There was an ambulance there that was giving us rubber gloves to put on, and I started to put those on.

And the first thing I saw was a lady that was setting on the edge -- on the curb, right there on the corner. She was

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a lady 35, 40 years old, and she was holding a -- looked like a shirt, some sort of sweater or something. She had rolled it up, and she was holding it against her head trying to control

her bleeding; but what touched me about her was that she was really kind of disregarding her own injuries, and she had her arms around a little girl, five-, six-, seven-year-old little girl who was obviously in shock and shaking and crying and scared. And she was really disregarding her own injuries to take care of that baby.

Q. After you witnessed that, did you turn the corner towards 5th Street and the north side of the building?

A. Yes, I did.

Q. Did you then enter the Murrah Building?

A. Yes, I did.

Q. What was the first thing that you witnessed? And, Sergeant Flowers, let me also let you know without being very descriptive about what you saw, just generally tell the jury what you first saw as you entered that building.

A. When I first ran up to the corner, there was a hole that was cut out into the building, and there was one of our robbery detectives by the name of Bob Smart that was yelling, "Let's get these people out."

Myself and Steve Carson ran right up to the hole; and just as we started to go in, we were handed a board stretcher. There was a gentleman that looked like 35, 40 years old that

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was laying on the stretcher. He was covered totally with gray dust. You really couldn't see much of his facial features. In effect, he was just covered with gray dust. But as I brought him down to my eye level -- we had formed a human chain behind me to pass him down, because you just walk around like we do in here. You had to crawl over stuff to move around. When I got him down to my level to tell him he was going to be okay -- but

that's when I saw he had a laceration across his face and he was dead.

Q. And you passed him down on the chain?

A. I did. Myself and Steve passed him down behind us down this chain of citizens and police officers that came up, and I never saw him again.

Q. Did you then enter the building?

A. Yes, I did.

Q. What room did you enter?

A. It looked like a storage room of some sort, maybe for a janitorial service for the federal building. I really wasn't sure, but it was a storage area; and we walked up into that area.

Q. And that is a room on the north side of the building?

A. It's right on the very northwest corner of the building.

Q. What did you hear as you entered that room?

A. One of the other officers was in there, Sergeant Mike Goodspeed, was moving debris; and it was real dark, and you

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couldn't see; but as we got into the building, we were moving stuff. And Mike started screaming at us, "Everybody shut up, everybody be quiet." And we all tried to stop what we were doing to listen, and we could hear a faint cry of a female's voice. She was crying and asking for help.

We started moving debris; and we tried to go to that

voice, but we couldn't find it. And as we kept moving towards where we could think it was at, we'd start moving rocks and Sheetrock, ceiling tiles, cement blocks; and it would cover up that sound. But we'd stop and listen again, and we heard that faint voice keep fading away until, unfortunately, it faded completely away and we couldn't hear it again.

Q. Did you find anybody in that room?

A. We couldn't find her.

Q. Did you then enter what we've come to know as "the pit" area of the Murrah Building?

A. Yes, I did.

Q. And can you tell the jury what you saw down there.

A. Steve and I tried to stay together, and we worked our way down into this area; and it was incredibly dark. The dust was so thick you couldn't breathe, and we -- as we started going drastically down, the water started getting up, in fact coming up over the top of my boots that I had on. But as we got down in there, we could hear voices screaming for help, "Get us out of here."

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And as we moved down towards that area into this area what looked more like a cave than it looked like anything else, I could see a ray of light coming into the area that was kind of lighting it up; and I was trying to work my way to that area. And as I got closer to that, I could hear these screams for help, "Get us out."

And I worked my way over to this hole that was in an area down in this cave that we wound up in that when you looked up you could see like nine floors of cratered-out floors that had fallen, and they were pancaked on top of where we were at.

When I got to that point, that's when I heard a lady scream, "Get me out of here."

I turned to my left, and I saw a lady that was rolled up in a -- she was kind of rolled up in a ball, like if I were to take my knees and pull up in my chest. I could see her back, and her backside was sticking out; and she was screaming at me, "Get me out." She was lodged up in a wall, imprisoned with this cement blocks that was encompassed around her, as well as big -- big steel beams of rebar was holding her in there. And she kept screaming at me, "Just get me out."

It was at that point I reached through the concrete, the cracks in the concrete, and I touched her and I told her -- I said, "It's going to be okay."

I told her we were going to get her out, but there was no way I could. I later found out that young lady's name was

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Terry Shaw.

Q. Did you see while you were down in the pit area -- did you see another woman who was trapped --

A. Yes, I did.

Q. -- in the basement?

A. It was about that time, still incredibly dark. So firefighters came in with a generator; and they fired off this generator, and they set some big floodlights up right beside me. And I turned these lights on. And when I did, it illuminated this pit, this cave that we were in. Just about the time I did that, I heard a lady screaming, "Don't let me drown."

As I looked down from where I was standing just a few feet, there was a pool of water like a large bathtub, if you will, and all I could see was this lady's head sticking up above the water screaming, "Don't let me drown."

I put the light down in to her; and about the same time, a firefighter was standing beside me. He ran down to her. As he got down to her, he grabbed her head and was holding her up and she was crying and she said, "Just don't let me die in here, just don't let me drown."

She was pinned. Something under the water was holding her down and we couldn't get her loose, and I kept the light on them while they were trying to do what they could to get her free.

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Q. Did the water stop eventually?

A. Somehow. And I don't know how. While she was screaming "Don't let the water get over my head," I was even looking for a water hose to put in her mouth to -- if it did, at least we could keep her breathing. But there was nothing. I didn't even have as much as a flashlight. But at that point for some reason the water stopped, just as it started cresting over her chin; and it managed to stop there. And they continued to work on her to get her out.

Q. Was there another rescue or body that you were handed about that same time in the pit area?

A. Yes, there was.

Q. Can you tell the jury briefly about that.

A. Well, as that was going on, it was just about the same time. Some firefighters that were on a floor above us where the hole was where the light was at yelled down to us to grab this lady, and myself and Steve and some other folks that were there reached up and grabbed this board stretcher and let this lady down from the floor above us down to us. She was a black lady. She was 30 -- 30 to 40 years old, and she was totally covered with gray dust. And I finally thought for once I was going to be able to get somebody out of there that was alive; but unfortunately when they got her down to me, she also was

dead.

Q. And you helped hand her out?

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A. We made a human chain again over the debris, and we just worked her way out one hand to another and worked her way out the same way we had come in.

Q. And a human chain was used down in the pit area because it was difficult to get around?

A. You couldn't walk around. In fact, when you were standing in the pit, sometimes you'd have to stoop over and bend over because what we thought was the ceiling was actually the floor above us that we were in; and you could reach up and touch it. So it was debris stacked up and piled up just like mountains of rubble and concrete and steel rebar sticking up, electrical lines flopping around and sparking. It was --

Q. And it was easier to pass somebody off as opposed to try and walk out with them?

A. You couldn't walk out. You had to pass them out.

Q. Sometime that morning, were you asked to leave the pit area?

A. It was just right after we had took this lady down from the floor above us when a fire chief leaned down to us and said: "We found another bomb. This one is bigger than the one that blew this place up. You've to get out." Of course, not only did we hear that, but so did the victims that were still trapped in there trying to get out. I remember just after he said that that Terry Shaw, the young lady was down in the -- down in the water started screaming, "Do not leave us. Don't

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let us die in this building."

Of course, it ripped my heart in two; and I walked over to Ms. Shaw and I put my hand in there telling her, "Don't worry, we're going to come back."

And she was crying, "Don't leave me, don't let me stay in here to die."

And it was about that time my partner came up behind me and took me by the sleeve and said, "We have to go."

Q. And you left?

A. And I left.

Q. You entered the building again after an all clear is given?

A. Yes, I did.

Q. Are you able to make your way back down into the pit area?

A. I went back in trying to find my way back where I was at, but I couldn't find it.

Q. Do you remember where you ended up?

A. I wound up going in on the plaza side, on the south side of

the federal building, and wound up going in on what I know now to be the 2d floor. Myself and Don Hull had met up again out

on the plaza; and as we were fixing to run into the building, Don made it in, and I was stopped by -- one of our bomb tech investigators stopped me. He said, "Hang on," because a big slab of concrete had slipped and was trying to fall and somehow had wedged itself above our heads. And I managed to go on in.

Just as I started to enter this -- I assume -- I don't

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know if it was a door, or window or whatever it was -- Don was coming back out at me; and he was carrying a blanket with a small baby in the blanket. And he walked up to me, and I helped him. And we carried this child over to the plaza in front of the -- in front of the doorway -- what used to be the doorways there on the south side of the building, and we laid this little baby down.

I remember when I opened up the blanket -- we had to open up the blanket so the nurses could put tags on the children as they were brought out to identify the best we could at that time. I remember looking at this little baby. And he was a little boy, about five, six years old, and had he a teddy bear on his shirt. And as I looked at the child, his face was gone; and I wrapped the child up with Don and with the nurse. We took him over and laid him down in the playground area and left him there.

Q. Did you finally make your way back into the building after that?

A. Yes, I did.

Q. And again, do you find yourself on the 2d floor?

A. Yes, I did.

Q. And are you involved in the search for children in what you now know to be the day care?

A. Yes, I was.

Q. And can you tell the jury what you saw when you were in

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that area?

A. Well, I went back in the same door that Don had just come out of, and I walked in. Just as I walked in, I knew then I was in the day-care center. I didn't know it before. There were toys laying around, wagons, baby clothes and stuff; and I -- like everybody else in there, I went to an area and started uncovering stuff, started digging, like everyone was doing. And I uncovered a little baby's foot with a pink sock on it; and like everyone, I screamed out, "I found another one."

Everybody together rushed to this area, and we together savagely started uncovering this child; and it was a little girl. She was a little baby girl, six months to a year old. Best I remember, a little pink dress on. And just as we got her uncovered -- she was dead. One of the officers that was standing beside me grabbed the child and pulled her to his

chest and took her out of the building with her.

Q. What time did you leave the Murrah Building on April 19, 1995?

A. It was about 2:30 p.m., after I was working in the day-care center area -- finally about 2:30.

Q. What did you do when you left?

A. Well, when I left, we -- before I left, we removed about five more babies from that area and then I left.

I walked outside on the plaza side and leaned up

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against a retaining wall. We were ordered to leave by the fire department after they got a structured search of the building put together, and all rightly so. That's the way it had to be done. But I walked outside on the plaza, and I leaned up against a retaining wall out there; and over here to my right was the triage center, over here was the babies' playground, and there were bodies laying everywhere. And I got to looking at that, thinking I had a lot of personal friends that was inside that building. And I didn't know whether they were alive or whether they were dead, I didn't know anything, and it really started to hit home with me that this was family and friends of mine.

Q. After that experience, did you drive home?

A. Yes, I did.

Q. And what did you learn on the drive home?

A. Well, unfortunately, when I was on the way home, I learned that -- A dear friend and neighbor of mine for 19 years worked in Social Security office. Her name was Oleta Biddy. And I learned that Oleta had not been found yet. And I felt compelled because -- her friend Henry and his kids are very dear friends of mine to this day -- and I felt compelled to stop by and visit with Henry on the way home. And, of course, I was still dressed in my -- I was wearing jeans that day and had my jacket on, a spray jacket; and I was covered with dirt and grime and just -- you name it, it was on me. But I felt

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compelled. I wanted to stop and talk to Henry, and I did.

I drove up in front of his house and I got out, and Henry and his family met me on the front porch. And as I got out, Henry embraced me and started crying. And he told me, "It's going to be okay." And I looked at Henry and I apologized and I told him I was sorry that I couldn't find his wife. And all he could say, "It's okay." And then from there, I went home.

Q. And that's where you stayed the rest of April 19, 1995?

A. Yes, I did.

MS. BEHENNA: Your Honor, that's all I have.

THE COURT: Are there any questions?

MR. NIGH: No, your Honor.

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

THE WITNESS: Thank you, sir.

THE WITNESSES. Thank you, Sir.

THE COURT: Members of the jury, we'll take our noon recess at this time. And we'll be following the usual schedule that we have at recesses during the trial, an hour and a half, so a little after 1:35.

And of course, as I told you earlier, please avoid discussion of what you're hearing here and anything about the case. Put it at rest during the time of the recess, remembering that you will hear a great deal more. And you'll hear from the other side of the case as well. So avoid discussion about it and avoid anything outside the evidence and any communications or publications.

You're excused now. We'll say about 1:37.

(Jury out at 12:07 p.m.)

MR. NIGH: Your Honor, can we approach for a moment?

THE COURT: Yes.

(At the bench:)

(Bench Conference 132B2 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

THE COURT: All right. We'll be in recess, 1:37.

(Recess at 12:10 p.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
1452	11830	11830			
1481	11810	11810			
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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 4th day of June, 1997.

Paul Zuckerman

Kara Spitler