

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

THE WITNESS: Timothy Wayne Chambers, C-H-A-M-B-E-R-S.

THE COURTROOM DEPUTY: Thank you.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Mr. Chambers, where do you live?

A. Outside of San Antonio, Texas.

Q. How long have you lived outside of San Antonio, Texas?

A. About two-and-a-half years.

Q. Do you have a family, sir?

A. Yes, I do.

Q. How many kids do you have?

A. Two.

Q. How old are they?

A. Got a little girl that's six and a half. I got a little boy that's about five months old.

Q. What do you do for work?

A. I haul racing fuels and chemicals for VP Racing Fuels.

Q. What kind of company is VP Racing Fuels?

A. We manufacture racing gas, racing oils for the racing industry.

Q. How long have you worked for VP?

A. It would be about four years now.

Q. Where does VP sell its racing fuels?

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A. Where do they sell it? We sell it at the racetracks. I make fuel deliveries. We have fuel distributors and such that we deliver to.

Q. Does VP sell its fuels at races all over the country?

A. Yes.

Q. Does VP have any offices besides San Antonio?

A. Yes.

Q. Is there one in Manhattan, Kansas?

A. That's correct.

Q. Where is VP based out of?

A. It's based out of Elmendorf, Texas.

Q. Is that the San Antonio office?

A. Yes, it is.

Q. You said that you deliver fuels for VP. Is that correct?

A. Yes, I do.

Q. You do that at races?

A. Yes.

Q. How do you deliver fuels at races?

A. There are some national events that I work, which would be for instance like NHRA drag racing.

Q. NHRA drag racing?

A. Yes.

Q. What does NHRA stand for?

A. National Hot Rod Association.

Q. When you deliver fuels to NHRA races, how do you get the

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fuels to the racetrack?

A. It's in a race truck. It's an 18-wheeler.

Q. What exactly is a race truck?

A. It's a big tractor-trailer that's set up with the right equipment on it to stay at a race and work a race.

Q. Once you get the fuel to the race and the race truck, do you take the fuel out and set up a little shop?

A. Yes. Yes, we do.

Q. Do you sell the fuel right out of the race truck?

A. That's correct.

Q. Can you describe how you set up your 18-wheeler once you get to a race in order to sell fuel?

A. Once we get to the race, we have to have our credentials to get in. There is usually a guy that spots the trailers where we'll drive in, follow him wherever they want us to set them up at. Once we get done with that, put the ground strap on, open up the side doors, put the steps on the side of the truck, put the sign boards up, open up the back doors. I've got a four-wheeler, a dolly, that I put down when I work out the back side, and I hook up the fuel pumps.

Q. And then you just sell fuel right out of that truck?

A. Yes.

Q. I want you to take a look at Government's Exhibit 2094. It should be coming up on your screen below you.

Do you recognize what that picture depicts?

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A. Yes.

Q. What is that?

A. That's VP -- one of their race trailers.

Q. Is there also a race trailer from another company right there?

A. Yes, there is.

Q. That is a fair and accurate depiction of what the race truck looks like once it's set up at a race?

A. Yes.

MR. GOELMAN: Your Honor, I move to admit 2094.

MR. WOODS: No objection, your Honor.

THE COURT: All right. 2094 is received, may be shown.

BY MR. GOELMAN:

Q. Now, which one of these two trailers is yours, Mr. Chambers?

A. The first one, the VP Racing Fuels trailer.

Q. Can you describe where you sell fuels out of the VP Racing trailer?

A. I sell it -- usually sell gallons like 5 gallons, whatever gallons may be, out of the side door.

Q. Mr. Chambers, I think there is a light pen up there to your left. If you could take that and just draw -- you have to go underneath the window and draw directly on the screen.

A. To where I sell it at?

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Q. Yes.

A. Okay. Right here and right here. That will be for gallonage.

Q. Okay. And is there another place where you sell fuel?

A. Yes. That would be back here on the side of the door. It's actually right here where my liftgate is at, right there.

Q. So the white trailer -- that's the VP trailer?

A. Yes.

Q. Do you recognize whose trailer the red one next to it is?

A. That's Steve LeSeur's trailer.

Q. What company does Steve LeSeur work for?

A. That's Worldwide Racing.

Q. What kind of company is Worldwide Racing?

A. They're a company like ours. They have racing gas, almost the same thing that we have, but we have more grades of gas than what they have. It's the same thing.

Q. Do they also sell at NHRA races?

A. Yes.

Q. And are there any other companies in addition to Worldwide and VP that sell at those races?

A. There is one more, which is Larry Coogle. That's Coogle Industries.

Q. Coogle Industries?

A. Yes. He does and I think us.

Q. Does it also go by Coogle Trucking sometimes?

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A. Yes. Some of his trucks say that on there.

Q. What are NHRA races? You said it was National Hot Rod Association? Are those the bigger races, or the smaller races?

A. No, those are the bigger races. Yes.

Q. And what kind of cars race at NHRA races?

A. They are like top fuel and funny car, which run on nitro. Then you have your alcohol class and then pro stock, and it just goes down. It's just a variety of classes.

Q. What types of fuel do you sell at NHRA races?

A. I sell -- for the big cars, I sell nitromethane. For alcohol cars, I sell methanol. For the other classes, I sell anything from C23 that we have all the way down to C12, which is a racing gasoline.

Q. If someone were to approach your trailer at a race, how would they know what types of fuel you sell?

A. We have brochures on it plus --

Q. Do you also have a sign up?

A. Yeah, the signs are there; but for the people that don't know what to use, I mean this being racing gas, we try to help them out with the brochures that we have.

Q. I'm going to show you another picture. It's Government's 2096. Tell me if you recognize that as a closer shot of the side of your trailer.

A. Yes.

Q. Is that a fair and accurate depiction of the way it looks?

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A. Yes.

MR. GOELMAN: Move to admit Government 2096, your Honor.

MR. WOODS: No objection.

THE COURT: Received. May be shown.

BY MR. GOELMAN:

Q. Now, can you describe what the jury is seeing in this picture, Mr. Chambers?

A. This is basically if you would walk up to my trailer, you would see the drums of fuel that are in the side. That's -- when we have our pumps hooked up, we distribute that out the side.

On the right here would be -- that's basically our price list of the different types of fuels we have from the lowest octane all the way down to nitromethane. On the left-hand side is a box product.

Q. I want to focus in on one of the price lists. Do you recognize the bottom of the right-hand sign?

A. Yes.

Q. Now, what's the most expensive fuel you sell?

A. On my truck would be the nitromethane.

Q. What types of cars use nitromethane?

A. Just it would be the top fuel and funny car and probably A-fuel dragsters. They use it also.

Q. What's a funny car?

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A. A funny car is a 500-cubic-inch motor. So they got a body on it. It's basically a replica body of like what you drive on the street now, your newer cars.

Q. Looks like a normal car?

A. Say a Dodge Daytona, something like that. It's got a body like that. It's a 125-inch wheelbase car.

Q. What does it have inside?

A. Inside is nothing but a nitro-burning motor and transmission and driver's area.

Q. How fast do the cars, the top-fuel dragsters, and the funny cars -- how fast do they go?

A. Funny cars, the fastest I've seen was in Houston was 315 mile an hour. Dallas, I believe, top fuel went 321 mile per hour.

Q. And how -- how does the horsepower of these types of cars compare with, say, NASCAR race cars?

A. Of NASCAR, about 700 horsepower total on a V8. For a top-fuel motor, that's probably 700 -- one cylinder of a top-fuel motor would equal or exceed the horsepower on a NASCAR.

Q. And how many cylinders do the top-fuel motors have?

A. Eight of them.
Q. Eight?
A. Eight, yeah.
Q. So those cars are much more powerful than the NASCAR cars?

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A. Oh, yes. By all means.
Q. Do you know what the list price of a 55-gallon barrel of nitromethane was in the fall of 1994?
A. Probably be about 1195, 1200, that area.
Q. About \$1,200?
A. Yeah, around 1200.
Q. You were driving a race truck for VP back in the fall of 1994?
A. Yes.
Q. And are you familiar with an NHRA race held every year at the Motorplex in Ennis, Texas?
A. Yes.
Q. What kind of cars race at that race?
A. That's a national event. Be your top fuel and on down.
Q. And since it's a national event with those kinds of cars, does VP sell nitromethane at that race?
A. Yes.
Q. Where about in Texas is Ennis and the Motorplex?
A. Probably be about I'd say from Fort Worth/Dallas area about 30 miles or so. It's off Interstate 35 and Highway 287.
Q. Mr. Chambers, in October of 1994, did you sell racing fuels for VP at the race in Ennis, Texas?
A. Yes.
Q. Do you remember when that was that year?
A. It was about the third -- third weekend of October.

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Q. Are those races held over weekends?
A. Over the weekends, they are, yes.
Q. And how many days are the races?
A. Sometimes it's Wednesday through Sunday, and then sometimes it's only Thursday through Sunday.
Q. Okay. What happens -- what's the schedule for the races? I mean what happens on Wednesday as opposed to Sunday?
A. Wednesday is setup day for us and anybody else that comes in there as well as the pro teams. It's like a setup day for them.

Thursdays would be -- Your lower-class cars race on Thursdays and do your tech; and then, of course, your pro guys do their tech also on Thursday, and they begin racing Friday.

Q. Are Fridays heats?
A. Yes. It's qualifying sessions.
Q. When are the finals?
A. Finals would be on a Sunday.
Q. Let's turn to the day Friday, October 21, 1994, Mr. Chambers. Were you selling at the Ennis, Texas race on that day?

that day:

A. Yes.

Q. And was there anyone else from VP Racing working with you then?

A. Brad Horton.

Q. Now, you said that VP -- Coogle Industries and Worldwide

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are your competitors?

A. Those are the only two.

Q. Those are the only other ones?

A. Yes.

Q. Have you ever seen another company selling nitromethane at an NHR race?

A. No, none.

Q. Was that also true back in 1994 that those were your two competitors?

A. Yes.

Q. Were both Coogle Trucking and Worldwide Racing at the race in Ennis in October of 1994?

A. Yes, they were there.

Q. Were they both there on Friday, October 21?

A. Larry Coogle's truck was there first, because his driver took the rental car home. Then I pulled in and I was there, and then Steve LeSeur wasn't there yet on Friday.

Q. Do you remember about what time Steve LeSeur showed up?

A. Probably -- maybe in late morning or around noon, in that area.

Q. What were you doing when Mr. LeSeur arrived?

A. I was just sitting on the back of the truck on the liftgate.

Q. Did you see what happened when Mr. LeSeur pulled his race truck in?

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A. Yes.

Q. What happened?

A. I seen him approaching and when he went to make a right-hand turn, there was a -- there is only one driveway entrance that you can make a right-hand turn into to get to where we're parked, and there is a barrow ditch; and the back of his trailer went off in the barrow ditch and got stuck.

Q. Did you run over to help him at that time, Mr. Chambers?

A. Wasn't nothing I could do.

Q. What did you do?

A. Just sat there.

Q. Watched him?

A. Yeah.

Q. What did you see?

A. Just his trailer stick and kind of leaning to the side, so I was more concerned with it flipping over the rest of the way than, you know, trying to help him.

Q. Did you see someone approach him?

A. Somebody walked up to him, yes.
Q. What happened then?
A. They just -- I guess they had a conversation for a short period of time, and that was it. Steve kind of shook his head and threw his hands up in the air. So I guessed he was upset because the truck was stuck.
Q. Was he in any position to be selling fuel at that point?

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A. No, not at that point.
Q. Why is that?
A. It was leaning over too far. It wouldn't be good.
Q. Did you see where this person who approached Mr. LeSeur went after talking to him?
A. He came towards the back of my trailer after he talked with him.
Q. And did you have any conversation with this person?
A. He just asked for nitromethane.
Q. What was your response?
A. I sent him on the back of the truck to talk to Brad. That's Brad's area.
Q. Brad is the salesman?
A. Yeah. He's --
Q. And do you know if Brad sold this man the nitromethane that he was looking for?
A. How much?
Q. Do you know if he did sell him nitromethane that day?
A. I'm sure he did, yeah.
Q. How much nitromethane did this man purchase from VP Racing?
A. It would be three drums.
Q. Three drums?
A. Yes.
Q. Nitromethane comes in drums?
A. Yes.

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Q. Can you describe the drums that this man purchased?
A. With ours, it's just a big blue drum, says "VP Racing Fuels" on the side, has some of our companies -- up on top for nitromethane. It's got an MSDS sheet on there that gives you the breakdown what the -- in case you get it on your hands, eyeballs, whatever. And it's got a label. It's probably a little bit taller than a garbage can and about a foot and 8 inches or so, 9 inches, across from left to right.
Q. How many gallons of liquid do these drums hold?
A. It's in poundage, so that would be about 51 1/2.
Q. 51 1/2 gallons?
A. Yeah.
Q. Is that how much of liquid actually would be in there?
A. That we put in there.
Q. How much could it hold? What's the capacity?
A. The capacity would be -- even if it's a 54-gallon drum, I

guess if you filled it to the top, you could hold 58 gallons in it, 57 gallons.

Q. When the customer bought nitromethane, these drums and nitromethane, did he take them right then?

A. No.

Q. How many drums of nitromethane did he purchase?

A. Three.

Q. So he couldn't very well just carry them away?

A. No.

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Q. Did the customer have a vehicle that you saw at this point?

A. No. I didn't see anything at that point.

Q. Are members of the public allowed to, as the people selling racing fuels do, just drive in, drive their vehicles into the pit area?

A. Well, they can; but I mean they have to have a pass to come in.

Q. What kind of pass?

A. It says "service" on it; says, "service pass."

Q. Can members of the public just purchase service passes at the gate?

A. No. You can't do that.

Q. Does VP have a way to assist customers who want to bring their vehicles in to pick up fuel?

A. Yes.

Q. What do you do?

A. I -- we have a service pass that goes on our vehicle, our personal vehicle that we bring in; so if somebody is going to come and pick something up drum-wise, then I'll just give them the pass off our windshield to put on, you know, give it to them, but -- and then they put it on their vehicle and bring it in.

Q. Did either you or Mr. Horton give this customer a service pass?

A. Brad did.

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Q. Did you see the man give Brad anything in exchange for the service pass?

A. They exchanged some money, because we don't -- you know, if that service pass disappears, we got to get another one.

Q. Were you able to see how much money this man gave to Brad?

A. No.

Q. What happened after that?

A. After that, he just jumped off the truck; and he exited off to the left, and I proceeded to look up and see how many drums I need to get out where they was at, uncover them, pull them out.

Q. And did you do that then?

A. I got one of them ready.

Q. How do you get it ready?

A. I just got the back then I didn't have a dolly so I

A. I just get the -- back then I didn't have a dolly, so I just pick it up and just kind of roll it off to the side and put it on the liftgate.

Q. When you say "pick it up," I mean do you actually lift the barrel of nitromethane off the ground?

A. No.

Q. What do you mean?

A. It's up against the wall. I just put one hand on the other side of the drum and then just pull it towards me.

Q. And then that's the way you'll maneuver it to the back of the truck?

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A. I put it at a balance point. That's what I call the balance point to where you can roll it with two hands -- I mean, just a balance point, just roll it to the back.

Q. And the back of your truck: That's where your liftgate is?

A. Yes.

Q. What kind of liftgate do you have on your trailer?

A. It's got electric motor powered by -- it's got hydraulic fluid in it.

Q. Do you see this customer again after he left with the service pass?

A. Later. I saw him later on.

Q. About how long was he gone?

A. 45 minutes to an hour or so, in that area.

Q. 45 minutes to an hour?

A. Yeah.

Q. I want to show you what's been marked for identification Government 2091 and tell me if you recognize this.

A. That's -- that's the racetrack there in Ennis.

Q. Mr. Chambers, could you hit the side of your pen to clear those marks, please.

A. Sure.

Q. Thank you.

Is this a fair and accurate depiction of the way the Motorplex in Ennis, Texas, looks from the air?

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A. Yes.

MR. GOELMAN: Move to admit Government 2094, your Honor -- I mean 2091.

MR. WOODS: No objection.

THE COURT: Received. May be shown.

MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Okay, Mr. Chambers, looking at this exhibit, can you please describe where the actual racetrack is. Could you mark that.

A. Yeah. The actual racetrack is where all the black is at.

Q. Okay. Where is the starting line?

A. Be that area right across there.

--- -- ---- - - - - -
The starting line is about right there.

Q. Where is the finish line?

A. Be 1320 feet -- would be right there.

Q. Is there a place that you can see on this picture where race fans will sit and watch a race?

A. Yes.

Q. Where is that?

A. They can watch it here, they can watch it here. And this at the end is the 1320-Mile-an-Hour Club.

Q. That's where the rich fans sit?

A. Well, the ones that get a special ticket.

Q. What's that big road that's in -- the big road running from the lower left to the upper right side of the picture?

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A. Are you talking about right here?

Q. Yeah, the two-lane road.

A. This right here is 287. This right here is your entranceway, which would go right to here, to there, to get into the pit and stop right there.

Q. Where in the pit area would the Cooogle and VP race trucks be?

A. We're always to the back at this race, so -- we'll be in this area right here.

Q. I want to show you another picture. Could you click and remove those marks, please.

I'm going to show you Government's Exhibit 2092.

A. Okay.

Q. Is that just a closer-up shot of the same area?

A. Yeah.

MR. GOELMAN: Move to admit Government 2092, your Honor.

MR. WOODS: No objection.

THE COURT: Received. Display.

MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Now, could you again for the jury show where the start line is and the finish line on the racetrack?

A. Okay. This right here. Be about right there.

And they start right here.

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Here's the finish.

Q. Where do you come in the race and where do you have to show your service pass to get in the pit area?

A. I -- well, when I come in -- 287 is right here, so that was the road that I showed you on the earlier picture.

Q. Right.

A. And I would come in this area right here, going about right there. There is a little booth right there.

Q. What do you have to do to get past the booth?

A. That's where you show your credentials, would be like your race ticket; and then you have to have like a service pass to get beyond that point there.

Q. Okay. Once you get beyond that point, where do you go in order to reach the race trucks?

A. To get to my truck -- or our truck would be right through here. And then this is where it turns, and then you can either make a right right there, or usually we go in right here.

Q. Okay.

A. Make a right-hand turn there.

Q. Is that where Mr. LeSeur had his little accident?

A. Yeah. He got stuck about right -- right over there.

Q. Okay. Where does the members of the public at the race -- where can they park?

A. Public parking would be right here. I know you can park at this area.

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Q. Uh-huh.

A. I've seen them there. And then, of course, right here, right here, and this area here. Yeah. That's where you park because this is -- this is the pass area, also, right here. This would be for gold-key parking.

Q. And, Mr. Chambers, in addition to the three barrels of nitromethane that you sold to that customer on October 21, 1994, have you sold to other members of the public who walk in the race and then need to borrow a service pass to go back out?

A. Have I sold like anything to them?

Q. Yeah. Have you seen that happen before?

A. Yeah. I mean I sold different drums of stuff to other people where they need a service pass and walked in.

Q. And how long are they usually gone after you give them the service pass to go get their vehicle?

A. Usually they're only gone like at most maybe 15, 20 minutes. It doesn't take them very long.

Q. But the customer who bought three barrels of nitromethane on October 21 -- he was gone from between 45 minutes to an hour?

A. I would say that's a pretty good guess. Yes. Quite a while.

Q. What was your reaction when he didn't come back for all that time?

A. That he just bought an expensive service pass.

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Q. Did he eventually come back?

A. Yes.

Q. And was he in a vehicle when he came back?

A. Yes.

Q. What kind of vehicle?

A. I don't know. It was a pickup truck. I do know that.

Q. You know it was a pickup truck?

- ..

A. Yes.

Q. Can you describe the pickup truck that the customer was driving when he came back?

A. I couldn't tell the make or model of it, just it wasn't shiny. Had a camper shell on it.

Q. Wasn't shiny and had a camper shell?

A. Correct.

Q. Besides not being shiny, do you remember what color the pickup was?

A. No.

Q. And when you say that it had a camper shell, what do you mean by that?

A. If -- it was like a faded white, a white-colored camper shell where the cab was flush with the top of the camper shell. It wasn't like an overhead camper.

Q. The cab of the truck and the camper shell were even?

A. Yeah, they were flush.

Q. Have you said what color the camper shell was?

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A. It was like a faded white. It was white.

Q. Do you remember the model of the pickup truck?

A. No.

Q. Do you remember any other features except for the fact that it wasn't shiny and that it had a faded-white camper shell?

A. No. I just remember the camper shell.

Q. Okay. When you say that it wasn't shiny, what do you mean by that?

A. Like new. You know, brand-new or --

Q. It didn't appear to be a new car?

A. Truck.

Q. New truck. What happened when the customer returned in this pickup truck?

A. I had already had a drum of nitromethane on the tailgate of the truck to get ready for this person that purchased it, and they -- the way we were set up, Stevie was still stuck in the barrow ditch, so he couldn't back directly, you know, to my trailer. It had to be from left to right at an angle. So he proceeded to back up right there, and that's where I was going to load the nitromethane at.

Q. Okay. Can you describe the process of actually loading the nitromethane in?

A. With the tailgate down and the camper shell down, back glass open, just backs up; and I let the liftgate down, and I pushed the drum myself onto the bed of the truck.

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Q. You can do that yourself?

A. Yes.

Q. Do you have to lift it up in the air at any point to get it from the liftgate into the pickup?

A. No. It's too heavy. You have to -- the way that I do it

A. No. It's too heavy. You have to -- the way that I do it is I put a -- my hands on the side and just kind of push it and, you know, trying to roll it a little bit, so to say. Once you get it on there, the bed, it will go smooth.

Q. And you can do it maneuvering the drum like that -- you can do it by yourself?

A. Yes, I can.

Q. Did you have any conversation with the customer as you were loading the three drums of nitromethane into the truck?

A. On and off. I was just trying to get that done first, but I did jump out; and all I asked him is what he had planned on doing with it. And he said that him and a bunch of buddies get together every year at this particular race and they purchase nitromethane.

Q. Did he say what these buddies did?

A. He said about -- telling me about Harley bikes that they have in Oklahoma City.

Q. He said this group was in Oklahoma City?

A. Yes.

Q. Did you get a look at this man during this transaction?

A. Going back and forth, I did.

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Q. What did he look like?

A. Probably I'd say about 5' 11" or so. He had a medium build to him, like a blond -- sandy blond-colored hair. Cheekbones kind of stuck out a little bit, you know, out this way, you know. They were stuck out; and then his nose wasn't like a real long nose. It was like at an angle -- angle nose.

Q. Do you remember anything about his eyes?

A. Kind of close together. I don't know eye color or anything. Just kind of close.

Q. Did this man's face remind you of anything or anyone?

A. I mean to me, being from Texas, I kind of just figured he looked kind of like a possum, so --

Q. Do you remember what this man was wearing?

A. Probably blue jeans, T-shirt top. That was --

Q. Would you take a look at Terry Nichols, the defendant sitting over there?

A. Uh-huh.

Q. Was that the man who purchased three drums of nitromethane from you on October 21?

A. No.

Q. Was the customer older, or younger than Mr. Nichols?

A. Younger. Younger than him.

Q. I want to show you Government's Exhibit 143 not yet in evidence. It should be up on your screen now, Mr. Chambers.

A. Yes.

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Q. Do you recognize this?

A. Yes.

Q. What is it?

A. That's a cash receipt.

Q. And is that a cash receipt from VP Racing Fuels?

A. Yes.

Q. Is that a receipt that you make every time you sell any of your fuel?

A. Yes.

Q. Is it a record that VP makes and keeps in its ordinary course of business?

A. Yes.

MR. GOELMAN: Your Honor, I move to admit Government 143.

MR. WOODS: No objection.

THE COURT: 143 is received.

BY MR. GOELMAN:

Q. Mr. Chambers, I'd like to go down the items on this receipt and have you explain what each of them means.

A. Okay.

Q. I think we can figure out the date.

As far as the location, it says "Dallas" there. Do you know what race that is?

A. We put "Dallas" on that. We always have, but I mean that's the Ennis, Texas race.

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Q. That's the race at the Motorplex?

A. Yes.

Q. And can you tell what type of transaction, how the customer paid for it?

A. That would be cash. We either write "cash" or write "check" on it, depending on what you have. We don't take credit cards.

Q. Do most of your customers who might buy nitromethane pay for it in cash?

A. No.

Q. How do they pay it?

A. I bill them -- or we bill them. Our company does.

Q. They have an account?

A. Yes.

Q. And you also accept checks; is that right?

A. Yes.

Q. What would be different about this receipt if it were a check, if the customer paid by check?

A. On the top line up here I would have, say, your name and then where you live at with your address, wherever you're from; and then right here I usually put their driver's license number. If it's a check, say, below 500, you know, like a new batch of checks, then I'll get their Social Security number and put it on there, if it's that way.

Q. And if someone pays in cash, would you ask for any of this

Timothy Chambers - Direct
identifying information from the customer?

A. No.

Q. Can you tell from this how much each drum of nitromethane cost?

A. It would be 925 is the price. It's right here.

Q. So for a total of 2775?

A. Correct.

Q. And the customer paid for that in cash?

A. Yes.

Q. Is 925 -- is that the price that you would generally quote for a customer for a barrel of nitromethane?

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

Q. You said earlier that list price was around 1200?

A. 1200.

Q. Do you know any reason why this customer would have been able to purchase three drums for under \$3,000?

A. Well, the more you buy, the lower it goes on the price.

Q. Okay. What's written on the last -- second-to-last line in the center column there?

A. In this area right here?

Q. The last two lines.

A. Excuse me?

Q. The last two lines on the receipt there.

A. This here?

Q. Yeah.

Timothy Chambers - Direct

A. This indicates -- let me see. It would be "one," and this here is a price of what they call a siphon pump.

Q. Does that say whether that siphon pump is new or used?

A. This right here says -- it says "used" on it right there.

Q. What is a siphon pump?

A. That's a -- it's just like -- has a plastic tube on it, and it's got a little round cylinder like a red cylinder on top; and you put it down the drum. It screws into where the bung came out of of the drum. You screw it in there and you tighten up the top clockwise and put about three or four pumps on it and it will flow out, the chemical, whatever you're wanting to use it for.

Q. So it's a way of getting the fuel out of the barrel?

A. Yeah. Yeah, that's -- that's the easy way.

Q. Is this receipt from that cash transaction that you were telling us about where the man bought three drums of nitromethane?

A. Yes.

Q. How do you know it's from the same transaction?

A. This right here. I mean it just indicates the three drums of nitromethane.

Q. Did you make any other sales of three drums of nitromethane at that race in Ennis?

A. No.

Q. Have you ever sold three barrels of nitromethane like you

Timothy Chambers - Direct

did to that customer?

A. No.

Q. Why is that?

A. I never have. It just doesn't happen. Most of our stuff is billed out. It's not on a cash basis, you know, for three drums like that.

Q. Who are -- who are the majority of your customers, especially the ones who buy nitromethane?

A. That would be my top-fuel people, Don Prudholm, Bob Vander Griff, Jr., people like that.

Q. Have you ever seen anyone from a group of motorcyclists in Oklahoma City buy fuel at an NHRA race before?

A. No.

Q. Do you through your work in the industry know a lot of the people who come to the races?

A. Yes.

Q. Do regular motorcycles, street Harley bikes -- do they use nitromethane?

A. Not to my knowledge, they don't. With gasoline, you can only run 3 percent nitromethane.

Q. In your years in and around the racing industry, have you ever heard of someone buying this amount of nitromethane with a cash purchase?

A. No.

Q. I want to show you Government's Exhibit 1888, a couple

Timothy Chambers - Direct

pages from 1888. This is already in evidence for demonstrative purposes, I believe.

Now, the name of your company is VP Racing. Is that right, Mr. Chambers?

A. That's correct.

Q. And one of your many competitors is -- the name of that company is Coogle Trucking?

A. That's correct.

Q. Okay. Do you see there are a couple calls from Kingman, Arizona, to Lana Padilla on Thursday, October 6, 1994? Do you see that, the top entry?

A. Yes.

Q. Now, right below that, do you recognize any of the "called to" subscribers on Friday, October 7, 1994?

A. The first one there would be the VP Racing Fuels out of Manhattan, Kansas; and then, of course, you have Larry Coogle in Otterbein, Indiana.

Q. Is that where Coogle Trucking or Coogle Industries is based out of?

A. Yeah, that's his home there. That's where he's based out of.

Q. I want you to go to the bottom entry, which is Monday, October 17, 1994. And there is two calls from Herington, Kansas, on that date. Do you see that?

A. Yes, I do.

Timothy Chambers - Direct

Q. Where is the first one to?

A. It goes to Larry Coogle again in Otterbein, Indiana.

Q. Where is the second one?

A. Goes to the Padilla, Lana and Leonard.

Q. I want to show you page 8 from the same exhibit now. Could you direct your attention down at the bottom to where the entries for Thursday, October 20, 1994, are?

A. Yes.

Q. And where is the first phone call that day made from?

A. It's made from Junction City, Kansas, to Larry Coogle.

Q. Is that the same Coogle Trucking that is one of your competitors?

A. Yes.

Q. What time was that call made according to this chart?

A. According to the chart, it says start time is 10:01.

Q. A.m. or p.m.?

A. A.m.

Q. How long did it last for?

A. I would assume that's a minute and 24 seconds.

Q. Do you see the second entry there?

A. Yes, I do.

Q. Where is that call made from?

A. From Pauls Valley, Oklahoma.

Q. The Amish Inn Motel in Pauls Valley?

A. Yes.

Timothy Chambers - Direct

Q. And can you tell me what time of day that call was made?

A. That was at 9:03 p.m.

Q. So about 11 hours after the previous call?

A. Yeah. I would say so.

Q. Mr. Chambers, before coming to court, did you look through the entire Government's Exhibit 1888 to see when the last call to one of the three companies that sells nitromethane was made?

A. Yes.

Q. And when was that final call?

A. It was on the 20th of October of '94.

Q. The call to Coogle racing is the last one?

A. Yes.

Q. And the date that you sold the nitromethane to that individual was again, Mr. Chambers?

A. The 21st.

Q. The next day?

A. Yes.

Q. Through your experience hauling racing fuels around the country, have you become pretty familiar with some of the roads in the Southwest?

A. Yes.

Q. And have you driven the route between Oklahoma City and Dallas?

A. Yes, I have.

Q. About how many times have you driven that route?

Timothy Chambers - Direct

A. Maybe 15 or 20 or so. About 15 or 20 times.

MR. GOELMAN: Your Honor, may I have Government's Exhibit 2049 placed back up on the easel?

THE COURT: Yes.

MR. GOELMAN: Your Honor, may Mr. Chambers step down and use a pointer to display different parts of the map?

THE COURT: Yes.

BY MR. GOELMAN:

Q. Mr. Chambers, can you please find Junction City on that map where the call to Coogee Trucking was made on the morning of October 20.

A. Yes. Junction City is up here.

Q. And could you please find Oklahoma City on that map.

A. Oklahoma City is here.

Q. And can you please find Pauls Valley, Oklahoma, where the call that evening was made.

A. That would be down here.

Q. And finally, can you point out where on that map the Motorplex in Ennis, Texas, is located?

A. Where it's at?

Q. Yeah.

A. Well, it shows here 45 and you have 35, so it would be -- it would be 287 that runs across here. And then the Motorplex is off on the left-hand side if you were coming from 35.

Q. Are you familiar with Pauls Valley, Mr. Chambers?

Timothy Chambers - Direct

A. Some. I've been through there.

Q. Have you ever been to the Amish Inn in Pauls Valley?

A. No.

Q. Have you ever driven from Pauls Valley to Dallas?

A. Yes. On my way back from Oklahoma City, I have.

Q. Do you know approximately how many miles it is from Pauls Valley, Oklahoma, to the Motorplex in Ennis, Texas?

A. Probably about 170 miles.

Q. So driving at a normal rate of speed, not funny car or top-fuel dragster, how long would it take you to get from Pauls Valley to the Motorplex in Ennis, Texas?

A. Normal car, I'd say probably about three hours to three-and-a-half hours.

Q. And you said that you saw this customer about noon on the 21st?

A. Around noon, I would say, on the 21st.

Q. If you left Pauls Valley about 9 in the morning, could you be at the Motorplex in Ennis, Texas, about noon?

A. I would think so.

Q. You can take your seat again, Mr. Chambers.

MR. GOELMAN: Take that down, please.

BY MR. GOELMAN:

Q. Now, you mentioned that this customer bought three

51 1/2 gallons of fuel. Is that correct?

51-1/2-gallon drums of nitromethane. Is that correct?

A. Roughly three 51 1/2 gallons.

Timothy Chambers - Direct

Q. You described it as being blue and a little bit taller than a trash barrel; is that right?

A. Our drums are, yes.

Q. Why don't you take a look at Government's Exhibit 2097. Do you see that?

A. Yes.

Q. And also 2098. Can you see that?

A. Yes, I do.

Q. And do you recognize the pictures -- what the items are that are displayed in those pictures?

A. Yes.

Q. What are they?

A. That shows a drum of nitromethane.

Q. Both of those pictures?

A. Yes.

Q. And is that what a drum of VP nitromethane looks like?

A. Yes.

MR. GOELMAN: Move to admit Government 2097 and 2098, your Honor.

MR. WOODS: No objection.

THE COURT: They're received.

MR. GOELMAN: I'd like to display 2097 first.

BY MR. GOELMAN:

Q. Are the nitromethane drums that VP Racing sells clearly labeled?

Timothy Chambers - Direct

A. Yes, they are.

Q. Does it say "nitromethane" anywhere on the side of the drum?

A. No. Not on our VP drums, it won't.

Q. I want to show you a picture of the top of the drum.

And is that top of the drum clearly labeled "nitromethane"?

A. Yes.

Q. Can you please circle where it says "nitromethane" with your pen.

A. Right here.

Q. So, Mr. Chambers, is it fair to say that if you can read and you see these drums, you know what's in them?

A. Yes.

Q. Will you please describe the top of the barrel that we're looking at, in particular the -- what looks to be like a thin lip or rim around the edge.

A. This right here?

Q. Yeah.

A. Is just -- all this is is just an outer edge of drum when they build them, and it's about right -- it's probably maybe a quarter-inch wide on the top.

quarter inch wide on the top.

Q. What about on the bottom?

A. Bottom will be the same way. It's just -- it's just there -- it's flat. It's just a flat surface on top.

Timothy Chambers - Direct

Q. The bottom of the barrels are constructed the same way as the top are?

A. As the top except for the bungs, yes.

Q. What are these barrels made out of?

A. Probably about 18-gauge steel.

Q. Mr. Chambers, does VP have a warehouse in San Antonio where you store some of your fuels?

A. Yes.

Q. What kind of floor does that warehouse have?

A. Our new facility has concrete floor.

Q. Have you noticed in the time that you've worked at VP Racing whether these barrels -- full barrels of nitromethane tend to leave any marks on a concrete floor?

A. They'll leave a ring. A ring shape.

Q. Tell me what you mean by a ring.

A. Oh, just a -- it's where the drum sits on anything, it will leave a ring. That would be the little edge that it's on.

MR. GOELMAN: Your Honor, may I have Agent Tongate display Government's Exhibit 2054 that's already been admitted?

THE COURT: Yes.

BY MR. GOELMAN:

Q. Mr. Chambers, if you could turn around, please, and look at what is depicted in Government 2054. Do you see marks on the floor in that picture?

A. Yes.

Timothy Chambers - Direct

Q. Do they look familiar to you?

A. They look like a ring that a drum makes.

Q. A drum of nitromethane?

A. Excuse me?

Q. A drum of nitromethane?

A. Could be.

Q. What part of the drum would make those marks?

A. It would be the bottom part of the drum.

Q. Would that be the lip or the rim that you --

A. Yeah, the flat part that I was talking about.

Q. Do you have any personal knowledge as to where this picture was taken?

A. No.

Q. Thank you.

Mr. Chambers, you mentioned that you loaded the drums of nitromethane into the customer's pickup off your liftgate?

A. Yes.

Q. And you're describing how you did that by keeping it balanced. Is that right?

A. Well, no. I mean I balanced it off the trailer to the

liftgate; and then when I loaded it, I just like slid it in there.

Q. At any point in the transaction, did you actually have to pick it up?

A. I can't do that.

Timothy Chambers - Direct

Q. How much does nitromethane weigh compared to, say, normal gasoline? Which weighs more?

A. Nitromethane weighs more.

Q. Do you know how much a 55-gallon drum of nitromethane weighs?

A. 543.

Q. 543 pounds?

A. Pounds.

Q. Does that include the drum itself?

A. Yes.

Q. Now, when you loaded the three drums of nitromethane into the customer's pickup truck on October 21, 1994, did you have to roll them up any kind of incline?

A. No. Just -- my liftgate is flat; so when I put it on his truck, it just went on his tailgate and just slid them in there, pushed them all the way to the front.

Q. In your years in the racing industry, have you ever seen men put a barrel of nitromethane on a dolly and have to roll it up an incline?

A. I've seen it done. I mean in the race trailers, yes.

Q. Can one man do that?

A. I couldn't.

Q. Could you do it with two men?

A. Yes.

MR. GOELMAN: Court's indulgence.

Timothy Chambers - Cross

I have nothing further, your Honor.

THE COURT: Mr. Woods?

MR. WOODS: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. WOODS:

Q. Good Mr. Morning, Mr. Chambers.

A. Hi.

Q. My name is Ron Woods. I'm one of the lawyers that was appointed to represent Terry Nichols.

There is no question in your mind Terry Nichols was not the person that you sold items to on that day; is that correct?

A. That's correct.

Q. You've been with VP for four years?

A. Yes, sir, I have.

Q. You go to the races every weekend?

A. Not every weekend, I don't.

Q. Approximately out of 52 weekends a year, how many do you go

to?

A. This year on national-event status, I went to NHRA, I believe I did 14 of them; but I also do other stuff, so . . .

I do airplane races in Reno, jet-ski world finals and such.

Q. How many customers have you dealt with since October of '94?

Timothy Chambers - Cross

A. That would be just probably hundreds.

Q. Pardon me?

A. Hundreds.

Q. Okay. Now, when was the first time that the Government ever talked to you about this transaction?

A. It would -- the first time that they talked to me would be before the first trial began.

Q. Was it March of '97?

A. I don't know the exact date.

Q. Was it this year?

A. Excuse me?

Q. Was it this year?

A. Yes.

Q. And was it in Houston when the Government came to see you for the first time?

A. Yes, sir, they did.

Q. Were you covering a race there?

A. Yes, I was.

Q. What race?

A. That was just for the Baytown -- it's in Baytown, Texas.

Q. And that's a suburb of Houston?

A. Yes, sir, it is.

Q. Is that March 20?

A. I don't know the exact date on it.

Q. Do you recall Agent Hersley over here being the person --

Timothy Chambers - Cross

one of the persons who talked to you that first day?

A. He was one of the ones that came to Houston, yes.

Q. And do you recall a prosecutor by the name of Scott Mendeloff?

A. Yes, sir.

Q. Okay. And they showed you a photo lineup, did they not, an exhibit with eight photographs in it?

A. Not at Houston, they did not.

Q. They waited till you got up to Denver to do that?

A. That was in Denver.

Q. And did they show you an exhibit that had eight photographs in it?

A. I saw eight -- some photographs, yes.

Q. Okay.

A. It was all on one piece of paper, one page.

Q. Yes, sir. Were you able to identify anybody at that time?

A. No, I did not.

A. No, I did not.

Q. Okay. Now, in that two-and-a-half years from October, '94, to March, '97, had you contacted the Government for them to come talk to you?

A. No, sir, I didn't.

Q. Okay.

A. I never did contact them.

Q. Do you know how they were contacteded?

A. The only way that I know that they were contacted was with

Timothy Chambers - Cross

Brad Horton.

Q. Okay. Brad Horton was the person who conversed with the person who bought the three barrels; is that correct?

A. He was the one that sold it to him, yes.

Q. And he's the one that arrived at the price?

A. That's his job, yes, sir.

Q. And he is the one that gave the parking pass in exchange for some cash. Is that correct?

A. That's -- that's correct.

Q. Okay. Approximately how long did Mr. Horton deal with the person?

A. I would probably say -- probably 15 minutes.

Q. Okay. And he was the one who was looking for the pass to come back so that he could get the pass back and exchange the money. Is that correct?

A. Well, Brad had wrote up everything, so he was -- he was waiting for the pass as well as I was, because I had other customers that needed to pick up gas, too; so without that, I couldn't do anything -- or we couldn't do anything.

Q. Yes, sir. Is Mr. Horton here to testify?

A. Mr. Horton is not here.

Q. He didn't come up with you? He's not in the witness room?

A. No, sir.

Q. Okay.

A. I came out of a drag race out of Pomona, California, here.

Timothy Chambers - Cross

Q. You live in Elmendorf, or do you live in another San Antone suburb?

A. I live outside of San Antonio.

Q. Any particular city?

A. Seguin.

Q. Seguin?

A. Yes, sir. It's off Interstate 10.

Q. Yes, sir. And where does Brad Horton live?

A. Brad Horton is from San Antone.

Q. And does he usually travel to the races with you?

A. Brad does not travel. Brad flies, I drive.

Q. Okay. But he attends the races with you?

A. Some of them, he does, yes.

Q. Now, was Brad Horton the one that came to you to discuss this transaction for the first time?

A. Brad did, yes.

Q. Okay. Now, do you recall telling the FBI that Brad Horton thinks that the pickup was --

MR. GOELMAN: Objection, your Honor.

BY MR. WOODS:

Q. -- a brown Ford?

THE COURT: Well, let him ask the question.

BY MR. WOODS:

Q. Do you recall in your interviews with the FBI that you told the FBI that Brad Horton thinks that the car was a brown Ford?

Timothy Chambers - Cross

THE COURT: Objection sustained.

BY MR. WOODS:

Q. Did you and Mr. Horton discuss the transaction and the automobile and the individuals before the Government was contacted?

A. I don't -- I don't know when Brad contacted them. I didn't contact them, so I don't know when --

Q. I understand that.

A. -- when that would have happened.

Q. I understand that, but did you and Brad Horton discuss the transaction and the vehicle involved before the Government was contacted?

A. I don't know.

Q. All right. Let me back up one.

A. I talked to Brad -- now, I don't know if Brad contacted the persons about this. I have no idea if he did that before he came and talked to me, or if it was after. I don't know.

Q. I understand. Did you and Brad Horton discuss the transaction?

A. I did talk to Brad on the loading dock about it, yes.

Q. And was that before you talked to the Government?

A. That was before I knew that Brad had contacted the FBI.

Q. Okay. And did you and Brad discuss the automobile involved?

A. Brad had mentioned something, yes.

Timothy Chambers - Cross

Q. What did he mention to you?

MR. GOELMAN: Objection.

THE COURT: Sustained.

BY MR. WOODS:

Q. Did you discuss the individual?

A. No.

Q. Okay. Do you recall a discussion concerning the color of the license plate?

A. No.

Q. Okay. Do you recall telling the Government about this discussion?

A. The discussion that Brad and I had?

Q. Yes, sir, concerning the description of the automobile and

the license plate.

A. I mentioned something that Brad had said, yes.

Q. Okay. And do you know who Wade Gray is?

A. Yes, sir, I do.

Q. And who is he?

A. He works for VP Racing Fuels.

Q. And what does he do?

A. That, I do not know.

Q. Okay.

A. I mean -- I don't see him enough to know what he does. I know he's in the lab enough, and that's all.

Q. Do you know whether or not he was the one that contacted

Timothy Chambers - Cross

the Government for the first time in March of '97?

A. I -- I really don't know. I don't know.

Q. Okay. When you were shown the photos of the barrels -- that is, a standard metal 55-gallon barrel, or is it a more narrow one?

A. The one that was on the screen here?

Q. Yes, sir.

A. That's a standard 54 drum.

Q. 54?

A. Yes.

Q. Okay. Is that the -- if you just go somewhere to buy metal drums, is that the same size that you buy somewhere else, or is it a special one made for you?

A. It would be like -- no, it's a standard size, because you have your 54, then you drop down to 30; and they don't make an in-between size. That's just a standard-size metal drum.

Q. Okay. And you all sell at half drum sizes, too, which is, what, 29 did you say?

A. 30.

Q. 30?

A. I have a 30-gallon, and then my next one would be a 15-gallon, and then a 5-gallon and then a 1 gallon; but 1 gallons are square.

Q. But the one shown on the photograph is a standard -- you're calling it 54-gallon?

Timothy Chambers - Cross

A. Yes, sir.

Q. Is there a 55-gallon metal barrel, too, to your knowledge?

A. Not that I know of. We've always gone by that it's a 54 drum.

Q. Okay.

A. You have to understand that you leave about an inch and a half or so away from the top for expansion --

Q. Yes, sir.

A. -- anytime that you fill it up say with gasoline, so that's why we classify it as a 54 drum.

Q. Okay. Now, you were asked some questions about some phone calls off of Government's Exhibit No. 1000. I want to show

CALLS OUT OF GOVERNMENT'S EXHIBIT NO. 1888. I WANT TO SHOW that page to you again.

You were asked questions about the phone call on Friday, October 7, '94, the phone call to VP Racing Fuel in Manhattan, and that's where Glynn Tipton has his office.

A. Yes, sir.

Q. Okay. And do you know who Michael Fortier is?

A. No, sir.

Q. Does the -- do the records reflect that the calls to VP Racing and Coogle Trucking come from a phone subscribed to by Michael Fortier?

A. I see that on here, yes.

Q. Okay. Had you talked to Glynn Tipton before you talked with the Government in March of '97?

Timothy Chambers - Cross

A. I had never met Glynn.

Q. So I take it you had not talked to him personally. What about over the telephone?

A. I had not even talked to him. I'm not on the phone. If I'm on the phone, it's in the race truck. I'm on the road.

Q. So you and Glynn Tipton have had no discussions about this transaction?

A. When it all began, I didn't know who Glynn was. I have met Glynn since.

Q. Is that in the witness room?

A. Excuse me?

Q. Where did you meet Mr. Tipton?

A. Jay Farnsworth out of Terre Haute, Indiana, couldn't cover the first drag race in Topeka, so I took my race truck there. That's where I met Glynn. He came out to help me on the trailer.

Q. Have you met him since?

A. No. I just seen him the other day, yes. That was it.

Q. Here in Denver?

A. Yes, sir.

Q. Okay. And your description of the automobile is that it was faded out, did not have a shiny appearance to it. Is that correct?

A. It wasn't shiny.

MR. WOODS: Okay. Thank you, sir.

Timothy Chambers - Redirect

THE WITNESS: Yes, sir.

THE COURT: Anything else?

MR. GOELMAN: Briefly, your Honor.

REDIRECT EXAMINATION

BY MR. GOELMAN:

Q. Mr. Chambers, does your headquarters at VP know where your racing truck is set up each weekend that there is a race?

A. The races I'm at, they'll know exactly where I'm at.

Q. And could a person call your headquarters or headquarters of one of your competitors to find out where the race was that

weekend?

A. Yes, sir, they can.

Q. And what fuels were being sold?

A. Well, I mean they'll be able to find out if the truck is going to be there. Say if you had a rain-out or something, all you got to do is call VP or any of the other fuel guys. They'll tell you where we're at.

Q. Mr. Woods asked you some questions about Brad Horton and where he was during the transaction.

A. Yes, sir.

Q. Who loaded the nitromethane drums onto the pickup truck with the white camper shell?

A. I loaded the drums.

MR. GOELMAN: Nothing further.

MR. WOODS: Nothing further, your Honor.

THE COURT: Witness excused, I take it?

MR. GOELMAN: Yes, your Honor.

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

MR. MACKEY: Yes, your Honor. We re-call Mary Jasnowski.

THE COURT: All right.

Would you please again resume the stand under your oath earlier taken.

(Mary Jasnowski was re-called.)

THE COURT: Ms. Wilkinson.

MS. WILKINSON: Thank you, your Honor.

DIRECT EXAMINATION

BY MS. WILKINSON:

Q. Good morning, Ms. Jasnowski.

A. Good morning.

Q. You were here once before and talked to the jury?

A. Yes, I was.

Q. If you could just remind them what your responsibilities were during the search of Mr. Nichols' house?

A. I was the team leader of the search team that conducted the search of Mr. Nichols' residence on the 21st -- or 22d and 23d of April, 1995.

Q. You supervised the search; is that right?

A. Yes, I did.

Mary Jasnowski - Direct

Q. And you actually participated in the search yourself?

A. Yes, I did.

Q. Did you search the -- Mr. Nichols' garage with other agents?

A. Yes, I did.

Q. And do you recall finding or noting some items that you found there on a diagram that you made?

A. Yes.

Q. Let me show you Government's Exhibit 2086, which I think is a diagram you made.

A. Yes, it is. It's made from my sketch from that night.

Q. Is this the diagram that depicts the garage?

A. Yes.

Q. Now, I think you said earlier during your first testimony that there were two portions of the garage. Is that right?

A. Yes, that's correct.

Q. Remind the jury what they're looking at right here, please.

A. This is the north part of the auto garage, and then there is a storage or the south part of the garage.

Q. All right. And here on the south storage garage area, you have something marked "drums" there. Is that right?

A. Yes.

Q. What did you find there?

A. There were four 55-gallon plastic barrels or drums, as we called them, in this drawing.

Mary Jasnowski - Direct

Q. Did you examine those plastic drums?

A. Yes.

Q. I take it you're not a plastic expert?

A. No, I'm not.

Q. So you can't tell us about what type of plastic they were, can you?

A. No, I cannot.

Q. Did you cause a photograph to be taken of the drums as you found them?

A. Yes.

Q. All right. Let me show you Government's Exhibit 1816A.

Whoops, wrong photo. Hold on one second.

How about 1776, Photo 4?

A. Yes.

Q. Do you recognize that?

A. Yes, I do.

Q. What does that show?

A. These are the barrels in the situation -- in the condition that we found them that night.

MS. WILKINSON: Your Honor, may I have -- well, 1776, No. 4, is already in, so can I display it to the jury?

THE COURT: If it is, yes.

MS. WILKINSON: Thank you. It is.

BY MS. WILKINSON:

Q. Now, Ms. Jasnowski, on your diagram you had four circles

Mary Jasnowski - Direct

that looked like they were all next to each other?

A. Yes.

Q. This photograph shows two barrels and two on top of them?

A. Well, we couldn't really -- I'm not that good a drawer to show that they were stacked. So we wanted to show that they were stacked, and that's why we separated them that way.

Q. So this photo shows us what you saw when you walked into Mr. Nichols' garage; is that right?

A. Yes.

Q. Now, let's start -- if you can take your light pen. Let's

start on the bottom left-hand corner there.

A. Yes.

Q. Did you look at that drum? Just put an X on there so the jury -- that's the right hand, isn't it?

A. I'm sorry.

Q. We can start there. That's all right. Just start there.

Did you look inside that barrel?

A. Yes, I did.

Q. Did you find any trash in that barrel?

A. No, I did not.

Q. Did you find any guns in that barrel?

A. No, I did not.

Q. Did you find anything in that barrel?

A. Yes, I did.

Q. What did you find?

Mary Jasnowski - Direct

A. I found a cardboard box containing a lot of washers and screws and bolts and some safe-deposit keys from a bank.

Q. Did you look at those safe-deposit box keys?

A. Yes, I did.

Q. Were they by themselves, or were they in some other container?

A. They were in a small -- safe-deposit key wrappers, bank wrappers, envelopes.

Q. Was each key in a different wrapper?

A. Yes, they were.

Q. How many keys did you find?

A. Two.

Q. Was there any way to tell by looking at those keys and the wrapper whether they belonged to Mr. Nichols or someone else?

A. No.

Q. Now, why don't you now go over to the left bottom barrel.

A. Okay.

Q. Did you look in that barrel?

A. Yes, I did.

Q. Did you find any trash?

A. No.

Q. Did you find any guns?

A. No.

Q. Did you find anything in there?

A. No, I don't recall.

Mary Jasnowski - Direct

Q. Go up to the next one right above it.

A. Yes.

Q. You searched that one?

A. Yes.

Q. Did you search the one to the right?

A. Yes.

Q. In either of those two top barrels, did you find any trash?

A. No.

Q. Did you find any guns?

Q. Did you find any guns.

A. No.

Q. Did you find anything in those two barrels?

A. Not that I recall.

Q. During your search of Mr. Nichols' residence, did you actually go outside and look around his property?

A. Yes, I did.

Q. Did you find his trash cans?

A. Yes, I did.

Q. Did you look in those?

A. Yes, I did.

Q. Was there trash in those trash cans?

A. Yes, there was trash in those garbage cans.

MS. WILKINSON: Your Honor, may I hand up some exhibits?

THE COURT: Yes.

BY MS. WILKINSON:

Mary Jasnowski - Direct

Q. I want you to take a look, Ms. Jasnowski, in there and look for Government's Exhibit 1871.

A. Sorry.

Q. That's all right. Take your time.

A. Yes.

Q. Do you see that?

A. Yes, I do.

Q. Will you take it out of the plastic.

Do you recognize that?

A. Yes, I do. It's the -- one of the safe-deposit keys that I found in one of the barrels.

Q. What did you do with it after you found it?

A. I placed it with its -- the other key into a packaging and maintained it with the rest of the evidence that we seized that night.

Q. Do you have the packaging that you used, up there in front of you?

A. Yes, it's here.

Q. Did you mark that packaging?

A. Yes. I see my initials on it.

MS. WILKINSON: Your Honor, we offer Government's Exhibit 1871.

MR. TIGAR: Subject to the earlier discussion, your Honor, no objection.

THE COURT: All right. 1871 is received.

Mary Jasnowski - Direct

BY MS. WILKINSON:

Q. You can take that out, Ms. Jasnowski, the actual exhibit. And can you take the envelope and key out, please.

A. Yes.

Q. All right. Hold up the envelope, would you, and show the jury the key.

And when you found it, tell them how it was packaged.

A. The key was inside this envelope.
Q. And is there any marking on that envelope?
A. There is printed writing on it, and there is some -- something done by hand in ink, 347; and then at the bottom, it says "3-x-10," 3-by-10.
Q. What does the printed writing say?
A. Obviously it is a bank name, First Union. And then it says "For your extra key. Keep in a safe place."
Q. It doesn't tell you where First Union is located, does it, on that envelope?
A. No, it does not.
Q. So you didn't know where that safe-deposit key went, which box it was, which bank it was to; is that right?
A. No, I didn't know that.
Q. You told us you found another key in an envelope; is that right?
A. Yes.
Q. Can you look and find Government's Exhibit 1873.

Mary Jasnowski - Direct

A. 1873?
Q. Yes, ma'am.
A. Yes.
Q. Do you recognize that?
A. Yes.
Q. What is it?
A. It's the other key that I found that night.
Q. Did you put that in the same packaging that you've just told the jury about earlier?
A. Yes, I did.
MS. WILKINSON: Your Honor, we offer Government's Exhibit 1873.
MR. TIGAR: Subject to our discussion, no objection, your Honor.
THE COURT: 1873 received.
BY MS. WILKINSON:
Q. You can take that out, Ms. Jasnowski.
Is the key in the envelope now?
A. Yes, it is.
Q. Is that how you found it?
A. Yes.
Q. Could you take a look at the envelope?
A. Yes.
Q. Does it have any writing on it?
A. It has on the back -- someone has printed in ink "M," the

Mary Jasnowski - Direct

initial "M."
Q. You didn't know who "M" indicated, did you?
A. No.
Q. What else is on there?
A. It has the name of the bank, and again, the warning: "Keep

one safe-deposit key in this envelope."

Q. Could you read the name of the bank, please.

A. It's at Arkansas Bank and Trust Company, Hot Springs, Arkansas.

Q. Now, during this search and during this investigation, you were in Herington, Kansas; is that right?

A. That's correct.

Q. And to your knowledge, is there any bank by that name, the Arkansas Bank, in Herington, Kansas?

A. I'm not aware of any bank by that name.

MS. WILKINSON: Your Honor, may we have her step down to identify additional exhibits?

THE COURT: All right.

BY MS. WILKINSON:

Q. Ms. Jasnowski, you identified some barrels in that photograph. Is that right?

A. Yes.

Q. Did you bring some to court that you seized from Mr. Nichols' house?

A. Yes.

Mary Jasnowski - Direct

Q. And did you review those prior to coming to court today?

A. Yes, I did.

Q. If you could look under here and find the Government's exhibit number.

A. Yes.

Q. That's Government's Exhibit 2040. Is that right?

A. That's correct.

Q. Is that one of the barrels that you found in Mr. Nichols' house?

A. Yes, it is.

Q. And take a look at this one. Do you recognize Government's Exhibit 190?

A. Yes, I do.

Q. And this is a tag that you recognize?

A. Yes, it is.

Q. Now, this barrel, Government's Exhibit 190: Has it been altered in some way since you saw it?

A. Yes, it has. There is something that's been cut out of the side, and both of the barrels have obviously been subject to some sort of process, because there is a black dust or film on them.

Q. Other than the cut out of Barrel 190 and Government's Exhibit 2040, are these barrels in the same condition that -- as they were when you found them?

A. Yes.

Mary Jasnowski - Direct

MS. WILKINSON: Your Honor, we offer Government's Exhibit 190 and 240 -- 2040. Excuse me.

MR. TIGAR: Subject to our discussion, no objection, your Honor.

your honor.

THE COURT: All right. They're received, 2040 and 190.

BY MS. WILKINSON:

Q. Ms. Jasnowski, can you take a look at the label on this barrel?

A. Yes.

Q. I'll turn it around for the jury.

Can you tell them -- it's a little scratched up here, but can you tell them what it says?

A. It basically says STER-BAC.

Q. Do you know who manufacturers a STER-BAC barrel?

A. I have to read it. It looks like "St. Paul, Minnesota, Klenzade Ecolab, Incorporated."

Q. But you don't know who makes this plastic for them, do you?

A. No, I do not.

Q. And does this barrel, Government 190, have a similar label?

A. Yes, it's the same.

Q. During your search of Mr. Nichols' house, Agent Jasnowski, did you find any pistols?

A. Yes, we did.

Q. Did you cause a photograph to be taken of that pistol where

Mary Jasnowski - Direct

you found it in place?

A. Yes, I did.

Q. Let me show you Government's Exhibit 1816A and see if you recognize it.

Do you recognize that photo?

A. Yes, I do.

Q. Where was this photo taken in Mr. Nichols' house?

A. This photo was taken in the closet that was in the living room but outside of bed -- the second bedroom.

Q. And does this fairly and accurately depict what you saw that day?

A. Yes, it does.

MS. WILKINSON: Government offers 1816A, your Honor.

MR. TIGAR: Subject to our earlier discussion, no objection.

THE COURT: 1816A is received. May be shown.

BY MS. WILKINSON:

Q. Agent Jasnowski, tell the jury what they're looking at here.

A. This is the gun lying -- I think on the bottom shelf of that -- the -- well, one of the bottom shelves of the closet. It's enclosed in a little cloth bag.

Q. Was that pistol in that cloth bag when you found it?

A. Yes.

Q. Did you seize the cloth bag?

Mary Jasnowski - Direct

A. No, we did not.

Q. Did you seize the pistol?

A. Yes, we did.

Q. Can you look to your file folder up there and look at Government's Exhibit 1816?

A. Yes.

Q. Do you recognize that?

A. Yes, I do.

Q. How do you recognize it?

A. I recognize it by sight, and I also see the packaging has my initials on it.

MS. WILKINSON: Your Honor, that's been -- I don't know the right word for it -- It's been cleared and it won't fire.

THE COURT: It's been cleared?

MS. WILKINSON: Yes.

THE COURT: All right.

MS. WILKINSON: Thank you. We offer 1816.

MR. TIGAR: Subject to our earlier objection, no objection.

THE COURT: 1816 is received.

BY MS. WILKINSON:

Q. Ms. Jasnowski, take it out of the bag. Don't aim it at the jury. Thank you. Just show them what it looks like, please.

That's the gun that you found that's depicted in this

Mary Jasnowski - Direct

picture or was depicted in the picture they were just seeing?

A. Yes.

Q. Okay. You can put it away. During your search, Ms. Jasnowski, you didn't take every single thing that was in Mr. Nichols' house?

A. No, we did not.

Q. But you did see a lot of the things that were in his house?

A. Yes.

Q. And I think you told us earlier that you took photos at the beginning of the search; is that right?

A. Yes.

Q. And you also took photos at the end?

A. Yes.

Q. Let me show you Government's Exhibit 1768 and see if you recognize that.

Did you cause a photo to be taken of some of the materials that were on Mr. Nichols' dining room table?

A. Yes.

Q. Does Government's Exhibit 1768 show you some of those items that you left behind on Mr. Nichols' table after the search was completed?

A. Yes.

MS. WILKINSON: Your Honor, we offer Government's Exhibit 1768.

MR. TIGAR: Subject to our discussion, no objection.

Mary Jasnowski - Direct

THE COURT: 1768 is received.

BY MS. WILKINSON:

Q. Ms. Jasnowski, this shows some papers and a book -- I don't know how you would describe that top item. How would you describe it?

A. File-of-Facts, Weekly Minder, something like that.

Q. Let me zoom in on these and show you a closer view. Do you see newspapers depicted on this photograph?

A. Yes, I do.

Q. How many?

A. I see three newspapers, and the top thing looks some type of magazine or gazette of some sort.

Q. Let's go back to 1768, the big photo. Show the jury with your pen what you're talking about that looks like some kind of magazine or periodical.

A. This item here. Looks like some sort of periodical.

Q. Underneath that you saw three newspapers?

A. Yes. There is one, two, three.

Q. Did you ever see any Wall Street Journal in Mr. Nichols' house?

A. No, I did not.

Q. Now, as part of your photographs of the home, did you also take photographs of Mr. Nichols' yard?

A. Yes.

Q. And did you take a photograph of the front of Mr. Nichols'

Mary Jasnowski - Direct
house which shows his yard?

A. Yes.

Q. All right. Or caused someone to take it?

A. Caused it to be taken, yes.

Q. Look at Government's Exhibit 2070, Photograph C. Do you recognize that?

A. Yes.

Q. And does that fairly and accurately depict what you saw in front of Mr. Nichols' house on the day you did the search?

A. Yes.

MS. WILKINSON: Your Honor, we offer 2070, Photograph C.

MR. TIGAR: May I inquire, your Honor?

THE COURT: You may, yes.

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. Hello again, Agent Jasnowski.

A. Hello.

Q. This photograph has been shown to you. How many pictures did you all take of Mr. Nichols' yard?

A. I'm not exactly certain how many pictures there were of the yard.

Q. More than one certainly?

A. Yes.

Q. More than a dozen?

Mary Jasnowski - Voir Dire

A. Possibly not that many.

Q. Half a dozen?

A. Perhaps, yes.

MR. TIGAR: Your Honor, we would ask that all the pictures of Mr. Nichols' yard be introduced if one is to be.

MS. WILKINSON: Your Honor, we have two others available here. I can put those in. I don't know about the other ones that Mr. Tigar is referring to, but I have A and B. I'd be happy to introduce those as well.

MR. TIGAR: I'll consent at the time we present all the pictures. My objection is Rule 106.

THE COURT: Well, they can come in one at a time.

The objection is overruled.

MS. WILKINSON: May we display it to the jury, your Honor?

THE COURT: Yes.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Ms. Jasnowski, this is Government's Exhibit 2070.

A. Yes.

Q. No. C. Tell the jury what they're looking at and from what vantage point this picture was taken.

A. Right. This is looking at the front yard. To the left is the front of the house and to the right is a sidewalk in front of the house. This is looking from the direction of the

Mary Jasnowski - Direct

driveway.

Q. And describe to us what you noticed about Mr. Nichols' front lawn when you looked at it.

A. Well, there is a lot of brown-out, brown area, and dandelions and clumps of grass.

Q. Would it be fair to say he didn't have a nice, smooth, green lawn?

MR. TIGAR: Objection, your Honor.

THE COURT: Sustained.

BY MS. WILKINSON:

Q. Did you tell -- or when you were doing the search of Mr. Nichols' house, did you find any ammonium nitrate?

A. Yes.

Q. And did you find any ammonium nitrate outside of his house?

A. On the front steps, yes.

Q. You told us that you searched Mr. Nichols' trash cans. Is that right?

A. That's correct.

Q. And did you cause a photograph to be taken of those trash cans?

A. Yes, I did.

Q. It's been previously admitted as Government's Exhibit 1778, Photograph 8. Could you please take a look at it.

A. Yes.

Q. And tell the jury what they're seeing.

x. And tell the jury what they're seeing.

Mary Jasnowski - Direct

A. These are the garbage as we found it outside of Mr. Nichols' residence. This is right on the alleyway behind his house, behind the garage.

Q. And you looked through those garbage cans?

A. Yes.

Q. Why did you do that?

A. For any possible evidence they could contain.

Q. Can you take a look in your file folder at Government's Exhibit 352.

A. Yes.

Q. Do you recognize that?

A. Yes, I do.

Q. How do you recognize it?

A. Well, I recognize it by sight and also because of the packaging that was with it.

Q. Where did you find Government's Exhibit 352?

A. I found it inside the garbage can on the right in this picture, not the trash bag but the garbage can.

Q. Did you seize it?

A. Yes, I did.

Q. Why did you seize it?

A. Well, I seized it because it looked to me to be a map.

MS. WILKINSON: Government offers 352, your Honor.

MR. TIGAR: May I inquire, your Honor?

THE COURT: You may.

Mary Jasnowski - Voir Dire

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. Agent Jasnowski, was this piece of paper in another bag, or was it just in the trash?

A. It was just in the trash.

Q. And these trash cans: Are they on the Nichols property?

A. Yes, they are.

Q. How far are they from the public alleyway?

A. Oh, maybe 3 feet, 4 feet.

Q. Is this the sort of a thing that any person could drop into the trash can?

A. It wouldn't be convenient, if you were standing in the alleyway, to put it in.

Q. Are they accessible to anybody?

A. I would imagine.

Q. Is there a vacant lot behind the Nichols residence?

A. Yes, there is.

Q. In fact, it's vacant all the way from the Nichols residence over to the gasoline station over on the next corner, isn't it?

A. If you say so. I wasn't sure how far it went.

Q. Did you stand at the back of the house and look over to the gasoline station on the next corner?

A. I don't recall there being a gas station there, but I did stand in that area.

Q. You don't remember whether it is or not?

Mary Jasnowski - Voir Dire

A. Whether there was a gas station there, no.

Q. As you sit there today, do you have any way of knowing what -- who put that in the trash can?

A. No, I have no way of knowing.

Q. And did your subsequent investigation reveal any fingerprints on the document?

MS. WILKINSON: Objection, your Honor.

THE COURT: Sustained.

MR. TIGAR: Your Honor, we object to it on the grounds of lack of relevance. It's not shown to be connected to the events in the case.

THE COURT: Be received on the basis of its being in the can. Obviously, we don't know who put it there.

352 is received.

MS. WILKINSON: Let me display that for the jury, your Honor.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Agent Jasnowski, tell the jury what they're looking at.

A. Well, they're looking at a map. There are some rectangular-shaped drawings, some straight lines, some numbers on it.

MR. TIGAR: Your Honor, may I object to the characterization of it as a map? It is what it is.

THE COURT: Yes. The word "map" is stricken.

Mary Jasnowski - Direct

Disregard it.

BY MS. WILKINSON:

Q. Just tell the jury what they're actually seeing on the piece of paper.

A. Well, there are lines and figures and numbers.

Q. Okay. And what type of piece of paper is this that these lines and drawings were on?

A. It was on a -- it's -- you can't really see it from the original, but it was like a notebook-type paper.

Q. Did it have lines on the paper?

A. Yes, it did.

Q. And that's --

A. But those aren't the lines that you can see here, no.

Q. The lines you're talking about are lines that you find on a regular piece of notebook paper?

A. Right. Ruled paper.

Q. Here you're talking about lines that seem to be put on by some kind of either pencil or marker or something like that?

A. Yeah. It looked clear to me to be a pen, not a pencil.
Q. And did you look at it when you seized it?
A. Yes, I did.
Q. Now, during your search of Mr. Nichols' house, did you find any coins?
A. Yes, we did.
Q. What type of coins did you find?

Mary Jasnowski - Direct

A. We found numerous silver and gold coins of different varieties. We found Canadian Maple Leafs; U.S. Liberty coins, gold coins; South African Krugerrands.
Q. On most of the coins were there any identifiers on them that could tell you who owned those coins?
A. No.
Q. Now, you've told us that at the end of the search, you had someone take a series of photographs to show the property as you left it. Is that right?
A. Yes. That's correct.
Q. Let me show you Government's Exhibit 1776A. Did you have a photograph taken of the garage?
A. Yes.
Q. Or inside the garage?
A. Yes.
Q. Does this depict what you saw before you left?
A. It's not on my screen.
Q. Oh, I'm sorry.
A. Yes.

MS. WILKINSON: Your Honor, we'd offer Government's Exhibit 1776A.

MR. TIGAR: Your Honor, I think that is a picture that's virtually the same as one that's already in evidence.

MS. WILKINSON: It's not, your Honor. It's as they were leaving.

Mary Jasnowski - Direct

THE COURT: Yes. My understanding is two different times, a photograph was taken. It may be the same scene.

MR. TIGAR: Subject to our earlier discussion, no objection, your Honor.

THE COURT: All right. 1776A is received.

BY MS. WILKINSON:

Q. Now, Ms. Jasnowski, right in front of the photograph is a series of ammo cans. Is that right?
A. That's correct.
Q. And did you notice anything on top of those ammo cans?
A. Yes. There appears to be a cigar box on them.
Q. Could you circle that with your pen, please.
A. Certainly.

Whoops. Sorry.

Q. Could you just indicate for the record the colors of that box?

A. Red and white.

A. Red and white.

Q. Did you and your fellow agents leave that box behind?

A. Yes, we did.

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

THE COURT: Mr. Tigar.

MS. WILKINSON: Oh, I do, your Honor. I'm sorry.

THE COURT: All right.

MS. WILKINSON: I apologize.

Mary Jasnowski - Direct

BY MS. WILKINSON:

Q. Ms. Jasnowski, there were a series of other photographs that you introduced during your first testimony about the furniture that showed the furniture in Mr. Nichols' house, the dining room, the living and the bedrooms. Do you recall those?

A. Yes.

Q. And you took exit photos, I take it, of that same furniture?

A. Yes, we did.

Q. Was there any other furniture in Mr. Nichols' house that wasn't captured on the photographs that you're aware of?

A. Not that I can remember, no.

Q. So that's all the furniture that he had in his house?

A. Yes.

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

THE COURT: Mr. Tigar.

MR. TIGAR: May I stand here for a moment, your Honor?

THE COURT: Yes, you may.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Agent, we're looking at --

MR. TIGAR: This fell out, your Honor.

MS. WILKINSON: Thank you.

MR. TIGAR: I'll return it.

Mary Jasnowski - Cross

Thank you.

BY MR. TIGAR:

Q. We're looking at Government's Exhibit -- do you recall which number?

A. I think that's 2040.

Q. 2040. Now, when you looked at the barrels in the Nichols home, did you make any note for evidentiary purposes of this -- these markings on the bottom?

A. No.

Q. And under your supervision, did anyone make a rubbing of these barrels?

A. Not at that night, no.

Q. Are you aware that a rubbing was made?

A. That's the first time I've heard it.

Q. You did not specifically -- did you know that Agent Cadigan did a rubbing of the barrels?

A. This is the first I've heard of it.

MS. WILKINSON: Your Honor, could we make it clear that she doesn't have any personal knowledge.

THE COURT: She just said so.

BY MR. TIGAR:

Q. Now, will you look, please, at the bottom of the barrel -- if I may bring it up to you.

THE COURT: If you can handle it, yes.

MR. TIGAR: Well, one man can, your Honor.

Mary Jasnowski - Cross

BY MR. TIGAR:

Q. And do you see the marking there that identifies what that's made of?

A. If that's the "HDPE."

Q. Yes. And then above it, there is a number?

A. "2."

Q. And is there a recycling symbol there?

A. Is that a recycling? It could be. I'm not familiar with recycling symbols.

Q. Have you in the course of your daily duties ever looked at the bottom of a container to see what kind of plastic it is, whether it's HDP or what?

A. No, I never have.

Q. Do you recycle?

A. Do I?

Q. Yes.

A. No, I don't.

Q. Okay.

A. I lived in Chicago. We didn't recycle there.

Q. So you don't know what other uses HDP has. Right?

A. No, I have no idea.

Q. Now -- and I gather that this stuff that I now have on me is fingerprint powder; right?

A. I would imagine so, yes.

Q. That is, the pictures we saw of these barrels, they were in

Mary Jasnowski - Cross

what could be described as a pristine white condition. Right?

A. Yes, they were. Yes.

Q. All right. And that's the agents who took charge of the barrels, then, cautioned them to be examined in some way. Right?

A. Yes.

Q. Now, STER-BAC is called a "quaternary ammonium sanitizer." Correct?

A. If that's what it says.

Q. And you have no idea what these barrels were used for in their first incarnation; is that correct?

A. No, that's correct.

Q. Now, you said that a number of these barrels, three of them, I guess, were empty. Is that right?

A. Yes.

Q. And in the fourth was a cardboard box; correct?

A. Yes, that's correct.

Q. Did you take the items out of that box and -- yourself?

A. Yes, I did.

Q. And were you wearing gloves?

A. Yes, I was.

Q. And did you secure them in a fashion that they could then be examined for fingerprints?

A. The items that were in the box?

Q. Yes.

Mary Jasnowski - Cross

A. No, I did not. Not the ones that we didn't seize.

Q. No, no. I'm talking about the items that you've reported to us today, the envelope, the key, the tag, and so on?

A. Oh, yes. Yes, I did.

Q. So they were protected in a way that they could be searched for fingerprints; correct?

A. Yes, they were.

Q. Now, just to be sure, you said you found a pistol. Is that right?

A. Yes.

Q. And you found some other guns, too; right?

A. Yes.

Q. And we've already established that you did not have with you any diagram of the house that had been drawn by Mr. Nichols; correct?

A. That's correct.

Q. And we've also established that you did not have with you the consent form he had signed for the search; correct?

A. That's correct.

Q. Now, that exit photograph that you identified last that I wondered if it was the same one: That was pretty well lit. What time did you all leave that day?

A. It was about 4 a.m. on Sunday morning.

Q. So was that done with flash photography?

A. Yes, but there were also lights in that garage.

Mary Jasnowski - Cross

Q. All right. And what time was that photograph taken, the exit photograph?

A. Approximately 4 a.m.

Q. You noticed a cigar box in the exit photograph, 1717A, that you referred to.

A. Yes.

Q. Did you take a look at the contents of that box on the -- at the time of the original search?

A. I personally did not, but I imagine that someone on the team did.

Q. Well, when you say you imagine

Q. Well, when you say you imagine --

A. Well, because it's moved from the original photograph, so it's obvious that was at least moved during the search.

Q. All right. So what you know is that somebody moved it; correct?

A. Yes.

Q. All right. Can you tell us of your personal knowledge --

A. No.

Q. -- that it was looked at?

A. No, I can't.

Q. Okay. And do you know whether -- did any other agent tell you whether or not they had looked inside it during that search of the evening of the 22d and early morning of the 23d?

A. No, I've never discussed that with anyone.

THE COURT: I believe there was a reference to that as

Mary Jasnowski - Cross

1717A, but it's 1776A. Correct?

MR. TIGAR: Yes. Excuse me, your Honor. Thank you for correcting me.

BY MR. TIGAR:

Q. Now, you said in your direct testimony that you saw ammonium nitrate on the front steps of Mr. Nichols' house; correct?

A. Yes.

Q. How did you know it was ammonium nitrate?

A. Well, I noticed that there were white prills, and I was told that they were ammonium nitrate prills by the -- another person on our team.

Q. When did that person tell you that?

A. That night.

Q. And did that person say where they had gotten the information?

A. Well, he recognized it. I guess he's had experience with them.

Q. Who told you?

A. Supervisory Special Agent Stephen Burmeister.

Q. Mr. Burmeister.

A. Yes.

Q. Now, did Mr. Burmeister -- strike that.

Did anyone tell you that Mr. Nichols had described for the FBI agents what he had put on the yard?

Mary Jasnowski - Cross

A. I heard that. I don't know when I heard that story or that -- that relation of facts.

Q. All right. Well, by "story," you don't mean to demean it?

A. No, exactly right.

Q. So at some point, somebody relayed the information that Mr. Nichols had said that he had ammonium nitrate in his house and he put it on his yard; correct?

A. At some time, yes.

--- -- -- -- --, 1991
Q. Is that the only fact that was relayed to you based on the nine-and-a-half hours that Mr. Nichols had spent with the agents?

A. No. I believe we were told about some cash as well.

Q. All right. Other than those two items, is that the only fact that the agent -- that was relayed to you as you prepared to go search that house on the 22d?

A. As coming from Mr. Nichols.

Q. Yes, as coming from Mr. Nichols.

A. I believe that's the only thing, yes.

Q. And we've established that you had a supervisory role with respect to this team; correct?

A. Yes, I did.

MR. TIGAR: Thank you very much, Agent Jasnowski.

I have nothing further, your Honor.

THE COURT: All right. Ms. Wilkinson.

REDIRECT EXAMINATION

Mary Jasnowski - Redirect

BY MS. WILKINSON:

Q. Agent Jasnowski, you were just asked about what you were told by the agents before you began the search about what Mr. Nichols had said. Were you also told that neighbors had been interviewed about Mr. Nichols' putting ammonium nitrate on his yard?

A. I don't recall when I was told that, no.

Q. You don't know whether that was before the search or after?

A. It could have been before, it could have been after.

Q. And when you got to the search location, Mr. Nichols' house, had his entire house, including the trash cans that you showed us, the garage, been sealed off from public access?

A. Yes, it had.

Q. Do you know when that occurred?

A. I -- I don't know when. I would be speculating.

Q. Did you see police tape in the area?

A. Yes.

Q. Did that include the trash cans and that area?

A. Yes.

Q. Were there guards around the house?

A. Yes.

Q. And they were there before you conducted the search?

A. Yes.

MS. WILKINSON: No further questions.

RE CROSS-EXAMINATION

Mary Jasnowski - Recross

BY MR. TIGAR:

Q. Forgive me if I've asked you this before: Was Scott Crabtree one of agents in the search team?

A. No, he was not.

Q. Did you see him at any time before you did the search on that day?

A. I don't believe I did.

MR. TIGAR: Thank you very much. No further questions.

THE COURT: All right.

MS. WILKINSON: She's dismissed, your Honor. Well, you know what? Let's hold her for re-call just in case.

THE COURT: I'm not going to hold her.

You may be returning.

THE WITNESS: Thank you.

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

THE COURT: You may step down.

Next, please.

MR. MACKEY: We would re-call William Kim West.

THE COURT: All right. If you'll return to the stand under the oath earlier taken.

Ms. Wilkinson.

MS. WILKINSON: Thank you, your Honor.

(William West was re-called.)

DIRECT EXAMINATION

William West - Direct

BY MS. WILKINSON:

Q. Agent West, when you were here last time, you told the jury about some documents that you found in Mr. Nichols' house; is that right?

A. That's correct.

Q. Which room did you find those documents?

A. The room we termed "the storage room."

Q. Where was that storage room located in the house?

A. South of the kitchen next to the driveway.

Q. During that search, did you find and seize other items in that same room?

A. Yes, we did.

Q. Let me show you the diagram Government's Exhibit 2086, which has been previously entered into evidence. Do you see that?

Hold on. It will be with you in a minute.

A. Okay. I see it.

Q. And does it indicate down there at the bottom left-hand corner the storage room that you've just mentioned?

A. Yes, it does.

Q. Did you find firearms in Mr. Nichols' storage room?

A. Yes, I did.

Q. In how many locations in the storage room did you find firearms?

A. Two main locations, and then we found some handguns also in

William West - Direct

a third location in the storage room.

Q. Okay. So when you distinguish between firearms and handguns, are you distinguishing between long rifles and handguns?

A. That's correct.

Q. Now, can you take your pen and mark for the jury the two areas where you found the long rifles?

A. That's supposed to be in the corner.

Q. For the record, can you just indicate where that is in the storage room?

A. Yeah. That's the southeast corner of the storage room.

Q. Do you recall how many long rifles you found in that area?

A. We found seven in that area.

Q. Were they in cases, or were they out in the open?

A. They were in cases, and they were also wrapped in blankets.

Q. And where is the other location in which you found --

MR. WOODS: Your Honor, may it please the Court, we would like the photo taken of each of those locations where the weapons were found.

THE COURT: I don't understand what you're asking.

MR. WOODS: Through the machine, when he makes a mark in there and shows the location of the weapon, we would like a still photograph before he erases it and goes on to the next location.

MS. WILKINSON: I have no objection to that.

William West - Direct

THE COURT: I don't remember the name of the process, either, Mr. Woods.

MR. WOODS: I apologize.

THE COURT: I understand what you're saying now.

MS. WILKINSON: That's no problem. We'll wait for a moment and let it print out.

THE COURT: Right. Assuming it works.

MS. WILKINSON: Can we move on to the next one?

THE COURTROOM DEPUTY: Yes, I hope.

BY MS. WILKINSON:

Q. Mr. West, show us the second location where you found firearms, or the long rifles.

A. In a closet on the southwest side of the room. It would be here.

Q. And do you recall how many firearms you found in that area?

A. Nine firearms.

Q. Now, let me show you Government's Exhibit --

THE COURT: Wait a minute. We want to take a copy of that.

THE COURTROOM DEPUTY: It's got another one?

THE COURT: Yes. There is another mark.

MR. WOODS: Your Honor, if she wants to get all the marks on there and then we take one photo, that's fine. I just didn't want them to erase them before.

THE COURT: No, I understand. I thought you were

William West - Direct

moving to another exhibit.

MS. WILKINSON: I was, your Honor. I was moving to a photograph so this is the right time

photograph, so this is the right time.

MR. WOODS: Thank you.

MS. WILKINSON: May I move on?

THE COURTROOM DEPUTY: No, because I'm processing that first one.

MS. WILKINSON: Okay.

I can elicit some further testimony, your Honor, while we wait.

THE COURT: All right.

BY MS. WILKINSON:

Q. Could you tell the jury, Mr. West, the procedure you used when you found the firearms and how you seized them? What did you do?

A. Well, again, we were wearing gloves to preserve the evidence. We would get a weapon, clear it, make sure it didn't have ammunition in the chamber. I filled out an evidence tag which described -- briefly described the weapon, just what we could read from it, put down the serial number of the weapon. We had a photographer photograph the weapon with the evidence tag, and then we logged it in the evidence recovery log.

Q. Did you date and initial each of those tags that you just described?

A. Each of them were initialed. Some of them had dates on it,

William West - Direct

but the evidence log, of course, had the date, also.

Q. So the evidence log was the master list you used to take -- make a record of what you were taking from Mr. Nichols' house; is that right?

A. That's correct.

Q. Now, have you reviewed some photographs that were taken of the house and showing the firearms before you actually took them into custody?

A. Yes, I have.

MS. WILKINSON: Your Honor, may we proceed with the next exhibit?

THE COURTROOM DEPUTY: What is happening is the markings are too far down on the picture to -- for me to pick up.

THE COURT: Well, we're having a malfunction here. I think we can accomplish the same thing by having another print of it made and the markings put on it.

MR. WOODS: Yes, your Honor.

THE COURT: Is that agreeable?

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

MS. WILKINSON: We can do that at the break.

THE COURT: Yes. That's what I'm suggesting.

MS. WILKINSON: Thank you, your Honor.

THE COURT: Go on. Move on.

BY MS. WILKINSON:

William West - Direct

Q. Let's look at Government's Exhibit 1773, Photograph No. 6.
Do you recognize that?

A. Yes, I do.

Q. What does that show?

A. Those are -- that's a picture of the corner where we took the weapons that are enwrapped in those blankets. They're also in gun cases.

Q. Now, take your pen, would you please, and first mark that blanket there on the left-hand corner. Put an X on it.

Now, using that as a point of relation, can you tell the jury where the firearms' cases are that they can see.

Leave it on there.

There you go. Just don't press that button on the side and the mark will stay.

A. Just hit this -- is this what you want? This is a gun case here.

Q. Yes. Just draw a line so the jury knows where the gun cases are.

A. There is one. There is one. There is one.

And, of course, you can't see all of them.

Q. Because they're underneath the blankets?

A. That's correct.

MR. WOODS: All right. Your Honor, excuse me. Just for clarification, I wasn't asking for a photo of these, just that diagram.

William West - Direct

THE COURT: Yes. I think we've got your request in mind.

BY MS. WILKINSON:

Q. Before coming to court today, Mr. West, did you review the firearms that you seized from this location and from the other locations that you described?

A. Yes, I did.

Q. And could you identify those firearms for the jury?

A. Yes, I can.

MS. WILKINSON: Okay. Your Honor, may the witness step down? The firearms are here on the table.

THE COURT: And if you want to move over, Mr. Woods, you may do so.

MR. WOODS: Yes. Thank you.

MS. WILKINSON: Would you take this off? We need to move that.

BY MS. WILKINSON:

Q. Okay, Agent West. You said you found seven guns in that location. Did we bring some of those into court today?

A. Yes, we did.

Q. I'm going to show you Government's Exhibit 1790. Do you recognize that firearm?

Do you recognize this firearm?

A. Yes, I do.

Q. Can you examine it and tell the jury how you recognize it?

William West - Direct

A. I recognize it. This is one of the guns that we pulled from the blankets. I also filled out this -- this is the evidence card. This is my handwriting.

The W.K.W. is my initials, William K. West.

Q. Did you indicate on there what type of firearm it was?

A. Carl bolt-action rifle.

Q. Where did you get that information from?

A. It's written on the barrel.

Q. So you're not a firearms expert. You just took information from the --

A. That's correct.

Q. -- rifle and put it down on the tag?

A. Right. One of the agents would read it out. I would write it down and also the serial number on the side, and the serial number is on the card.

MS. WILKINSON: Your Honor, we'd offer Government's Exhibit 1790.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. Agent West, do you see a red marking on there, a red dot?

A. Yes, I do.

Q. What does that show?

A. It says 450.

Q. Now, why don't you take Government's Exhibit 1784. Do you

William West - Direct

recognize that firearm?

A. Yes, I do. This is another rifle that was taken from the blankets.

Q. All right. How do you recognize it?

A. Again, this evidence tag is in my handwriting. My initials, W.K.W., are on the tag. The serial number is also on the tag and also on the weapon.

Q. What type of weapon did you mark it down on the label?

A. Okay. Description was Ruger ranch rifle, caliber .223.

MS. WILKINSON: Your Honor, Government offers 1784.

MR. WOODS: May I take the witness on short voir dire?

VOIR DIRE EXAMINATION

BY MR. WOODS:

Q. These red stickers were on the weapons when you found them?

A. On the weapons that they're on now, yes.

Q. And the white description underneath as to the caliber?

A. I do not recall those descriptions in the white.

THE COURT: I'm not sure. Did the reporter get the answer reported?

THE REPORTER: Yes, your Honor.

THE COURT: All right, thank you.

BY MR. WOODS:

Q. The red stickers indicating \$450 was on this weapon when you first found it in the house?

A. That's correct.

A. That's correct.

William West - Voir Dire

MS. WILKINSON: Your Honor, could we refer to the right exhibit? We were trying to introduce this exhibit, and I think Mr. Woods is referring to 1790 instead of the one we were trying to move into evidence.

MR. WOODS: For clarification, your Honor, before all of them come in that he's going to identify here.

BY MR. WOODS:

Q. Do they have a number of red stickers on them, sir?

A. Of the weapons here that we're introducing, I believe four of them have red stickers on them.

MR. WOODS: Thank you, your Honor.

No objection, then.

THE COURT: All right. It's received.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Agent West, so you don't block these jurors' view, why don't you stand on that side and I'll stand on this side and we'll hand them back and forth. Thank you.

I'm going to hand you 1792.

Do you recognize that?

A. Yes, I do.

Q. How do you recognize that?

A. This again is one of the weapons that we took from the blankets. Again, I filled out this evidence tag that says Winchester Model 94, .30-30 caliber, Lone Star Commemorative;

William West - Direct

and again the serial number from the gun is on the evidence tag, and these are my initials.

MS. WILKINSON: Government offers 792 (sic), your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. When you looked at these firearms, Agent West, could you tell who owned these firearms?

A. No, I couldn't.

Q. Let me show you 1802. Do you recognize that rifle?

A. Yes, I do. This again is one of the rifles we took from the blankets. Again, it has the evidence tag in my handwriting and says Marlin .30-30 Winchester and has the serial number and my initials on it.

MS. WILKINSON: Government offers 1802, your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. The next weapon I'm showing you is Government's Exhibit 1782. Was that found within the blankets?

A. No.

Q. Where was that found?

-
A. In the storage area.
Q. The same storage room you were discussing?

William West - Direct

A. Yes, in the same storage room.
Q. How many long rifles did you find in that area?
A. We found nine rifles in the closet area.
Q. Okay. How do you recognize this one?
A. This also has a tag that's in my handwriting, says Ruger Model 10/22 carbine, .22 long-rifle caliber. It's got the serial number, and we described it "collapsible shoulder stock" and my initials.

MS. WILKINSON: Okay. Government offers 1782, your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. Did you also find a gas gun in that area?
A. Yes, I did.
Q. All right. Let me show you Government's Exhibit 1800. Do you recognize that?
A. Yes, I do.
Q. What is it?
A. Again, it has an evidence tag in my handwriting. Description is a Lake Erie Chemical Company 37-millimeter gas gun. Has the serial number on it and my initials.
Q. Do you have any idea what gas guns are used for, Agent West?
A. To shoot tear gas.

William West - Direct

Q. Let me show you Government's Exhibit 1794. Do you know where you found this gun?
A. Yes, I do.
Q. Where did you find it?
A. This also came from the closet area in the storage room.
Q. How do you recognize it?
A. Again, the evidence tag in my handwriting, Ruger Model 10/22 carbine, .22 long-rifle caliber. It's got the serial number, my initials.

MS. WILKINSON: Government offers 1794.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. I'm going to show you 1833. Take a look at that. Do you know where you found that --
A. Yes, I do.
Q. -- firearm? Where?
A. This also came from the closet area in the storage room.
Q. And how do you recognize it?
A. Again, this has an evidence tag on it in my handwriting. Description is E.A. Company, Model J-15, .223 caliber. It's

got the serial number. It's got the description "Tasco scope."
This was found with six 30-round magazines and two 20-round
magazines. This is written with my initials.

MS. WILKINSON: Your Honor, we offer 1793 (sic).

William West - Direct

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. On the other side there on the stock, is there a yellow
tag?

A. Yes.

Q. What does it say?

A. It says "975."

Q. Okay. Let me hand you Government's Exhibit 1798.

A. This one is the next one.

Q. All right. Thank you. I'm sorry.

Show you Government's Exhibit 1812. Do you recognize
that?

A. Yes, I do. This is -- also came from the closet area in
the storage room.

Q. And how do you recognize it?

A. It's got my tag on it. It says Springfield Armory, M1, .30
caliber, has the serial number and my initials.

MS. WILKINSON: Government offers 1812.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. Take a look at this again, 1812. Do you see any price
sticker or red sticker with a number on it?

A. No, I don't.

William West - Direct

Q. Okay. And did you examine these guns before you came to
court today to determine which ones had the red stickers or
yellow stickers?

A. Yes, I did. Yes, I did.

Q. Would you take your seat, please.

You told us that the firearms you've identified so
far
were found in two areas of the storage room?

A. That's correct.

Q. Let me show you Government's Exhibit 1773, Photo 5. Is
that also a photograph of the storage room?

A. Yes, it is.

Q. Tell the jury what they're looking at.

A. That is the picture of the closet area where we found the
nine rifles.

Q. Can you mark for the jury where the rifles are as you found
them.

How were they positioned, for the record, please.

A. They're against each other standing up on the -- I guess

the butts or the rifles are on the ground.

Q. Okay. Let me zoom in on this photograph for a second, if I can.

Do you see that box up there? Kind of a little bit foggy as we zoom in. See the box right there that's upside down?

A. Yes, I do.

William West - Direct

Q. Was that box when you were doing the search of Mr. Nichols' house -- was it there as it's depicted in the photograph?

A. It's just like it's depicted, yes.

Q. Can you read at all, even though it's upside down, what that box says?

A. No, I can't.

Q. Okay. Now, did you find long rifles anywhere else in Mr. Nichols' home?

A. I found long rifles also in the garage area of Mr. Nichols' home.

Q. Where in the garage did you find them?

A. They were up on the -- I guess the north side of the garage. They were over the bathroom.

Q. And is there a photograph --

A. Between the bathroom and roof of the garage.

Q. Is there a photograph that depicts where you found them before you seized them?

A. Yes, there is.

Q. Let me show you Government's Exhibit 2086. Do you recognize this photograph -- oops. Wrong. I'm sorry.

Government's Exhibit 1777. Do you recognize that?

A. Yes, I do.

Q. What does that show?

A. That shows part of the garage, and you see the -- you see the roof -- the roof of the bathroom where the guns were.

William West - Direct

Q. Show with your pen where you're talking about, please.

Now, tell the jury where you found the long rifles.

A. Well, we found the long rifles grouped together on the roof of the bathroom that was built into the garage between the -- between the roof of the bathroom and the roof of the garage under some other items.

Q. I take it, then, you couldn't see them when you first looked in this area; is that right?

A. That's correct.

Q. Did you cause a photograph to be taken of the firearms and their cases when you did remove some of items from this area you just described?

A. Yes, we did.

Q. Let me show you Government's Exhibit 1777B. Do you recognize that photograph?

A. Yes, I do. That's a picture of the rifles as they were on top of the bathroom ceiling after we removed the articles.

top of the bathroom ceiling area we removed the articles.

MS. WILKINSON: Your Honor, I don't believe that's in evidence, but we'd move for the admission, 1777B.

MR. WOODS: No objection, your Honor.

THE COURT: It's received.

BY MS. WILKINSON:

Q. Using your pen, show the jury what they're seeing in this photograph and describe it for them.

A. Well, I'll just circle the -- it's not circling -- but

William West - Direct

these are the guns all together, nine rifles that were on top of the garage -- on top of the bathroom ceiling.

Q. Those are all gun cases?

A. That's correct.

Q. Now, you said you found nine rifles in that area?

A. Nine rifles over the bathroom; correct.

Q. Did any of those nine rifles have the price stickers or the red or yellow stickers with numbers on them?

A. No, they didn't.

Q. Would you step down so you could identify those firearms.

MS. WILKINSON: Your Honor, to make this a little quicker, perhaps Mr. Woods would agree that they could lay the foundation for all nine firearms, move them in and show them to the jury.

MR. WOODS: Whatever is most convenient.

THE COURT: All right.

MS. WILKINSON: Thank you.

BY MS. WILKINSON:

Q. Now, on these firearms that you're going to show the jury, did you follow the same procedures in terms of tagging them and putting your initials on as you described earlier?

A. Yes, I did.

Q. And do you recognize all these firearms?

A. Yes, I do.

MS. WILKINSON: Okay. Government's Exhibit 1798 we'd

William West - Direct

move for admission, your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. Tell the jury what type of firearm is this.

A. It's an Inland M1 carbine. It's .30 caliber.

Q. This was in a case when you found it?

A. That's correct.

Q. Okay.

MS. WILKINSON: Your Honor, we'd move for the admission of 1806.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. What type of firearm is that?

A. It's a Mossberg shotgun. It says Mossberg pump shotgun, Model 500AB, 12-gauge with pistol grip.

Q. So it's a pistol grip shotgun?

A. Correct.

MS. WILKINSON: Your Honor, we'd move for the admission of 1780.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. Tell the jury what type of firearm that is, Mr. West.

William West - Direct

A. It's a Ruger Mini-14, .223 caliber, stainless steel.

Q. Did it have this flash hider on it when you found it?

A. Yes, it did.

Q. You can put that down.

MS. WILKINSON: Your Honor, we'd offer 1814.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. Tell the jury what type of rifle that is.

A. It's a Ruger Mini-14, .223, stainless steel.

Q. And was that flash hider on it when you found it?

A. Yes, it was.

MS. WILKINSON: We'd offer 1786, your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. Tell the jury what type of firearm that is, Mr. West.

A. This is a Remington Model 700, .30-06 caliber.

Q. Was this carved -- hand-carved sling -- or the sling that's on it, on it when you found it in Mr. Nichols' house?

A. Yes, it was.

MS. WILKINSON: Your Honor, we'd move for the admission of Government's Exhibit 1796.

MR. WOODS: No objection.

THE COURT: Received.

William West - Direct

BY MS. WILKINSON:

Q. Mr. West, what type of rifle is that?

A. It's a Winchester Model 1200 Defender, 12-gauge shotgun.

Q. Can you hand me the next one there.

Thanks. Hold on to it for a second.

MS. WILKINSON: Your Honor, we'd move for the admission of 1804.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. Was this also in that overhead storage area that you described for the jury?

A. Yes, it was.

Q. What type of firearm is it?

A. Ruger 14, .223 caliber with a collapsible stock.

Q. It was in that condition when you found it, meaning it had the collapsible stock and the pistol grip?

A. Yes, ma'am.

Q. Can you read off next one, just read the Government exhibit number.

A. Exhibit No. 1810.

MS. WILKINSON: Your Honor, we'd move for the admission of 1810.

MR. WOODS: No objection.

THE COURT: Received.

William West - Direct

BY MS. WILKINSON:

Q. What type of rifle is that, Mr. West?

A. It's a Remington Model 700, .308 caliber, with a Tasco scope.

Q. And the final weapon you found?

A. No. 1788.

MS. WILKINSON: Government offers 1788.

MR. WOODS: No objection.

THE COURT: Received.

BY MS. WILKINSON:

Q. What type of weapon is 1788, Mr. West?

A. Iver Johnson, .30 caliber, M1 carbine.

Q. Put it down and take your seat.

Mr. West, during your search of Mr. Nichols' house, did you also find ammunition?

A. Yes, we did.

MS. WILKINSON: Would you hand that to me, please.

BY MS. WILKINSON:

Q. I'm showing you what's been marked Government's Exhibit 1863. Did you see this in Mr. Nichols' house?

A. Yes, I did.

Q. Where was it?

A. They have -- he had storage cabinets in the storage room of his house. This was in the upper left-hand storage cabinet.

Q. Okay. So if we went back to your diagram of the first

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floor, Government's Exhibit 2086, could you show the jury approximately where that -- that ammo can was stored and describe it for the record?

A. These are storage -- doors to storage cabinets, I guess. It's not a very good drawing; but on the upper left one, which would be this one -- opened up and there was a compartment where you could store things.

Q. That's where you found that exhibit?

A. That's correct.

Q. Government's Exhibit 1863? Do you recognize that?

A. Yes, I do.

A. Yes, I do.

Q. Could you open it up and look inside, please.

Do you see there are sub markings, 1863A, B, C, and D?

A. Yes, I do. This is 1863A, 1863C, and 8 -- 1863D.

Q. 1863 -- is A, B, C and D all up there, or are you missing one?

A. Here's 1863B.

Q. Okay. Was all that ammunition in that ammunition can when you found it in Mr. Nichols' house?

A. Yes, it was, although this was not in this condition.

Q. Which exhibit are you referring to?

A. 1863B.

Q. So you didn't pull that bullet apart, did you?

A. No, ma'am.

Q. But other than that, was this all in the same condition as

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when you found it?

A. Yes, ma'am.

Q. Do you recognize the ammunition can?

A. Yes, I do.

Q. How do you recognize it?

A. I put this evidence tape on it, and I have my initials on the evidence tape.

MS. WILKINSON: Your Honor, Government offers 1863, 1863A, B, C and D.

MR. WOODS: No objection.

THE COURT: They are received.

BY MS. WILKINSON:

Q. Agent West, can you tell the jury what type of ammunition that is that you found in there that's in the plastic bags.

Look at 1863A, B, C and D.

A. Okay. 1863A is .30-06 ammunition rifle -- for a .30-06 ammunition (sic).

Q. Are the other -- the other ammunition: Is it the same type?

A. No. 1863C is not marked.

Q. Okay. Is it marked -- is there a stamp on that bag?

A. On the bag, it says "L C 308," and .308 is a caliber of rifle that we -- one of which was in the group.

Q. You can put that back into the ammunition can, please.

I just have two more questions for you, Agent West.

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Did you find other guns in Mr. Nichols' house that you haven't introduced today?

A. Yes, I did.

Q. And I showed you, I think, on the computer -- and I want to try it on the ELMO -- that photograph, Government's Exhibit 1773, No. 5, which shows the firearms and the cardboard box that's upside down. Do you see that?

A. Yes, I do.

Q. And does that photograph help you at all? Can you read that box?

A. It's type -- the upper word is "tripod."

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

THE COURT: Well, we're at 1:00, so I assume you're going to have some questions, Mr. Woods.

MR. WOODS: Several, your Honor.

THE COURT: All right. Well, we'll have you back on Monday, Agent West. You can step down.

And, members of the jury, we hope to have you back on Monday as well. And we'll excuse you from now until then; and like I said last week, you know, it's going to seem like a short time to you, as I guess it probably did, but it always seems like a long time to me because I always worry about jurors during recesses, not that I don't trust you but just for the possibility that something might come to your attention.

And of course, as I told you before, I think, if it should happen that you inadvertently come across something that may relate to the case or in some fashion relate to the witnesses or anything in connection with the trial, I ask of you that you simply write a note to me about that without discussing it or sharing it with other jurors, not that I anticipate that it would happen, but I just want to make sure that you know the rules here so that in case it does occur, you know what to do about it.

And again, please be cautious and careful to avoid

anything as you read, see, or hear anything on radio, television, newspapers, magazines, books, or whatever, to stay away from things that could possibly in any way relate to the subject matter of this trial and improperly influence your opinion; and of course, keep open minds and avoid discussion of the case with all other persons, including jurors.

And we'll expect to resume at 8:45 on Monday morning. You're excused until then. We hope you have a pleasant weekend.

(Jury out at 1:02 p.m.)

THE COURT: Is there an agreement that these physical exhibits can be kept in the custody of the Government?

MR. WOODS: Sure, your Honor. I'm sure you don't want them here.

THE COURT: No. I have a hearing here this afternoon. I don't want to arm the advocates.

MS. WILKINSON: We'll take custody of them, your Honor, and keep them throughout the trial.

MR. TIGAR: Rambo litigation tactics, your Honor.

With the Government's consent, we're offering for demonstrative purposes only transcripts of the tape excerpts that were played yesterday, and I'll read off the numbers.

THE COURT: You mentioned that. Go ahead.

MR. TIGAR: D411A, D412A, D413A, D416A, D417A, D418A, D419A, D420A, D421A, D426A, D429A, D433A, D443A, D444A, D445A, D450A, D459A, D460A, D461A, D462A.

May I inquire of Mr. Zuckerman whether I read those slowly enough for him?

THE REPORTER: Yes, sir.

THE COURT: And they're being received but not to be sent to the jury.

MR. TIGAR: That's correct, your Honor. Just for demonstrative purposes.

MR. MACKEY: That's our understanding.

MR. TIGAR: In addition, your Honor, we move the admission of D566, which is the video excerpt we played yesterday that did not heretofore have an exhibit number.

MR. MACKEY: No objection.

THE COURT: It's also received then.

MR. TIGAR: We thank your Honor.

THE COURT: Okay. We'll -- the trial will be in recess, then, till Monday morning, 8:45.

Court is in recess till 3:00.

(Recess at 1:05 p.m.)

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Exhibit	Offered	Received	Refused	Reserved	Withdrawn
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1863	8798	8798			
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1871	8746	8746			
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DEFENDANT'S EXHIBITS (continued)

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D566	8801	8801			

* * * * *

REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 14th day of November, 1997.

Paul Zuckerman

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