



MR. MACKEY: Good morning, your Honor. Thank you.

We

would call at this time, Mr. Bob Chowdhury.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Mesbah Chowdhury affirmed.)

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

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

THE WITNESS: Mesbah Chowdhury, C-H-O-W-D-H-U-R-Y.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Goelman.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Good morning, Mr. Chowdhury.

A. Good morning.

Q. Where are you from originally?

A. Originally from Bangladesh.

Q. When did you come to the United States?

A. 19 -- August, 1979.

Q. Did you go to school in America?

A. Yes.

Q. Where did you go?

Mesbah Chowdhury - Direct

A. First I went to University of -- Indiana college in Indiana, Franklin College in Indiana, when I came to America.

Q. And did you also get married and raise a family here?

A. Yes.

Q. At some point, Mr. Chowdhury, did you purchase the Sunset Motel in Grandview Plaza, Kansas?

A. Right.

Q. Where is Grandview Plaza?

A. It's same town in Junction City. It's about 2 mile east of Junction City.

Q. It's right next door to Junction City?

A. Right, yeah.

Q. When did you purchase the Sunset?

A. 1993. March 15.

Q. And were you also the manager of the Sunset?

A. Right.

Q. When did you start becoming the manager of the Sunset?

A. Same time, when I took over.

Q. What was your responsibilities as owner and manager of the Sunset?

A. I used to take care of customer, management, take care of the maid and supervise the whole thing.

Q. And where did you live at that time?

A. Premises, right behind the front desk. I had a apartment right behind the front desk.

Mesbah Chowdhury - Direct

Q. And when a guest came in to the front desk to register, would there be a procedure that you followed every time?

A. Yes.

Q. What would that procedure be?

A. When we tried to check, we gave the registration card, they signed in, ID, how many days they're going to stay. We go from there.

Q. What would you do when you checked their identification?

A. I beg your pardon?

Q. What kind of ID would you require?

A. We check driver's license, picture ID.

Q. Why would you do that?

A. Make sure the address and all the information is correct.

Q. Would you always check guests' identification?

A. Most of the time. Unless we know somebody.

Q. Okay. And once you knew a guest, what would you do?

A. Usually then we don't check this that much.

Q. Usually you don't --

A. No.

Q. -- demand a identification then? Do you also have a daily log that you file?

A. Right, yes.

Q. What was the purpose of that?

A. That, we keep it all day the people checked in the motel. We keep the record for the whole day, all 24 hours' record.

Mesbah Chowdhury - Direct

Q. And what would that record include, what kind of information?

A. Their name and how many days they going to stay, when they going to check out and their unit number.

Q. Would the room number they stayed in be on that?

A. Room number, yes.

Q. Mr. Chowdhury, do you have a folder in front of you up there?

A. No, I don't see it.

MR. GOELMAN: It's 'cause it's not there.

BY MR. GOELMAN:

Q. Could you look in there and see if you can find the following exhibits, and I'm going to read off a bunch of them, okay?

A. Okay.

Q. 211.

A. Yes.

Q. 215.

A. Yes.

Q. Okay. Mr. Chowdhury, you should be looking at the exhibits, not just the list of exhibits.

A. Oh, okay.

Q. The actual exhibits up there.

1756.

A. Which one you want me to look at?

Mesbah Chowdhury - Direct

Q. First start with 211. They should be in order up there.

A. I don't see it. I'm not getting it. Are you talking about this paper right here?

Q. No, that's the list.

MR. GOELMAN: Your Honor, may I approach?

THE COURT: Yes.

THE WITNESS: Oh. Sorry about that.

BY MR. GOELMAN:

Q. That's okay. That's 211. These are all the rest of them.

A. Okay. Thanks.

Q. Could you examine all of those exhibits that are on your desk now, Mr. Chowdhury. There should be 211, 215.

A. Yes.

Q. 1756.

You know, Mr. Chowdhury, why don't you look at your

screen and we'll just do it this way, okay?

Mr. Chowdhury, you see the screen underneath your --

A. Uh-huh.

Q. We'll just bring them up there, okay?

A. Okay.

Q. I'm showing you 211 now. I'm showing you 215 now.

A. No, it didn't come. It's coming now.

Q. I just want to take a look and see if you recognize these.

A. Yeah.

Q. I'll show you 1758. I'll show you 1759. 1760, 1756, 1763.

Mesbah Chowdhury - Direct

1761, 1757. So altogether, that should have been 211, 215, and 1756 through 1763. Do you recognize all those documents as business records of the Sunset Motel?

A. Yes, that's correct.

MR. GOELMAN: We'd move to admit 211, 215, and then 1756 through 1763.

MR. TIGAR: May I confer with counsel for a moment?

THE COURT: Yes, go ahead.

MR. TIGAR: I think we can expedite this.

No objection, your Honor.

THE COURT: All right. They're received, 211, 215, 1756 through 1763.

MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Mr. Chowdhury, do you know a man named Terry Nichols?

A. Yes, his name is here. I beg your pardon?

Q. Do you know a man named Terry Nichols?

A. Yes.

Q. How do you know him?

A. Because he was my guest and he stayed at the motel.

Q. You've had a lot of guests at the Sunset over the years, haven't you?

A. Yes.

Q. How do you specifically remember Terry Nichols?

A. He came and paid the rate, and I stopped and I talked to

Mesbah Chowdhury - Direct

him a little bit; and he's always asking for a good rate to stay there. That's why he came.

Q. Did he stay at the Sunset for some number of weeks in 1994 and 1995?

A. Right, he stayed there about three or four weeks.

Q. Do you see Mr. Nichols anywhere in court?

A. Yeah, right there.

Q. Could you point him out, identify by an article of clothing?

A. Right there in the middle.

MR. TIGAR: The identification is conceded, your Honor. They know each other.

THE COURT: Thank you.

BY MR. GOELMAN:

Q. When did you first meet the defendant, Mr. Chowdhury?

A. I think one day he came and paid the rent and he talked to me and see if he could get a better -- he wanted to stay by the week and he wants a better rate, and I gave him a better rate.

Q. Was that early in 1994?

A. I think so, yeah.

Q. When did you last see the defendant?

A. I don't remember. I think somewhere in '95.

Q. Somewhere in 1995?

A. Right.

Q. I want to show you what's been admitted 1756. And is that

Mesbah Chowdhury - Direct

a registration card for Mr. Nichols?

A. Right, that's correct.

Q. How long is this for?

A. This one he paid for one night. He checked in on March 2 and supposed to check out on March 3.

Q. Okay. I want to show you 1763. Is this also for one night?

A. No, that one he paid by the week.

MR. GOELMAN: Kathi, could I get that on the jury's screen?

BY MR. GOELMAN:

Q. Okay. This one is for a week, Mr. Chowdhury?

A. Right.

Q. How do we know that?

A. Because first he paid on the 3d and supposed to check out on the 10. Then he extended from another week. This was from 10 to 17. So this card he stayed two weeks.

Q. And this was back in March of 1994?

A. Right; that's correct.

Q. Mr. Chowdhury, do you know Tim McVeigh?

A. No.

Q. Have you reviewed your motel records to determine if Tim McVeigh was registered at all in your motel in December of 1994?

A. Yeah, he did.

Mesbah Chowdhury - Direct

Q. Okay. I want to show you what's already been admitted as Government 215. And do you recognize that?

A. Which room number is that?

Q. Well, that's just the whole daily log, I think.

THE COURTROOM DEPUTY: 215, is that up on yours?

MR. GOELMAN: Sorry?

THE COURTROOM DEPUTY: That wasn't part of your list.

It wasn't admitted.

THE COURT: 215 was admitted.

THE WITNESS: Yeah, I see his name here.

BY MR. GOELMAN:

Q. Do you know what date this was for?

A. This is for 12-16-94.

Q. Tim McVeigh was registered in the Sunset on December 16, 1994?

A. Right.

Q. Have you also reviewed your records to see if Tim McVeigh was ever registered at the Sunset Motel for a longer period of time?

A. No, I don't see it here.

Q. Okay. But have you seen registration cards in Mr. McVeigh's name for a week-long stay?

A. No, I do not.

Q. Okay. I want you to take a look at 1758.

A. Yes. I see it here.

Mesbah Chowdhury - Direct

Q. Is that also a registration card in the name of Tim McVeigh?

A. Yes.

Q. And how long did he stay on that occasion?

A. First he paid for one night, and then he change it to a whole week.

Q. When is the beginning of his stay there?

A. One -- I think January, 19, '95.

Q. January 19, 1995?

A. Right.

Q. And when did he leave?

A. And he left on . . . supposed to leave on the 20th. Then he extended. Look like he stayed here close to one month, up to 1-27-95, checked out.

Q. 1-19 to 1-27-95?

A. Right.

Q. Is that closer to one week?

A. Yeah, almost. First day he paid by the day. That would take him to 20th. Then from 20th, he went and paid for another week

WEEK.

Q. He extended?

A. To 27th.

MR. GOELMAN: Your Honor, the parties have reached a stipulation that the handwriting on the customer portion of this document is Mr. Tim McVeigh's.

Mesbah Chowdhury - Direct

MR. WOODS: Yes, your Honor, that's our stipulation.

THE COURT: Which document are we on?

MR. GOELMAN: 1758, your Honor.

THE COURT: Okay. It's been agreed 1758, the handwriting portion is that of Timothy McVeigh.

BY MR. GOELMAN:

Q. Mr. Chowdhury, can you see from this document what room Mr. McVeigh stayed in from January 19 to January 27, 1995?

A. Look like 32. First he checked in 56 and moved to 32.

Q. So on the 19th he checked into Room 56?

A. Right, and then he changed it to 32.

MR. GOELMAN: Your Honor, I'd ask the Court to read a stipulation agreed by the parties, Factual Stipulation 17. Contained in a letter of 10-13-97.

THE COURT: Concerning January 20?

MR. GOELMAN: Yes, your Honor.

THE COURT: All right. Members of the jury, there has been an agreement here on the following facts: That "on the evening of January 20, 1995, at approximately 8:05 p.m., Terry Lynn Nichols was driving in Grandview Plaza, Kansas, when he was stopped by Sergeant Randall McGaw of the Grandview Plaza Police Department. Sergeant McGaw issued a ticket to Terry Nichols for having a defective left headlight on the 1984 GMC pickup truck he was driving. In response to Sergeant McGaw's question, Terry Nichols gave his address Room 56 at the Sunset

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Motel in Grandview Plaza, Kansas. Terry Nichols was polite and cooperative during his encounter with Sergeant McGaw. Terry Nichols had the defective headlight fixed within 24 hours and the ticket issued to him was then voided.

"Government Exhibit 1900 is a copy of the summons issued to Terry L. Nichols on the night of January 20, 1995. It lists Terry Nichols' address as Room 56, Sunset Motel, Grandview Plaza Kansas, and bears the signature of Terry Lynn Nichols."

Has this been agreed?

MR. WOODS: Yes, that has been our stipulation.

Sergeant McGaw is not available as a witness.

THE COURT: All right.

MR. GOELMAN: Thank you, your Honor. We would move to admit 1900.

MR. TIGAR: No objection, your Honor.

THE COURT: And it's received pursuant to the stipulation.

MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Mr. Chowdhury, do you have any independent recollection of whether Terry Lynn Nichols was staying with Tim McVeigh for a week in January 1995 at the Sunset?

A. No.

Q. You testified that you last saw Mr. Nichols in 1995; is

Mesbah Chowdhury - Direct

that right?

A. Right.

Q. I want you to take a look at Government Exhibit 1759 and tell me what information that reflects.

A. That was February 3, 1995, he checked in for the week.

Q. So he checked in on February 3?

A. Right.

Q. And how long did he stay there?

A. 10, February 10, 1995, checked out there.

Q. Okay. I'm going to show what's been admitted as Government 1760 now, and tell me what dates that reflects for Mr. Nichols' stay.

A. That's February 12, 1995, to February 16, 1995.

Q. Now, I want to show you page 13 of Government Exhibit 1888.

Do you see any calls to the Sunset Motel on February 12, 1995, on 2-12?

A. Yes, I see, uh-huh.

Q. Do you see five calls there?

A. Uh-huh.

Q. And what was the number of the Sunset Motel in February 1995?

A. 238-4181 and Area Code 913.

Q. Can you tell where these five calls came from, Mr. Chowdhury?

A. Let me see. Say from Hilltop Motel.

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Q. Where?

A. Kingsman (sic), Arizona.

Q. Do you have any idea of the identity of any of the registered guests at the Hilltop Motel in Kingman, Arizona, on February 12, 1995?

A. I don't see it here.

Q. Excuse me?

A. I don't see it here.

Q. And you don't know from your own independent knowledge?

A. No.

MR. GOELMAN: Your Honor, I'd ask the Court now to read Factual Stipulation No. 11, which applies to Government 1903.

THE COURT: All right. "It's been agreed that



Government Exhibit 1903 is a guest registration card in the name of Tim McVeigh from the Hilltop Motel in Kingman, Arizona, for a period of time beginning on February 12, 1995."

Been agreed?

MR. WOODS: Yes, your Honor, that is our agreement.

MR. GOELMAN: Your Honor, I'd move to admit Government 1903.

THE COURT: I take it there's no objection since it's stipulated.

MR. WOODS: No.

THE COURT: Received.

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MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Can you read the name on this registration card, Mr. Chowdhury? I know it's not one of your business records.

A. It's Tim McVeigh.

Q. I want to show you page 14 from Government Exhibit 1888 now and have you look at phone calls on February 13, 1995.

A. Yes.

Q. Do you see any calls to your motel on that date?

A. Right. Uh-huh. Let me see. Yeah, top one.

Q. How many?

A. One, two I see here.

Q. And are they also from the Hilltop Motel in Kingman, Arizona?

A. Correct. Correct.

Q. Mr. Chowdhury, you've indicated that the usual practice of the Sunset Motel was to ask each guest for identification; is that right?

A. Most of the time.

Q. Do you know for a fact whether or not you always asked Mr. Nichols for identification?

A. First time when he checked in, yeah.

Q. After that, the first time that he checked in in February, 1994 -- or March, 1994, on subsequent trips did you ask him?

A. I don't remember. I don't think so. Once we know the

Mesbah Chowdhury - Direct

customer, then we usually don't ask second time and third time.

Q. Did Mr. Nichols ever tell you that he wanted to stay at the Sunset, but that he wanted to use a different name for himself at the Sunset?

A. No.

Q. Did Mr. Nichols ever fill out a registration name -- registration card in a name other than his own?

A. One time I think he rented room for his friend.

Q. Okay. And who was working at the desk at that time?

A. Me.

Q. You were?

A. Right.

A. Right.

Q. Okay. Will you please tell the ladies and gentlemen of the jury about that time that Mr. Nichols filled out a registration card for a friend.

A. Yes. Yeah, he did.

Q. Okay. Tell us about that time. What do you remember about that?

A. I don't remember the exact time, but he rented a room for his friend.

Q. What did he say to you?

A. He say his friend is coming to stay so he needs a room, so he -- I think he sign his name plus paid for it, paid for the room.

Q. He signed his friend's name?

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A. Right.

Q. Do you remember -- you said Mr. Nichols paid for the room?

A. Yeah.

Q. Do you remember if Mr. Nichols took the key to the room?

A. Yes.

Q. And do you remember if this friend of Mr. Nichols ever came into the office of the Sunset?

A. I didn't see him.

Q. Do you remember seeing this friend anywhere at the motel?

A. No.

Q. Okay. Do you know what the exact date was, Mr. Chowdhury, from your own memory?

A. No.

Q. I want you to take a look at Government's 1757.

Tell me if you recognize that as a registration from the Sunset Motel?

A. Yeah, that is Sunset Motel registration card.

Q. Whose handwriting is that down at the bottom?

A. That's mine.

Q. And did you recognize the handwriting on the rest of the registration card?

A. No.

MR. GOELMAN: Your Honor, the parties have reached a stipulation on handwriting that the customer information on this card is the handwriting of Mr. Terry Lynn Nichols.

Mesbah Chowdhury - Direct

MR. WOODS: Yes, your Honor, that is our stipulation.

THE COURT: All right. Then that is accepted as agreed fact.

BY MR. GOELMAN:

Q. Mr. Chowdhury, what date did Mr. Nichols check in under a name that was not his own?

A. I don't see his name here.

Q. Right. What date is this registration card?

A. Oh. That registration is 11-5, 1994.

O. And do you know anyone named Joe Kvale?

A. No, sir.

Q. Do you know if that's even a real person?

A. No.

Q. Do you know whether or not there is a road in Lum, Michigan, called Decker?

A. No.

Q. Now, after you gave Mr. Nichols the room key and he paid for the room for his friend?

A. Right, that's what he told me.

Q. Did Mr. Nichols tell you where he was planning on meeting this friend?

A. No.

Q. Do you know where Terry Nichols himself stayed on the night that he reserved a room for his friend?

A. I have no idea.

Mesbah Chowdhury - Direct

Q. Before coming to court, have you reviewed your registration cards from the night of November 5, 1994?

A. Right.

Q. And did you find any registration card in the name of Terry Nichols himself that night?

A. No.

Q. Did you also look to find any registration card in the name of Ted Parker?

A. I tried, but there is no name.

Q. Did you also look for the names "Terry Havens," "Joe Havens," "Mike Havens," and "Daryl Bridges"?

A. No.

Q. Did you look for these names?

A. Yeah, I did.

Q. And did you find them?

A. No.

Q. And you said you don't remember what time Mr. Nichols asked to check in for a friend?

A. No.

Q. Do you know how long it takes to drive from Royal, Arkansas, to Junction City, Kansas?

A. I don't know.

Q. I have one final exhibit that I want to show, Mr. Chowdhury. It's Government Exhibit 1764. It's not yet in evidence. Now, have you reviewed Government Exhibit 1764 and

Mesbah Chowdhury - Direct

compared the information contained on it with the information from the registration cards from the Sunset Motel?

A. Uh-huh.

Q. And does the information in Government Exhibit 1764 accurately reflect the information contained in all your different business records?

A. This is for what? Westloop? That's in Kansas?

Q. Mr. Chowdhury, did you compare the information on the registration cards with the information on this chart?

A. Yes, I did.

Q. And is it the same information?

A. Right.

MR. GOELMAN: Move to admit Government 1764, your Honor.

MR. TIGAR: For demonstrative purposes, no objection, your Honor.

THE COURT: I take it --

MR. GOELMAN: Yes, that's what it's offered for, your Honor.

THE COURT: All right. It's received for the limited purpose stated.

BY MR. GOELMAN:

Q. Okay. Mr. Chowdhury, when Terry Nichols stayed at the Sunset back in March 1994, what name did he register under?

A. Terry Nichols.

Mesbah Chowdhury - Direct

Q. And when he stayed at the Sunset those four times in 1995, February, March, 1995, what name did he use?

A. Same name, Terry Nichols.

Q. And on November 5, 1994 --

MR. TIGAR: Objection, your Honor, asked and answered.

THE COURT: Overruled. This is demonstrative.

BY MR. GOELMAN:

Q. On November 5, 1994, what name did Terry Nichols put down on the registration card that he filled out?

A. About his friend's name?

Q. Right.

A. Yeah, that's a different name.

Q. What name is it?

A. I don't see it here. Joe Kyle.

MR. GOELMAN: Thank you. I have nothing further, your Honor.

THE COURT: All right.

Any questions?

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good morning, Mr. Chowdhury.

A. Good morning.

Q. My name is Michael Tigar. I'm one of the lawyers that's been appointed to help out Terry Nichols here.

Can you help me, sir, with a little bit how you keep

Mesbah Chowdhury - Cross

your records at the motel. Do you have a time stamp for the time that people arrive?

A. No, sir.

Q. Okay. And when you -- we saw that sheet that's your daily

sheet?

A. Right.

Q. And you list there room by room; is that correct?

A. Yeah, that we make the following day, like everybody checks in the motel, who stay for that day. We write down everybody's name for 24 hours.

Q. Oh. So you take all the cards from the previous day?

A. Especially the people check out, we don't put their name there. Only the people that's going to stay next or is staying by the week, you'll see those name there.

Q. I see. And do you remember what time Mr. Nichols came in on the 5th of November?

A. I don't remember exact time.

Q. Okay. Do you remember whether it was daylight or dark or anything?

Not at all. You see a lot of people, don't you?

A. He's been long time. It's hard to keep track.

Q. Okay. You mentioned that the -- you manage the entire motel; is that right?

A. Yeah.

Q. And you also manage the maid service; correct?

Mesbah Chowdhury - Cross

A. Right.

Q. Now, when -- the rooms are cleaned each day?

A. Yes. Well, not the weekly people. The weekly people we give them like twice-a-week service. Most of the daily people, they get service every day.

Q. When the person in the motel -- when the maid that's cleaning the room is cleaning it, do you instruct her to -- or him -- to wipe down all of the surfaces and dust thoroughly and so on, to make the room presentable for the next guest?

A. Yeah, that's their duty, yeah.

Q. And in your experience, is that something that's standard in well-run motels like yours; that is, that the person is supposed to get the room clean and wipe off all of those surfaces so that you get a clean room for the next person that's there?

A. Right.

MR. GOELMAN: Objection, foundation, your Honor.

THE COURT: Overruled.

BY MR. TIGAR:

Q. You can answer. Is that your experience?

A. Can you repeat that question again, please.

Q. Yeah. Is it your experience in the motel industry that that's the right thing to do --

A. Right.

Q. -- that is, to wipe down those surfaces and clean it for

Mesbah Chowdhury - Cross

the next guest?

A. Right.

Q. Now, you were shown some telephone records. Do you

Q. Now, you were shown some telephone records. Do you remember looking at those five telephone calls?

A. Uh-huh.

Q. Did you happen to notice whether or not any of those calls were completed? That is, how long the people talked, did you happen to notice that on the exhibit?

A. Usually our phone, we don't keep it. It's call computerized. The computer give you the time and stuff.

Q. I'm talking about -- remember you were shown a little while ago a list of telephone calls -- I'm sorry?

A. I didn't pay attention to the time.

MR. TIGAR: Thank you very much, sir, I appreciate your help.

THE COURT: Anything else of this witness?

MR. GOELMAN: No, your Honor.

THE COURT: All right. May he be excused, then, agreed?

MR. GOELMAN: Yes, your Honor.

MR. TIGAR: Yes, your Honor.

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

THE WITNESS: Thank you.

THE COURT: Next, please.

MR. MACKEY: Yes, your Honor. We'll call FBI Agent

Mesbah Chowdhury - Cross

Gary Witt.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Gary Witt affirmed.)

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

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

THE WITNESS: It's Gary C. Witt, W-I-T-T.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Ryan.

MR. RYAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. RYAN:

Q. Mr. Witt, you're an agent with the FBI?

A. Yes, I am.

Q. Are you married?

A. Yes, I am.

Q. Children?

A. Two.

Q. How long have you been with the Federal Bureau of Investigation?

A. 27 years.

Q. And what office are you currently assigned?

A. To the Kansas City division in Kansas City, Missouri.

Q. What do your duties at this time include?

Gary Witt - Direct

A. At this time I'm working domestic terrorism cases along

with some civil rights matters.

Q. Now, did you at some point in time in the year 1994 -- excuse me, 1995 or thereafter participate in certain roles in connection with the Oklahoma City bombing investigation?

A. I did.

Q. And did one of those roles take you to Royal, Arkansas?

A. It did.

Q. Were you asked to go to the residence of Roger Moore?

A. Yes, I was.

Q. Where is that located?

A. Approximately 6, 7 miles west of Hot Springs, Arkansas, on State Highway 270.

Q. And were you also asked to go to a location that was provided to you where his van was reportedly stashed following a reported armed robbery?

A. Yes, I was.

Q. And generally speaking, where was that location in connection to either Mr. Moore's residence or to Royal, Arkansas?

A. It was in a very secluded area off a narrow graveled roadway. It was a side road. It was tree-choked, brush-lined area.

Q. Now, are you familiar with the Sunset Motel in Junction City, Kansas, or Grandview Plaza?

Gary Witt - Direct

A. I am.

Q. And tell us your familiarity with that motel.

A. It's on a road, a frontage road to I -- Interstate 70. It's Flint Hills Boulevard. It would be an area of probably 2 to 3 miles west of Junction City proper in this small township of Grandview Plaza.

Q. Now, let me show you what has been received in evidence as Exhibit 1757.

You see that?

A. Yes, I do.

Q. You see the date of this registration?

A. I'd have to get my glasses here.

Yes, I do.

Q. What is that?

A. 11-5-94.

Q. And did that date correspond with the date you had been provided for the reported armed robbery of Roger Moore?

A. It does.

Q. And did you have occasion to -- or were you asked by the FBI to determine the distance, both mileage and driving time, between the place in which the Roger Moore's van was reportedly stashed and the Sunset Motel?

A. Yes.

Q. And did you do that?

A. Yes.

Gary Witt - Direct

Q. And when did you do that?

A. On September 6, 1997.

Q. And tell us about how you went about that task.

A. Well, I started from the point of where the van was recovered, then followed the roadways to 270 west. Do you wish me to trace the route I followed?

Q. If we're going to do that, let me show you what is not in evidence as Exhibit 1899 and ask you if you can identify that.

A. Yes.

Q. What is that?

A. It's a map depicting parts of the states of Arkansas, Oklahoma, and Kansas, which also includes the cities of Royal, Arkansas, and Junction City, Arkansas (sic).

MR. RYAN: Your Honor, United States would offer Exhibit 1899.

THE COURT: Did you mean Junction City, Arkansas?

THE WITNESS: Excuse me. I do not. I mean Junction City, Kansas.

MR. TIGAR: May I inquire, your Honor?

THE COURT: Yes, you may.

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. Agent Witt, my name is Michael Tigar. I'm one of the lawyers appointed to help Mr. Nichols.

In addition to this map, there are some numbers over

Gary Witt - Voir Dire

on the side. Do you see that, sir? The total distance, total time?

A. Yes.

Q. All right. And you're prepared to tell us today how that distance and time was computed?

A. Yes.

Q. Is that one of the things you're expected to do?

A. That's my understanding.

MR. TIGAR: On that understanding, your Honor, no objection.

THE COURT: All right. 17 --

THE COURTROOM DEPUTY: 18.

MR. TIGAR: 1899.

THE COURT: 1899 -- thank you -- is received.

MR. RYAN: Thank you, your Honor.

DIRECT EXAMINATION CONTINUED

BY MR. RYAN:

Q. Agent Witt, if you would, the map is a little bright, so if you would take the pen that's on your desk there. Do you see the black pen?

A. Yes.

Q. Place it under your desk and directly on the screen. Place the marker where you began, approximately where you began near Royal, Arkansas.

A. Yes.



Gary Witt - Direct

THE COURTROOM DEPUTY: I'll change the color.

BY MR. RYAN:

Q. And could you show us how you drove from the distance where the van was to the Sunset Motel in Grandview Plaza.

A. Okay. I proceeded west on Arkansas Highway 270 to the junction of Arkansas Highway 71 and followed that north towards Ft. Smith. Upon approaching Ft. Smith, there was a bypass, Interstate 540. I took that northbound to I-40, followed I-40 west through -- into Oklahoma to the Muskogee Turnpike, followed that turnpike to Tulsa, through Tulsa, and proceeded westbound to the Cimarron Turnpike, at that point to 177 where I -- through Ponca City, Oklahoma, and then northbound. That became Highway 77, Arkansas City, continued northbound on 77, El Dorado, Marion, Herington, past Geary Lake, to I-70, proceeded east on 70 to the Sunset Motel, which was Exit 300, a short distance on 70, and then hit the frontage road and went back westbound to the Sunset Motel on Flint Hills Boulevard.

Q. Why did you select this particular route that you described to the jury?

A. I -- according to -- I consulted a Rand McNally, and it appeared to be the most direct route.

Q. And how long did it take you to drive the -- from this location in Royal, Arkansas, to Grandview Plaza, Sunset Motel?

A. Approximately 9 1/2 hours. 9 hours and 36 minutes to be exact.

Gary Witt - Direct

Q. And how many stops did you make along the way?

A. Three.

Q. And how much -- what was the mileage between Royal, Arkansas, and the Sunset Motel?

A. 518 miles, approximately.

Q. If a person were to leave Royal, Arkansas, at 11:00 a.m. on (sic) the morning, would they have sufficient time, according to your calculation, to reach the Sunset Motel the same day?

A. Absolutely.

Q. Now, are you familiar with the location of Kent, Ohio?

A. Yes, I am.

MR. RYAN: We're finished with this exhibit, thank you.

BY MR. RYAN:

Q. And where is it located, generally?

A. It's just outside of Akron, north and east of Akron, which is in northeast Ohio.

Q. And were you also asked by the FBI to consult a mileage map, a Rand McNally map, and determine what the distance would be from Royal, Arkansas, to Kent, Ohio?

A. Yes.

Q. And what did you determine that to be?

MR. TIGAR: Excuse me, your Honor. Object to him telling us on a map that's not in evidence.

MR. RYAN: I think he's free under 803(17).

Gary Witt - Direct

THE COURT: You can calculate, but is this distance calculated according to a map?

MR. RYAN: Yes, your Honor.

THE COURT: We ought to know what map.

BY MR. RYAN:

Q. What map did you consult?

A. 1997 Rand McNally Road Atlas.

Q. Mr. Witt, what was the mileage, according to the 1997 Rand McNally Road Map from Royal, Arkansas, to Kent, Ohio?

A. Royal, Arkansas, to Kent, Ohio, just over 900 miles, 909, 910. 909 is what I came up with.

MR. RYAN: Now, your Honor, we would ask at this time that stipulation with respect to, that's dated October 18, 1997, with respect to Mr. McVeigh in a gun show in the nights --

THE COURT: What number is that?

MR. RYAN: I can hand it to you -- your Honor, I don't have a number on it.

THE COURT: Well, I have them by number.

MR. RYAN: Excuse me, 21.

THE COURT: Okay. It's been stipulated, agreed, and therefore we accept that "Timothy J. McVeigh was at the Niles Gun Show outside Akron, Ohio, on Saturday, November 5, 1994. Akron, Ohio, is approximately 235 miles from Lockport, New York.

Gary Witt - Direct

"Timothy McVeigh was a registered guest that weekend at the Knight's Inn Motel in Kent, Ohio, a nearby city to Akron."

That was agreed.

MR. WOODS: Yes, that is our stipulation, your Honor.

THE COURT: All right.

MR. RYAN: Thank you, your Honor.

BY MR. RYAN:

Q. At some point, Mr. Witt, were you also asked to go to the storage shed at Industrial Park in Herington, Kansas?

A. I was.

Q. And when were you asked to do that?

A. October 22, 1997.

Q. And which storage shed were you asked to look at?

A. Storage Space No. 2 at the Mini Storage Shed Partnership in Herington, Kansas.

Q. And how did you gain access to that storage shed?

A. I first consulted the bookkeeper, Helen Mitchell, to identify the current renter of that space; and then we in turn got in touch with that renter, and she gave us access to that space, voluntarily.

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

A. The renter, Marilyn McMillan, unlocked the space, and I inspected the interior of that space.

Q. And what did you observe on the floor?

Gary Witt - Direct

A. Observed these three semicircle patterns, rust-colored, that were in direct line with each other across the width of that space.

Q. I'm going to show you what's been admitted into evidence as Exhibit 2054.

Can you see that?

A. Yes.

Q. Can you tell us what we're looking at there on the floor or what you observed.

A. That replicates exactly what I observed. These patterns were partially obliterated, but at least half of them were apparent. The outline was slightly irregular, but it was a rust-colored demarcation in those three places.

Q. What did you do with respect to these three semicircles that you saw on the floor of the shed?

A. I measured dimensions of each of them.

Q. And tell us about how you went about measuring these semicircles.

A. Used just a contractor's grade tape, and I came up with dimension of 22 1/2 inches for -- which was identical for each of them. But it was difficult getting a precise measurement because the lines were not precise. They were -- they just were irregular, but that was approximate.

Q. Now, following the measurements at the Herington shed, were you asked to go to VP Racing Fuels?

Gary Witt - Direct

A. Yes.

Q. What were you asked to do there?

A. At the VP Racing Fuel in Manhattan, I measured a standard barrel that was labeled blue barrel nitromethane racing fuel.

Q. Let me show you what's been marked as Exhibit 2097. It's been admitted into evidence. Do you see that?

A. Yes.

Q. How does that compare with what you viewed at VP Racing Fuels?

A. It's exactly the same.

Q. What did you do with respect to this barrel of nitromethane at VP Racing Fuels?

A. I measured the outside and inside dimensions of the barrel to determine the diameter, as well as the height of that barrel from rim top to bottom rim.

Q. And what did your measurements reveal?

A. With respect to the outside measurements, on the diameter, I came up with 23 inches. The inside measurements were 22 3/8

inches, and the height of that barrel was 34 3/8 inches.

MP DVM - 11/11/11 - 11/11/11

MR. RYAN: Thank you, Mr. Witt.

THE COURT: Mr. Tigar.

MR. TIGAR: Is he done?

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Hello, again, Agent.

Gary Witt - Cross

A. Hello.

Q. When were you assigned to calculate the mileage from this place in Royal, Arkansas, to Junction City?

A. I accomplished it on September 6. I probably had the assignment a few days before that, maybe a week.

Q. And when you went to Royal, Arkansas, did someone show you the place where you were to start your journey?

A. Yes.

Q. Who showed you?

A. An FBI agent from the Hot Springs resident agency of the FBI.

Q. And what was that person's name?

A. Mark Jessie.

Q. And did you meet with Mr. Moore?

A. No, I did not.

Q. Did you meet with Ms. Anderson?

A. I did not.

Q. Did you meet Mrs. Moore?

A. No, I did not.

Q. Did Mr. Jessie describe for you the individual that Roger Moore said he had confronted on the morning of November the 5th, 1994?

A. He did not.

Q. Did you review the 302's to determine what the description of that person was?

Gary Witt - Cross

A. I did not.

Q. Did you know from any source that the person Mr. Moore had described was 6 feet tall, 185 pounds, bearded and smelly?

A. I did not know that.

Q. Did you have any of those details?

A. No, I did not.

Q. Now, you testified that the -- you also made a calculation of the distance from that location there to someplace in Ohio; correct?

A. Yes.

Q. And you were able to do that by using a Rand McNally map; is that correct?

A. Yes, the mileage charts on the Rand McNally map.

Q. Now, are you also familiar with a CD-ROM that you can buy for 29.95 that will tell you the mileage from anyplace in America to any other place in America?

A. I understand there's one available. I'm not that familiar with it.

... 10.

Q. Why is it that the FBI decided to take two days of your time to have you drive the distance to calculate, as opposed to buying the 29.95 CD-ROM?

MR. RYAN: Objection, your Honor.

THE COURT: Yes, you're talking about two different things.

BY MR. TIGAR:

Gary Witt - Cross

Q. Agent Witt, are you aware that -- from your knowledge that it's possible to buy a map, a CD-ROM map that would permit you to calculate the distance from Royal, Arkansas, to Junction City?

A. I understand there's such an item available.

Q. All right. And can you -- do you have any understanding as to why the FBI asked you to drive the distance rather than use the CD-ROM?

A. I do not know that.

Q. What kind of a vehicle did you drive it in?

A. A 1997 Mercury Grand Marquis.

Q. And do you have any -- did you have any information that Mr. Nichols ever owned a Mercury Marquis?

A. No, I did not.

Q. Now, you stated that you took the -- a couple of turnpikes; is that right?

A. Correct.

Q. The Muskogee and the Cherokee?

A. Cimarron.

Q. Cimarron. And are those toll roads?

A. Yes.

Q. Are there tollbooths along there?

A. Yes.

Q. Are those tollbooths manned by people?

A. Yes.

Gary Witt - Cross

Q. Did you stop, try to ask whether or not they kept any records of the vehicles of any kind -- of the vehicles passing through their tollbooths?

A. No, I did not.

Q. Do you know if anyone else from the FBI attempted to obtain any records as to who had passed through those tollbooths?

A. I'm not aware of that.

Q. Do you know of any kind of security cameras or other security systems that exist, if they do, on any of the toll roads?

A. I'm not personally aware of that.

Q. Now, you say that the drive took you about 9 hours and 36 minutes; is that correct?

A. Correct, yes.

Q. And you started at about what time in the morning?

A. Close to 10:30. 10:20 something. Close to 10:30.

Q. And why did you select that time?

A. I understood that it approximated the time of maybe departure from that area by the robbery suspect.

Q. And other than being shown a location by Agent Jessie and asking to start at a particular time, did you review any other records concerning this episode?

A. I did not.

Q. Now, you also stated that you had gone to the storage shed in Herington, Kansas; correct?

Gary Witt - Cross

A. Yes, sir.

Q. And that is a storage shed rented -- do you understand had been rented in the name of Shawn Rivers?

A. I understood that.

Q. And did you know who Shawn Rivers was?

A. I had a belief who he was.

Q. Well, you've looked -- you know from the handwriting on the storage agreement and from other investigation --

A. Right.

Q. -- that that's Tim McVeigh; right?

A. Yes.

Q. Now, you stated that you had measured the circles that are on the floor of the shed; correct?

A. Yes.

Q. And you stated that the -- that they were somewhat irregular; is that right?

A. The border, the out -- the borders, yes, they were --

Q. Now, when you say "irregular," do you mean that the -- there was not a rust pattern for the full diameter of whatever it is that had rested there?

A. There was a --

Q. Is that what you mean by "irregular"?

A. No. I mean just like the border area, the rim area of that particular semicircular pattern, which was at least half of that circle, was intact, was apparent. But I'm just talking

Gary Witt - Cross

about the edges of that outline. The edges is what I'm talking about that was -- that were not precise, it was not --

Q. How wide a mark did this rust pattern leave on the floor?

A. How wide? Approximately, probably 5/8 of an inch.

Q. 5/8 of an inch in width?

A. The rim, the so-called rim area.

Q. Uh-huh. And you said that the -- that what you measured was 22 1/2 inches; is that correct?

A. That's correct.

Q. Now, did you --

A. Approximate.

Q. Now, did you measure center to center or edge to edge?

A. Edge to edge, inside measurements.

Q. The inside measurements?

A. Correct.

Q. And from the inside measurement of 22 1/2 to the outside was 5/8 of an inch?

A. Yes. Approximately.

Q. Now, what is --

A. Approximately.

Q. What is 2 1/2 plus 5/8?

A. That would be 23 1/8.

Q. And the outer edge of the barrels that you saw was 23; is that correct?

A. Yes.

Gary Witt - Cross

Q. So you're testifying that the outer edge of the mark that you saw was 23 1/8?

A. Approximately. Again because the borders were not that precise.

Q. Now, when you went to do these measurements, did you happen also to take the measurements of the shed itself?

A. I did the length, the length of that shed. The width, I can't recall if I did the width.

Q. Well --

A. 'Cause I understood it had been done before, so I did not make detailed measurements of the interior.

Q. How far from the door of the shed was the closest edge of the rust mark that you saw?

A. 3 feet 6 1/2 inches.

Q. All right. And how far from the edge of the circle that's farthest away from the door was the rear chipboard wall of the shed?

A. 4 feet 7 1/2 inches is what I recall.

Q. And you took those measurements, yourself; right?

A. Yes, I did.

Q. So those -- and you took those with the same carpenter's tape that you used to measure the circles themselves; right?

A. Yes.

Q. Now, in relationship to the door of the shed --

A. Yes.

Gary Witt - Cross

Q. -- you say that these were 3-foot --

A. -- 6 1/2. It varied. It graduated each barrel -- 3 feet 6 1/2 to 3 feet 7 1/2.

Q. Now, if I were to stand in the door of that shed and look and if I were to walk directly towards the rear wall --

A. Yes.

Q. -- would I encounter one of those rust marks?

A. Yes, you would.

Q. That's because the barrels are offset; that is to say, there seemed to be two of them over close to what would be the left-hand side as you go and one over towards the right-hand side; is that what you observed?

A. Yes.

A. Yes.

Q. Now, when you went to VP Racing Fuels to measure these barrels, did you meet with Mr. Tipton?

A. Yes, I did.

Q. And in your discussion with Mr. Tipton, did you talk about -- with him -- the way in which rust develops on the rims of their barrels?

A. I did not.

Q. Did you discuss with him what use -- how often VP Racing Fuels uses their barrels before they discard them?

A. Yes, I did.

Q. And did you find out from him -- this was before you made your -- was it before you made your measurements or afterwards?

Gary Witt - Cross

A. It was after. After.

Q. And did you observe some barrels at VP Racing Fuels that had rusted areas on the top?

A. I did not.

Q. Did you discuss with Mr. Tipton whether or not VP Racing Fuel barrels that are in actual use have the -- a rust formation on either their top or bottom surface?

A. I did not have that discussion with him.

Q. Did you examine the VP Racing Fuel warehouse?

A. No. I did not.

Q. Did you see anyplace where barrels were being stored there?

A. I did not.

Q. So you did not have an opportunity to observe whether or not VP Racing barrels are stored, in their facility, in a place where they would make marks on the ground; is that fair to say?

A. That's fair to say.

Q. And did Mr. Tipton then also tell you what VP Racing Fuel does with barrels when they have reached the end of their useful life so far as VP Racing Fuel is concerned?

A. He did.

Q. Pardon?

A. He did.

Q. And he told you they sent them out to a place where they're sold to the public; correct?

A. No, in totality. He has other avenues that he follows.

Gary Witt - Cross

Q. One of the avenues that he has is that he releases these things out to a place that sells them to the public; right?

A. When they're badly damaged, caved in and no longer have any functional use; correct.

MR. TIGAR: Thank you very much. I have no further questions.

MR. RYAN: One further question, your Honor.

THE COURT: All right. Witness excused?

MR. RYAN: One further question, your Honor.

THE COURT: Okay.

REDIRECT EXAMINATION



BY MR. RYAN:

Q. Are these metal barrels at VP Racing Fuels?

A. Absolutely.

MR. RYAN: That's all I have.

MR. WOODS: I'm sorry, your Honor. We were talking and we didn't hear the question.

THE COURT: Were they metal barrels for the racing fuel, and the answer was yes.

MR. TIGAR: Thank you, your Honor.

RE-CROSS-EXAMINATION

BY MR. TIGAR:

Q. Did you conduct any tests at the location in Herington, Kansas, to determine when those marks were put on there?

A. I did not.

Gary Witt - Recross

Q. And are you aware of any tests that were conducted?

A. I'm not aware of any.

MR. TIGAR: No further questions.

MR. RYAN: No further questions.

THE COURT: Is the agent excused, or is he going to be back?

MR. RYAN: He is excused.

MR. TIGAR: Excused.

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

MR. MACKEY: We call Cheryl Smith.

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

(Cheryl Smith affirmed.)

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

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

THE WITNESS: Cheryl K. Smith, S-M-I-T-H.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Ryan.

MR. RYAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. RYAN:

Q. Good morning.

A. Good morning.

Cheryl Smith - Direct

Q. How are you?

A. Okay.

Q. Miss Smith, where do you live?

A. Manhattan, Kansas.

Q. What do you do there?

A. I own and operate a Mail Boxes Etc store.

Q. Are you married?

A. Yes.

Q. Children?

A. Two.

Q. Now, tell the members of the jury what Mail Boxes Etc. is.

A. It's a franchise where we package and ship things UPS, through the post office, through freight. We also have private mailboxes for citizens to come in and rent to get their mail or receive packages there. We do faxing. Several different types of services like that, copies.

Q. And when did you begin your business, Mail Boxes Etc., in Manhattan, Kansas?

A. In December 1993.

Q. And is Mail Boxes Etc. located in a mall?

A. It's in a shopping center.

Q. And what do you call -- how is that shopping center referred to?

A. Westloop Shopping Center.

Q. Did there come a time, point in time that you rented a

Cheryl Smith - Direct

mailbox to Terry Nichols?

A. Yes.

Q. Describe for the jury what happened with respect to the renting of that mailbox.

A. He just came in one morning and filled out two different forms, one for us and one that's required by the post office; and he showed us two forms of identification, driver's license and a passport, with his name and his signature on them, and we rented him a box.

Q. Did you handle that transaction, yourself?

A. Yes, I did.

Q. Let me show you what's been marked for identification as Exhibit 1920. Do you see this document?

A. Yes.

Q. Is this a business record of yours?

A. Yes, it is.

Q. What is this document?

A. That's the Mail Boxes service agreement with us personally, basically stating that they have to pay their box rent in advance and pay for COD things and what they can and can't use the mailbox for.

Q. This agreement is between you and which customer?

A. Terry Nichols.

MR. RYAN: Your Honor, we would offer Exhibit 1920.

MR. TIGAR: No objection, your Honor.

Cheryl Smith - Direct

THE COURT: 1920 received.

BY MR. RYAN:

Q. Now, explain -- I don't know how easy it is for the jury to see this document, but can you take that pen that's on your desk there and circle the name of the customer, or circle --

A. There we go.

Q. And the name placed there on the form is what?

Q. And the name placed there on the form is what?

A. Terry Nichols.

Q. What address is given, Miss Smith?

A. It's hard to read it on here.

THE COURT: Perhaps the document itself would be easier.

MR. RYAN: Yes, your Honor.

THE WITNESS: Okay. It's 3616 North Van Dyke Road, in Decker, Michigan.

BY MR. RYAN:

Q. We'll make it easier on you. I'll give you some documents here.

A. Okay.

Q. Does that make it a little easier for you to read?

A. Yes.

Q. Again, what is the address provided?

A. It's 3616 North Van Dyke Road in Decker, Michigan.

Q. Now, were you provided with a home phone number?

A. No.

Cheryl Smith - Direct

Q. Or work phone number?

A. No.

Q. Now, what essentially is the purpose of this document? What's its function?

A. It just basically states the rules for use of the mailbox, things like CODs have to be paid in advance. The payment for the use of the box has to be paid in advance.

Q. Which box was Mr. Nichols assigned?

A. 197.

Q. Had that -- how long had you been in existence at the time of this document?

THE COURT: Has she been in existence?

BY MR. RYAN:

Q. How old are you, Miss Smith?

A. 36.

Q. What year did you tell us your business began?

A. In 1993.

Q. And what is the date of this agreement?

A. October 24, 1994.

Q. So approximately how long had Mail Boxes Etc. in Manhattan been in existence prior to this agreement with Mr. Nichols?

A. Not quite a year.

Q. Had Box 197, the box you assigned to Mr. Nichols, been previously assigned to a customer?

A. No.

Cheryl Smith - Direct

Q. Now, let me show you what's been marked for identification purposes as Exhibit 2033. And you might look through that folder on your desk there for perhaps a more legible copy. 2033. It's the postal agreement.

-----  
A. Okay.

Q. Now, can you tell us what Exhibit 2033 is?

A. It's PS Form 1583, which is an application for delivery of mail through an agent. So we're the agent.

Q. And with whom is this agreement entered?

A. It's with Terry Nichols.

Q. And is this a business record of Mail Boxes EtcÄÄ?

A. Yes, it is.

MR. RYAN: Your Honor, we would offer Exhibit 2033.

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

THE COURT: All right. 2033 is received.

BY MR. RYAN:

Q. Miss Smith, did you have a custom and practice with respect to what you told customers when they appeared to open a mailbox at Mail Boxes EtcÄÄ?

A. Yes.

Q. What was your custom and practice?

A. We usually, the first thing we usually do is ask them if they want to use it for business reasons or personal reasons. Because on the form, there are several boxes that you do not

Cheryl Smith - Direct

need to fill out that are asking for the name of a business or a name of a corporation that do not need to be filled out if you're just using it for personal reasons.

Q. And do you do that for every customer?

A. Yes.

Q. And did you do that for Terry Nichols?

A. Yes.

Q. This mailbox agreement: Is it dated the same date as the initial agreement between you and Mr. Nichols?

A. Yes.

Q. And that date again is October 24, 1994.

Now, do we have more zoomed version of this document, for the jury?

Okay. Could you tell us what information -- again, I

know this is hard to read, so feel free to use the original document there -- but tell us what information was supplied by Mr. Nichols on this document.

A. His name and his address is the part that he filled in. And then we actually look at the two forms of identification that they're required to show us.

Q. According to this document, was this mailbox opened for personal reasons, or for business reasons?

A. It looks like it's for personal reasons.

Q. And how do you know that?

A. Because he put -- when he filled out -- for the name of a

Cheryl Smith - Direct

firm or corporation or the business address, he put not

applicable, or "NA."

MR. RYAN: Your Honor, the parties have reached a stipulation with respect to both Exhibit 1920 and 2033 that these are in fact the handwriting of Terry Nichols.

MR. WOODS: Yes, your Honor. That is our stipulation.

THE COURT: All right. We accept that agreement.

BY MR. RYAN:

Q. Now, what is the -- looking at this document here, we see some information with respect to a -- what is that -- a Michigan driver's license?

A. Yes.

Q. And what is the other form of identification?

A. U.S. passport.

Q. What was provided by Mr. Nichols on this date for you to verify this information?

A. He actually had to show me his driver's license and his passport.

Q. And did he do that?

A. Yes, he did.

Q. Now, let me show you what's been marked for identification -- excuse me. This is actually in evidence, Exhibit 1818. Can you -- I know it's a little difficult, but can you read the numbers of the driver's license?

A. It's 2427 -- it's hard to see actually on the driver's

Cheryl Smith - Direct

license; but on the form here, I wrote 9. 56, and the next number's difficult to read, but I wrote 4, 258.

Q. Does it appear that the number that's provided on this driver's license is the same number provided on your mailbox form?

A. Yes. Yes.

Q. Now, you see in this photograph of Mr. Nichols he is wearing glasses and has a beard. Do you see that?

A. Yes.

Q. Now, were you also, in addition to this driver's license, provided with a passport?

A. Yes, I was.

Q. Now, let me show you what has not been admitted but what has been marked as Exhibit 2029 for identification purposes. Do you see that?

A. Yes, I do.

Q. Can you read the identification number off of this passport? Don't do it, but can you?

A. Yes, I can.

MR. RYAN: Your Honor, we would offer the picture page of Mr. Nichols' passport as Exhibit 2029.

MR. TIGAR: No objection, your Honor.

THE COURT: All right. 2029 is received, may be shown.

BY MR. RYAN:

Cheryl Smith - Direct

Q. Now, if you would, Miss Smith, would you compare the number on Mr. Nichols' passport photograph to the number that was provided to you with respect to the postal form.

A. It's the same.

Q. And you see in this photograph Mr. Nichols has no glasses and no beard.

A. Correct.

Q. Now, do you recall on October 24, 1994, which -- or how Mr. Nichols appeared at that time?

A. I couldn't be for sure.

Q. Did he have glasses?

A. I couldn't be for sure.

Q. Did he have a beard?

A. I couldn't be for sure.

Q. Okay. When did you next see or talk to Mr. Terry Nichols?

A. It was just a few days later.

Q. And tell us what that was about.

A. He came in and asked if he could pay for an additional three months and get the one month free, because we have a policy that if you rent for three months at a time, you don't get any extra months; but if you rent for six months, you get the seventh month free. And if you rent for a year, you get three months after that year is up for free. You don't have to pay for those months. And he came in and asked if he could get

the month free if he went ahead and paid for the extra three

Cheryl Smith - Direct

months that would require the six months in advance.

Q. What did you tell Mr. Nichols?

A. We said that would be fine.

Q. Any further conversation take place that day?

A. He asked if he could -- if we would forward mail to him because he wasn't permanently in Manhattan at that time.

Q. The only address you'd received from him was the Michigan address?

A. Correct.

Q. All right. What did you tell him about that?

A. We just asked him, you know, if he was -- if he had planned on being in our area, and he said he had planned on being in that area. But he didn't have a permanent place to live yet.

Q. Did he provide with you an address for you to forward mail at that time?

A. No.

Q. When did you --

A. He took our business card at that time and left a \$20 deposit to forward the mail, because according to the agreement, at the top it says that any mail that comes to our business cannot be forwarded by filling a typical form at the post office, just to forward your personal mail from your house to another house if you move. So he would have to -- we would have to put in a new envelope, put new postage on it, and readdress it to the forwarding place

readdress it to the forwarding place.

Cheryl Smith - Direct

Q. Did there come another time that you spoke to Mr. Nichols?

A. Yes.

Q. Would you tell us about that.

A. He called us on the phone. He called me -- I was the person that answered the phone -- and asked if we would go ahead and forward his mail that day. And that was in November.

Q. Did he provide you with an address?

A. Yes, he did.

Q. I'm going to show you now what's been marked for identification as Exhibit 1887. It's not in evidence.

A. Okay.

Q. Can you identify this document?

A. Yes, I can.

Q. What is this document?

A. It's my handwriting that the -- the note that I took while I was on the phone with him. I wrote down his name, the address where he wanted us to forward it to.

MR. RYAN: Your Honor, Government would offer Exhibit 1887.

MR. TIGAR: No objection, your Honor.

THE COURT: 1887 received, may be shown.

BY MR. RYAN:

Q. And again, Miss Smith, would you tell the jury what this document reflects.

A. It reflects the address where I forwarded his mail to and

Cheryl Smith - Direct

that it does show that he did have a \$20 deposit. And I subtracted the \$2.90 that priority mail was at that time to forward his mail with.

Q. Now, did there come a point in time when Mr. Nichols advised you and your people in your business that he wanted to use Box 197 there at Mail Boxes Etc. for another name besides his own?

A. He didn't advise us that he was using it for another name besides his own, but he said it was okay for another person to receive mail there.

Q. I'm sorry. Say again what he said.

A. That it was okay -- we asked him if it -- we got mail from someone for that address, the 1228 Westloop, No. 197, with another name besides his on that piece of mail. And we held it back and put a note in his box; and when he got the note, he came up and asked us for the package. Our little notes that we put in there says, "You received an oversize package." So if a package doesn't fit in the box, you have to come up to the counter for us -- to ask to actually hand you the box. Well, it was just an envelope, but because it didn't have his name on it, we put a note in the box. He brought the note to the counter, and we asked him if it was okay for that person to receive mail in his box.

Q. Now, was this the only instance that you received mail for Mr. Nichols' box, 197, in a name other than his own?

Cheryl Smith - Direct

A. No.

Q. Do you recall how many times that occurred?

A. I don't recall.

Q. Now, let me show you what's been marked as Exhibit 1957. Can you see this document?

A. Yes.

Q. Can you identify that for us?

A. It's one of the pieces of mail that came to our address with his box number on it that did not have his name on it.

MR. RYAN: Your Honor, we'd offer Exhibit 1957.

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

THE COURT: 1957 is received.

BY MR. RYAN:

Q. Would you give us what -- or read for us, please, Miss Smith, what the address label on this document shows.

A. It's addressed to the name of Joe Rivers, 1228 Westloop, No. 197, Manhattan, Kansas.

Q. And is this the name that was on the package that you were telling us about earlier?

A. Yes, it is.

THE COURT: Well, you said, "package."

Didn't you say, "envelope"?

THE WITNESS: I don't remember receiving any packages, but it was an envelope.

MR. RYAN: All right. Thank you, your Honor.

Cheryl Smith - Direct

THE WITNESS: Several envelopes.

MR. RYAN: Thank you, your Honor.

BY MR. RYAN:

Q. Now, let me show you what has not been admitted but has been marked as Exhibit 1892.

And can you identify this photograph for us?

A. Yes. That is our store.

MR. RYAN: Your Honor, Government would offer Exhibit 1892.

MR. TIGAR: No objection, your Honor.

THE COURT: Received. May be shown.

BY MR. RYAN:

Q. This is your business in Manhattan, Kansas?

A. Yes, it is.

Q. As it appeared in 1994?

A. Yes.

Q. Now, let me also show you what's been marked for identification as Exhibit 1891. And what are we looking at in this photograph?

A. It's the Waters True Value Hardware store.

Q. Can you identify that?



A. Yes.

Q. Is this how Waters True Value Hardware appeared in 1994?

A. Yes.

MR. RYAN: Your Honor, Government would offer Exhibit

Cheryl Smith - Direct

1891.

MR. TIGAR: No objection.

THE COURT: Received, 1891.

BY MR. RYAN:

Q. Can you see a pay phone in this photograph?

A. Yes, I can.

Q. Would you take your marker and circle it for the jury, please.

Approximately what is the distance from this Waters True Value Hardware to your place of business, Mailboxes EtcÄÄ?

A. Well, it's directly across the parking lot, which is probably about 200 yards.

Q. Now, let me show you what's been marked as Exhibit 1893.

If you'd click on the side of that pen, it will erase that mark. And can you identify this photograph?

A. Yes.

Q. What is it?

A. It's a view from -- it's taken right outside of Little Caesar's Pizza, which is right next to us. And there's a driveway between us, of our store and all the way across the parking lot. You can sort of see behind the trees Waters True Value.

MR. RYAN: Your Honor, Government would offer Exhibit 1893.

MR. TIGAR: No objection, your Honor.

Cheryl Smith - Direct

THE COURT: Received.

BY MR. RYAN:

Q. All right. Now, if you would, would you place -- take the pen there and place an X where Waters True Value is.

We can see a little white sign there, just to the left of your X. Can you make that out?

A. I can see "W-A-T."

Q. Okay. And if we could see the rest of it, it would say what?

A. "Waters True Value Hardware."

Q. Now, let me show you what's been marked -- not marked but received in evidence as Exhibit 1888, a series of phone calls for November 6 and 7.

Now, can you see that?

A. Yes.

Q. Now, do you see any calls there with a name "Waters True Value"?

A. Yes, I do.

Q. And would you circle those for us

Q. And would you circle those for us.

And you see one more there on the right-hand side, bottom?

A. Oh.

Q. All right, now, if we could turn to November 7, the following day -- you can erase those marks. You see any calls involving Waters True Value on this day?

Cheryl Smith - Direct

A. Yes.

Q. Would you circle those for us.

A. Whoops.

Q. Now, again, how far did you tell us the Waters True Value was from your store, ma'am, at Mail Boxes EtcÄÄ?

A. It's just about 200 yards straight across the parking lot.

MR. RYAN: Thank you. No further questions, your Honor.

THE COURT: Mr. Tigar.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good morning, Mrs. Smith.

A. Good morning.

Q. My name is Michael Tigar. I'm one of the lawyers appointed to help Terry Nichols in this case.

Are you nervous?

A. Yes.

Q. Well, this -- I just want to ask you a few questions about your business there and about your dealings with Mr. Nichols, and it won't take long.

Now, you rented this box to Mr. Nichols in October of '94; is that correct?

A. That's correct.

Q. And then along about the 15th of November, you got a phone call from him; right?

Cheryl Smith - Cross

A. Correct.

Q. And did he say where he was calling from?

A. No, he did not.

Q. Okay. And -- but you wrote down that address on Nordic Lights in Las Vegas, Nevada, and he said forward his mail there; right?

A. Correct.

Q. Now, how long a time -- and that -- let me go back a little bit.

Your business: It has advantages over a post office box that one would have at the Postal Service; correct?

A. Correct.

Q. And what are the advantages that you could have by having a post office box with you instead of the Postal Service?

A. Well, we accept packages from UPS and Federal Express.

Q. And they don't, do they?

A. They don't.

Q. Okay. What else?

A. You can call in to have your mail checked. We will go look in your box to see if you have anything, so you don't have to come in and check.

Q. And you're nice -- and you do that very nicely; right?

A. Yes.

Q. You don't go "postal" when people ask for that?

A. No.

Cheryl Smith - Cross

Q. No. Okay. So you can do that. Now, what else can we do that I couldn't do at the post office?

A. We forward the mail for someone. If they were like on vacation or went somewhere, we would forward it to them as long as they paid in advance.

Q. So, in other words, they call and you take it out and you send it to them; and the Post Office doesn't do that, do they?

A. No.

Q. Okay.

A. We also hold mail for more than 30 days. The Post Office will only hold your mail for 30 days.

Q. So Mr. Nichols was using that -- one of the services that you mentioned. He said, Would you forward this to Las Vegas; correct?

A. Correct.

Q. And during what period of time were you forwarding his mail out there to Las Vegas, Nevada?

A. That was the only time we forwarded his mail at all.

Q. And the rest of the time, you just held it; correct?

A. Correct.

Q. He said, "Whatever's in my box, send it to Las Vegas"?

A. Correct.

Q. Are you the only provider of mail service there in the Manhattan area, of your mailbox-type service, or are there other franchises there?

Cheryl Smith - Cross

A. We're pretty much the only one.

Q. And how many mailboxes do you have at your facility there, or did you in 1994 in the fall?

A. Approximately 250.

Q. Okay. Now, you recognize Mr. Nichols; correct?

A. Yes.

Q. And he's sitting -- well, could you point him out?

A. Yes, he's sitting at the table.

Q. There he is with us.

A. Uh-huh.

Q. And that's the same Terry Nichols you remember renting the box to in 1994; correct?

A. Correct.

Q. Okay. And the same Terry Nichols that you then saw at various times; right?

A. Correct.

Q. And you had conversations with him. Remember one time he got a big box but it was kind of light for its weight (sic)?

A. Well, the only box I remember him -- I don't really remember him getting a box. It was a priority envelope, which is a flat envelope. And it had something thick in it, and it was soft.

Q. Okay. Yeah. And you said -- well, what --

A. I said, "Somebody sent you a Nerf ball."

Q. And what did he do?

Cheryl Smith - Cross

A. He smiled and left with the package.

Q. Now, you have an employee, or did at that time, named Matt?

A. Correct.

Q. And I have a note here, but I can't pronounce -- How do you pronounce his name?

A. Splichal.

Q. How do you spell that?

A. S-P-L-I-C-H-A-L.

Q. Now, there came a time, didn't there, when there was an extraordinary amount of interest in that mailbox? You remember that?

A. Yes.

Q. When the FBI came?

A. Yes.

Q. And you provided them, because they had a piece of paper that authorized it, with the mail that had been collected in the box. Do you remember that?

A. That was pretty much in the middle of the summer.

Q. Oh, okay. And do you remember that as being sometime around April of 1995, when they came?

A. Well, they didn't come and collect it at that time.

Q. Oh, okay.

A. They came in and asked about him at that time, asked if I could identify him.

Q. Okay. And you could; right?

Cheryl Smith - Cross

A. No.

Q. Oh. You couldn't?

A. Well, sort of. I just kept -- I told him that he looked like -- there was an FBI agent that Friday and a CID agent.

Q. Uh-huh.

A. And I told him that he looked like the CID agent, only shorter.

Q. Okay. So you said he resembled the CID agent that came in to see you?

A. Uh-huh.

Q. Now, they also showed you some pictures?

A. Not at that time.

Q. Remember they showed you some sketches?

A. Not at that time.

A. Not at that point.

Q. At some time, did they come back and show you some sketches?

A. Yes.

Q. And you said you didn't remember either of those being Mr. Nichols. Do you remember that?

A. They didn't show me a sketch of him.

Q. I understand that. They showed you sketches and it wasn't him?

A. Yeah, it was supposed to be John Doe No. 2.

Q. But that wasn't him; right?

A. No.

Cheryl Smith - Cross

Q. In addition to -- do you remember what day it was that they showed you a sketch that was supposed to be John Doe No. 2 and you said it wasn't him?

A. No.

Q. Were you also visited by a lawyer from the Department of Justice, person identified themselves as that? If you remember.

A. I was visited almost daily.

Q. Okay. So you were visited by the FBI; right?

A. Yes.

Q. The CID?

A. Yes.

Q. The Army?

A. Yes.

Q. And I'm just asking: Do you remember being visited by a Department of Justice lawyer? If you don't, it's okay.

A. I remember some attorneys. Two or three attorneys came up with FBI agents from Oklahoma City at various times.

Q. Okay.

A. That's all I can -- I couldn't tell you who they were.

MR. TIGAR: Thank you very much, Miss Smith. I have no further questions. I appreciate it.

THE WITNESS: Thank you.

THE COURT: Mr. Ryan.

REDIRECT EXAMINATION

Cheryl Smith - Redirect

BY MR. RYAN:

Q. One thing I forgot to ask you before: The Waters True Value Hardware store we were looking at in the photographs --

A. Uh-huh.

Q. Is there any other Waters True Value store in Manhattan?

A. No, there's not.

Q. That's the only one?

A. That's the only one.

Q. And you're the only Mail Boxes Etc's?

A. Yes.

Q. And when the FBI did come in and collect the mail out of Mr. Nichols' box, that was mail in there that was not addressed

MR. NICHOLS: Son, that was mail in there that was not addressed  
to Terry Nichols?

A. Yes.

Q. You inspected that?

A. Yes.

MR. RYAN: No further questions, your Honor.

MR. TIGAR: No questions, your Honor.

THE COURT: All right. Can Miss Smith be excused?

MR. RYAN: Yes, your Honor.

THE COURT: Agreed?

MR. TIGAR: Yes.

THE COURT: You may step down. You are excused.

THE WITNESS: Just leave this here?

THE COURT: Yes.

MR. MACKEY: Call Mr. Andy Bhakta.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Andy Bhakta affirmed.)

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

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

THE WITNESS: Last name is Bhakta, B-H-A-K-T-A.

THE COURTROOM DEPUTY: What is your first name?

THE WITNESS: Andy. A-N-D-Y.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Good morning, Mr. Bhakta.

A. Good morning.

Q. Where do you live?

A. Manhattan, Kansas.

Q. Where are you from originally?

A. India.

Q. What do you do in Manhattan, Kansas?

A. Business. Lodging business.

Q. Lodging business? Do you run a particular motel?

A. Uh-huh.

Q. What's it called?

A. Travelers Motel.

Q. And how long have you run the Travelers Motel?

Andy Bhakta - Direct

A. 12 to 14 years.

Q. Where is the motel located?

A. 8811 East Highway 24.

Q. Also Manhattan?

A. Yes.

Q. Do you own the motel?

A. Yes.

Q. As well as operate it?

A. Yes.

Q. And who worked at the Travelers back in November 1994?

A. Just me.

Q. Just you?

A. Uh-huh.

Q. What were your responsibilities?

A. Rent the room and maintenance and everything.  
Q. I'm sorry. Can you say that again?  
A. Renting the room, maintenance, and everything.  
Q. So basically everything in the motel?  
A. Uh-huh.  
Q. Did your wife help you out there at the Travelers?  
A. Yes.  
Q. And if a guest wanted to get a room at the Travelers Motel, what would he or she have to do?  
A. They have to fill out the registration card.  
Q. Why don't you take a look at Government Exhibit 1765. It

Andy Bhakta - Direct

should be coming up on your screen. Do you see it?

A. Yes.  
Q. Do you recognize that?  
A. Yes.  
Q. What is that?  
A. Travelers Motel.  
Q. It's a registration card from the motel?  
A. Right.  
Q. And is it a business record that you make and keep in the regular course of the motel's business?  
A. Yes.

MR. GOELMAN: Move to admit Government's 1765, your Honor.

MR. TIGAR: No objection.

THE COURT: Received, 1765.

BY MR. GOELMAN:

Q. Mr. Bhakta, which portion of this card would the guest fill out?  
A. The name, street address, and make of car, license number, and state.  
Q. Okay. So the top portion?  
A. Yes, sir.  
Q. And what about -- what line would the motel worker fill out?  
A. Date and amount paid.

Andy Bhakta - Direct

Q. So just that bottom line?  
A. Yes, sir.  
Q. Does this card reflect the name of Ted Parker of Lum, Michigan?  
A. Yes, sir.  
Q. Do you remember this particular guest?  
A. No, sir.  
Q. Do you know who Ted Parker is?  
A. No.  
Q. Do you know whether or not Ted Parker is even a real person?  
A. I don't know.

Q. And who fills out the name and -- I mean who fills out the make and license plate number of the vehicle?

A. Customer.

Q. Does this card reflect a pickup truck with a Michigan license plate of VX1640?

A. Yes, sir.

Q. Now, when customers fill that portion of the registration card out, do you take the card and go outside and physically compare the information on the card with the license plate on a vehicle?

A. No.

Q. Do you check it out in any way?

A. No.

Andy Bhakta - Direct

Q. Okay. So do you know if the person who filled this out really was driving a vehicle with that license plate number?

Do you have any personal knowledge of that?

A. No.

MR. GOELMAN: Your Honor, the parties have reached a stipulation that the customer information on this card is the handwriting of Mr. Terry Lynn Nichols.

MR. WOODS: Yes, your Honor. That is our stipulation.

THE COURT: All right. We except that agreement.

BY MR. GOELMAN:

Q. Now, does this card indicate the date that Mr. Parker registered?

A. Yes, sir.

Q. What is the date?

A. 11-7-94.

Q. And you recognize that writing down on the bottom line?

A. Right.

Q. Whose writing is that?

A. The bottom line?

Q. Yes.

A. That is mine.

MR. GOELMAN: Your Honor, I'd ask the Court to read now Factual Stipulation 16 between the parties.

THE COURT: 16 is October 12, dated?

MR. GOELMAN: Yes, your Honor.

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THE COURT: It is agreed that Government Exhibit No. 1889 is a scrap piece of paper seized by the FBI on April 21, 1995, from the residence of William McVeigh and his daughter, Jennifer McVeigh, in Lockport, New York. On one side of Government Exhibit No. 1889 is the handwritten name "Terry Nicols," spelled N-I-C-O-L-S, and the phone number "913-539-9702." The handwriting is that of Jennifer McVeigh.

Was that --

MR. WOODS: Yes, your Honor. That is our stipulation.

THE COURT: All right.

MR. GOELMAN: Thank you, your Honor. We'll be moving



MR. GOELMAN. THANK YOU, YOUR HONOR. WE'LL BE MOVING 1889 into evidence at another time.

THE COURT: All right.

BY MR. GOELMAN:

Q. Mr. Bhakta, I want to show you Exhibit 1888, page 10. I want you to look at the numbers on the left side, the kind of middle column there.

A. Okay.

Q. Do you see the number for Waters True Value pay phone in Manhattan, Kansas?

A. Yeah, I see that.

Q. And is that number (913) 539-9702?

A. Right.

Q. I want to show you Government 1888, page 11, now.

And do you see that same number for Waters True Value

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pay phone, this time on the right-hand column, the first two entries on the right-hand column?

A. Yeah. Yes, sir.

Q. Now, I'm going to ask you to take a look at the fourth entry on November 7. That's Call No. 204. And the "called from," the left-hand column indicates "Travelers Motel" in Manhattan, Kansas, do you see that?

A. The fourth one?

Q. Yeah.

A. Yes, sir.

Q. Do you recognize the number there, (913) 776-4836?

A. Yes, sir.

Q. What is that number?

A. That's Travelers Motel.

Q. And was that the Travelers number back in November 1994?

A. Yes, sir.

Q. Does this Government exhibit reflect that there's a call made from the Travelers Motel to William McVeigh in Pendleton, New York, at 6:04 p.m.?

A. Yes.

Q. Now, go down the list and look at Call 212. It's the second-to-last one.

A. Second to last.

Q. Do you see that? 7:22 p.m.

A. Yes, sir.

Andy Bhakta - Direct

Q. Okay. Now, was that call also to William McVeigh from the Travelers Motel?

A. Yes, sir.

Q. From the same number?

A. Yeah.

Q. And now look at the 10:45 call to Lana and Leonard Padilla in Las Vegas, Nevada. Was that also from the Travelers Motel?

A. Yes, sir.

Q. And now, Mr. Bhakta, I want you to look back up at Call 203

and tell me if you can read where that was from.

A. 203, Mini Mart pay phone.

Q. Mini Mart pay phone in Manhattan, Kansas?

A. Yes, sir.

Q. And is that made at 5:59 p.m.?

A. Yes, sir.

Q. And is that also calls 205, 206, 207, 208, 209, 210, and 211 were made from. I mean made to.

A. Which numbers?

Q. 205, all the way down to 211, the right-hand column: Does that reflect the Mini Mart pay phone in Manhattan, Kansas?

A. Yes.

Q. And do those calls begin with 205 at 6:12, just a few minutes after the call from the Mini Mart?

A. Yes, sir.

Q. Are you familiar with the Mini Mart in Manhattan, Kansas,

Andy Bhakta - Direct

near the Travelers Motel?

A. Yes, it is across the street from the motel.

Q. It's right across the street?

A. Uh-huh.

Q. I want to show you Government Exhibit 1896.

Do you recognize that?

A. Yes, sir.

Q. What's depicted in that picture?

A. Its right side is the motel and left side is the Mini Mart.

Q. Is that a picture right across the street from your motel, what it looks like?

A. Right.

MR. GOELMAN: Move to admit Government 1896, your

Honor.

MR. TIGAR: No objection.

THE COURT: Received.

BY MR. GOELMAN:

Q. Did you see the Travelers Motel on this picture?

A. Yes, sir.

Q. Could you pick up the pen that should be to your left up there and take it, press it right to the screen -- you've got to go underneath the little window -- and draw a circle around the -- Mr. Bhakta, you have to take it and put it on the screen itself.

A. For the motel.

Andy Bhakta - Direct

Q. Yeah, just circle the motel so we can know which building it is.

Great. And do you also see the Mini Mart?

A. Yes, sir.

Q. And can you circle that, please.

Mr. Bhakta, do you know from your own personal knowledge whether or not there's a pay phone at that Mini Mart

in Manhattan, Kansas?

A. Yes, there is a pay phone over there.

MR. GOELMAN: Nothing further, your Honor.

THE COURT: Mr. Tigar.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Hello, Mr. Bhakta.

A. Hello.

Q. My name is Michael Tigar. I'm one of the lawyers appointed to help Terry Nichols.

You have a telephone in each one of the rooms in your motel, do you not?

A. Yes, sir.

Q. And if a person staying in your motel wants to use a telephone credit card to make a call, how do they do that?

A. They call, you know, office for information.

Q. I'm sorry, could you say that again?

A. Well, they cannot dial call directly. They call in to the

Andy Bhakta - Cross

office for direction.

Q. And then someone in the office then puts the call through; is that correct?

A. Yeah; right.

Q. And you were shown some telephone records from the Mini Mart. Do you remember being shown those records?

A. Yeah, uh-huh.

Q. And is that the first -- is today, when you came here, the first time that you had seen those records?

A. Yes, sir.

Q. Had you been shown them at -- by the Government lawyers in preparing to testify today?

A. What is that?

Q. Did they show you these same records so you could be ready to testify?

A. Yeah.

Q. I'm going to place up what has been received as Government's 1888, I believe for demonstrative purposes.

MR. TIGAR: Thank you.

BY MR. TIGAR:

Q. And this is the list of calls that's dated Monday, 11-7, 1994; correct?

A. Yes, sir.

Q. Now, is that -- the thing that's across the street from your motel, that's the Mini Mart?

Andy Bhakta - Cross

A. Yes, sir.

Q. All right. And reading down here, do you see that there's a call from the Mini Mart for 16 -- from the Mini Mart for 16 seconds; do you see that, sir?

A. Yes, sir.

A. Yes, sir.

Q. And then there's a call from the Travelers Motel to a number in New York; correct?

A. Yes, sir.

Q. Now the Travelers Motel, that's your number; right?

A. Yes, sir.

Q. And then there's a call to the Mini Mart pay phone, and it's 6 seconds in length; right?

A. Yes, sir.

Q. Then there's another call a little more than a minute later, and that's a zero; correct?

A. Yes, sir.

Q. And then the next call is also a zero; correct?

A. Yes, sir.

Q. And the call is a zero; correct?

A. Yes, sir.

Q. And the next call is for 13 seconds; is that what that says?

A. Yes, sir.

Q. And then the next call is a zero; correct?

A. Yes.

Andy Bhakta - Cross

Q. Then the next call is a zero; right?

A. Yes, sir, yes.

Q. Now, then that next call, that is from the Travelers Motel to this New York number; correct?

A. Yes, sir.

Q. And then there's a call to Lana and Leonard Padilla, and that's 33 minutes and 19 seconds; correct?

A. Yes, sir.

Q. Now, when a customer at your motel makes one of those telephone calls through the office, do you keep an independent record of the time that it takes? Do you have phone records that show how long those calls are?

A. Well, yes, we got a thing that when they hung up, it's been dialed.

Q. And on your printout, does it sometimes happen that one call shows up as two calls?

A. Yes, sir.

Q. Now, on that printout that you get, do you then charge the customer who wants to make a credit card call, or is that included in the price of the room?

A. Including the price of the room.

MR. TIGAR: Thank you very much, sir. I have no further questions. I appreciate it.

MR. GOELMAN: No questions, your Honor. He may be excused.

THE COURT: Agreed, all right.

You may step down. You're excused.

We'll take our midmorning recess at this time, members of the jury, during which again, please continue to be cautious of keeping open minds, avoiding discussion of anything relating to the case, and avoiding anything outside of our evidence that could influence you in any way.

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You're excused now, 20 minutes.

(Jury out at 10:20 a.m.)

THE COURT: All right. 10:40.

(Recess at 10:21 a.m.)

(Reconvened at 10:40 a.m.)

THE COURT: Be seated, please.

(Jury in at 10:40 a.m.)

THE COURT: Mr. Mackey?

MR. MACKEY: Your Honor, at this time, we'd call Lana Padilla.

THE COURT: All right.

(Lana Padilla affirmed.)

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

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

THE WITNESS: Lana Padilla, P-A-D-I-L-L-A.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mackey.

MR. MACKEY: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Good morning.

A. Good morning.

Q. Let me take just a few minutes, Ms. Padilla, and get you acquainted with the witness stand. You'll see to your left there is an accordion folder with some exhibits. See those?

A. Yes.

Q. All righty. We may be referring to those in the course of your examination. There is water for you if you need it; and immediately below your desk, you'll see a computer screen.

Okay? All right.

What I want to do this morning, Ms. Padilla, is ask you a few questions about your background, then a couple of events in 1994 and 1995. Can you answer those questions?

A. Yes.

Q. All right. Let's start, please, Ms. Padilla, and tell the members of the jury where you grew up.

A. I was born and raised in Uibly, Michigan.

Q. How do you spell that?

A. U-B-L-Y.

Q. And where is Uibly, Michigan?

A. It's in the Thumb of Michigan, north of Detroit.

Q. This is Michigan --

Lana Padilla - Direct

A. Yeah, I'm in the Thumb.

Q. Here's Saginaw Bay.

A. Correct.

Q. Uibly is over here in the Thumb. How far east of Saginaw Bay is Uibly?

A. About 60 miles.

Q. And you grew up on a farm there?

A. Dairy farm.

Q. When did you finish high school?

A. 1968.  
Q. And what did you do after that?  
A. I went to Eastern Michigan University for a period --  
Q. How long?  
A. Till 1969, '70.  
Q. Did you come back home then at that time?  
A. I came back home. My brother was killed, and I came back home to work on the farm.  
Q. Shortly thereafter, were you married?  
A. Yes.  
Q. What year?  
A. 1970.  
Q. And to whom?  
A. Larry Osentoski.  
  
Q. And did you and Mr. Osentoski have children together?  
A. We have two sons.

Lana Padilla - Direct

Q. Would you tell the jury their names and dates of birth.  
A. Barry Osentoski is born 10-21-71, and Troy Osentoski is born April 16, 1974.  
Q. So it makes them about 26 and 23 years of age currently?  
A. Yes.  
Q. Where do Barry and Troy currently reside?  
A. They reside in Las Vegas, Nevada, currently with me.  
Q. How long have you lived in Las Vegas, Nevada?  
A. Since October, 1989.  
Q. And all the time prior to that was in the state of Michigan?  
A. Yes.  
Q. Let's turn to your employment history, if you don't mind, Ms. Padilla, and give the jury an overview of what you've done for a living. What is it that you're now doing?  
A. I currently am a licensed real estate broker and a licensed insurance agent.  
Q. In the state of Nevada?  
A. In the state of Nevada.  
Q. And how long?  
A. I moved there in '89, and it took a time period -- there was a lapse where I had to take my exams, and I got licensed in 1990 for real estate and in -- I think 1991 or '2 for insurance.  
Q. So you have been licensed in both those fields for a number

Lana Padilla - Direct

of years?  
A. Right. I've been in real estate since 1978 and insurance since 1984.  
Q. In those field then even before you moved to Las Vegas?  
A. Correct.  
Q. Do you currently own or operate a business in Las Vegas?  
- ..

A. Yes.  
Q. And what's the name of that business?  
A. It's called Vegas Starlight Realty.  
Q. How big a business is that?  
A. Small. It's me and three other licensees.  
Q. And how long have you worked with Vegas Starlight?  
A. I established that company in January of 1996.  
Q. And prior to the current business, did you have any other real estate business operation in the state of Nevada and specifically Las Vegas?  
A. I had a company called Esquire Realty.  
Q. Tell the jury about Esquire Realty.  
A. I was the owner/broker, one of the owners and the broker; and it was a larger company. And I had that established in 1993 until December of 1995.  
Q. At its peak, how large was Esquire Realty measured by agents and employees?  
A. We had approximately 40 licensees.  
Q. And over the years, Ms. Padilla, what other lines of work

Lana Padilla - Direct

have you been involved in?

A. I took a job temporarily while I was getting licensed at Lady Luck Hotel and Casino as a food and beverage hostess while I was getting licensed in Las Vegas, and that was in 1990.  
Q. Safe to say, then, you have been actively employed your adult life?  
A. Correct.  
Q. Ms. Padilla, do you have children other than Barry and Troy?  
A. Yes. I have a son, Joshua.  
Q. And what is Joshua's last name?  
A. Nichols.  
Q. And is Joshua a son of you and Terry Nichols?  
A. Yes.  
Q. Tell the members of the jury when you and Mr. Nichols were married.  
A. We got married in January, 1981.  
Q. And were you later divorced?  
A. Yes.  
Q. And what year?  
A. 1989.  
Q. And was there any period of separation prior to the final divorce?  
A. Yes.  
Q. Would you tell the jury when Josh Nichols was born and his

Lana Padilla - Direct

current age, please.

A. He was born August 11, 1982. And he's 15.  
Q. Okay.  
A. Yes.  
Q. There is water. if you need it

Q. THERE IS WATER, IF YOU NEED IT.

A. Yeah.

Q. And we'll take our time.

A. Okay.

Q. Does Josh live with you?

A. Yes, Josh lives with me.

Q. And how long has Josh been residing with you?

A. Since 1993.

Q. Between the time of your separation in 1988 and 1993, where predominantly did Josh Nichols reside?

A. He was with his father, and he was in -- in 1988, he was in

Fort Riley, Kansas. And then he was back in Decker, Michigan, after Terry left the Army. And then in 1991, there was a short time where they lived in Las Vegas.

Q. Over the years since your divorce, Ms. Padilla, have you had occasion to stay in contact with Terry Nichols?

A. Yes, I have.

Q. Is that largely as a result of Josh?

A. Yes.

Q. Ms. Padilla, now let me turn to Tim McVeigh and ask you if you know Tim McVeigh?

Lana Padilla - Direct

A. Only by telephone conversations.

Q. Could you tell the jury when you first heard the name "Tim McVeigh," when and from whom?

A. I recall hearing it when Terry was in the military.

Q. And when was that?

A. In 1988.

Q. How long was Terry Nichols in the military?

A. Approximately a year.

Q. And during that time period, is that when you first heard the name "Tim McVeigh"?

A. I recall hearing about several people, and Tim McVeigh was one of them.

Q. And what first information did you learn from Mr. Nichols about Tim McVeigh?

A. I don't really -- I don't really remember, other than they were in the Army together.

Q. Over the years since that time, have you personally talked to Tim McVeigh?

A. On the telephone.

Q. And how many different such occasions?

A. Normally it was a conversation, short, calling into my house to talk to either Josh or Terry. Maybe 15, 20 times.

Q. And would --

A. Over the period of years.

Q. With that experience, have you come to recognize his voice?

Lana Padilla - Direct

A. Yes.

Q. You know him when he calls?



A. Yes.

Q. Does he identify himself to you when he does?

A. Yes. It's normal procedure when I answer the phone to ask who is calling. Because of the type of business, I always try to get a name.

Q. Let's turn our attention now, Ms. Padilla, to 1994, and specifically January and February of that year, the early months of that year. Do you know where Mr. Nichols was residing at that time?

A. January, February of 1994?

Q. Yes, ma'am.

A. He was in Las Vegas, or Henderson, Nevada.

Q. That is a suburb of Las Vegas?

A. Yes.

Q. You would know that as a real estate agent?

A. Yes.

Q. Who was Mr. Nichols residing with in early 1994 in Las Vegas?

A. His wife and his daughter.

Q. And what is Mr. Nichols' wife's name?

A. Marife and Nicole.

Q. In February of 1994, did you come to know that Mrs. Nichols left the country?

Lana Padilla - Direct

A. I recall her leaving the country, because when she came back we helped her get from one terminal to another terminal in '94.

MR. MACKEY: Your Honor, it's agreed among the parties that Mrs. Nichols departed the United States for the Philippines on February 15, 1994.

MR. WOODS: Yes, your Honor. That is our agreement.

THE COURT: All right. Thank you.

BY MR. MACKEY:

Q. In February of 1994, where did Mr. Nichols go after his wife left for the Philippines?

A. My recollection was he was headed from Henderson to Kingman to Marion, Kansas.

Q. Was his first stop, then, in Kingman, Arizona?

A. He had given me an address there.

Q. Did you have a conversation with Mr. Nichols before he left the Las Vegas area in February of 1994 in which he told you where he was going?

A. We talked because he was having like a sale and things, and we talked about where he was going, but, you know, just in passing.

Q. At that time, did Mr. Nichols provide you any information by which you could reach him if you needed to?

A. He had given me an address.

Q. Take a look, Ms. Padilla, in your exhibit folder to your

Lana Padilla - Direct

left for No. 1849.

Do you find it there?

A. Yes.

Q. And do you recognize it?

A. It's from my Daytimer.

Q. And is the entry on a date in February of 1994 in your handwriting?

A. Yes.

Q. And is that the information that Mr. Nichols provided you in February of 1994?

A. Yes.

MR. MACKEY: Your Honor, I'd move to admit Government's Exhibit 1849.

MR. WOODS: No objection, your Honor.

THE COURT: 1849 is received.

BY MR. MACKEY:

Q. Ms. Nichols -- excuse me -- Ms. Padilla, we're going to show the exhibit to the jury at this time and focus on a section entitled, "Tim Tuttle." Do you see that in your --

A. On the screen.

Q. -- in the exhibit itself?

A. Uh-huh.

Q. Would you read that into the record, the information that starts with the name "Tim Tuttle."

A. "Tim Tuttle, address 1711 Stockton Hill Road, No. 206,

Lana Padilla - Direct

Kingman, Arizona, 86401."

Q. And again, where did you get the information you wrote down in your daytimer on this date in February of 1994?

A. I would have gotten it from Terry.

Q. Did you know in February of 1994 a person by the name of "Tim Tuttle"?

A. No. I didn't equate "Tim Tuttle" with Timothy McVeigh, no.

Q. At any later time, did you come to know "Tim Tuttle" to be a named used by Tim McVeigh?

A. Yes.

Q. Was that through Mr. Nichols?

A. No. No. I don't remember us discussing the difference in the name.

Q. All right. The information that's recorded in this exhibit: Is that the address Mr. Nichols gave you as a means to reach him after he left Las Vegas in February of 1994?

A. Yes.

Q. Do you know, based on conversations with Mr. Nichols after his departure from Las Vegas, how long he stayed in Kingman, Arizona?

A. No.

Q. When was the next place that you know that Mr. Nichols went to based on your conversations with him at that time?

A. He had given me -- he had given me an address -- or excuse me -- like a hotel number, phone number and a unit number,

Lana Padilla - Direct

like -- and that was in Kansas; and he was there looking for a home.

Q. And did you record the motel rooms that Mr. Nichols gave you as a means to reach you -- have you reach him?

A. Yes.

Q. And do you recall those room numbers?

A. It's in my Daytimer. I think -- no, 58 and 30-something, but I'd have to look.

Q. We won't bother you to do that at this point.

Do you remember, then, in the spring of 1994 Mr.

Terry

Nichols' residing in the state of Kansas?

A. Oh, in the spring of '94, yes. He went to the Donahue farm. Right. And I just said something that I realize I was in the wrong year. I'm sorry.

Yeah, the spring of '94, he was in Marion, Kansas, working on a farm.

Q. All right. And did you talk to Mr. Nichols at the Donahue Ranch over the course of the next several months in 1994?

A. Yes. I'm sure we've talked because Josh visited and we had to make travel arrangements.

Q. I want to move forward now in time, Mrs. Nichols, to the fall, September of 1994. Do you recall a conversation with Mr. Nichols in which you learned that he was leaving the Donahue Ranch?

A. In -- yes. In September.

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Q. Can you describe what you recall of that conversation to the members of the jury?

A. It was a very -- it was a surprise to me because I hadn't heard that he was going to leave the farm. And it was a very brief conversation, just saying that he was going to be doing gun shows with Timothy McVeigh.

Q. Did he tell you why he was quitting his job?

A. Yeah. He said he was putting long days, long hours, and he could make more money, be better for him financially to do gun shows.

Q. Did he tell you where Mrs. Nichols and their daughter would be in the fall of 1994?

A. I recall him saying they went back to the Philippines.

Q. Shortly after that conversation in which you learned of Mr. Nichols' plan to leave the Donahue employment, did you personally see Terry Nichols in Las Vegas?

A. I recall him stopping by a couple times.

Q. In the month of October of 1994, how many visits do you recall Mr. Nichols' making to your residence in Las Vegas?

A. I recall, I think, two times he was there.

Q. Do you recall a period of time that separated those two visits in the month of October of 1994?

A. It seemed like he was there the first weekend when he left the farm and then again later in the month, so there was a time period -- I don't know where he was -- I don't know what he

Lana Padilla - Direct

did. I just knew that he said he was doing gun shows.

Q. Do you know where he was immediately before coming to Las Vegas, Nevada, the first week of October of 1994?

A. No.

Q. And I take it, as you said, you don't know where he was in between the time of the two visits?

A. No, I don't.

Q. Could you tell the members of the jury approximately how long Mr. Nichols stayed to visit on those two trips in October of 1994.

A. He was there very briefly, because if I remember correctly, he picked up Josh and they went to Zion National Park; and so he wasn't really at my home very long. He was just there briefly.

Q. When you saw Mr. Nichols in the month of October of '94, what kind of vehicle do you recall he was driving?

A. A pickup.

Q. And do you remember anything about the pickup, its color, or any other features?

A. I think it was blue.

Q. Ms. Padilla, I want to turn your attention now to Government's Exhibit 1888. It has a list of phone numbers. And I'm going to start with the date of October 6, 1994. This may be easier for you look at on the screen.

A. I'm just reading, yeah.

Lana Padilla - Direct

Q. Okay. With that before you, Ms. Padilla, do you see two phone calls made on Thursday, October 6, 1994, to your residence?

A. Yes.

Q. And was your number in October of 1994 the same number that's reflected on that exhibit?

A. Yes.

Q. Could you tell the members of the jury where those two phone calls were placed from, just by reading the exhibit.

A. It appears it was from Kingman, Arizona.

Q. Ms. Padilla, in the course of the time that you knew Mr. Nichols, did you ever know him to use the name Daryl Bridges?

A. I don't recall that name.

Q. Did you know in the fall of 1994 whether he had a debit calling card?

A. I wasn't familiar what a debit calling card was, no. He might have said it, but I didn't -- didn't think of it.

Q. Have you ever used a debit calling card?

A. No.

Q. If there are other entries on this exhibit that reflect phone calls from or to your residence on a Bridges debit card, did you make any of those calls?

A. No.

Q. Okay. Let's turn our attention, then, to October 11 --

Lana Padilla - Direct

Tuesday, October 11, and describe for the jury what they're looking at there just based on the exhibit itself.

A. Calls from Michael Fortier's in Kingman, Arizona, to my residence.

Q. Did you know the name "Michael Fortier" in October of 1994?

A. Only through -- only through Terry when he was in the Army, but --

Q. You've never met Michael Fortier?

A. No.

Q. Let's turn now to October 17, 1994. And do you see a phone call to your residence that day, Monday, October 17?

A. Yes.

Q. And where was that phone call placed from?

A. Herington, Kansas.

Q. To the best of your recollection, in mid October of '94, was Mr. Nichols not in the Las Vegas area?

A. I don't remember him being there the middle of the month.

Q. Let's turn to Sunday, October 23, 1994. And the third entry, Ms. Padilla, do you see a phone call to your residence?

A. Yes.

Q. And again, where is that placed from? What city and state?

A. Junction City, Kansas.

Q. Have you ever been to Junction City, Kansas?

A. No.

Q. Let's turn as well to October 29, 1994. Do you see the

Lana Padilla - Direct

first entry?

A. It's a call from Michael Fortier's house to my house, and there is a call from a pay phone just around my corner of my house, Mighty Mart, to Michael Fortier's house.

Q. On the same day?

A. Yes.

Q. How far is the Mighty Mart from your residence, or how far was it in the fall of 1994?

A. About two long blocks.

Q. To your knowledge, is it the closest public pay phone to your residence?

A. Yes.

Q. Let's turn our attention now, Ms. Padilla, to late October, 1994, after the time period you've already described to this jury. Do you remember a -- a problem developing in the family that precipitated the need on your part to contact Mr. Nichols?

A. Yes.

Q. And I don't think we need to get into all the details, but did you after that moment attempt to reach Mr. Nichols?

A. I wrote him a note and mailed it to his post office box, telling him to call me.

Q. And when did you reach him to that effect? -- attempt to

Q. And why did you reach him in that fashion, or attempt to reach him in that fashion?

A. That was the only way I had to reach him.

Q. After you sent the note to Mr. Nichols' mailbox, did you,

Lana Padilla - Direct

in fact, have a conversation that you recall with Mr. Nichols?

A. Yes. He called me.

Q. And approximately what date, if you do recall?

A. It was on a Sunday, first part of November.

Q. Let's turn our attention back to 1888 and the entries for Sunday, November 6, 1994. Do you see the third entry on that particular exhibit?

A. Uh-huh. Esquire Realty, Waters True Value pay phone.

Q. Is that the phone number of Esquire Realty in November of 1994?

A. That's a -- that's a cellular phone number that is in the name -- it was in the name of the company, and I had it forwarded into my house.

Q. The phone call that you recall -- and I'll ask you some details about it -- was that received at your residence?

A. Yes.

Q. And do you recall approximately how long the phone call lasted?

A. It was probably -- I thought it was about 20 minutes; but according to this, it was a little bit longer.

Q. Does this record in terms of activity on November 6 correspond with your own memory as to when that phone call took place?

A. Yes.

Q. You'll see a second phone call, bottom -- or second-from-

Lana Padilla - Direct

the-bottom, I should say, also to your residence.

A. Yes.

Q. On that day, then, were there two phone calls of approximately a half hour in length?

A. I don't really recall the second phone call. It might have been Josh got that call. I don't really recall that phone call.

Q. Let's talk about the content of the conversation, please.

Ms. Padilla, can you tell the members of the jury in as much detail as you can now recall exactly what you said and Mr. Nichols said during that phone call.

A. Well, the phone call was -- Terry called and we discussed Josh. And from discussing Josh, we discussed some other things; and it seemed like I wanted -- I didn't really care about the other things which Terry was elaborating on. And there was part of the conversation was regarding Waco, and another part of the conversation was regarding the shooting at the White House. And there was some discussion about the civil unrest and people killing off people. It was a really different conversation.

unintentional conversation.

Q. Tell the members of the jury why it is that you recall this conversation.

A. Well, because I'm -- I didn't really have the mind-set or the time to deal with any of those issues. I was one thing (sic), and one thing was to Josh; and when I hung up the phone,

Lana Padilla - Direct

I realized that it was a very odd conversation. And I'm sorry to say that Waco didn't enter my mind before the call and Waco didn't enter my mind after the call. It was just something that seemed to be on Terry's mind.

Q. Waco was what Mr. Nichols was talking to you about on that Sunday call?

A. Well, yeah. He elaborated on that a little bit.

Q. Tell the jury what you recall him saying about Waco and the events at Waco.

A. Very -- it's been a long time but briefly was that he felt it was handled unjustly, the government did things incorrectly, and there were innocent people killed.

Q. Earlier you used the word "injustice." Did Mr. Nichols use that word during that conversation on that Sunday?

A. I don't know if it was "unjust" or "injustice."

Q. How did he use that word?

A. That it was "unjust," "unjustified."

Q. You mentioned earlier about "civil unrest," that term. Did that come out of Mr. Nichols' mouth?

A. Yeah. He said there was going to be people killing off each other and that the country was in trouble.

And I just said, "Terry, I don't have time to correct the problems of the world." You know, and I just really was -- I just really was not really wanting to talk about anything that didn't pertain to -- I mean, I was very focused on my

Lana Padilla - Direct

work; and I didn't have time to deal with any of these other things that seemed to be bothering him.

Q. When Mr. Nichols talked about civil unrest, did that prompt you to make any mention about the White House shooting?

A. Yeah. I kind of got smart-mouthed and said, "I suppose you thought that the shooting at the White House was okay"; and he thought it was.

Q. That's what Mr. Nichols --

A. He thought the man had a right, a justified reason.

Q. To shoot at the White House?

A. Yeah.

Q. In the course of the conversation, did Mr. Nichols predict any reaction of the people in this country as a result of Waco?

A. Would you repeat that.

Q. In the course of this conversation, did Mr. Nichols predict any reaction by the people in this country as a result of Waco?

A. I recall him saying that people were going to start killing off each other; that there was going to be just civil unrest.

Q. Do you recall when you next saw Mr. Terry Nichols after this Sunday phone call?

A. He came over -- came to Las Vegas.

Q. And when did he arrive?

A. In the middle of that week, sometime that week he came to Vegas.

Q. How many days, if you can recollect, elapsed between the

Lana Padilla - Direct

time of this phone call on Sunday, November 6, and when you saw Mr. Nichols in Las Vegas?

A. Well, he was there for Josh's football game on Saturday, so I remember him coming either Wednesday -- Wednesday or Thursday of that week.

Q. So November 9 or 10, thereabouts. And where did he stay when he arrived in Las Vegas that first week in November of 1994?

A. I suggested he stay with Josh, and he stayed at our house.

Q. Now, at that time, were you married to Leonard Padilla?

A. Yes.

Q. And was this invitation a mutual invitation?

A. Yes.

Q. Of the Padilla family?

A. Uh-huh.

Q. Did Mr. Padilla set any conditions for Mr. Nichols' staying there at the residence with you?

A. Not so much the first part of the stay, but the second part of the stay, he kind of -- he just said, you know, "I don't mind Terry staying," because we were having problems and I wanted Terry to help me with Josh; and he just mentioned that he didn't want any guns around.

Q. And did you have a conversation with Mr. Nichols about the need that if he stayed at your home that he should not have any handguns?

Lana Padilla - Direct

A. I told Terry that it was okay with Leonard if he stayed, and I also didn't realize he had a gun. And I just said to him, "As long as you don't bring any guns in the house." And he showed me a gun, and I just said, "Well, I don't want any problems, so . . ."

Q. And was this a conversation that took place in your residence?

A. Yes.

Q. And you communicated the need to not have weapons and he had one on that day?

A. Right.

Q. Showed it to you?

A. Right.

Q. Is that correct?

Did you see Mr. Nichols in possession of a video camera in early November of 1994?



A. He brought a video camera for Josh's football game.  
Q. What do you remember about that episode?  
A. I brought one, too, from a girlfriend. We both had one, and neither one of us knew how to use them; but he didn't -- he said he got his at a -- I don't know where he said he got his, but he didn't know how to use it, either.  
Q. Did you ask him about whether he had instructions or anything of the like?  
A. No.

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Q. Do you know why it was that the video camera was not working, the one that Mr. Nichols had?  
A. No, I don't recall. He could have had everything and I still wouldn't know how to use it. I --  
Q. Later in November of 1994, did Mr. Nichols leave the country?  
A. He left November 22. I took him to the airport.  
Q. Do you know where he was going?  
A. The Philippines, to visit his family.  
Q. On that date, November 22, 1994, did you speak to Tim McVeigh?  
A. Early -- early in the morning, there was a phone call that came in the house; and I gave the phone to Terry.  
Q. And who was the caller?  
A. Tim McVeigh.  
Q. And you recall that Mr. McVeigh called your residence for Mr. Nichols?  
A. Yes.  
Q. On the same day that Mr. Nichols later left for the Philippines?  
A. Yes.  
Q. Do you know where Mr. McVeigh was calling from?  
A. No.  
Q. Let me show you Government's Exhibit 1888 one more time. November 22. See a phone call to your residence on that date

Lana Padilla - Direct

from a pay phone in Pendleton, New York?  
A. Uh-huh.  
Q. And do you see an approximate length of that phone call?  
A. Uh-huh.  
Q. A little less than 4 minutes?  
A. Yes.  
Q. Does that correspond with your own memory of how long that phone call was that morning?  
A. The time corresponds. The length wouldn't, because what I usually did is gave Terry the phone, and I walked back and got ready for work and he was in the kitchen. So I don't know what the length of time, but the time the phone call came in according to our time zone would seem correct.  
Q. Do you remember anybody else calling for Mr. Terry Nichols on Tuesday, November 22, 1994?

On Tuesday, November 22, 1994:

A. No.

Q. Describe, then, Ms. Padilla, the events of November 22, 1994.

A. I have gave him the telephone, and I went back to get ready for work. And our agreement was that I would pick him up later that day and take him to the airport.

Q. Where were you to pick Mr. Nichols up?

A. At the -- he was going to leave his vehicle at a storage place in Las Vegas.

Q. And later that same day, the 22d, did you, in fact, go to

Lana Padilla - Direct

the storage site?

A. Yes.

Q. Describe what happened there.

A. It was late in the afternoon. Terry had picked up Josh, and I met them -- I left my office and met them at the storage place in Las Vegas.

And he proceeded to do whatever he had to do as far as parking his vehicle, and I just waited; and then he threw his things in the trunk, and I took him to the airport.

Q. In the course of the drive from the storage shed to the airport, did you and Mr. Nichols have conversation?

A. Yes.

Q. Describe that.

A. I don't recall just if he told me when we were there at the storage place, or if he told me when we got to the airport, but he told me that he had a package for me and that I was to please keep it until he came back and if he didn't come back by the date, that I was to open it up.

Q. And did Mr. Nichols, in fact, deliver to you a package?

A. Yes.

Q. Was that done in the vehicle?

A. It was in the vehicle.

Q. Did he deliver anything other than the package to you or in addition to that package?

A. He gave me a set of keys for his pickup truck and an

Lana Padilla - Direct

instruction sheet written out for Tim.

Q. "Tim" being Tim McVeigh?

A. It just said "Tim" on the sheet.

Q. Did you have conversation with Mr. Nichols about the prospect that Mr. McVeigh may be borrowing his truck?

A. Yes.

Q. Describe that.

A. He said that Tim might be borrowing the truck and if he did to give him the keys and give him the list of instructions because it needed brakes and the oil changed and things like that.

Q. Was there anything that you noticed about Mr. Nichols

during the drive from the storage shed to the airport that afternoon?

A. Anything I noticed?

Q. Do you remember having conversation with Mr. Nichols about a smell?

A. Oh, yeah.

Q. Describe that.

A. Yeah. I said something about -- something about the smell; and he said something about some new deodorant or something. It was -- I felt bad that I said it because later on, I just -- there were so many emotions and I remember saying about a smell.

Q. That's an observation you made in this drive to the airport

Lana Padilla - Direct

that afternoon?

A. Yes.

Q. Can you describe the package that Mr. Nichols handed to you in that car ride?

A. It was a brown package wrapped with tape, brown -- like brown -- he asked me earlier that day for a grocery bag. It was a brown grocery bag.

Q. Early that morning?

A. Yes.

Q. Describe what had happened that morning --

A. Oh, that morning --

Q. -- as it relates to the bag?

A. Oh, well I just -- he was sitting in the kitchen doing whatever, and he was sitting at the table. He was writing, and he asked me if had I a grocery bag, and I gave him the grocery bag.

Q. And was the grocery bag you gave him that morning of similar like as the bag that you got delivered from Mr. Nichols later that same day?

A. Yes.

Q. Did you notice Mr. Nichols that morning in the kitchen taking any efforts to conceal his writing as he sat there?

A. Terry typically was very private, but he did sit and he had his tablet and he had something else over it, yes.

Q. And as you walked by, what did he do?

Lana Padilla - Direct

A. I didn't really walk by him. I just -- I just observed it because the counter around the table, you know -- I didn't really walk by him. He didn't discuss it or talk to me about what he was writing.

Q. During the car ride, then, you got a grocery bag, piece of paper addressed to Tim and a set of keys. Is that correct?

A. Yes.

Q. Take a look, Ms. Padilla, at Exhibit 231 in your folder. Do you recognize that?

A. Yes.

Q. And what is that?

A. This was the instructions that were given to me to give to Tim if he came to pick up the pickup truck.

Q. And do you recognize the handwriting that appears in Government's Exhibit 231?

A. Yes.

Q. As whose?

A. It looks to be Terry's.

MR. MACKEY: Your Honor, I would move to admit Government's Exhibit 231.

MR. WOODS: No objection.

THE COURT: 231 received.

BY MR. MACKEY:

Q. Ms. Padilla, are those the instructions concerning the GMC pickup truck?

Lana Padilla - Direct

A. Yes.

Q. Do you know whether at that time in November of 1994 -- whether Tim McVeigh had his own car?

A. I can't say that I do in November of '94. I never -- I never asked Terry if Tim had his own vehicle, no.

Q. Let's return our attention now to the conversation about the bag in the car, Ms. Padilla. Do you recall anything being said about how long you expected Mr. Nichols to be gone?

A. We talked. He said that in case he wasn't back, you know, he instructed me to keep the package.

In my mind, I said, you know, well, I'm not a traveler, so I'm not sure how long a visa or passport is good for; but, you know, I thought it was kind of odd, because it seems like you'd be back in 60 days. But he didn't assure me that he would be back.

Q. Did you ask him how long is your visa or how long are you going to be gone?

A. I don't remember. In my mind, I was saying it; but I don't remember if I said it to him.

Q. In the conversation, did Mr. Nichols give you further instructions as to where you should take that bag?

A. Yeah. He thought I should keep -- because I have other sons and people coming and going in my house, he thought -- suggested I take it to my office.

Q. And this is a suggestion he made in this conversation in

Lana Padilla - Direct

the car?

A. Yes.

Q. Describe to the jury, then, Ms. Padilla, what happened when all of you arrived at the airport that afternoon?

A. We got to the airport. It was, I think, around fourish. Took Terry to the airport. He got out of the car, took his luggage, left the package and said good-bye. And I was going to pick him up when he returned; but he started to walk away, and Terry ran after him and

and Josh ran after him and --

Q. I'm sorry. Go ahead.

A. -- gave him a big hug. And then Josh is just really affectionate.

Q. And is that when Mr. Nichols then left for the Philippines?

A. He left, yeah.

Q. Ms. Padilla, tell the members of the jury, then, what you did with the paper bag that he had left behind in your possession.

A. I drove home, and Josh and I went home; and then I took the package in the house. And the next day, I took it to my office.

Q. Did you know whether Mr. Nichols had traveled to the Philippines on occasions prior to November of 1994?

A. Yes.

Q. And how many such occasions do you recall or are you aware of?

Lana Padilla - Direct

A. He, himself?

Q. Yes.

A. I thought it was quite a few. I was estimating 10. I really wasn't sure.

Q. But a number of times that you recall?

A. A number of times, yes.

Q. On any of those prior occasions, had Mr. Nichols left with you instruction sheets, paper bags, valuables with the instructions that you've described here?

A. No.

Q. Let's turn, then, to November 23; and if you'd tell the jury, then, what exactly you did with the bag in your office that day.

A. On November 23, which is a Wednesday -- my partner is off on Wednesdays, so I took the package into my office privately and I opened it.

Q. Now, this is a bag that had markings about instructions not to open; is that correct?

A. "Do not open." Yeah. "If I don't return by such a date," yeah.

Q. Do you recall the date?

A. I thought it said "January 25."

Q. Of what year, then?

A. 1995.

Q. All right. And that corresponded with the oral

Lana Padilla - Direct

instructions you had gotten from Mr. Nichols; is that correct?

A. Yes.

Q. All right. Would you tell the jury, then, why it is despite those instructions, you opened the bag.

A. Because of my son's reaction when Terry left. Terry had made several trips, and I've never received a package; and Josh has never said to me. "I'll never see my father again." He was

in the car crying; and I said, "Josh, your dad goes to the Philippines all the time. This is just another trip."

And I was concerned. My antennas went out and I -- I was concerned.

Q. Those were the circumstances, then, that led you to open the bag?

A. Yes.

Q. Tell the members of the jury what you found inside.

A. I opened the package, and there was a life insurance policy with a beneficiary change. There were letters, one to myself and one to Jennifer McVeigh. There was stock power of attorneys that I was to -- had given me power of attorney to sell stocks. There was keys. I didn't know what they were to.

Q. Did you see any precious metals?

A. There was some small ounces of some precious metals. It made the package heavier. I remember it being heavier.

Q. In addition to the two envelopes addressed as you've described, was there another piece of paper inside the bag?

Lana Padilla - Direct

A. Yes. There was a list of emergency numbers.

Q. Did the life insurance policy and the change of beneficiary catch your eye?

A. Yes.

Q. Why?

A. Because -- because I'm an insurance agent, No. 1, and also I realized that -- that the date on the beneficiary change was just so recent, November 7, and I was -- I was -- that just concerned me.

Q. Can you describe for the jury again the envelopes in more detail? What other condition did you find the envelopes in?

A. Just letter-size envelopes. One was -- had my name on it, and the other one was stamped and addressed and sealed to Jennifer McVeigh.

Q. And the return address on the envelope that was stamped and addressed to Jennifer McVeigh: Did you recognize that address?

A. It was my address.

Q. And what other writing, if any, was on the face of the envelope addressed to you?

A. I don't remember.

Q. Did you know Jennifer McVeigh in November of 1994?

A. No.

Q. Ms. Padilla, did you read -- open and read the contents of those two envelopes?

A. Yes.

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Q. When did you do so?

A. That morning, the 23d.

Q. And what was your reaction?

A. It was -- I was very concerned, real concerned. I cared about Terry, and I was concerned that there was something

awful; that he was not coming back.

Q. Was there anything about the content of the letters that you read on that day that led you to copy them?

A. Yes, because of the way they were written, I did copy them. I put everything back in the package, and I did make copies of them, yes.

Q. And --

A. I was concerned if anything happened to him that I would have them -- I didn't know. I just made copies because I kept reading them and rereading them.

Q. And after the bombing in Oklahoma City on April 19, 1995, did you turn over your copies, the ones you've described, to the FBI?

A. Yes.

Q. Ms. Padilla, take a look, please, in your folder for Government's Exhibits 1856, 1857 and 1858.

A. 18 what?

Q. 1856 and then the two right behind that, 1857 and 1858.

Do you have each of those in front of you now?

A. Yes.

Lana Padilla - Direct

Q. Let's start with 1856; and tell the jury and the Judge whether you can recognize that document.

A. This is one of the letters. This was of the letter that was in an envelope to me.

Q. Is that a copy, or the original?

A. This is a copy.

MR. MACKEY: Move to admit Government's Exhibit 1856.

MR. WOODS: No objection, your Honor.

THE COURT: Received.

BY MR. MACKEY:

Q. Ms. Padilla, do you recognize the handwriting that appears on that letter?

A. Yes.

Q. As whose?

A. Terry's.

Q. Take a look now at 1857. Do you have it in front of you?

A. Yes.

Q. What is it, please.

A. It's a letter to Tim.

Q. Is that the copy you made after opening the envelope addressed to Jennifer McVeigh on November 23, 1994?

A. It's a copy.

Q. Yes.

MR. MACKEY: Move to admit Government's Exhibit 1857.

MR. WOODS: No objection.

Lana Padilla - Direct

THE COURT: Received.

BY MR. MACKEY:

Q. Ms. Padilla take a look now at 1858 and tell the jury

whether you recognize that.

A. Yeah.

Q. What is that?

A. It's emergency numbers.

Q. Same document you described as being inside the bag?

A. Yeah.

MR. MACKEY: Move to admit Government's Exhibit 1858.

MR. WOODS: No objection.

THE COURT: Received.

BY MR. MACKEY:

Q. Is the handwriting again Ms. Padilla on 1858 like that of the other exhibits you've just identified?

A. Yes.

Q. As whose?

A. Terry's.

Q. Ms. Padilla, do you recall which of the two letters in the envelopes you read first on November 23, 1994?

A. I read the one to me, the -- the one to me.

Q. And how long is that letter?

A. Two pages.

Q. If I asked you to read that to the jury, would you be willing to do so?

Lana Padilla - Direct

A. If you ask me to.

Q. All right. Let me publish at this time Government's Exhibit 1856.

At the top of Government's Exhibit 1856 is the title "Read and do immediately." Is that correct?

A. Yes.

Q. And then tell the jury what the first paragraph contains.

A. It contains "other storage," and the address is AAAABCO Mini Storage on Boulder Highway in Las Vegas, Nevada.

Q. Now, AAAABCO is spelled A-A-A-A-B-C-O?

A. Correct.

Q. If you were in the storage business, would that assure you'd be first in your Yellow Pages listing?

A. Yes.

Q. Do you know where that mini storage is located?

A. Yes. That's where I picked Terry up.

Q. What appears in the left-hand column?

A. It was "rented on the 16th of November, 1994; paid for three months, to the 16th of February, 1995; the space number, Q106; size, 5'x5'; combination 39-21-35."

Q. In parentheses right behind that?

A. "Right, left, right."

Q. And then immediately below that, what does the document say?

A. It says, "All items in storage are for Joshua."

Lana Padilla - Direct

Q. I'm sorry. Let's go back to the access code.

A. I'm sorry. "Access code to enter storage at gates -- press



A. I'm sorry. Access code to enter storage at gates "press star button," and then it has the star button, "press code button," and push the code "190455, press the pound button."

Q. All right. You know that to be a means by which renters at that particular storage unit can gain access to the storage units?

A. Yes.

Q. Now let's go to the paragraph immediately below that starting "All items."

A. "All items in storage are for Joshua -- the round items are when he turns age 21, all else now. Pickup can be sold, but money from pickup put away for Josh to buy his own vehicle.

"Other storage -- located in kitchen behind utensil drawer --" behind "-- between dishwasher and stove. Remove the drawer. There are 2 small levers -- one on each side of drawer on rail -- pull drawer out till it stops then flip levers down and pull drawer completely out. Then look all the way back inside. Take and push hard against the back panel. Both sides and bottom are glued, top is not. After it's broke free, remove wood panel, then remove plastic bag. All items in plastic bag are to be sent to Marife for Nicole if for any reason my life insurance doesn't pay Marife, otherwise 1/2 goes to Marife and half goes to Joshua."

Q. And was more writing on the back side of that same

Lana Padilla - Direct

document? Correct?

A. Yes.

Q. Could you read that into the record, please, then, second page.

A. "Marife will know what is at storage in home.

"As of now, only Marife, you, & myself know what there is and where it is. I hope --" "I hope you will do as I've stated. Josh is just a few years before he's capable of being on his own and Marife and Nicole have many more years of support needed. There is no need to tell anyone about the items in storage & at home. Again only the three of us will know. I have the most trust in you here in the U.S. to do as I've written."

Q. Ms. Padilla, can I help out?

A. "It would probably be best . . ."

Q. Okay. The last line in that first full paragraph, second page: Does it read: "It would probably be best to wire the items to Marife, 3M at a time --"?

A. "-- over 2-3 months." I can do it.

Q. All right. Thank you.

A. "You will have to contact Tim to get the title to the pickup, he should know where it's at. Write to his sister -- Jennifer McVeigh, 6289 Campbell Boulevard, Lockport, New York, 14094.

"You can tell Josh after you finish with all the

Lana Padilla - Direct

details.

"There are two stock power of attys. in the stock file signed but not filled out. You should be able to take care of them w/the stock power attys."

Q. And this is the document that you read on November 23 of '94?

A. Uh-huh.

Q. And some of the information in here is information that you -- prompted you to make copies. Is that correct?

A. Correct.

Q. On the first page in the bottom paragraph refers to storage in a kitchen. Do you remember that being part of this exhibit?

A. Yes.

Q. Did you later follow the information set forth in this exhibit and search for that compartment?

A. Yes.

Q. When did you do that?

A. December 17. I did it a few weeks later, after Josh left for Christmas vacation, because during that time, I was really concerned. I didn't -- I didn't know what this was all about, but --

Q. But you elected to wait several weeks between reading the letter before going to the kitchen?

A. Yes.

Q. All right. Tell us what happened on December 17.

Lana Padilla - Direct

A. It was a Saturday, and Josh was gone for Christmas vacation. And I -- my oldest son and I -- he helped me. He's the one that opened the back of the drawer and pulled the package out.

It was a Wal-Mart package, and it had money in it.

Q. And which son was it that assisted you?

A. Barry.

Q. And were the two of you there together?

A. Yes.

Q. And did you count the money that you found in the plastic bag together?

A. Yes.

Q. How much was there?

A. I believe it was \$20,000.

Q. Do you recall the denominations of the bills?

A. I remembered \$100 bills.

Q. Do you remember there being anything else in the plastic bag other than \$20,000 in cash?

A. No.

Q. Did you and Barry go anywhere else that same day, December 17, 1994?

A. Well, after we saw the money, we decided we had better take it to my office and put it in some safekeeping; so we proceeded to go to my office at Esquire Realty and then got the keys for the pickup truck, and we went over to the storage locker on

Lana Padilla - Direct

Boulder Highway.

Q. All right. On that day, Ms. Padilla, when you discovered the \$20,000 in cash in your kitchen drawer, what was your reaction to finding that amount of cash?

A. My first reaction was surprise, because I didn't really think -- I mean, Terry was in between employment. His wife was away. I didn't expect him to have any money.

Q. So the fact of -- or the amount of the money was a surprise to you?

A. Yes.

Q. All right. Tell us now what happened when you went out to the storage shed.

A. We were very nervous, and we -- it was daytime. And we went and located the storage locker, and we went in; and we weren't in there very long. It was a small locker. There wasn't much -- a whole lot of things in there.

I was more concerned with looking for something that would tell me what this letter meant, and I opened up Terry's briefcase and looked through that, looking for anything that might say why he might not come back.

Q. The storage locker that you entered: Was it the same one that was listed by unit number and combination number in the exhibits you've already told the jury about?

A. Yes.

Q. How long were you and Barry at the storage locker that day?

Lana Padilla - Direct

A. Well, we were in the storage locker -- I don't think any more than 10 minutes, and then we walked out to the truck and looked through the front part of the truck, not the back.

Q. Ms. Padilla, see if you can find some photographs in there in your exhibits there, 1909, 1910.

A. What?

Q. 1910.

A. Oh, 1910.

Q. About six of them that I want you to look at.

A. All right. Shall I just pull --

Q. Just pull them out, yes. 1912, 1914, 1915, and 1916.

Do you recognize what's shown in each of those photographs?

A. It appears to be the AAAABCO storage unit that we went into.

Q. On December 17, 1994?

A. Yes.

MR. MACKEY: Your Honor, we'd move to admit those exhibits, 1909, 1910, 1912, '14, '15, and '16.

MR. WOODS: No objection.

THE COURT: They are received.

BY MR. MACKEY:

Q. Ms. Padilla, let's take just a moment to describe to the jury since you've been there in those exhibits. 1909: What are we looking at? And you can look on your screen, if you'd

are we looking at? And you can look on your screen, if you'd

Lana Padilla - Direct

like.

A. Oh, thank you.

That's the street location. That's the front from Boulder Highway.

Q. That's the storage facility that you visited that day?

A. Yes.

Q. Is that the same facility that you picked Mr. Nichols up to take him to the airport on November 22?

A. Yes.

Q. Let's take a look at the next picture. What do we see here?

A. That's the gate you go through, and then his -- the truck -- is like vehicle storage back beyond that wrought iron gate.

Q. You need a key code in order to open the gate and get further. Is that correct?

A. Correct.

Q. And did you use that key code that you found on this exhibit that you identified to do so?

A. I don't remember if I did. It was daytime, so I think it might have been open.

Q. In any event, you had to go past the wire -- or excuse me, the metal bar gate that's shown in this photograph?

A. Right.

Q. Incidentally, are nine out of ten billboards in Las Vegas

Lana Padilla - Direct

ones that promote casinos?

A. If not ten out of ten.

Q. Okay. Let's take a look now at 1912. And is that Building Q?

A. Yes.

Q. You see the Q letter on the side of the building?

A. Right.

Q. And the building that's depicted in the background: What is that, the tall building?

A. That's Boulder station.

Q. And did you go inside Building Q with Barry on December 17?

A. Yes.

Q. Let's take a look at the next photo.

Does that accurately depict a series of storage units inside that building?

A. Yes.

Q. And the next photo.

Is that a picture of Unit Q106?

A. Yes.

Q. And that is the unit and you and Barry visited on that day?

A. Yes.

Q. Is that the same unit that's listed in Mr. Nichols' handwriting on the exhibit you read into the record?

A. Yes.

Q. And the next photo, please.

Lana Padilla - Direct

Does that show the size and dimensions of Unit Q106?

A. Yes.

Q. With those pictures in mind, Ms. Padilla, can you describe to the jury what you and Barry did in examining the contents found in that locker?

A. Well, we opened the -- I really didn't get into the unit too far. I was on the edge. We opened the door. I set the briefcase in the hallway and opened it up, and Barry stepped in the locker and was looking at various things.

Q. What did you see sitting inside the locker when you first opened the door?

A. That it wasn't real full. There were boxes.

Q. Do you recall how many?

A. No.

Q. Their dimension?

A. No. We -- I was eagerly looking in the briefcase. Barry was opening up the boxes and looking in there, and we were conversing back and forth.

Q. Can you tell the members of the jury from your recollection what kinds of things you saw inside Unit Q106 on that visit.

A. Well, Barry had opened up and there were some precious metals, and it was gold and silver. And I really didn't look at it a whole lot. I mean, we were just -- I was just in shock because to see that first we found the money and then we see the gold and the silver, and I was very surprised.

Lana Padilla - Direct

Q. Did you find any pieces of paper laying on the coins or near the coins?

A. There was a piece of paper.

Q. Describe what you remember.

A. It was in Terry's handwriting. It had "estimated value."

Q. What dollar figure was on that piece of paper laying on the coins?

A. I thought it said 36-, 38,000.

Q. Do you recall seeing anything else inside that storage locker?

A. I went through the briefcase, and there was a bag with makeup, pantyhose, a ski mask and a wig.

Q. And where was it that you saw those items, the ski mask, the wig, the makeup and the pantyhose?

A. In the storage locker.

Q. Do you remember what container they were in?

A. I thought they were in a bag. It was just all so fast. I mean, I was looking, and I was just really looking for anything in writing that might explain Terry's state of mind.

Q. Were those four items, the ski mask and the wig and the makeup and the panty hose, together? Were they in the same

bag?

A. Yes.

Q. Same container?

A. Yes.

Lana Padilla - Direct

Q. Can you describe to the jury the ski mask that you saw in Unit Q106?

A. It was a black ski mask, full face.

Q. Did you notice whether it had openings of any kind?

A. I thought it did.

Q. What do you recall?

A. Pardon?

Q. What do you recall about those openings?

A. I recalled when I looked at the items that I said -- I recall saying to Barry -- the reaction was shock, and I looked at the mask and I thought that -- I said, "What is he doing? You know, what is he doing? Robbing banks?" And that was my reaction.

Q. Do you recall the color of the wig?

A. I thought it was black or dark.

Q. Do you recall the color of the panty hose?

A. No.

Q. In addition to the items you've listed, did you see anything else in the storage shed that day?

A. I thought there was a tackle box, and I thought I remember his orange vest, I think a sleeping bag.

Q. In the course of the visit to the storage shed, was your attention drawn at any point to a cigar box?

A. Oh. Yeah. Barry had opened up a cigar box, and there was -- there was some green -- it looked like jade.

Lana Padilla - Direct

Q. And did you look inside the cigar box?

A. I didn't handle the cigar box, but I did look inside.

Q. Do you recall approximately how many pieces of jade or --

A. No. The box was full.

Q. How was the box, inside the box? As you looked at it, describe what you saw.

A. There was some tissue, and he unwrapped it and looked at it.

Q. In the course of that visit, Ms. Padilla, do you know whether one or more pieces of jade were taken?

A. Barry took one piece. He said, "I'm going to take a piece and see what it is." And he took a piece.

Q. And later following the bombing, did you take certain steps to retrieve that piece of jade taken from the storage shed that day?

A. Yes.

Q. Would you describe what you did.

A. Barry had taken that, and I had forgotten about it. And then I recalled it, and I asked Barry what he did with the

jade.

And he said he had given it to a girlfriend. And I proceeded to locate the girl and get the jade, and I turned it over to my attorney.

Q. And did you authorize, then, your attorney to surrender it to the FBI?

Lana Padilla - Direct

A. To everyone, to notify everyone.

Q. Notify both the defense and the prosecution when you did so?

A. Right.

Q. Would you take a look, please, at Government's Exhibit 1748. Do you see that there?

A. Yes.

Q. Do you recognize it?

A. It looks like what I saw.

MR. MACKEY: Your Honor, we'd move to admit Government's Exhibit 1748.

MR. WOODS: No objection, your Honor.

THE COURT: 1748 now received.

BY MR. MACKEY:

Q. Ms. Padilla, before you visited the shed on that day in December of 1994, do you know whether Terry Nichols had ever collected jade artifacts?

A. Well, I hadn't lived with Terry in a number of years. When we were married, I don't recall us collecting any kind of jade.

Q. In December of 1994, Ms. Padilla, when Mr. Nichols was abroad in the Philippines, did you have any items of his property in your home?

A. Yeah. He left -- he had privileges to use my garage, so there were things of his that were in my garage.

Q. And when you think back on the amount of material, items,

Lana Padilla - Direct

that were inside the storage shed, was there sufficient room in your garage at your residence to store that same quantity?

A. Oh, there was room.

Q. Do you know why Mr. Nichols had a storage shed in Las Vegas, Nevada?

A. No. No. And I didn't even ask him or think about it.

Q. Ms. Padilla, let's go back now to Government's Exhibit 231. Could you find that, please.

A. Is it one I already pulled out?

Q. Yes, ma'am. We'll just pull it up on the screen. That might be faster.

A. Okay.

Oh, okay. I have it.

Q. You have it there?

Do you recall this is the document that was handed to you by Mr. Nichols during the drive to the airport on the 22d of November?

A. Correct.

... 0011000.

Here it is.

Q. At the very bottom of Government's Exhibit 231, do you see instructions about oil changes for that vehicle?

A. Yes.

Q. And at the very bottom or last two lines, is there a description of the size of the oil filter for that vehicle?

A. Yes.

Lana Padilla - Direct

Q. PH13 Fram oil filter?

A. Yes.

Q. Before Mr. Nichols left in November of 1994, did you have any conversation with him about why it is that Mr. McVeigh might need to borrow or use this particular vehicle?

A. I don't recall asking him about why he would borrow it.

Q. And Government's Exhibit 1856 that you read into the record earlier on page 2, there was a reference to the title of the vehicle. Do you recall that?

A. Yes.

Q. Can you find that on the back page, third paragraph from the bottom?

A. Yes.

Q. Do you know why it was that someone would have to contact Tim in order to get the title to the vehicle?

A. I thought I remembered Terry saying he bought it from him, but I don't know if that's -- if that's just a memory. I don't know.

Q. Among the papers that you found in November of 1994, did you find a title to a 1984 GMC truck?

A. No.

Q. Ms. Padilla, do you recall talking to Tim McVeigh at any point in time during the time that Mr. Nichols was abroad?

A. On December 18.

Q. And why do you remember that day?

Lana Padilla - Direct

A. Because I had just gone in the storage locker and I was -- I was still an emotional wreck. And I remember how ironic that he called and he was chatting. And he really, you know, was happy and -- and I was dying to ask him questions and didn't ask him anything.

Q. Well, tell the jury in more detail what it was the two of you, Mr. McVeigh and yourself, talked about on December 18.

A. Well, the purpose -- it seemed the purpose of his call was to ask me if I knew when Terry was coming home and if not if I had any information how to reach him.

Q. Did you provide that to him?

A. I told him I had an address in Cebu.

Q. Did you provide that address to him?

A. I don't remember.

Q. In the course of the conversation, did Mr. McVeigh talk about the manner or means that he intended to communicate with



Mr. Nichols?

A. He said he was going to write him a letter and he'd have to write in code because there were a lot of snoopers people.

Q. That was a comment made by Mr. McVeigh?

A. Yes.

Q. What was your response when he said he intended to write Mr. Nichols in code?

A. I just -- I didn't give any reaction. I didn't -- in my mind I was wanting to ask him if Terry was okay. And I was

Lana Padilla - Direct

concerned about his -- you know -- I thought if this is his friend -- you know, I was more concerned in my mind what was going on with Terry, not what Tim cared -- what Tim was doing.

Q. Let's return our attention now to Government's Exhibit 1858. Can you find that? It's a document you identified with the title "Emergency Numbers." Do you have that in front of you?

A. Yes.

Q. On the top portion of the exhibit, can you simply describe without reading all of it in the record the kind of information that appears on the top half?

A. He's got emergency numbers and addresses, Terry Nichols.

Then he's got Marife's address in Cebu, and then he's got emergency phone numbers and he has someone else in California and then he has his mother, Joyce.

Q. Is that immediately below, the Palm Desert, California address?

A. Right. He has his mother's and his brother's phone number.

Q. Let's turn over on the back of Government's Exhibit 1858.

Do you see other writings of Mr. Nichols?

A. Yes.

Q. Just read that into the record, if you wouldn't mind.

A. He has listed items, emergency numbers and addresses.

"Letter to Jennifer to be mailed on January -- or 28th of January, '95; letter to you to be opened after the 1st of

Lana Padilla - Direct

February, '95; two files on stocks, and keys."

Q. And does the list that appears on the back of that exhibit, the one under the title "Items," correspond with the items that you received from Mr. Nichols on November 22?

A. In the package.

Q. Now, there is a line there that says, "Letter to Jennifer to be mailed on January 28, 1995." Do you see that?

A. Uh-huh.

Q. Do you recall that instruction being anywhere else among the materials you saw?

A. No. I don't remember that.

Q. The next line says, "Letter to you to be opened after February 1, 1995." See that?

A. Yes.

Q. Was that instruction anywhere else among the materials you saw, if you recall?

A. No. I don't recall.

Q. Excuse me?

A. I don't recall.

Q. Do you know why there was a four-day time period between when you were to mail Jennifer's letter and when you were to open yours?

A. No.

Q. Did you find any explanation for that among the materials in the paper bag or elsewhere?

Lana Padilla - Direct

A. No.

Q. Ms. Padilla, let's go now to Government's Exhibit 1857. Pull that up, please.

And tell the members of the jury when you first saw this document.

A. After I opened the letter to me, then I opened the letter to Jennifer.

Q. This is an envelope addressed to Jennifer McVeigh with a stamp on as you described?

A. Right.

Q. When you first opened that envelope, what did you find inside?

A. An envelope to Tim. Another envelope with Tim's name on it.

Q. An envelope inside the envelope. All right. Did you open that second envelope addressed to Tim?

A. Yes.

Q. And what did you find?

A. A letter.

Q. And is it this letter, Government's Exhibit 1857?

A. Yes.

Q. Was there anything else in the envelope addressed to Jennifer?

A. Addressed to Jennifer? No.

Q. And was there anything else other than this letter inside

Lana Padilla - Direct

the envelope addressed to Tim?

A. There might have been my business card. I don't recall it, but --

Q. Let's turn our attention now to the top paragraph of Exhibit 1857, and I'd ask again if you wouldn't mind to read what's written there into the record.

A. "Tim: If, should you receive this letter then clear everything out of CG37 by February 1, '95, or pay to keep it longer, under Ted Parker of Decker. This letter has been written & sealed before I left (21st of November, '94) & being mailed by Lana as per my instructions to her in writing. This is all she knows. It would be a good idea to write or call her to verify things - (702) 897-6290 home, but best at office

to verify things (702) 877-2501 home, but best at office  
(702) 877-2501. Just ask for Lana (card enclosed). Your (sic)  
on your own. Go for it!! Terry.

"Also, liquidate 40.

"Have my mail forwarded to Lana but use my name and  
her address - 7160 Nordic Lights, Las Vegas, NV, 89119.

"Mail Boxes Etc.

"Chery (913) 537-6071. Box #197.

"The Parker deal was signed & dated the 7th of  
November, '94, so you should have till 7th of February, '95,  
plus 5 days grace, if close or they disagree then should pay  
another term period.

"As far as heat - none that I know, this letter would

Lana Padilla - Direct

be for the purpose of my death."

Q. Ms. Padilla, this letter was found in the bag with  
instructions that you should not open until after some date in  
January of 1995. Is that correct?

A. Correct.

Q. And your instructions were that if that date came and went,  
then you should mail it per the instructions; is that correct?

A. Correct.

Q. At the top of this letter, it reads, "Tim: If, should you  
receive this letter then clear everything out of CG37 by  
February 1, '95."

Did you know when you read this letter what CG37  
represented?

A. No.

Q. Had you ever heard of anybody named "Ted Parker" of Decker?

A. No.

Q. It goes on to say, "also liquidate 40."

Did you know anything about a 40?

A. No.

Q. Ms. Padilla, tell the members of the jury what your  
reaction was when you read this letter on November 23, 1994.

A. About what it is when I read that last line, "purpose of my  
death." Nothing else mattered. I just thought he was not  
going to come back.

Q. The words "this letter would be for the purpose of my

Lana Padilla - Direct

death" stuck with you when you first read it?

A. Yes.

Q. Ms. Padilla, I could ask you some questions about your  
understanding of the words here, but I take it your answer  
would all be the same: All you know is what you read?

A. Correct.

Q. As the letter says: This is all you know?

A. That's all I know.

THE COURT: Would this be a convenient place to  
interrupt?

MR. MACKEY: Yes, your Honor. Move to another area,

yes.

THE COURT: All right. We're going to take the recess at this time, Ms. Padilla. You may step down now.

Members of the jury, as usual for our schedule, we'll recess till 1:30 now. You know, I emphasize the importance of not talking about the case or discussing any witnesses that you have heard. I know you have a curiosity sometimes about what this or that means or how people react to any of the testimony.

You've got to withhold that natural impulse, wait till you've heard it all, because it is important that everything be considered in the context of the case as a whole. I'm sure you understand that.

So please continue to follow the cautions of keeping open minds and avoiding discussion with all other persons, including other jurors, of anything connected with the case, as well as avoiding anything outside of our record.

You're excused now till 1:30.

(Jury out at 12:01 p.m.)

THE COURT: We'll be in recess, 1:30.

(Recess at 12:02 p.m.)

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#### PLAINTIFF'S EXHIBITS

| Exhibit   | Offered | Received | Refused | Reserved | Withdrawn |
|-----------|---------|----------|---------|----------|-----------|
| 211       | 9466    | 9466     |         |          |           |
| 215       | 9466    | 9466     |         |          |           |
| 231       | 9573    | 9573     |         |          |           |
| 1748      | 9595    | 9595     |         |          |           |
| 1756-1763 | 9466    | 9466     |         |          |           |
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| 1765      | 9533    | 9533     |         |          |           |
| 1849      | 9554    | 9554     |         |          |           |

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|------|------|------|
| 1856 | 9580 | 9580 |
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| 1900 | 9472 | 9472 |

PLAINTIFF'S EXHIBITS (continued)

| Exhibit   | Offered | Received | Refused | Reserved | Withdrawn |
|-----------|---------|----------|---------|----------|-----------|
| 1903      | 9474    | 9474     |         |          |           |
| 1909-1910 | 9588    | 9588     |         |          |           |
| 1912      | 9588    | 9588     |         |          |           |
| 1914-1916 | 9588    | 9588     |         |          |           |
| 1920      | 9508    | 9509     |         |          |           |
| 1957      | 9519    | 9519     |         |          |           |
| 2029      | 9514    | 9514     |         |          |           |
| 2033      | 9511    | 9511     |         |          |           |

\* \* \* \* \*

REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 19th day of November, 1997.

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Paul Zuckerman

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Kara Spitler

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