



THE COURT: Members of the jury, good morning. The strange sound that you hear, which has been called, I'm told, "pink sound" -- I don't know what happened to white sound -- but that was on because I had a discussion with the lawyers here at the bench before we started this morning, and that's why we held you right there at the threshold before coming in. So it was a bit of a delay, and we apologize for that. But as I have told you before, sometimes we have these little meetings ahead of time, and it gives me an opportunity to give certain rulings and guidance to counsel so that we can proceed without interruption and without the necessity, as sometimes happens in trials, of asking the jury to step out and then come back in. We try to take care of those matters ahead of time so that it can proceed then without interruption, and I believe we have done so.

You'll recall that when we recessed early Friday afternoon, we were hearing testimony from FBI Agent Scott Crabtree, who is being examined by Mr. Goelman; and we'll continue with that testimony this morning.

Mr. Crabtree, if you'll resume the stand under the oath taken last Friday.

(Scott Crabtree was recalled to the stand.)

THE COURT: Mr. Goelman, you may proceed.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION CONTINUED

BY MR. GOELMAN:

Q. Agent Crabtree, at any time during the interview of Terry Nichols on April 21, 1995, did you tell him what the FBI intended to do with any information that he provided?

A. Yes, we did.

Q. When was that?

A. During the first interview session that I was involved in.

Q. Please describe what you said to Mr. Nichols as far as that subject is concerned.

A. That we were basically there to get any information that he could offer us on any contact he might have had with Tim McVeigh and that anything that he would tell us, that we would be going out, trying to verify at a later date.

Q. And at what point did you say that to Mr. Nichols? What was the subject that was being discussed when you said that?

A. At that particular time, the meeting between Mr. McVeigh and Mr. Nichols on the 18th and the discussion of him being at DRMO.

Q. In response to that question, did the defendant provide any further information to you?

A. Yes, sir, he did.

Q. What did he say?

A. At the time that he had expected Tim McVeigh to come back

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and pick him up, that he did not appear; that he went to another building, one that he had to sign into; spent some time there; and after he put in a bid, came outside; and sometime after that, Tim McVeigh returned and picked him up.

Q. Did you ever ask him to provide information that FBI could

Q. Before you asked him to provide information that FBI could verify -- before you told him that you'd go out and verify information, had he told you about that sign-in sheet anytime before that?

A. No, he hadn't.

Q. And on April 21, 1995, Agent Crabtree, had you ever been to Fort Riley?

A. I had been to the Fort Riley --

Q. Had you ever been to DRMO at Fort Riley?

A. No, sir.

Q. Did you know anything about the layout of the DRMO?

A. No, sir.

Q. Did you know anything about the procedures followed?

A. No, sir.

Q. At what point of the interview did Mr. Nichols first tell you about his activities on Tuesday morning, April 18?

A. It would have been during the first interview session that I was involved in, but it would have been before 6:10, 6:10 break.

Q. And at that point, did he tell you how he and Mr. McVeigh had supposedly parted ways on Tuesday morning?

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A. Yes, sir, he did.

Q. What did he say?

A. That after Mr. McVeigh had picked him up, that they had returned back to McDonald's in Junction City; that they had gotten out of the vehicle and that was it, and that he hadn't seen him since.

Q. Did Mr. Nichols indicate that Mr. McVeigh said anything memorable when he got out of the vehicle at McDonald's?

A. Not on that occasion.

Q. Do you remember the words that Mr. Nichols used to describe his parting of ways with Mr. McVeigh?

A. He said Mr. McVeigh got out of the vehicle, and that was it. And that he hadn't seen him since.

Q. And at that time, did Mr. Nichols tell you that Mr. McVeigh had supposedly asked him to do something at that time?

A. No, sir.

Q. When was your and Agent Smith's final break?

A. It would have been from, I believe, 10:20 to 10:50 that evening.

Q. And did you spend that time talking with other agents?

A. Yes, we did.

Q. Do you remember what the first question was that you asked Mr. Nichols when you came back from that final break?

A. Yes, sir, I do.

Q. And who asked that question?

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A. I did.

Q. Do you remember the exact words that you used?

A. Yes, sir.

... 100, 511.

Q. What were they?

A. I asked him to tell us about any storage lockers that he has had or had had under his care, custody, or control.

Q. And did you tell Mr. Nichols what it was that led you to ask him about any storage lockers under his care, custody, or control?

A. No, sir.

Q. After you asked Mr. Nichols this question about storage lockers, did he later again tell you about his parting from Mr. McVeigh three days earlier, on Tuesday the 18th?

A. Yes, sir, he did.

Q. And what did he tell you about the way that he and Mr. McVeigh had parted company on this telling?

A. That upon getting out of the vehicle, Mr. McVeigh had requested Mr. Nichols to pick up some belongings for him if he was not able to pick them up himself.

Q. Did Mr. Nichols indicate where he was supposed to pick up these belongings?

A. A storage locker in Herington.

Q. And did he provide you specific information about that storage locker?

A. Yes, sir. He described where it was located.

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Q. Did Mr. Nichols tell you whether or not he actually had gone and picked up items from the storage locker?

A. Yes, sir, he said he had on the previous day.

Q. On April 20?

A. Yes, sir.

Q. And did he tell how he had known on April 20 that Mr. McVeigh would not be able to pick them up by himself?

A. No, sir.

Q. As a native of Herington, Kansas, are you familiar with the location of the storage locker that Mr. Nichols described to you?

A. Yes, sir.

Q. I'm going to show you what's already been introduced into evidence as Government Exhibit 92. By the way, Agent Crabtree, how many traffic lights are there in Herington?

A. I believe one just at Broadway and Walnut. Center of town.

Q. Can you look down at your screen and tell me if you see the

location of the storage shed that Mr. Nichols described to you when you asked him for sheds under his care, custody, and control?

A. Yes, sir, I do.

Q. Would you circle that with your light pen.

Agent Crabtree, what's the larger road that appears in the background of that picture? Actually, kind of in the middle of that picture.

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A. That's U.S. 77.

Q. Can you just draw a line on that, please.

Can you approximate about how far it is from U.S. 77 to that particular storage shed.

A. Maybe 100, 150 yards.

Q. When Mr. Nichols told you that he and Mr. McVeigh had driven back from Oklahoma City on Easter Sunday, did he tell you what route they took back to Kansas?

A. Yes, sir. They had come up U.S. 77.

Q. And according to Mr. Nichols, when Mr. McVeigh called him at 6 a.m. on Tuesday, April 18, what did Mr. McVeigh ask him at that time?

A. He called to see if he could use Mr. Nichols' truck because he wanted to look at a few vehicles and pick up a few things.

Q. Did Mr. Nichols indicate whether there was any conversation about Mr. McVeigh picking up a few things on his way up to Junction City?

A. No, sir.

Q. And how long, according to Mr. Nichols, did Mr. McVeigh have his truck for on the morning of April 18?

A. Approximately six hours.

Q. According to Mr. Nichols, did Mr. McVeigh ever provide an explanation as to why he hadn't used the truck during those six hours to go pick up a few things at the locker?

A. No, sir.

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Q. Agent Crabtree, on April 21, did Terry Nichols tell you at any time before 11 p.m. that Tim McVeigh asked him to pick up items at the storage locker?

A. No, sir.

Q. When he told you about cleaning out that storage locker, Agent Crabtree, did he tell you what name it was under?

A. No, sir.

Q. At any point in the time that you spent with Terry Nichols on April 21st and April 22d, did he mention the name "Shawn Rivers" to you?

A. Yes, sir, he did.

Q. And when was that?

A. That would have been on the following day on Saturday, while we were at the courthouse in Wichita, awaiting for his initial appearance.

Q. After you'd asked him the night before about storage lockers under his care, custody, and control?

A. Yes, sir.

Q. Did you ever ask Mr. Nichols why he didn't pick up or drop off Mr. McVeigh where he was staying instead of at the McDonald's in Junction City?

A. Yes, sir. We discussed it numerous times.

Q. About how many times did you discuss this?

A. Roughly every time that we went over the story that he was picked up or dropped off at the McDonald's.

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Q. And when you asked Mr. Nichols this question, did he ever tell you that he knew precisely where Mr. McVeigh was staying?

A. Not precisely, no.

Q. Did he ever tell you whether he knew anything about where Mr. McVeigh was staying in Junction City?

A. Yes, sir. Originally, he had said that McVeigh had told him he had a room in Junction City.

Q. A room?

A. Yes, sir.

Q. What did he say on the same topic later in the interview?

A. When we discussed it again later, I was trying to get more information as to where that might be, it was Tim McVeigh said that he had a friend where he could stay and perhaps get a vehicle to continue on his travels.

Q. Leaving aside whether it was a friend or a room, was Mr. Nichols consistent on the more basic question of whether or not he knew where Tim McVeigh was staying in Junction City?

A. Yes, he was.

Q. And what was his consistent answer?

A. That he did not know.

Q. As well as talking to other agents during the last break, did you also receive some documents between 10:20 and 10:50 in the evening?

A. Yes, sir, we did.

Q. What were those documents?

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A. Those were some letters that had been received from Mr. Nichols' former wife by the office in Las Vegas.

Q. And did you read those letters during your break?

A. Yes, sir.

Q. I want to show you what's already been received in evidence as Government Exhibit 1857.

Do you remember the first time that you read this letter, Agent Crabtree?

A. It would have been during the break from 10:20 to 10:50 that evening.

Q. And when you first read it, do you remember what you noticed about this letter?

A. Yes, sir.

Q. What was it?

A. The comments that Mr. Nichols had addressed to Mr. McVeigh regarding "go for it" and "as far as heat, none that I know of."

Q. And did you take these letters back into the interview with you?

A. Yes, sir, we did.

Q. What did you do with them?

A. At the end of the interview, we showed them to Mr. Nichols.

Q. Who gave the letters to Mr. Nichols?

A. I did.

Q. And did you say anything to him when you gave him the

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letters?

A. Yes, sir, I did.

Q. What did you say?

A. I asked him to review the letters because we had some questions we'd like to ask him about them.

Q. And what did Mr. Nichols do when you told him that and you handed him the letters?

A. He took the letters and seemed to read -- he looked at each page. I assumed he read every page.

Q. How long did he take to read them?

A. Three or four minutes, maybe.

Q. And what happened at that point?

A. Then we proceeded to ask him questions again.

Q. Did Mr. Nichols provide you an explanation about the letters?

A. Yes, we asked him what -- what he wrote the letters for, and he advised us that he was -- he had gone to the Philippines, and that this was in place of a will.

Q. Did Mr. Nichols tell you what he had done with the letters when he went to the Philippines?

A. Yes, sir. He had left them with his former wife and she was to deliver them and/or follow the instructions for her if he did not return from the Philippines the following January.

Q. So according to Mr. Nichols, what was supposed to happen with these letters if he actually did return from the

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Philippines safely?

A. He would get them unopened, undelivered, etc.

Q. Did Mr. Nichols explain to you why he thought his life was in danger?

A. He just said the Philippines weren't a safe place.

Q. And did you have any response to that?

A. Yes, sir. I asked him based on that, if he had written such letters every time that he had gone to the Philippines.

Q. And what was his response?

A. No, that he hadn't.

Q. Did he tell you whether he had written these type of letters on any of the other trips that he made to the Philippines?

A. No, sir. This was the only occasion.

Q. After he told you that he hadn't written letters on any other trip to the Philippines, did you ask him anything further?

A. Yes, sir, we did.

Q. What did you ask him?

A. We asked him to tell us what the comments "go for it" and "as far as heat, none that I know of" meant.

Q. And what was his response?

A. He didn't have one.

Q. Who asked this question?

A. I did.

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Q. And how loud did you ask the question?

A. The same tone of voice we used the whole evening.

Q. Had Mr. Nichols shown any signs of having difficulty hearing your questions up to that point?

A. No, sir.

Q. And how long did Mr. Nichols sit there after you asked him to explain ". . . heat, none that I know of" and "go for it"?

A. Maybe 20 or 30 seconds. Something like that.

Q. What happened after there was no response from Mr. Nichols for that period of time?

A. I asked him another question, and then Steve and I got up and left the interview, left the room.

MR. GOELMAN: Thank you, Agent Crabtree.

I have nothing further, your Honor.

THE COURT: Mr. Woods.

MR. WOODS: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. WOODS:

Q. Good morning, Agent Crabtree.

A. Good morning, sir.

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

A. Yes, sir.

Q. You and I have never met, never talked, have we?

A. No, sir.

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Q. At the time of this event, you had been in the FBI for 13 years?

A. A little less than that. 12 1/2, I think. Something in that neighborhood.

Q. Joined in '82; is that correct?

A. Yes, sir.

Q. This is in '95?

A. Yes, sir.

Q. You were born and raised, grew up in Herington, Tex -- Herington, Kansas?

A. Yes, sir.

Q. Okay. And then went to William Jewell College. Where is that?

A. It's in Liberty. It's a suburb of Kansas City. Kind of on the northeast section of Kansas City.

Q. Then you went into the FBI a few months after your graduation; is that correct?

A. Yes, sir.

Q. Did you go in as an accountant?

A. That was the program area that I was under when I got selected, yes, sir.



Q. When did the FBI drop that requirement that the agents had to be lawyers or accountants?

A. I'm not sure, sir, if they have ever had that requirement. I knew at one time, it seemed to be the predominant professions

Scott Crabtree - Cross

that they drew from. But I'm not sure that there was ever a time when it had to be one or the other.

Q. Did they drop that in '72 after John Edgar Hoover died?

A. Gosh, sir. I don't know. I was in high school. I don't know what happened then.

Q. At any rate, you got in because you were an accountant right out of college; is that correct?

A. Yes, sir. There was -- yes.

Q. You went to a few big offices and then ended up by yourself in Salina, Kansas?

A. Yes, sir.

Q. Just a one-man office and that's you; right?

A. Yes, sir.

Q. And that's 50 miles from your home, Herington?

A. Yes, sir.

Q. And that's part of the area you cover under your responsibilities, Herington; is that correct?

A. That's correct, sir.

Q. You know the people there, you know the law enforcement officials there?

A. Yes, sir.

Q. Because you deal with them?

A. That's part of my liaison responsibilities, being the RA, is to meet with the locals.

Q. You knew the chief of police, Barry Thacker?

Scott Crabtree - Cross

A. He wasn't chief at the time, but yes, sir, I knew him.

Q. He was?

A. He was not chief at the time. Dale Kuhn was in charge of the department at the time.

Q. Well, you had a director of the department of public safety, which was Dale Kuhn; correct?

A. Correct.

Q. And Barry Thacker was designated chief of police, wasn't he?

A. I'm not sure exactly what his title was. I knew he answered to Dale Kuhn, and Dale was the person that I would direct communications to if I was going to write something to the department.

Q. And how big is Herington? What's the population?

A. Probably a little less than 3,000 people.

Q. Is that pretty much a stand -- a population that existed when you grew up there, or did it change in any dramatic fashion?

A. No, sir. I believe it had been around 3,000 from the time I was born and raised there until -- ever till today.

I was born and raised there until -- even till today.

Q. All right. Now, your jurisdiction also covered Junction City; is that correct?

A. No, sir.

Q. You didn't cover Junction City out of Salina?

A. No, sir.

Scott Crabtree - Cross

Q. Was there a resident agent in Junction City?

A. No, sir.

Q. Okay. When you received word -- well, first, you told the jury on Friday that you were selected to do the interview because you had the most knowledge about the case; is that correct?

A. In Kansas; that's correct, sir.

Q. And you had been working on this case for two days, had you not? Didn't you start working on it on the 19th?

A. Yes, sir. The afternoon of the 19th; that's correct.

Q. Okay. And did you go to Junction City on the afternoon of the 19th?

A. Yes, sir.

Q. Now, is that within your jurisdiction or did somebody else cover that area?

A. Junction City is typically covered out of the Topeka resident agency, sir.

Q. Okay. But you received the call to go to Junction City to conduct an investigation; is that correct?

A. Yes, sir.

Q. And from where was that call received?

A. The Miami division.

Q. All right. And where did you go when you received that call?

A. They directed me to go to Elliott's Body Shop there in

Scott Crabtree - Cross

Junction City on the southwest corner of town.

Q. Okay. Before you went to that location, did you make a phone call to the location?

A. Yes, sir, I did.

Q. What did you instruct the people to do that you talked to on the telephone?

MR. GOELMAN: Objection. Scope, your Honor.

THE COURT: Sustained.

BY MR. WOODS:

Q. You've advised the jury that you had the most knowledge about the case; is that correct?

A. Yes, sir.

Q. In Kansas?

A. Yes, sir. At that time, yes.

Q. And how did you obtain that knowledge about the case in two days?

A. Working on leads connected to the case, sir.

Q. All right. And was one of those leads to go to Junction

City to Eldon Elliott's Body Shop?

A. Yes, sir.

Q. Before going there, did you instruct the individuals to do anything concerning documents at that location?

MR. GOELMAN: Objection.

THE COURT: Sustained.

BY MR. WOODS:

Scott Crabtree - Cross

Q. Okay. Did you eventually go to the location?

A. Yes, sir.

Q. What time did you get to Eldon Elliott's Body Shop in Junction City on Wednesday, April the 19th?

MR. GOELMAN: Objection, your Honor.

THE COURT: Well, he said he knew more about the case.

I assume this is questioning about what he knew about the case.

MR. WOODS: Yes, your Honor.

THE COURT: Is that right?

MR. WOODS: Yes.

THE COURT: Overruled.

BY MR. WOODS:

Q. What time did you get to the body -- Eldon Elliott's body shop?

A. Approximately 4:30, sir.

Q. All right. And did you take possession of any documents?

A. Yes, sir.

Q. All right. And what did you do with those documents?

A. I delivered them to agents that had flown up from headquarters later that evening so they could be returned to the fingerprint section at headquarters to be checked for fingerprints.

Q. All right. Now, did you meet with any individuals at Eldon Elliott's body shop?

A. Yes, sir, I did.

Scott Crabtree - Cross

Q. Did you meet with them separately?

A. Yes, sir.

Q. And what was the reason why you were meeting with them separately?

A. So I would get just their story and they wouldn't hear one another talk.

Q. And was that so that they wouldn't influence each other's recollection?

A. Yes, sir.

Q. How many individuals did you meet with at Eldon Elliott's body shop?

A. Three, sir.

Q. Who were they?

A. Eldon Elliott himself, Vickie Beemer, and Tom Kessinger.

Q. All right. And you interviewed each of those individuals

separately?

A. Yes, sir.

Q. Did you determine when the truck had been rented at Eldon Elliott's?

A. Yes, sir.

Q. What date?

A. It was on the 17th, two days prior.

Q. So the event was recent to your interview on the 19th; is that correct?

A. Yes, sir. Two days.

Scott Crabtree - Cross

Q. Okay. After interviewing the individuals, did -- what did you do next in connection with the investigation?

A. Besides seeing that the documents were forwarded to headquarters, coordinated bringing in a sketch artist so that possible sketches could be made of the person that rented the vehicle.

Q. And that was your recommendation, was it not?

A. Yes, sir.

Q. And you made that request through what? The chain of command that existed from Junction City to Kansas City to Washington?

A. That's correct, sir.

Q. And what was your recommendation?

A. That there appeared to be enough information from the witnesses that I'd spoken to at that occasion that we could prepare a sketch; and initially, we had anticipated taking the individuals to Topeka and having maybe a police artist or a sketch artist there work on it, and then my office advised me that they would have somebody flown out from headquarters to do it.

Q. All right. When you say "sketch," are you referring to one sketch or two?

A. Two, sir.

Q. Okay. What time did the sketch artist arrive from the FBI headquarters in Washington?

Scott Crabtree - Cross

A. He got to the command post at Fort Riley, which is where we were operating at that time, maybe 4:00 the next morning on the -- Thursday, the 20th.

Q. Okay. 4:00, and were you there at the time, sir?

A. Yes, sir.

Q. And did you have the three witnesses present?

A. They came in shortly thereafter. I called them when I knew about what time he was going to arrive and asked them to come in.

Q. What time did they arrive, approximately?

A. I think Tom Kessinger got there first, and it was not too long after the sketch artist arrived; and then Ms. Beemer and

Mr. Elliott would have arrived maybe a half an hour or so after that. Maybe around 5:00.

Q. Okay. Now, did you set (sic) in on the interview that the sketch artist would have with each individual?

A. No, sir, I did not.

Q. Did you notice whether or not the sketch artist met with each individual separately?

A. Yes, he did.

Q. And you physically observed that?

A. Yes, sir.

Q. Okay. How long did that process take where the sketch artist met with each of those three individuals separately?

A. It probably took approximately two hours to meet with all

Scott Crabtree - Cross

three of them, I believe, before the sketches were completed.

Q. Okay. And did you see the end product of the artist from Washington?

A. Yes, sir, I did.

Q. Two sketches?

A. Yes, sir.

Q. Now, what's his name for the record?

A. Ray Rozycki.

Q. Okay. And approximately, then, what time was it that those sketches were available?

A. I would guess 6:30 to 7.

Q. Okay. And what did you then do in connection with the investigation?

A. We had to get the sketches disseminated back to our headquarters. And I worked on the interviews that had already been conducted. I worked on the paperwork for that. And then trying to kind of coordinate what our next response there would be as far as showing the sketch, setting up interview teams there for Junction City to go out and show sketches to identify if anybody knew who they were.

Q. Okay. Do you know personally whether or not the sketches were then taken by agents and gone around the Junction City area to exhibit to motels, restaurants, gas stations, etc.?

A. Yes, sir. They were.

Q. Did you take part in that?

Scott Crabtree - Cross

A. No, sir, I directed the teams and drew up the court -- cordons that they were going to follow and to make sure we didn't have any overlap or any areas that weren't, you know, talked to or whatever. But then I stayed back at the command post.

Q. All right. During the day on April the 20th, did you learn, based upon your presence at command post, that the name "Timothy McVeigh" came into the investigation?

A. Yes, sir.

Q. And what did you learn was the reason why his name was then involved in the investigation?

involved in the investigation.

A. That sketch of John Doe No. 1 was shown to the proprietor at the Dreamland Hotel in Grandview Plaza and that she had been able to identify him as Tim McVeigh, and then the information

regarding his signing in there and being seen with the Ryder truck and a yellow vehicle and things of that nature were also developed at the same time.

Q. And was an address obtained from the registration receipt?

A. Yes, sir.

Q. And do you recall what state the address was?

A. It was for Michigan, for Decker, Michigan, sir.

Q. Decker, Michigan?

A. Yes, sir.

Q. Okay. And did you interview that proprietor of the Dreamland Motel, Ms. McGown, on that day, the 20th of April?

Scott Crabtree - Cross

A. No, sir, I did not go out and do the contacts. That would have been Mark Bouton, and I'm not sure who we had teamed him up with.

Q. All right. Now, what time on the 20th -- April the 20th -- did you first hear Terry Nichols' name, if you did?

A. Did not hear his name on the 20th. It would have been sometime after midnight on the 21st. Later that evening, early the next morning.

Q. And you're working pretty much around the clock there in the command post in Junction City?

A. Yeah. At that point, the other people were covering the leads and I was kind of directing the activity, so I would have been in the command post, yes, sir.

Q. And was the command post in communication with the Kansas City office?

A. Yes, sir.

Q. And was that by an open telephone line?

A. Yes, sir. I believe by Thursday, the 20th, we had both the supervisor for the Kansas RAs, who normally offices in Wichita, and the assistant special agent in charge of the Kansas City division who handled the Kansas RAs -- were by then on site there at the command post.

Q. In Junction City?

A. Yes, sir.

Q. And that's Joe Bross, B-R-O-S-S?

Scott Crabtree - Cross

A. No, sir.

Q. Soon to be ASAC?

A. Yes, sir. He was the ASAC that was on site there.

Q. And who else was there on site in Junction City supervisory-wise?

A. Mike Pulice, who has since retired.

Q. All right. And were you also in communication with

Washington, D.C.?

A. The command post would have been, yes, sir.

Q. Okay. And were you -- when you say "the command post," were you ever in communication with Washington in Kansas City?

A. At some point during the first few days, I had some contacts with the SIOC unit back at headquarters. But by the time the supervisors and ASAC are on site, it's more of a chain-of-command situation where, you know, information would be reported to them and they would report that information off from there.

Q. All right. What is SIOC in Washington?

A. It's a -- like a strategic-operation-type center where information on major cases like this or -- say perhaps like the TWA bombing case or something like that where there's a lot of offices involved would then try to coordinate all the information from all the offices to make sure that everybody is up to speed.

Q. Is that where the high officials of the FBI are located and

Scott Crabtree - Cross

they are in communication with the field office?

A. I do not know if, say, for instance, the director would have actually been down in the SIOC center or if he would have been in his -- his own suite or whatever. I'm not sure exactly how that would work. But that office communicated directly with him back at headquarters.

Q. And were you in communication with the Detroit, Michigan, office on that evening, April the 20th, and the early morning hours of the 21st?

A. Yes, sir.

Q. What time did you learn Terry Nichols' name?

A. It was sometime after midnight, perhaps 1:00 in the morning when I got a call back from the Detroit office based on a request that I had made of them a couple hours earlier.

Q. All right. And what did you learn about Terry Nichols at that time?

A. Well, the address that Mr. McVeigh had given at the Dreamland came back to a James Nichols and that that was a farm owned by him and that James had a brother Terry and that -- and -- or that Tim McVeigh had been known to spend time at that address and that there was reports of explosive devices or bombs or whatever being set off in the past at that location. And that's basically it.

Q. And do you know if that information came from James Nichols' ex-wife?

Scott Crabtree - Cross

A. No, sir. The information I got came from the contact I had at the Detroit office, and that's basically the information that came to me is that we had a -- we had a good address for a Tim McVeigh.

Q. And do you know how your contact in Detroit got the

information there in Decker concerning Terry Nichols, James Nichols, and McVeigh having visited that farm?

A. On that occasion, I believe it was just through a contact or a call from the Detroit office to the -- I believe the sheriff's office in the county where Decker is at. Through contact with someone there.

Q. All right. Were you aware that the FBI went out and interviewed that deputy sheriff in Sanilac County that covered Decker, Michigan?

A. Yes, sir, later.

Q. And in that interview, were you aware that Kelly Langenburg, the former wife of James Nichols, was present?

A. I do not know who they interviewed -- I mean, I don't know who was present at the time that interview was conducted.

Q. All right. And when you say "explosives," what type of explosives are you referring to?

A. At the time, they said -- on very early Friday morning is that there had been, you know, little explosions or bomb-type activity at the location, but nothing as to what kind of bomb or what kind of bombs or anything.

Scott Crabtree - Cross

Q. A little explosion like a pop bottle bomb?

A. No, sir. Just as opposed to a building -- the explosion that brought down the Murrah Building in context from that to the smaller explosion.

Q. And this is a farm out in the country; is that correct?

A. Yes, sir.

Q. Okay. Now, what time did you leave Junction City to go to Herington?

A. Probably sometime around 3:30 Friday afternoon. The next afternoon.

Q. All right. Now, during that morning, Friday morning, the 21st, did you learn information as to Terry Nichols' address in Herington?

A. It was either that morning or early that afternoon. I think it might have been sometime around maybe 1 or 2 that afternoon.

Q. Okay. And were you in contact with the Las Vegas office there in the command post?

A. The command post was. I had not been, but the command post was, yes.

Q. And did you learn that through the interview of the former wife of Terry Nichols; that you then had the address in Herington, Kansas, of Terry Nichols?

A. Well, we had it that way, and I also had received it via another way at the same time.

Scott Crabtree - Cross

Q. You received it from Georgia Rucker, didn't you?

A. Yes, sir.

Q. And Georgia Rucker is the realtor in Herington that sold Terry Nichols his house -- arranged the sale, wasn't she?



Terry Nichols his house, arranged the sale, wasn't she?

A. Yes, sir.

Q. Okay. She heard the name on the news, the television and radio, didn't she?

A. Yes, sir.

Q. And she called you because you all are friends?

A. She's a friend of the family, yes, sir.

Q. Okay. She's in Herington; is that correct?

A. Yes, sir.

Q. Did you all go to school together?

A. No, sir. She's older than I am. Her husband is a friend of one of my uncles.

Q. All right. But she knew you personally?

A. Yes. We've met before.

Q. And she called you and said what concerning what she heard over the news about Terry Lynn Nichols?

A. That she knew Mr. Nichols and advised that he had boughten (sic) a house there in Herington, and she gave me the address for the house.

Q. All right. What time did you get that information?

A. Sometime around 2:30.

Q. Okay. And do you recall what time Terry Nichols' name

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started being broadcast over the news media?

A. During those first few days, I didn't watch the news or didn't hear the news; but when Georgia had called me, she said that she had heard it on a radio broadcast or something a few minutes earlier. So I mean, that's the first inclination I had that his name would have been mentioned in the press.

Q. And that was at 2:30 --

A. Sometime --

Q. -- Kansas time?

A. Sometime before 2:30. I mean, she had -- it took her a few minutes to find me because I wasn't in Salina, so she had to initially call the Kansas City office and get my beeper number and she beeped me, and I called her back.

Q. Okay. And did you know Mr. Seek, Ken Seek that had sold the house to Mr. Nichols?

A. No, sir.

Q. Okay. You were familiar with that neighborhood, weren't you?

A. South 2nd?

Q. Yes, sir.

A. Yes, sir. At one time I lived in a house approximately two blocks from there when I was younger.

Q. Okay. When you got the address, you could picture in your mind exactly where it was, couldn't you?

A. Yes, sir.

Scott Crabtree - Cross

Q. Okay. Now, again, what time was it then that you left the command post in Junction City to go to Herington?

A. I think it was about 3:30, give or take a few minutes.

Q. Now, were you aware that other people -- other people in the FBI, that is -- were en route to Herington or already in Herington at that time as of 2:30?

A. Yes, sir. I believe so.

Q. Okay. Who was in Herington, to your knowledge?

A. Steve Smith, who had been at the command post and had been working with me the last couple of days. And I knew we were trying to get some surveillance agents down there, but I don't know at what time they arrived or anything in Herington.

Q. Steve Smith had been working with you in the command post in Junction City?

A. Yes, sir.

Q. And what time did he depart and go to Herington, Kansas?

A. I don't know, sir. But the Friday afternoon, we had quite a few agents there at the command post. I -- I had kind of lost track of the individual happenings of the different agents and things.

Q. Sure. He left before you did, though; is that correct?

A. Yes, sir. Yes, sir.

Q. And he was in Herington?

A. Yes, sir.

Q. And you were aware that a surveillance team was there or

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en route?

A. I believe so, yes, sir.

Q. And is that called a Special Operations Group?

A. Yes, sir.

Q. And what did that include? What was part of the surveillance operation?

A. It's a squad of typically eight or ten agents that have vehicles that are -- that are trained, and that's basically their job is to -- to do surveillances to find people and watch

people, for substantive investigations that are going on.

Q. Was there an airplane involved?

A. I believe so, but I -- I'm not positive.

Q. And you have FBI airplanes in the Kansas City office, do you not?

A. Yes.

Q. Assigned to the office?

A. I believe so, sir.

Q. Are they multiengine or single engine?

A. I've never had the occasion to have to ask for air surveillance, so I -- I really don't know.

Q. Okay.

A. I imagine we have the availability to -- if we don't have the proper aircraft, to -- to rent it or lease it or whatever; and our pilots are trained to fly just about everything.

Q. And your office is Kansas City and you're a resident agent

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in Salina; is that correct?

A. Yes, sir.

Q. And you know Steve Smith, who is a resident agent in Topeka?

A. Yes, sir.

Q. And you knew John Foley?

A. Yes.

Q. And was Foley in Kansas City? Was that his assignment?

A. Yes. I believe he was assigned to the Kansas City office, itself.

Q. And what about Dan Jablonski?

A. He was Wichita. A Wichita resident agent, sir.

Q. So you knew all of these people, you'd worked with them before?

A. I had met them before. Unfortunately, being in a one-person office, you don't really work with many other people unless -- it's a very rare occasion that you have a chance to work with them. As far as, you know -- I knew Dan from just going to Wichita and going to the United States Attorney's office and seeing him.

Steve, this is really the first time I had a chance to work with him was during this particular event. I mean, I had met him at firearms and our fitness tests and things of that nature, but this was our first real chance to work together.

Q. Okay. Now, you advised the jury that there was a

Scott Crabtree - Cross

surveillance team en route or there. Do you know what time they got there?

A. I believe I heard it was like 3:00, 2:45, something to that time effect. I know that Steve had told me he met with Jack Foley sometime around that time, and I think Foley was part of the surveillance team, if I'm not mistaken.

Q. Were -- could you -- within the command post, you had a radio there; is that correct?

A. There were radios and telephones and --

Q. And they were in communication with the agents in Herington and en route; is that correct?

A. Yes, sir. There would have been people there talking to them.

Q. And you were aware that a S.W.A.T. team had been dispatched out of Kansas City, were you not?

A. No, sir. I don't -- at the time, I didn't know that if that's, in fact, true. Now, I'm not sure.

Q. You're telling the jury you weren't aware that there was a S.W.A.T. team dispatched out of Kansas City?

A. By that time, we had all the management on site. My direct knowledge of everything that was going on coordinating the investigation was much more focused now. I knew about the Special Operations Group going down there, but I do not specifically recall at that time hearing that there was a S.W.A.T. team en route.

Scott Crabtree - Cross

Q. When you say the command staff was on site, are you speaking of David Tubbs, the special agent in charge? Had he arrived at the command post in Junction City?

A. Yes, sir. I believe he had arrived by that time.

Q. What time?

A. I believe sometime around midday. Maybe noon, 1:00.

Q. Certainly before you left the command post?

A. Yes, sir.

Q. And you were not aware that he had dispatched a S.W.A.T. team out of Kansas City to Herington, Kansas?

A. At that time, no, sir.

Q. What time did you become aware of it?

A. I said I've only heard since that comments about there being a S.W.A.T. team. I don't know for a fact that there was a S.W.A.T. team. I've just heard conversations about it.

Q. What is a S.W.A.T. team, to your knowledge, in the FBI?

A. It's just a special tactical team that each office has that we used to make arrests or, you know, provide a perimeter around an operation or something like that that might need it.

Q. And you left Junction City at 3:30, was it again?

A. Yes, sir. About that time.

Q. You had your radio on?

A. Yes, sir.

Q. So you were in communication, you could hear and receive orders from the command post; is that correct?

Scott Crabtree - Cross

A. Well, when we talked the command post, we use a cellular phone, but . . .

Q. And you could talk -- did you have a cellular phone with you as you were driving down to Herington?

A. Yes, sir. We were in Dan Jablonski's car, and he had a cellular phone and we -- we had contact on the way down with command post via the cellular phone. I cannot recall specifically if he had a Bureau radio in his car or not. It is a -- it's a Task Force car, and I'm not sure that they would put a radio in that kind of a car. I just don't know.

Q. Well, all Bureau cars have radios in them, don't they?

A. I don't think our undercover cars do. We wouldn't want to put a drug dealer or something in an undercover car and have him see a Bureau radio in it.

Q. Were you in an undercover car?

A. It was a Task Force car, and I think it was used from time to time for that purpose. It was a Lexus, I believe, or something so . . .

Q. And you're stating there was no radio in that?

A. Not that I recall, sir.

Q. But you had a cellular phone; is that correct?

A. Yes, sir, we did. Yes, sir, we did.

Q. Where did you go when you arrived at Herington?

A. To the Department of Public Safety office there on South Broadway.

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Q. And you knew where that was?

A. Yes, sir.

Q. You had been there before?

A. Yes, sir.

Q. What did you see outside when you arrived at the location?

A. There was a number of vehicles there from people that had already been in Herington.

Q. A number of FBI vehicles?

A. Yes, sir.

Q. How many?

A. Six, eight. I -- there was cars there. I'm not sure. I mean, the police office had vehicles there, also. I --

Q. You can recognize FBI cars, can't you?

A. Usually. They typically look the same.

Q. How many -- how many did you see when you arrived there?

A. My guess would be six to eight. I don't know that when I pulled up I was, you know, looking to count the number of Bureau cars there.

Q. It takes about 30 minutes to drive from Junction City to Herington?

A. It would have taken a little longer, because we were actually at Fort Riley when we left. We were on the base, so it wouldn't have been quite as fast if it had been from Junction City down there.

Q. What time did you arrive?

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A. Probably sometime after 4. Shortly after 4.

Q. Did you notice Mr. Nichols' pickup in the parking lot?

A. Like I said, I wasn't really paying attention to the vehicles that were outside. That vehicle would have meant nothing to me prior to walking into the -- the police station, so I -- I might have looked right at it. I just don't have any specific recollection of saying, Okay, there's Terry Nichols' vehicle.

Q. You certainly became acquainted with it the next day or the day after, didn't you?

A. Well, I saw it later that evening when it had been pulled into the garage. That's -- you know. At that time, yes, sir.

Q. Do you recall seeing it when you drove up a short time after 4 p.m.?

A. Not specifically, sir. Like I said, I was not attuned to what vehicles were setting (sic) in the parking lot at the department there.

Q. Do you know whether or not there -- Mr. Nichols' car in the parking lot had been impounded; that is, taken into custody by the FBI and entry and access to the automobile restricted?

MR. GOELMAN: Objection to time, your Honor.

THE COURT: Yes.

BY MR. WOODS:

Q. Shortly after 4 p.m. when you arrived, do you know whether or not the FBI had taken into custody Mr. Nichols' vehicle?

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A. No, sir.

Q. You don't know that?

A. No, sir.

Q. Okay. Now, you and Mr. Jablonski are together and the two of you go into the police station; is that correct?

A. That's correct, sir.

Q. Who is present in the police station upstairs when you arrive?

A. The supervisor by the name of Tom Price was there and a few of his people on his Special Operations Squad that had been around.

Q. And who was that?

A. I believe Agent Gillispie was there. Sheila Dobson might have been there. I -- I don't know all these people by face at the time. Like I said, I hadn't had a chance to work with them very much. So when I walked in, I saw a lot of faces that I just didn't recognize that I come to know later through contact the rest of the evening.

Q. Okay. And when you walked in, did you learn that no arrest warrant had been obtained as of that time?

A. I -- I knew that, sir, yes.

Q. All right. How did you know that?

A. Well, nobody told me one had been. We weren't told until much later in the evening that there was an arrest warrant issued.

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Q. And were you aware that the process had begun to obtain an arrest warrant as of that time?

A. No, sir.

Q. You did not have any discussion with Supervisor Price on the scene or the other agents as to the presence or lack of an arrest warrant?

A. No, sir. Mostly how the situation had gotten to the point where it was, because I was going to go down and join the interview.

Q. And when you began an interview, is it something you need to know, whether or not an arrest warrant has been obtained of that individual?

A. I would want to know, sir, I think, yes.

Q. And what inquiry did you make to determine that?

A. I didn't ask. I didn't ask if it had been.

Q. It didn't come to your curiosity about why the FBI is in Herington, Kansas, en masse and whether or not there had been an arrest warrant --

THE COURT: He answered that he didn't ask.

MR. WOODS: Yes, your Honor.

THE COURT: All right.

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BY MR. WOODS:

Q. Were you aware that the FBI was in Herington en masse?

MR. GOELMAN: Objection to "en masse," your Honor.

THE COURT: Sustained.

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BY MR. WOODS:

Q. Okay. Were you aware that there were a number of FBI people in Herington, Kansas, at that time?

A. Yes, sir. As I've already stated, Mr. Smith and a number of people from the Special Operations Squad were in Herington.

Q. Okay. And what time, then, did you go downstairs to begin your part of the interview?

A. Approximately 4:12, sir.

Q. What happened when you went downstairs?

A. We went into the room, introduced ourselves to Mr. Nichols, and then set down, discussed going over the notes with Mr. Nichols to bring me up to speed as to what had been said and proceeded from there.

Q. Okay. Now, you -- you told the prosecutor Friday afternoon that you were familiar with the FBI policy on recording interviews of witnesses. Is that correct?

A. Yes, sir.

Q. And you said that you had read that policy?

A. Yes, sir.

Q. Okay. How recent had you read it?

A. I'm not sure exactly. It had probably been a while. I -- I don't tape interviews, so it's not something that I would -- would have been something I was dealing with on a regular basis.

Q. Well, did you advise the jury on Friday as to what the

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policy is?

A. Yes, sir.

Q. In detail?

A. Yes, sir.

Q. Do you recall the questions, "Do you know if the FBI has a policy with regard to the tape-recording of witness interviews?"

"Answer: Yes, they do.

"Question: How long has that policy been in effect?"

MR. GOELMAN: Objection.

THE COURT: Yes. What's your purpose in asking him to review testimony?

MR. WOODS: The policy as he stated it, and I want to offer into evidence the one-paragraph policy which is not --

THE COURT: Well, ask him about that, rather than his prior testimony.

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

May I approach the witness?

THE COURT: Yes.

BY MR. WOODS:

BY MR. WOODS:

Q. Mr. Crabtree, I'll show you Defense Exhibit 1656, which has been provided to us by the Government. If you would review that one-paragraph policy.

A. Okay, sir.

Q. Does that refresh your memory as to what the policy is?

A. Yes, sir.

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Q. Was that the policy you were testifying about on Friday afternoon?

A. Yes, sir. This is the Bureau policy since before I came in the Bureau.

MR. WOODS: Your Honor, may it please the Court, the Government (sic) would offer into evidence this one-paragraph policy on the FBI policy of recording suspects, subjects and witnesses.

MR. GOELMAN: No objection, although the Government is not offering it, your Honor.

THE COURT: Well, it's a defense witness. I understand that. I mean, defense exhibit. D1656 is received.

BY MR. WOODS:

Q. Your Honor, may I publish?

THE COURT: Yes, you may.

BY MR. WOODS:

Q. Now, Mr. Crabtree, you mentioned only to the jury the interview of witnesses. This policy covers interview of subjects and suspects -- is that correct -- along with witnesses?

A. Yes, sir.

Q. Would you tell the jury in the Bureau terminology what the difference between a witness, subject, and suspect is.

A. Witness would be someone you're contacting for information about a particular event. A suspect is somebody that might

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have more than just knowledge, might have some connection to a particular event, although nothing definite to link them to a particular act that we're investigating. Subject would be the person that is actually the subject of the investigation that we believe might have actually broken the law, whatever the law is that is the subject of that particular investigation.

MR. WOODS: All right. Now, I'm not sure that the jury can read this. Your Honor, I would ask that Mr. Crabtree read the document.

THE COURT: Well, you read it.

MR. WOODS: Thank you, your Honor.

THE COURT: It's an exhibit. You can read it.

BY MR. WOODS:

Q. This comes from section 7, confessions and interrogation; is that correct?

A. Yes, sir.



Q. This is out of the FBI manual?

A. The legal handbook, yes.

Q. "Tape-recording of interviews. Use of tape recorders for the purpose of recording the statements of witnesses, suspects, and subjects is permissible on a limited, highly selective basis and only when authorized by the SAC." Is that special agent in charge?

A. Yes, sir. That's what the SAC is.

Q. "To ensure the voluntariness of statement electronically

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recorded, the following conditions are to be adhered to.

No. 1, the recording equipment must be in plain view of the interviewee. No. 2, consent of the interviewee to the recording must be obtained and clearly indicated on the tape.

(3) the questioning must be carefully prepared so that the tone of voice and wording of the questions do not intimidate or coerce. No. 4, recording tapes must not be edited or altered, and the originals must be sealed and stored in such a manner as to ensure the chain of custody. See the SAC memorandum" such and such "dated 7-29-75."

Is that correct?

A. Yes, sir.

Q. Now, did you make inquiry of David Tubbs, the special agent in charge, as to whether or not you should tape-record this interview?

A. No, sir, I did not.

Q. Did Agent Tubbs instruct you to not record the interview?

A. No, sir.

Q. Do you have any reason to believe that Mr. Nichols would not give his consent to a tape-recorded interview, since he was there voluntarily to answer questions and ask questions?

MR. GOELMAN: Objection.

THE COURT: Overruled.

THE WITNESS: I had no specific information at that time to indicate one way or the other.

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BY MR. WOODS:

Q. At any rate, it's true that you did not record the interview; is that correct?

A. We did not tape it. That's true, sir.

Q. When you went down to the interview room, it was Agent Smith and Agent Foley that were conducting the interview; is that correct?

A. Yes, sir.

Q. And you told the jury that they read the notes to you and Jablonski to bring you up to date?

A. Yes, sir. Agent Smith went over the notes. They were his notes.

Q. All right. And Mr. Nichols at that time made some additions, corrections; is that correct?

A. I believe he might have made an addition or two, but -- nothing remarkable enough that I even remember what it was.

Q. And you didn't remember what it was?

A. No, sir.

Q. Okay. What have you used to refresh your memory of this interview that took place two-and-a-half years ago?

A. The FD 302, the summary of the interview, and the typewritten version of Agent Smith's notes, and just another -- other items and documents that we had at the time would help put me in the frame of mind that I had that occasion when we were doing the interview.

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Q. So Agent Smith's notes are the only thing that was made contemporaneous with the interview; is that correct?

A. Yes, sir.

Q. And you've reviewed those?

A. Yes, sir.

Q. All right.

THE COURT: Well, excuse me. I -- there are two notes here. One is the typed version. One is the handwritten.

THE WITNESS: The typed version.

THE COURT: I think you said the typed version.

THE WITNESS: Yes, sir. I cannot read Mr. Smith's notes tough -- handwritten notes enough to be able to rely on those.

BY MR. WOODS:

Q. Did you check with the handwritten notes and the typewritten notes to see if they were accurate?

A. No, sir, I did not.

Q. You just read the typewritten notes?

A. Yes, sir.

Q. All right. And that's the only contemporaneous memorandum we have of the interview; is that correct?

A. Yes, sir. Well, the notes are, yes.

Q. And you're aware that Mr. Smith took notes before you got there at 4:12?

A. That is correct, sir.

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Q. Approximately how long had he -- had he interviewed Mr. Nichols?

A. I believe they had been there for maybe almost an hour at that point.

Q. And he read you notes that -- relating to what had been said during that period of time?

A. Yes, sir.

Q. Now, how long did that take, the reading of the notes?

A. Maybe 10 minutes or so, sir.

Q. All right. What happened at that point?

A. Then we began carrying forward from there.

Q. And when you say "we" were all four of you there

Q. And when you say "we," were all four of you there interviewing Mr. Nichols?

A. For a little while, yes, sir.

Q. Who was doing the questioning?

A. Primarily at that point, I began doing the questioning.

Q. And who was taking the notes?

A. Agent Smith.

Q. And when you say "primarily," were the other two, Jablonski and Foley, asking questions, also?

A. Throughout the interview, whether it be Agent Smith or them, there could have been other people. I wasn't the sole person asking questions. I would probably be classified maybe as the primary questioner.

Q. So you had three people asking Mr. Nichols questions as

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they thought of them?

A. At that point, the primary matters that Agents Foley and Jablonski questioned Mr. Nichols about was his willingness to execute the consent to search form.

Q. So while you're asking him questions about his knowledge of Mr. McVeigh, when he last saw him, they are asking questions about signing a consent form?

A. Well, we began that discussion. That discussion started and ended before we got back then into the interview.

Q. Well, how long did Foley and Jablonski stay in the interview?

A. After we completed our review of notes, it probably took 5 or 10 minutes to do the consent. They were probably there a total of maybe 40 minutes or so for the review of notes, doing the consent and a little bit of the questioning.

Q. A little bit of the questioning?

A. Yes, sir.

Q. But that will be reflected in Agent Smith's notes; is that correct?

A. Yes, sir. It should show.

Q. He was keeping contemporaneous notes of what was being said during that interview; is that correct?

A. Yes, sir.

Q. Now, you mentioned to the jury Friday that Mr. Nichols was doing something unusual, in that he was taking time after a

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question and he was -- what did you say? He was closing his eyes and thinking for a little while?

A. Yes, sir.

Q. And you told him to stop that?

A. Yes, sir.

Q. Here's a person who -- did he advise you that he had heard his name on television in connection with this bombing?

A. He advised us he had heard his name in the press, yes, sir.

Q. Did he advise you he had heard the press conference of the Attorney General saying she was going to seek the death penalty

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on everybody involved in this case?

A. He saw the press conference. I don't know if we talked about if he mentioned the death penalty or not. I don't recall him saying that.

Q. And if he wants to take a moment before answering the question, you found that unusual and you instructed him to stop it?

A. A moment wouldn't have bothered me, sir. When we're discussing things that had happened within the two or three days previously and it was taking 20 to 30 seconds to come up with a fairly straightforward response, that seemed to be excessive, yes, sir.

Q. Were you in some rush?

A. No, sir. I just wanted him to tell us the truth, and I didn't see where having to take that long was an indicator that

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that's what he was doing.

Q. Were you aware that an arrest warrant was going to be executed that night?

A. No, sir.

Q. Are you telling this jury that you had no reason to be rushing this interview, trying to get as much information as you could in as short a period of time as you could?

A. There was no particular reason to rush this interview. Everything up until that point had been at a very fast pace. We were hoping Mr. Nichols would be able to give us some lead information that would track us to Mr. McVeigh or Un. Sub. 2 or whoever.

Q. You knew where Mr. McVeigh was at that time. He was in FBI custody.

A. Yes, sir. I did.

Q. And your questioning to start off the interview was what Mr. Nichols knew about Mr. McVeigh, wasn't it? All of his contacts with Mr. McVeigh?

A. Yes, sir.

Q. And that's reflected in the notes?

A. Yes, sir.

Q. And the progress of this interview will be reflected in those notes, the subject matters that you discussed; is that correct?

A. That's correct.

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Q. Now, you told the prosecutor this morning that Mr. Nichols didn't mention storage sheds until you came back in with the letters after that last break at 10:50; is that correct?

A. That is correct.

Q. Well, in the letters, it mentions the storage sheds that he had in Las Vegas, didn't it?

A. Yes, sir. And that's where the --

Q. He fairly told you, readily told you that he had storage

lockers in Las Vegas, didn't he?

A. Yes, sir. After we questioned him about the storage sheds, yes, sir.

Q. That's the first time you questioned him about storage sheds, wasn't it?

A. Yes, sir.

Q. So the fact that he didn't mention it early in the interview -- there's certainly nothing incriminating about that, is there?

A. Only to the point that he didn't tell us about a conversation regarding moving some of Mr. McVeigh's belongings from the storage shed. I thought that was kind of odd that he didn't mention that earlier when we asked him to discuss all contacts and discussions with Mr. McVeigh. I thought --

Q. He told you that --

THE COURT: Let him finish his answer.

MR. WOODS: Yes, your Honor.

Scott Crabtree - Cross

BY MR. WOODS:

Q. He told that you he dropped Mr. McVeigh off in Junction City on Tuesday afternoon; is that correct?

A. Yes, sir.

Q. And then when the storage shed subject came up, he then volunteered to you that, oh, yes, Mr. McVeigh asked me, concerning storage sheds I have access to -- he asked me to clear out the storage shed in Herington. He gave you the exact address and the exact location of that storage shed, didn't he, sir?

A. After I asked him, yes, sir, he did.

Q. He didn't deceive you as to the location of it, did he?

A. No, sir.

Q. Told you exactly which one it was?

A. Yes, sir.

Q. And he also told you that he had storage sheds at Council Grove, didn't he?

A. Yes, sir.

Q. And he gave you the names of Parker and Kyle, didn't he?

A. The following afternoon, sir, yes, he did.

Q. Now, these comments that you made to the prosecutor about the questions of the "go for it" and the "heat": Those would be reflected in the notes -- is that correct -- because you put such importance on those two statements in the letters that you showed to Mr. Nichols?

Scott Crabtree - Cross

A. The questions that I asked will not be in the notes. It's not typical for an agent to record his questions in his own notes.

Q. So the notes are not going to reflect anything about "go for it" or "heat" because you didn't -- Mr. Smith didn't put anything down about the questions?

A. He didn't list my questions; and then, of course, we didn't get a response so there wouldn't be anything there, either.

Q. Sometimes he does list the questions -- Mr. Smith does -- doesn't he?

A. I believe there was a couple of times that he did, yes, sir.

Q. But you didn't think this was important enough to put -- Mr. Smith didn't put them in the notes; is that correct?

A. Mr. Smith was taking the notes. I don't know what he wrote down at that time, sir.

Q. Okay.

A. Certainly wouldn't have been till after.

Q. So everything you learned about the storage lockers at Herington and Council Grove came from Mr. Nichols -- is that correct -- during the course of that interview?

A. No, sir. Actually, the letter to Mr. McVeigh from Mr. Nichols discusses the Council Grove storage lockers. The information regarding the Herington locker came up as a result of Mr. Nichols' telling us about removing Mr. McVeigh's

Scott Crabtree - Cross

belongings.

Q. That he voluntarily mentioned it; is that correct? You didn't know anything about the Herington locker until he told you about it?

A. No, sir. Not at that time, we didn't know.

Q. Okay. Would you agree with me, Agent Crabtree, that it sure would be easier for this jury if you'd have recorded that conversation, those nine hours you were there?

A. Yes, sir. If we had considered him possibly a subject at the time, there's a good chance we would have recorded it. But he was just a witness; and I'd interviewed numerous witnesses up to that point on this case, and I hadn't recorded any of those interviews then, so --

Q. How many occasions in interviewing witnesses does the FBI send out S.W.A.T. teams and Special Operations Groups?

A. I don't know, sir. It's a big organization. I don't know how often.

Q. You certainly have never been on an operation where you went to interview a witness and they sent out a S.W.A.T. team and a Special Operations Group, have you?

A. No, sir.

Q. All right. You also interviewed Mr. Nichols the following day when you took him from the jail in Abilene down to Wichita, didn't you?

A. That's correct, sir.

Scott Crabtree - Cross

Q. And Mr. Smith was doing the driving?

A. Yes, sir. He was.

Q. So you took the notes?

A. No, sir. We didn't take notes.

Q. Well, you -- may I approach the witness, your Honor?

Q. Well, you may I approach the witness, your honor.

THE COURT: Yes.

BY MR. WOODS:

Q. Let me show you what has been provided to us by -- the Government's represented as those are your notes of the interview of the 22d. Is that in error?

A. Those are notes that I took once we arrived in Wichita at the courthouse after our transportation of Mr. Nichols to the court was complete. We had no intention of interviewing Mr. Nichols during that trip. I didn't have a notebook or anyone to take notes during the trip. These, as I said, were just kind of a recollection I had once I got to Wichita as to what he had discussed during the trip down there to at that point.

Q. How long did it take to drive from Abilene to Wichita?

A. Approximately an hour and a half.

Q. And you stated that you had no intention of interviewing Mr. Nichols during that trip?

A. That's correct.

Q. Did you receive those instructions from the U.S. Attorney?

A. No, sir.

Scott Crabtree - Cross

Q. Did you receive them from the U.S. Attorney's office?

A. No, sir.

Q. Were you aware that Mr. Nichols was going to be provided an attorney once he arrived in court there in Wichita?

A. Yes, sir. I advised him of that fact when we were leaving the Dickinson County detention facility.

Q. And your purpose was you weren't going to ask any questions? You'd asked all the questions you needed to the evening before; is that correct?

A. We'd asked questions to the point where we thought we should have got a particular answer to the letters. We didn't get it. At that point, I didn't see much reason for going on if we weren't going to discuss, you know, what I thought was clearly something that he should have answered.

Q. Well, you stopped your interview at 12:11; is that correct?

A. I believe that's the time, sir, yes.

Q. And then he was continued to be interviewed by Jablonski and Foley, didn't he?

A. I believe they went in and talked to him for a few minutes, sir, yes.

Q. And then arrested him?

A. Yes, sir.

Q. On the material witness arrest warrant; is that correct?

A. Yes, sir.

Q. And when did you first learn during that evening that the

Scott Crabtree - Cross

warrant had finally been obtained out of Oklahoma City?

A. During the break from 10:20 to 10:50.

Q. And when you say "break," are you referring to your break?

A. Just a break we took from interviewing Mr. Nichols.

Q. Well, Mr. Nichols would continue to be interviewed by Jablonski and Foley when you and Smith would go upstairs, wouldn't he?

A. I think during the first break, Mr. Nichols began talking to Agents Foley and Jablonski. During the second time that we had separated from him, he drew a sketch of his house indicating where we might find firearms and ammunition. I don't think there was any discussion during the third break. It was a break only in the sense that we broke apart from him. We were going upstairs to get more information, to tell people what we had found, and to see if there was information that we needed to have to go down and complete the interview.

Q. So the break was a break away from him, but he continued to be interviewed by Jablonski and Foley; is that correct?

A. I don't think I can term it as being interviewed, sir. My understanding is he voluntarily started talking to them during the second break. Our intention was that statements and questions would come from Agent Smith and myself after the point that I arrived so we would have one statement made to the two of us, so we wouldn't have situations where there would be multiple statements to multiple agents.

Scott Crabtree - Cross

Q. And after that first break when you went back to resume your interview with Mr. Nichols, Mr. Jablonski read from his notes to relate the contents of the interview he had had with Mr. Nichols, did he not?

A. Yes, sir. We went over the notes to the discussion of what Mr. Nichols had told him during that break; that's correct.

Q. So the break is a break away, not a time to rest; is that correct?

A. I don't know if Mr. Nichols wanted to not talk or decided to talk. I don't know what -- I don't know how that whole particular situation transpired. I wasn't there, sir.

Q. And then the second break, you come back and he's drawing a diagram of his house. Is that your testimony?

A. He had during that break. I think he was done by the time we got back, sir.

Q. And did you see the diagram?

A. Yes, sir.

Q. Was it a floor plan of the various rooms and garage of his house?

A. Yes, sir.

Q. Did he point out the location of the weapons and the ammunition in his house?

A. Yes, sir. There was a key on it that showed where different things would be found.

Q. Okay. Now, you didn't take part in the search the

Scott Crabtree - Cross

following day; is that correct?



A. No, sir.

Q. What did you do with that diagram that Mr. Nichols drew so that the agents would know where the guns and weapons were?

A. That had been something that had been produced during the break by Agents Foley and Jablonski. They would have kept that document, and I could not tell you what either of those agents would have done with that particular document after we left Herington.

Q. Do you know whether or not they participated in the search?

A. I don't know if they did or not, sir.

Q. Now, those notes that you have in front of you: Are they an accurate reflection of what you wrote down as soon as you got to Wichita to make a note of the conversation you'd had with Terry Nichols en route?

A. Those -- this is the summary of what I recall during the conversation that he'd had with us on the way down there, yes.

Q. Will you read that short three or four lines into the record of your notes.

A. Okay. "Asked about being gone Tuesday, the 18th. Counting the same. Manhattan. Kinko's business cards and mailing labels. Then went --" and I cannot read my writing on this particular next word here. "Got insurance. Pickup. Vehicle inspection. Home just after 5."

Q. So you were going over the details of Tuesday, April the

Scott Crabtree - Cross

18th, with him; is that correct?

A. Yes, sir. He recounted those details to us again.

Q. But you can't read something in your notes?

A. There is a particular word here that I cannot make out what it is.

Q. Didn't record that conversation, either; is that correct?

A. No, sir.

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

THE COURT: All right. Do you have any redirect?

MR. GOELMAN: Yes, your Honor.

REDIRECT EXAMINATION

BY MR. GOELMAN:

Q. Agent Crabtree, defense counsel asked you some questions about the FBI taping policy.

A. Yes, sir.

Q. And you actually read that into the record. Does that -- is that a policy that applies to subjects as well as to witnesses?

A. Yes, sir.

Q. And what was Mr. Nichols when you walked into that interview at 4:12?

A. Hopefully, a witness to help us find more information on Tim McVeigh.

Q. When you walked into that interview, did you have any

Scott Crabtree - Redirect

SCOTT CRABTREE - REDIRECT

specific reason to suspect that he might have been involved in the bombing?

A. No, sir.

Q. You did talk to Mr. Woods about some of the other interviews you did?

A. Yes, sir, we did.

Q. Of other witnesses?

A. Yes, sir.

Q. On this case?

A. Yes, sir.

Q. Did you tape any of them?

A. No, sir.

Q. You told the jury on Friday, I believe, that you've never been in an FBI interview that has been taped; is that right?

A. That's correct.

Q. Have you ever sat in on interviews done by other law enforcement agencies?

A. Yes, sir.

Q. Which ones?

A. Kansas Bureau of Investigation, police departments, Salina and Hays, and other departments since I've been in.

Q. About how many interviews have you been in with the Kansas Bureau of Investigation, for example?

A. Maybe 30 to 40 or so. Mostly regarding bank robberies or things of that nature. More violent-crime-type cases.

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Q. Were any of those taped?

A. No, sir.

Q. Have you ever been in an interview of a witness that was taped?

A. No, sir.

Q. And is it your understanding that this policy that you read into the record applies to undercover investigations, as well?

A. No, sir. It does not.

Q. Mr. Woods asked you some questions about your knowledge of the investigation before you walked into that interview on April 21; is that right?

A. Yes, sir.

Q. And you were talking about information that the FBI had learned from Ms. McGown, manager of the Dreamland Motel; is that right?

A. Yes, sir.

Q. What information did Ms. McGown provide about Mr. McVeigh's stay at the Dreamland?

A. That he had been there at the Dreamland from the 14th of April through the 18th of April; that he had, for part of the time, a yellow Mercury-type vehicle. And she also saw him with a Ryder truck during that stay. That he gave an address of the Nichols farm in Michigan. That's the sum and substance of it.

Q. Did you learn from different sources at the Dreamland if that yellow Mercury had been parked at the motel from the 14th

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to 18th?

A. Yes, sir.

Q. And had it been parked that entire time at the motel?

A. No, sir. Not the entire time.

Q. Did you -- did they provide a date at which they no longer saw the Mercury at the motel?

A. After Sunday, sir.

Q. Easter Sunday?

A. Yes, sir.

Q. And did they tell you when the last time that they saw Tim McVeigh at the Dreamland?

A. It would have been the 18th, sir.

Q. The -- what time on the 18th?

A. That, I'm not sure, sir. I can't recall at this point.

Q. Did they tell you whether or not they ever saw Mr. McVeigh in the company of anyone else?

MR. WOODS: Can we get a date and time that this day telling is going on.

THE COURT: Yes. You should have it. Before the interview, I assume you're talking about.

MR. GOELMAN: Yes, your Honor.

BY MR. GOELMAN:

Q. Do you know if -- if Ms. McGown was asked if Mr. McVeigh checked in alone or not?

A. I don't specifically recall that, sir.

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Q. Turning back to your investigation at Elliott's Body Shop --

A. Yes, sir.

Q. -- you determined that there -- the investigation determined that that's where the bomb truck had been rented?

A. Yes, sir.

Q. Did you have -- did you have any knowledge when you went into that interview about the specific phone call that was made to initiate the rental of that truck?

A. Prior to going into the interview?

Q. Yes, sir.

A. No, sir.

Q. Did you know -- did Ms. Beemer when you -- when you interviewed her tell you about any call that she had taken?

A. Yes, sir. She advised that she had received a call on Friday from someone that wanted to rent a truck primarily based on poundage of what was to be transported, as opposed to the number of rooms of goods that had to be transported.

Q. Friday: That would be April 14th?

A. Yes.

Q. Mr. Woods asked you some questions about the S.W.A.T. team being dispatched. Do you know what time the S.W.A.T. team arrived in Herington?

A. No, sir.

Q. Did you ever see the S.W.A.T. team in Herington?

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A. No, sir.

Q. Did you hear that the S.W.A.T. team was later called off?

A. No, sir. I just heard vaguely that the -- comments about the S.W.A.T. team being involved. I know nothing specifically about it. I was in the interview, and I really didn't know what was going on outside the interview during that evening.

Q. Knowing, as you did, on the 21st about Mr. McVeigh's stay at the Dreamland from April 14 to April 18, did that affect at all the questions that you asked Mr. Nichols in the course of that interview?

A. Certainly.

Q. And how -- how did it affect that?

A. We wanted to know if there had been any contact between the two of them based on the information from the Detroit office that both McVeigh had been associated with that address which was owned by Terry's brother; that we expected there might be some contact between these two individuals if they were, in fact, that close to one another. In that proximity, anyway.

Q. And at any time during April 21st or 22d, 1995, did Mr. Nichols admit to you that he knew that Tim McVeigh stayed at the Dreamland?

A. No, sir.

Q. Mr. Woods asked you if you had any reason to suspect that if you had a tape recorder and it was taping the interview that Mr. Nichols would refuse to talk to you; is that right?

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A. Yes, sir.

Q. And you said that you had no information one way or another?

A. I had no specific information, no, sir.

Q. Did you learn during the course of the interview that Mr. Nichols had declined to sign a form because the word "interrogation" reminded him of the Nazis?

A. Yes, sir.

Q. How many people were present in the interview -- how many FBI agents spoke to Mr. Nichols at one time with the exception of the half-hour period when you and Agent Jablonski first arrived?

A. It would have just been Agent Smith and myself. Primarily me doing the questioning, Steve asking questions if, you know, maybe something pertained to what he was trying to put into the notes.

Q. And you had other FBI agents in the Herington Department of Public Safety at the time; is that right?

A. Yes, sir, we did.

Q. Why did you use only two agents to speak to Mr. Nichols?

A. That is -- traditionally, when we do an interview, we use two agents. No really reason to have more than that. It may feel coercive or something to the person being interviewed if

there was a great number of agents present.

Q. When you went in -- when you returned to the interview

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after your last break at 10:50 --

A. Yes, sir.

Q. -- you have letters with you that the FBI had received from Las Vegas; is that right?

A. Yes, sir.

Q. Did you immediately show Mr. Nichols those letters?

A. Immediately, no, sir.

Q. Do you ask your questions about any storage lockers under his care, custody, or control before or after you showed him those letters?

A. That was the first subject matter that we discussed upon returning to the interview.

Q. And did Mr. Nichols ask you what your source was for asking about storage lockers?

A. No, sir.

Q. When he provided you with storage lockers, he provided you with information about three of them; is that right?

A. That is correct, sir.

Q. And you said on cross-examination that he told you about a

storage shed in Council Grove; is that right?

A. Yes, sir.

Q. How many storage sheds in Council Grove did he tell you?

A. One, sir.

Q. Did he ever tell you that he had another storage shed in the very same -- in the very same business?

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A. No, sir.

Q. And you indicated that on the 22d, Mr. Nichols provided you with two names -- is that right -- that he had used?

A. That he himself had used, yes, sir.

Q. And those names were "Jim Kyle" and "Ken Parker"?

A. Yes, sir.

Q. Did he ever provide you with the name "Daryl Bridges"?

A. No, sir.

Q. Did he ever provide you with the name "Terry Havens"?

A. No, sir.

Q. Or "Joe Havens"?

A. No, sir.

Q. You talked about the trip that you took with Mr. Nichols from Abilene to Wichita; is that right? The day after the main part of the interview?

A. Yes, sir, we did.

Q. And had you and Agent Smith discussed what you were going to do during this trip before you picked Mr. Nichols up?

A. Yes, sir, we did.

Q. Can you describe that discussion for us?

2. Can you describe that discussion for us?

A. Just that we would not ask any questions. We would just pick him up and transport him to Wichita and deliver him for his initial appearance, and that would be it.

Q. And what was the reason for that?

A. Again, we had given Mr. Nichols ample opportunity, I think,

Scott Crabtree - Redirect

the night before to explain to us all his contacts and communications with Mr. McVeigh. And we don't believe that he did, especially in relationship to the last letter we showed him. At that point, there was really no further (sic) in going with the questions if we can't get responses to the questions we've already asked.

Q. And you indicated that despite this, Mr. Nichols himself started talking to you down when you were on that -- on that trip down to Wichita?

A. Yes, sir.

Q. What did he start talking about?

A. The first thing he started talking about was he inquired of us whether they had -- we'd conducted the search of his home or not.

Q. During the course of the interviews on the 21st and 22d, did Mr. Nichols ever express a particular concern about what agents would find when they searched his house?

A. Yes, he did.

Q. And did he express any concern about confusion they might have?

A. Yes, sir, he did.

Q. What did he say?

A. He was hopeful that anybody that would be doing the search of his residence wouldn't mistake household items, later clarified as cleaning solvents -- mistake those in connection

Scott Crabtree - Redirect

with bomb-making materials.

Q. What do you mean, "later clarified as cleaning solvents"?

A. After he made that statement, "household items," I think that begged a further question on my part. So I followed up with what kind of item are we talking about. "Household items" is a pretty broad category to -- to make that statement in regards to.

Q. Did he ever explain why he thought agents might be likely to confuse cleaning solvents with bomb-making materials?

A. No, sir. Just that he hoped that it didn't happen or wouldn't happen.

MR. GOELMAN: Court's indulgence.

THE COURT: Yes.

MR. GOELMAN: I have nothing further.

THE COURT: Any recross?

MR. WOODS: Just a couple, your Honor.

THE COURT: All right.

RECCROSS-EXAMINATION

BY MR. WOODS:

Q. Now, you just advised the prosecutor when you went back in after that last break you didn't show the letters concerning the storage locker instructions. You just started asking questions about the storage locker; is that correct?

A. That's correct, sir.

Q. And Mr. Nichols told you about the one he had in Vegas; is

Scott Crabtree - Recross

that correct?

A. Yes, sir, he did.

Q. In fact, there were two in Vegas, weren't there?

A. He described one in Vegas; but, yes, sir.

Q. And he had two. One was a locker and one was -- one for his car. Did you understand that?

A. Yes, sir.

Q. And he told you he had one in Council Grove. He said, "I've got at this -- at this storage shed in Council Grove," did he not?

A. Yes, sir. We discussed that storage shed and what effects he had kept there.

Q. And storage shed can include more than one locker, can't it?

A. That wouldn't have been my understanding at the time if it had been separate lockers. I would --

Q. Did you ask him specifically what he meant by "storage shed"?

A. No, sir, I did not.

Q. Now, you went in (sic) with the prosecutor about what Ms. Beemer told you during the course of your interview. Did she advise you that there were two people when the vehicle was rented on April the 17th, that afternoon at 4:15?

A. On the first interview of her, she believed there was a second person and was extremely vague about any details about

Scott Crabtree - Recross

that person.

Q. And Mr. Kessinger, did he advise you that there were two people?

A. Yes, sir, he did.

Q. And Mr. Elliott, did he advise you that there were two people?

A. No, sir. He said there was one person.

Q. And in the following day, told you that there were two, didn't he?

A. Yes, sir, he did.

Q. Did Mr. Nichols fit that description that you had from those three individuals?

A. No, sir.

Q. Now, you told the prosecutor you had no reason to believe when you went to interview Mr. Nichols that he was involved. He was being interviewed merely as a witness; is that correct?

A. Yes, sir.

Q. But you've never been in a situation where the FBI sent out an S.O.G. and a S.W.A.T. team to, quote, "interview a witness"?

A. No, sir.

MR. WOODS: No further questions, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. GOELMAN:

Q. Agent Crabtree, Mr. Woods asked you some questions about

Scott Crabtree - Redirect

the Council Grove storage locker and what Mr. Nichols told you about it.

A. Yes, sir.

Q. Again, what was your question that you asked Mr. Nichols when you came in after your last break at 10:50?

A. I asked him to describe any storage lockers or facilities under his care, custody, or control.

Q. And did you limit that question in any way as far as time goes? Did you say, "I only want the storage lockers that you have now"?

A. No, sir.

Q. Do you have any reason to know whether or not Mr. Nichols understood you to be asking only about storage lockers that he had --

THE COURT: Improper question.

BY MR. GOELMAN:

Q. What was Mr. Nichols' response?

A. He described three different lockers, two of which by his own statement had been closed out and he no longer had.

Q. Which of those two lockers had been closed out?

A. The one in Las Vegas and the one in Council Grove.

Q. What information did he tell you about the one he already closed out in Council Grove?

A. We discussed it being household effects and details as to the fact that things in -- you know, his belongings had been in

Scott Crabtree - Redirect

there that were now in his house.

Q. Did he tell you an approximate time that he had closed out that storage shed?

A. I believe March, sir.

Q. And did he at any point indicate that he still had another shed in the very same business?

A. No, sir.

MR. GOELMAN: Nothing further.

MR. WOODS: Just one question, your Honor.

THE COURT: All right.

REXCROSS-EXAMINATION

BY MR. WOODS:

Q. Mr. Crabtree, you're aware, are you not, that Mr. Nichols moved into his house in Herington in March of '95?

A. Yes, sir.



A. Yes, sir.

Q. Okay. And he closed out his Council Grove locker; is that correct?

A. Yes, sir.

MR. WOODS: All right. Thank you.

THE COURT: All right. Is he going to be back?

MR. WOODS: We would --

MR. GOELMAN: Not for us, your Honor.

MR. WOODS: We would ask he be on call. He's free to go but be on call.

THE COURT: Okay. Well, you can return to your office, but be available in case you're called back.

THE WITNESS: Yes, sir.

THE COURT: And of course, consider that you're still a witness under subpoena. You're excused for now.

THE WITNESS: Thank you, sir.

THE COURT: We're going to take the morning recess at this time, members of the jury. I just -- you know, I'm going to instruct you about the law in detail at the end of the case, as I already explained. But it occurs to me that you might be a little confused because you -- about the hearsay rule, which is something that confuses all of us from time to time. But you heard me sustain objections along the way to statements made by other than the witness on the stand and statements that the witness heard other people say, and I sustained those objections all along; and now with this witness, there have been quite a few questions by both sides, lawyers for both sides, about what somebody told him.

And those statements were admitted here, and there weren't any objections to them because the questioning was about what the witness knew; that is, what Agent Crabtree knew at the time that he was talking with Mr. Nichols.

So these statements have been received, therefore, not for the truth of what was told to him, but simply what he heard and therefore what was in his mind at the time. Now, that's not subject to the hearsay rule because these are not admitted for the truth of the matter stated to him.

I'll explain more about how the jury may consider statements made by the defendant himself in the final instructions in the case. They are in yet a different category.

But I just wanted to -- you know, we're not going to give you a lecture about the hearsay rule here, but it occurred to me that you may be somewhat confused about why is it that sometimes these statements are admitted, statements made by other declarants than the person on the stand, and sometimes they are not. So, again, the limited purpose here is for what Mr. Crabtree knew, you know, whether it's true or not.

Now, please do not discuss anything about the case or anything connected with it during the time of this recess, remembering that you've got to wait until you hear it all including the final instructions that I'll give you about the law at the end of the trial before you can even, in your own minds, consider the significance or lack thereof of any of the evidence. And continue to therefore avoid discussion and anything outside of our evidence.

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-  
You're excused now. 20 minutes.

(Jury out at 10:22.)

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

(Recess at 10:23 a.m.)

(Reconvened at 10:44 a.m.)

THE COURT: Please be seated.

(Jury in at 10:44 a.m.)

THE COURT: All right. Next witness, please.

MR. MACKEY: Thank you, your Honor. The United

States

would call Deputy U.S. Marshal Daryl Ingermanson.

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

(Daryl Ingermanson 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: Daryl Ingermanson,  
I-N-G-E-R-M-A-N-S-O-N.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Ms. Wilkinson.

MS. WILKINSON: Thank you, your Honor.

DIRECT EXAMINATION

BY MS. WILKINSON:

Q. Sir, we just heard you're a deputy marshal. Is that right?

A. Yes.

Q. Where are you a deputy marshal?

A. In Wichita, Kansas.

Q. How long have you been in Wichita?

A. I've been stationed in Wichita since approximately February of 1988.

Daryl Ingermanson - Direct

Q. Could you just tell us briefly what your duties and responsibilities are as a deputy marshal.

A. As deputy marshal, we're responsible for processing any federal prisoners that come into the federal system that are arrested. We take care of the witness-protection program, federal warrants. We execute federal warrants and produce prisoners in court and transport.

Q. Let's focus, if we could, on how you process someone who comes into federal custody. What do you when you receive someone into federal custody?

A. When a person is received into federal custody, the individual is brought into our cell block, and then they're processed. They're taken -- it's a personal history, what we call a personal history. It's often performed at the U.S. Marshal's Service. Their fingerprints and photo is taken.

Q. The personal history, is that something that you use with every federal prisoner?

A. Yes, it is.

Q. Now, were you assigned in Wichita back in April of 1995?

A. Yes, I was.

Q. Were you at work on April 22, 1995?

A. Yes, I was.

Q. Did there come a time when Mr. Nichols was brought to you as a federal prisoner?

A. Yes.

Daryl Ingermanson - Direct

Q. Did you take personal history information from Mr. Nichols?

A. Yes, I did.

Q. Did he cooperate with you and answer all of your questions?

A. Yes, he did.

Q. Do you recall asking him, or is there a section on your form where you asked him about the use of other names?

A. Yes.

Q. What is that section entitled on your marshal's form?

A. The form states "aliases" and then gives different blanks to fill in any other aliases that they have ever used.

Q. When you spoke with Mr. Nichols on April 22, did you ask him about aliases, or did you use some other phraseology?

A. When I asked Mr. Nichols -- I usually ask all people when I'm processing them if they've ever used "any other name" rather than use the word "alias."

Q. Did Mr. Nichols give you other names that he had used?

A. Yes, he did.

Q. Do you recall what names he gave you?

A. Can I refer to the processing sheet?

Q. Sure. If I showed you your processing sheet, would that refresh your recollection?

A. Yes, it would.

Q. Take a look at your screen.

A. Okay.

Q. Do you see that?

Daryl Ingermanson - Direct

A. Yes.

Q. Did you write down the names that Mr. Nichols gave you that day?

A. Yes, I did.

Q. What names did he give you?

A. He give me the name of "Joe Rivers" and "Ted Parker."

Q. And were those the only two names that he gave you?

A. Yes. Other than his own name.

Q. He never made any reference to the name "Havens"?

A. No, he did not.

Q. Did he ever mention the name "Bridges"?

A. No, he did not.

MS. WILKINSON: We have no other questions, your Honor.

THE COURT: Mr. Woods?

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

CROSS-EXAMINATION

BY MR. WOODS:

Q. Good morning, sir.

A. Good morning.

A. GOOD MORNING.

Q. My name is Ron Woods. I'm one of the lawyers that was appointed by the district judge in Oklahoma City to help Terry Nichols in this case.

You and I have never met. Is that correct?

A. That's correct.

Daryl Ingermanson - Cross

Q. Now, Mr. Nichols was brought to you as a material witness. Is that correct?

A. That is correct.

Q. How many material witnesses have you processed in Wichita?

A. In Wichita, I've not processed any.

Q. How long have you been in Wichita?

A. I've been in Wichita since 1988.

Q. This was the first and only one that you have seen in Wichita?

A. In Wichita, yes.

Q. Material witness warrant?

And on your form -- have you reviewed that form before you came in this morning?

A. Not this morning.

Q. When did you last review it?

A. I looked at it last week.

Q. Under a topic called "locales" you have "remarks" -- is that correct -- on your form that you fill out as you're booking the person in?

A. Yes. There is --

Q. And what does "restraints" mean?

A. I wrote that down. Just an indication that Mr. Nichols had been brought into the -- in restraints.

Q. What restraints was he in?

A. He was in a waist chain and handcuffs.

Daryl Ingermanson - Cross

Q. As a material witness?

A. Yes.

Q. He told you about his army background. Is that correct?

A. Yes, I believe he indicated that he had.

Q. And you recall what years he was in?

A. No, I do not recall. I'd have to refer back to my book -- or personal history.

MR. WOODS: Let me see if I can find an extra copy.

MS. WILKINSON: Here, Mr. Woods.

THE COURT: We have one here, I think. The Government has one you can use.

MR. WOODS: Thank you, your Honor. I have an extra copy.

THE COURT: Okay.

BY MR. WOODS:

Q. If you would look at that, Deputy Marshal, and see if that refreshes your memory. Is that the form that you filled out

-----  
for Mr. Nichols?

A. Yes, it appears to be the same.

Q. All right. Now, can you refresh your memory as to what he told you about his Army service?

A. He stated here branch of service was the Army. He stated that his dates that he was in the military was 5 of '88 to 5 of '89. He indicated that he had a type of discharge -- he indicated it was honorable. Rank at discharge he told me was

Daryl Ingermanson - Cross

an E3.

In "remarks," he stated that he was released out of the Army for family hardship and custody of son.

Q. All right. And did he list his relatives for you?

A. Yes, he did.

Q. And what relatives were you asking about?

A. Father, mother, any -- any other relatives such as sisters, brothers, wives. Any relatives --

Q. And he listed all those for you, did he not?

A. Yes. He listed his father and mother, brother.

Q. Who did he describe as his father?

A. He said his father was Robert Nichols.

Q. And where was his address?

A. 7776 Brown City, Imlay City, Michigan.

Q. And his mother?

A. His mother was -- he stated was Joyce Wilt, 1400 Grossbeck, Lapeer, Michigan.

Q. And going -- your next page: That is the addendum that you filled out going through his relatives?

A. Yes.

Q. Who did he list as a brother?

A. He listed -- this is kind of cut off here. It's, I believe, Leslie Allen Nichols. It's -- the sheet here is cut off, or the print on the sheet.

MS. WILKINSON: Your Honor, we have no objection to

Daryl Ingermanson - Cross

admitting Government's Exhibit 1922. It's clear that the witness is reading from it, which I don't think is appropriate.

MR. WOODS: We would offer it into evidence.

THE COURT: And it's 1922?

MS. WILKINSON: Yes, sir, it is.

THE COURT: 1922 is received.

BY MR. WOODS:

Q. He listed one brother, Leslie Alan Nichols?

A. Yes.

Q. What address did he list?

A. He just said Barnes Lake, Michigan.

Q. And did he list another brother?

A. Yes. James Douglas Nichols.

Q. What was his address?

A. 3616 North Van Dyke in Decker, Michigan.

Q. Did he list a sister?  
A. Yes.  
Q. And what was her name and address?  
A. Suzanne Marie McDonnell of Holly, Michigan.  
Q. And brother-in-law?  
A. Brother-in-law was Joe McDonnell, also of Holly, Michigan.  
Q. Did he list a son?  
A. Yes.  
Q. And what was the name and address of the son?  
A. It's a Joshua Isaac Nichols. Address is 7160 Nordic

Daryl Ingermanson - Cross

Lights, Las Vegas, Nevada.

Q. And date of birth?  
A. Date of birth is 8-11 of '82.  
Q. I'm sorry. I didn't hear.  
A. 8-11 of '82.  
Q. Did he list that as a stepson, or a son?  
A. He just told me "son."  
Q. Did he list a daughter?  
A. Yes.  
Q. What was her name?  
A. Nicole Lynn Nichols.  
Q. Address?  
A. 109 South 2nd Street in Herington, Kansas.  
Q. And what was her date of birth?  
A. Her date of birth is 8-1 of '93.  
Q. Did he list an ex-wife?  
A. Yes, he did.  
Q. And what was her name and address?  
A. Her name is Lana Padilla. And address is 7160 Nordic  
Lights, Las Vegas, Nevada.  
Q. Did he list his current wife?  
A. Yes, he did.  
Q. And what was her name and address?  
A. Her name is Marife Torres Nichols. Address was 109 South  
2nd, Herington, Kansas.

Daryl Ingermanson - Cross

Q. And can you read that date of birth on the bottom?  
A. Date of birth would be 6-11 of '71.  
Q. All right. This is all information that you take down  
regarding the prisoner that's coming into your custody. Is  
that correct?  
A. That is correct.  
Q. Did Mr. Nichols list what his occupation was?  
A. Yes, he did.  
Q. And what was it?  
A. He advised that he was self-employed, buying and selling  
military surplus.  
Q. All right. Did he list -- there is a question on your form  
where you want to know the description of vehicle. Is that

correct?

A. Yes.

Q. What description of vehicle did Mr. Nichols give you?

A. He said he had a 1984 -- I've written down GMP, but it was -- clearly must have been a mistake in my writing as a GMC pickup. It's a Sierra, blue in color. The license plate, he wasn't sure of the three letter characters that we have on our tag system; and he gave me a 501 as the three numbers. Kansas registration, registered in 1996.

Q. Did he advise you that he had just gotten the license plate and didn't know the number in complete form?

A. I don't recall if that was asked or not.

Daryl Ingermanson - Cross

Q. And you put down on your form as to information concerning the arrest who the agency is that arrests the individual; is that correct?

A. That is correct.

Q. And who did you list as the arresting agency?

A. FBI.

Q. And what was the location of the arrest?

A. I wrote down "Herington, Kansas," in there.

Q. All right. And the arrest date?

A. 4-21 of '95.

Q. And what day are you filling out this form? When did you first receive Mr. Nichols as a prisoner?

A. 4-22.

Q. What time of day was it that you were filling out this form?

A. The time would have been approximately -- he arrived at the courthouse at approximately 3:30 in the afternoon, so it would have been very shortly after that.

Q. Okay. Is that the extent of the conversation that you had with Mr. Nichols?

A. Yes, it is.

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

THE COURT: Ms. Wilkinson?

MS. WILKINSON: Thank you, your Honor.

Your Honor, now that this is in evidence, I'd like to show portions to the jury as I ask questions.

THE COURT: You may.

MS. WILKINSON: Thank you.

REDIRECT EXAMINATION

BY MS. WILKINSON:

Q. Mr. Ingermanson, I focused on a section where you asked Mr. Nichols about his relatives. Do you see that on your screen?

A. Yes, I do.

Q. This is his father listed here, Robert Nichols; is that right?

A. Yes.

Q. Over here in the birth date, you don't list a birth date. Why is that?

A. It would have been because Mr. Nichols was not -- did not

A. It would have been because Mr. Nichols was not -- did not give me a date of birth.

Q. Okay. Did he give you the age of his father there?

A. Yes. I usually -- if they don't have a date of birth, I usually ask approximately what age the individuals are, and Mr. Nichols said between 65 and 67 years old.

Q. And below you have his mother's name, and also you have no birth date. Why is that?

A. That is correct. It would be for the same reason that he was -- was not sure of what the -- their date of birth was.

Daryl Ingermanson - Redirect

Q. Okay. And up at the top of where it says "father's name and phone number," there is a question mark. Why did you write that question mark?

A. It would have been the fact -- I usually -- if they're unsure of information they're giving me, I usually place a question mark on the form to -- where we know that it's -- they've indicated to us that they're unsure of what the number is.

Q. Okay. Now, let's look at the section that you said was called "aliases." Is this the form -- the names that you wrote down that Mr. Nichols gave you?

A. Yes, it is.

Q. You have space there, I take it, for additional names; is that right?

A. Yes, there is.

Q. Now, finally, you also asked about family members and you asked about associates. Is that right?

A. Yes.

Q. And here is a section -- did Mr. Nichols give you this name for an associate, Kevin Nicholas?

A. Yes, he did.

Q. When you asked him about associates, did Mr. Nichols ever mention the name Timothy McVeigh?

A. No, not to my recollection. Never did.

Q. And I just have one final question. If you could take a

Daryl Ingermanson - Redirect

look at the page where you wrote out the names of Mr. Nichols' family members. Do you see that? You said you wrote an additional page.

A. Yes.

Q. And at the bottom there, you listed Mrs. Marife Nichols. Is that right?

A. That is correct.

Q. That date of birth: Can you read to the jury what it says? Let me see if I can focus on it one second.

A. The date of birth that I have written down here is 6-11 of '71.

Q. Do you know whether or not that is the correct birth date for Mrs. Marife Nichols?

A. I have no idea.



Q. You just wrote down what he told you?

A. Yes.

MS. WILKINSON: No further questions, your Honor.

THE COURT: Mr. Woods?

MR. WOODS: No further questions, your Honor.

THE COURT: Is this witness to be excused, then?

MS. WILKINSON: Yes, he is, your Honor.

THE COURT: Agreed?

MR. WOODS: Yes, your Honor.

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

Next, please.

MR. MACKEY: Yes. We'll call Richard Hagerman.

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

(Richard Hagerman 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: Richard Hagerman, H-A-G-E-R-M-A-N.

THE COURT: Mr. Mackey?

MR. MACKEY: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Mr. Hagerman, good morning.

A. Good morning.

Q. Where do you reside?

A. Herington, Kansas.

Q. How long have you lived there?

A. About 5 1/2 years, 6 years, somewhere in there.

Q. Are you married?

A. No. I have a fianc,e that I live with, but I'm not married.

Q. Are you currently employed?

A. Yes. I work for Penny Packer Construction out of Herington.

Q. And at any point in your career, Mr. Hagerman, have you

Richard Hagerman - Direct  
worked for the Dickinson County sheriff's office?

A. I resigned the 27th of October.

Q. This past year?

A. This past year, of this year.

Q. How many total years did you work for Dickinson County?

A. 7 years and 10 days.

Q. Were you working then in April of 1995 for Dickinson County?

A. Yes, I was.

Q. What was your position?

A. Corrections officer.

Q. And generally speaking, what kind of duties did you carry out?

A. Book in and book out of prisoners and the health and welfare of the prisoners.

Q. Do you remember what shift you were working on Saturday,

April 22, 1995?

A. 11 to 7. 11 p.m. to 7 a.m.

Q. Let me direct your attention now, Mr. Hagerman, to the early morning hours of that day, Saturday, April 22. Were you present when the FBI brought into the Dickinson County facility Mr. Terry Lynn Nichols?

A. Yes, I was.

Q. And did you personally participate in the processing of Mr. Nichols?

Richard Hagerman - Direct

A. Yes, I did.

Q. That is, the intake?

A. That is the intake.

Q. Would you describe to the jury what it is that you did in the course of processing Mr. Nichols that day?

A. I typed up what we call the IMF or the booking sheet, and I took Mr. Nichols' property, placed it in a property envelope, put my initials on that. And my understanding was that was to go to the marshals. I therefore sealed that. I handed that to my supervisor, which in return supposedly handed that off to the marshals.

Q. All right.

A. And that was the last I've seen of the envelope.

Q. You were present there when the personal property then on the person of Mr. Nichols was turned over to you and other jailers?

A. Correct.

Q. Do you recall what items Mr. Nichols had on his person when you took them into your possession?

A. There was a wallet, a knife, a watch, and a few other items I'm not sure of.

Q. Were those immediately handled by you and placed into a property envelope?

A. Yes, it was.

Q. Take a look on the stand, Mr. Hagerman, for a single

Richard Hagerman - Direct

exhibit. It should be a folder; and inside do you recognize Government's Exhibit 1852A?

A. Yes.

Q. Have you seen that before?

A. Yes.

Q. What is that?

A. That is what they call "personal property envelope."

Normally what we do is we take the property from the individual and then we put it in a filing cabinet; but my understanding was when we got the word that Mr. Nichols was coming to the sheriff's department, the word was we were to take his property, seal it, and immediately hand it over to the United States Marshal's Service.

Q. You understood that he was in federal custody and not Dickinson County?

DICKINSON County:

A. Correct.

Q. All right. Now, let's talk a little bit more about the envelope itself. Is Government's Exhibit 1852A the envelope in which you placed the personal possessions taken from Mr. Nichols Saturday morning?

A. Okay. At the name --

Q. That is the envelope?

A. Yes, sir, it is.

Q. Now, let me direct your attention to the writing that's on the envelope. Do you recognize any of the handwriting on the

Richard Hagerman - Direct

face of Government's Exhibit 1852A?

A. Yes, I do.

Q. As whose?

A. As Mr. Terry Nichols'.

Q. And do you see your handwriting as well?

A. My handwriting is there, yes, sir.

Q. What kind of entries did you make on the face of that envelope as you put the items of property into it?

A. I put the name, "Nichols," the date that he was arrested, the property description, "money." And down there where it says "the signature of inmate," I put down that he refused.

Q. Why do you write the word "refused" on the bottom where the prisoner is to sign?

A. Mr. Nichols would not say anything when he was booked into the jail, or he would not sign any documents.

MR. MACKEY: Your Honor, I'd move to admit Government's Exhibit 1852A.

MR. WOODS: May I examine the document, your Honor?

THE COURT: Yes, sure.

MR. WOODS: Thank you.

May I take the witness on short voir dire, your Honor?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. WOODS:

Q. Mr. Hagerman, did you tell the jury that there is writing

Richard Hagerman - Voir Dire

on there of Mr. Nichols'?

A. No, sir. The writing on there is the name Mr. Nichols that I put on there. That's his property when he came in our facility. At nowhere is there -- he did not sign that, or nowhere is his writing on this document.

Q. What did you say: You recognize Terry Nichols, then, rather than recognize his writing?

A. No, what I'm saying is I wrote this stuff on there.

Q. Yes, sir.

A. And I stated what was on the envelope as being Mr. Nichols'.

MR. WOODS: All right. I understand.

No objection, your Honor.

THE COURT: All right. It's 1852A?

MR. MACKEY: Yes, your Honor.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. MACKEY:

Q. Mr. Hagerman, take a look at the front of the envelope. Do you see where you wrote down the word "wallet"?

A. Yes, sir.

Q. Do you recall taking a wallet from Mr. Nichols and placing it in that envelope?

A. Correct.

Q. On Saturday morning?

Richard Hagerman - Direct

A. Correct.

Q. All right. After you placed the items inside that envelope, what did you do with the envelope itself and specifically on the back of it?

A. After I -- after I took Mr. Nichols' property and placed it in his envelope, there is a metal tab. I closed the tab, I wrote my initials on there, I licked the envelope down there and placed the metal tab down there, placed tape on that to seal it, handed it to my supervisor, which was -- which in return was supposed to hand it over to the United States Marshal's Service.

Q. I understand. Do you see on the reverse side of that envelope what you recognize to be your initials?

A. Those are my initials, yes.

MR. MACKEY: Mr. Hagerman, thanks.

Thank you, your Honor.

THE COURT: Any questions, Mr. Woods?

MR. WOODS: Yes, your Honor.

THE COURT: Okay.

CROSS-EXAMINATION

BY MR. WOODS:

Q. Mr. Hagerman, my name is Ron Woods. I'm one of the lawyers that was appointed to represent Terry Nichols in this case. You and I have never met or talked. Is that correct?

A. That's correct.

Richard Hagerman - Cross

Q. Did you fill out a booking sheet when Mr. Nichols was brought in to you?

A. Yes, sir.

Q. And do you have that with you?

A. No, sir, I do not.

Q. Do you know where that is?

A. The original booking sheet?

Q. Yes, sir.

A. No, I have no clue where that's at. I would assume it would still be at the sheriff's department.

Q. The FBI didn't get that from you?  
A. Not that I'm aware of, sir.  
Q. What all information do you put on your booking sheet when you receive a prisoner?  
A. Normally, all of our information we receive is from what the prisoner gives us.  
Q. What do you ask him?  
A. We ask him his name, his address, date of birth, height and weight, next of kin, health questions, and that sort of stuff.  
Q. And did you fill one out with Mr. Nichols?  
A. We attempted to fill one out on Mr. Nichols, yes, sir.  
Q. And what happened?  
A. When we got there, what we do is we -- what we call a "soft copy." You just write out the stuff, and then you take what you call -- a hard copy is you type that up. At no time would

Richard Hagerman - Cross

Mr. Nichols answer any of our questions.  
Q. So you asked questions and he didn't answer you.  
A. That is correct.  
Q. Is that your position?  
A. We were told to ask the questions three times and if we didn't get an answer, move on to the next question.  
Q. What time of morning is this when Mr. Nichols is brought to your custody?  
A. Sometime after midnight.  
Q. Can you be a little more specific?  
A. Not without looking at my book-in sheet.  
Q. Do you have that with you?  
A. No, sir, I do not.  
Q. You worked from 11 p.m. to 7 a.m. Is that correct?  
A. That is correct, sir.  
Q. So it would have been the evening of April 21 and the early morning hours of April 22?  
A. Correct, sir.  
Q. Do you recall whether or not it was near the end of your shift?  
A. No, it was in the beginning of our shift.  
Q. And how was Mr. Nichols dressed?  
A. I don't recall how he was dressed.  
Q. Who was with Mr. Nichols?  
A. The FBI and the United States Marshal's Service.

Richard Hagerman - Cross

Q. Okay.  
A. Along with our -- along with our Dickinson County Sheriff's Department personnel.  
Q. How many people from the FBI were there with Mr. Nichols?  
A. I do not know, sir.  
Q. More than two?  
A. I couldn't tell you, sir.  
Q. And how many people were there from the Marshal's Service?  
A. I do not know, sir.

A. To my knowledge, there was only two from the Marshal's Service.

Q. Now, were they based in Abilene?

A. No, sir. They were the two marshals that sat there. They were assigned to sit with Mr. Nichols and watch him.

Q. Okay. Now, you mentioned Dickinson County. What city are we in here?

A. Abilene, Kansas.

Q. All right. And the jail is there in Abilene, Kansas?

A. Yes, sir.

Q. So you had two marshals, you say, that were assigned to sit with him?

A. Yes, sir.

Q. Do you know where they came from?

A. No, sir, I don't know where they were from.

Q. And how many FBI agents were there?

A. I do not know how many were FBI agents, sir.

Richard Hagerman - Cross

Q. And how many people from your sheriff's office were there?

A. Just about all of them.

Q. How many is that?

A. There are 15 people assigned to the sheriff's department, and I'm not sure how many reserve officers there; and there was a few reserve officers there that night, also.

Q. Just everybody crowded around looking at Mr. Nichols?

MR. MACKEY: Objection.

THE COURT: Overruled.

BY MR. WOODS:

Q. When you say they were all there, what were they doing?

A. I don't know what they were all doing there. They weren't -- I don't mean they were all inside the jail. I'm just saying in what we call our booking office and our jail area.

Q. They were all in the booking office and jail area?

A. No, sir.

Q. How many people from law enforcement were in the booking area/jail area?

A. The only ones from law enforcement that was in our jail area was three of us.

Q. And that's who?

A. I'm sorry. There was five of us.

Q. Okay. That's you?

A. That's myself, my partner, my supervisor, the sheriff, and

Richard Hagerman - Cross

I do believe it was one reserve member.

Q. So there were five from the sheriff's office, two from the marshal's office?

A. No, sir. The two from the marshal's office stood outside the door.

Q. And where is the door in relation to where you're asking questions of Mr. Nichols?

QUESTIONS OF MR. NICHOLS.

A. I'm here and the door is right here. It's --

Q. Right by --

A. It's just one small room, yes, sir.

Q. So they're standing at the door. Why were the FBI agents standing?

A. I do not know if the FBI was actually there, or if they had left.

Q. Were they there initially?

A. They were there initially, yes, sir.

Q. Mr. Nichols was dressed how?

A. I do not recall, sir, how he was dressed.

Q. What kind of restraints did he have on?

A. I don't know if he had restraints on at that time.

Q. Can you recall?

A. I was in the office. I don't know. I was in the office getting ready to do this paperwork. I don't know.

Q. All right. And at a point in time, a wallet was handed to you?

Richard Hagerman - Cross

A. He was brought into the office. They made him -- my supervisor and my partner made him empty his pockets, empty his pockets on the table; and I retrieved that property and placed it in this envelope.

Q. Who had the wallet?

A. I believe Mr. Nichols had his wallet.

Q. How did he get the wallet if you don't know if he was restrained?

A. When he came in the office, he was not restrained. I don't know if he was restrained when he come -- into the jail area.

Q. Any restraints that were on him had been taken off before he was placed in front of you?

A. Yes, sir.

Q. And your purpose is to fill out the booking information?

A. Yes, sir.

Q. And to take the property?

A. Yes, sir.

Q. And who handed you the wallet?

A. My supervisor and my partner made him empty his pockets on the table, and then my partner handed me the property and I put it in the envelope.

Q. Now, are you saying that Mr. Nichols was one who handed you the wallet?

A. No, sir, I am not saying that. I am saying they had Mr. Nichols empty his pockets out, place it on the table. My

Richard Hagerman - Cross

partner gave me the property. I placed it in the envelope.

Q. All right. And you had instructions to give it to your partner, who was going to give it to the Marshal's Service?

A. Sir, I was instructed when he first came in there that the property would be taken, sealed up, and handed to the United

States Marshal's Service.

Q. And did you see that?

A. When I took the property, sealed it up, I handed it to my supervisor. There was no U.S. marshals in the room.

In return, my supervisor was going to give that to the

United States Marshal's Service.

Q. And where was it the last time you saw it, the envelope with the wallet in it?

A. The last time I saw it with the wallet in there is when I handed it to my supervisor.

Q. Did you see it handed to the marshal?

A. No, sir, I did not.

Q. What was the hour the last time you saw it?

A. I do not know, sir, the hour.

Q. After this booking procedure is completed, what did you then do with Mr. Nichols, if anything?

A. After we dressed Mr. Nichols up and we were done with our paperwork, we put Mr. Nichols in what we call the "weight room." We took all the weights out, and that was the cell that we put him in; and two of the United States marshals sat down

Richard Hagerman - Cross

with him, and they observed him all night in the room.

Q. The weight room being W-E-I-G-H-T, rather than W-A-I-T?

A. Correct, sir.

Q. You used one of the cells as a gymnasium or something?

A. We tried to keep Mr. Nichols separated from the rest of the inmates in our facility; and the only secure place that we had was our weight room, so we took all the weights out and put Mr. Nichols in there.

Q. Was there a bed to lay on?

A. I don't recall if at that time -- if we had a bed in there or not.

Q. All right. What time was it that you put him in there?

A. Sir, I have no idea what time it was we put him in there.

Q. Sometime during your shift before 7 -- between 11 that night and 7 the next morning?

A. It had to be before 2:00, sir.

Q. All right. And this is a room that the marshals can look into to observe Mr. Nichols; is that what you're telling the jury?

A. Yes, sir.

Q. And did you go off duty then at 7 a.m. the -- that morning?

A. Yes, sir, I did.

Q. And where was Mr. Nichols, to your recollection?

A. Mr. Nichols was still in what we call the "weight room" when I left at 7:00.

Richard Hagerman - Cross

Q. And you don't know if there was anything in there for him to rest on?



A. I don't -- I don't recall if there was a bunk in there. I don't know if we gave him a chair. I don't know if we gave him a mattress. I can't recall that, what we actually give him.

Q. And do you know what time Mr. Nichols was then removed from the Dickinson County Jail there in Abilene?

A. I do not, sir.

Q. Did you work the next day, come on 11 p.m. that night?

A. I don't know if I -- if I came back in there or if I was off, sir.

Q. Did you see Mr. Nichols after that day when he was placed in the weight room?

A. No, sir, I never seen him again.

MR. WOODS: All right. Thank you.

No further questions, your Honor.

THE COURT: Mr. Mackey?

REDIRECT EXAMINATION

BY MR. MACKEY:

Q. Mr. Hagerman, do you recall having seen any reports reflecting entries of records that Mr. Nichols was sleeping during a portion of the time that he was at Dickinson County?

A. Yes. We kept a 15-minute check on him, what we call.

Q. You've seen records that show that some period of time, he was sleeping?

Richard Hagerman - Redirect

A. I have not seen that since we filled that out.

Q. When you handed the envelope to your supervisor on that Saturday morning, was the wallet that Mr. Nichols had taken off of his person inside and sealed?

A. Yes, it was, sir.

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

MR. WOODS: Just one question.

THE COURT: All right.

MR. WOODS: One area.

RE-CROSS-EXAMINATION

BY MR. WOODS:

Q. Now, the prosecutor mentioned to you a log that was kept by your department.

A. Yes. Me and my partner was required to keep a log and do 15-minute checks.

Q. Now, was a marshal there, the two marshals outside the room watching him also?

A. Yes, sir, there was.

Q. Now, what kind of log were you keeping?

A. It's what we call a jail report. I don't have one to show you. It's a jail report, and it's also what we call a "suicide watch" or "special watches" that we put on people. And if they are to be watched, we put 15-minute checks on them.

We are also instructed that with Mr. Nichols' being in there along with the two marshals: Do not interfere with the

Richard Hagerman - Recross

two marshals: let them do their thing. So basically we

two marshals, let them do their thing. So basically, we just -- we check on him every now and then.

Q. "Let the marshals do their thing": Were they in the room with Mr. Nichols?

A. There is no room, sir. It's just an open area. You have a cell right here, and the two marshals had chairs that they sat right there outside the bars.

Q. Outside the bars?

A. Yes, sir.

Q. And that was "doing their thing"?

A. I'm sorry, sir?

Q. You were instructed to let the marshals do their thing?

A. Yes, sir.

Q. What was "their thing"?

A. They just sat there and watched him.

Q. Did they keep a log, also, to your knowledge?

A. I do not know if they had a log or not, sir.

Q. But you kept a log every 15 minutes to see if Mr. Nichols was what?

A. When we do our 15-minute checks, it's supposed to be for a suicide watch. I don't recall if that we did them 15 minutes, or if we did them by the hour. One of the two.

Q. What did you observe Mr. Nichols do?

A. I couldn't tell you without looking at the documents, sir.

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

MR. MACKEY: Nothing else.

THE COURT: Are you excusing this witness, then?

MR. MACKEY: Yes, your Honor.

THE COURT: Agreed?

MR. WOODS: Yes, your Honor.

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

Next, please.

MR. MACKEY: Call Special Agent Dan Jablonski.

THE COURT: All right.

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

(Daniel Jablonski affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please. Would you state your full name for the record and

spell your last name.

THE WITNESS: My name is Daniel L. Jablonski, J-A-B-L-O-N-S-K-I.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mackey.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Agent Jablonski, for whom do you work?

A. I'm a special agent with the FBI.

Q. And how long have you worked for the FBI?

Daniel Jablonski - Direct

A. I've worked for the FBI for 26 years.

Q. Where are you currently assigned?

A. Wichita, Kansas.

Q. And how long in that city?

A. I've been there since June of 1985.

Q. Agent Jablonski, did you assist other FBI agents in the course of an investigation of the bombing in Oklahoma City?

A. I did.

Q. For purposes of your testimony today, Agent Jablonski, I want to direct your attention to Saturday evening, April 22, 1995. And on that date and time, did you have occasion to take into your possession certain personal property of Mr. Terry Lynn Nichols?

A. I did.

Q. Where were you on Saturday evening at 7 p.m.?

A. I was at the Herington Public Safety building.

Q. Could you describe to the jury what took place at that time relative to the personal property?

A. At 7 p.m., Steve Smith and Scott Crabtree drove up in a vehicle, and I met them outside the building. At that point in time, Steve Smith handed me an envelope.

Q. Do you recall what that envelope looked like or any information that was on it?

A. Yes. It was an 8-by-11 approximately sized. It was from the Dickinson County Law Enforcement Center.

Daniel Jablonski - Direct

Q. Take a look at the materials in front of you, Agent Jablonski. You should see an exhibit marked 1852A.

A. I do. I do have it.

Q. Do you recognize that?

A. Yes, I do.

Q. As what?

A. This is an 8-by-11 envelope. It says, "Dickinson County Law Enforcement, Personal Property." I recognize the handwriting. I did initial this, and I did place the date of April 22, 1995. I also placed this evidence tape on this envelope.

Q. The initials that you're referring to: Read those into the record, please.

A. The initials are DLJ, and the date is 4-22-95.

Q. Did you date and initial it when you initially took receipt from Agent Smith?

A. I did.

Q. Did you open the property envelope?

A. I did.

Q. Tell the jury what you found inside.

A. Of course, written on the outside of the envelope under "property description" are the items that were contained -- supposedly contained in the envelope. It was my job to determine that was so.

I did open the envelope and then proceeded to

Daniel Jablonski - Direct

inventory the contents of the envelope.

Q. And do you recall from recollection, Agent Jablonski, what items you found in the personal property envelope from Dickinson County?

A. Yeah. I'm pretty close. I found one men's watch, one wedding ring, one pocketknife, one container of lip balm, a handkerchief, one black comb, one man's wallet, and there were various items contained there in the wallet.

Q. What did you do with the property when you removed it from that envelope?

A. The -- I inventoried it, as I said, and I made a record of what was in there. I then proceeded to look at the items in the wallet; and what I did is that I Xeroxed those items -- I should first say that I initialed and dated those items that I found in the wallet except for some miscellaneous business cards. The majority of the items I did initial and date.

Q. When you say you dated and initialed, do you mean on the item itself you're removing from the wallet?

A. Yes. Each item itself, I would initial and date.

Then I went to the Xerox machine and I Xeroxed those to be working copies, to prepare my report.

Q. Do you recall finding inside the wallet as you examined its contents a Kansas driver's license?

A. I did.

Q. And describe that.

Daniel Jablonski - Direct

A. It was a Kansas driver's license of Terry Lynn Nichols, and he had signed it. I once again -- once I took it out of the billfold, I initialed it and dated it.

Q. Do you recall also finding in the wallet a Wal-Mart receipt?

A. I do recall finding that, yes.

Q. Did you date and initial it as you removed it from the wallet in the manner you described?

A. I did. I initialed it and dated it on the back side.

Q. And did you at that time on Saturday evening make a copy of the Wal-Mart receipt that you had dated and initialed?

A. Yes. I made a copy. I made a number of copies because I magnified it -- enlarged it, I should say, in order to read details on it.

Q. What did you do with the original property that you had removed from the Dickinson County property after you had done the inventory and dated and initialed the items?

A. I put all the property back in this envelope. Then I took another envelope and I prepared an evidence sticker and I filled that out, and then I turned it in as evidence.

Q. Take a look, please, at the materials before you, Agent Jablonski, for Government's Exhibit 1852. 1852.

A. I have it.

Q. Take a look and tell the jury if you recognize that, please.

Daniel Jablonski - Direct

Daniel Jablonski - Direct

A. Yes. This is the envelope in which I placed this envelope into. The evidence sticker has my handwriting --

THE COURT: Please don't display it. It hasn't been received.

THE WITNESS: Excuse me.

BY MR. MACKEY:

Q. Agent Jablonski, is Exhibit 1852 the envelope in which you put the Dickinson County envelope and its contents on Saturday, November 22?

A. Yes, it is.

MR. MACKEY: Your Honor, the Government moves the admission of 1852.

MR. WOODS: Your Honor, may I take the witness on short voir dire?

THE COURT: Yes, you may.

VOIR DIRE EXAMINATION

BY MR. WOODS:

Q. Agent Jablonski, my name is Ron Woods. I'm one of the lawyers that was appointed by the district judge in Oklahoma City to represent Terry Nichols.

You and I have never met, never talked. Is that correct?

A. That is correct.

Q. You told the jury that you got the envelope on Saturday evening at 7 p.m. Is that correct?

Daniel Jablonski - Voir Dire

A. That is correct.

Q. Where were you?

A. The Herington Public Safety building.

Q. Now, this is after the interview that you took part in which had taken place the previous evening and early morning hours. Is that correct?

A. That is correct.

Q. And Mr. Nichols had been taken away and taken to jail somewhere?

A. Yes. I took him to jail.

Q. You're the one who took him to Abilene, aren't you?

A. Yes.

Q. And what time did you leave Abilene then?

A. After we put him in jail.

Q. After you booked Mr. Nichols into jail?

A. I actually spent the night there.

Q. So you're now back in Herington at 7 p.m. and somebody hands you this envelope with the wallet in it?

A. That is correct.

Q. And do you know where they got the wallet, the envelope?

A. Yes, sir. Yes, I do.

Q. Where?

A. Actually, Steve Smith told me that the property was taken to Wichita with Terry Nichols and that the marshals would not accept it there and therefore he was bringing it back.

Daniel Jablonski - Voir Dire

Q. You saw the items being given to the sheriff's office, then, in Abilene. Is that correct?

A. I saw Mr. -- I saw the property being taken from Mr. Nichols and placed in this envelope at the jail.

Q. Yes, sir. When you took Mr. Nichols into the Abilene jail, was he restrained?

A. He had handcuffs on, yes.

Q. What else?

MR. MACKEY: Judge, may I object to this as beyond the scope of voir dire?

THE COURT: Yes. This is not proper voir dire of the exhibit.

MR. WOODS: Yes, your Honor. I was just trying to follow the path of the exhibit from the jail.

THE COURT: Well, this question doesn't follow the path.

MR. WOODS: Well, I admit that it doesn't seem to; but as to how the wallet got into the custody of the jailer, whether or not he's restrained is relevant.

THE COURT: You can ask him what he saw.

MR. WOODS: Yes, your Honor.

BY MR. WOODS:

Q. You took Mr. Nichols into jail restrained with handcuffs. Is that correct?

A. That is correct.

Daniel Jablonski - Voir Dire

Q. Did he have a waist chain also?

A. No.

Q. Just ordinary pair of handcuffs?

A. That is correct.

Q. Front, or back?

A. Back.

Q. So he was restrained in the back like this?

A. That is correct.

Q. And you go to the booking office; is that correct?

A. Yes. We took him upstairs to the second floor, I believe, and where there are a number of deputy -- sheriff's people there.

Q. What did you observe the booking process to consist of?

A. Handcuffs were taken off. At that point, Mr. Nichols was asked to stand up against the wall and to put his hands on the wall. At that point in time, the deputies patted him down and removed items from him.

Q. So the deputies removed the items from his possession. Is that correct?

A. Yes.

Q. The wallet and his pocket contents?

A. That is what I recall, yes.

Q. All right. And what did you see the deputies then do with

the items?

A. They placed them in an envelope.

Daniel Jablonski - Voir Dire

Q. All right. And do you know what happened to that envelope from that period of time until you saw Steve Smith in Herington, Texas -- Herington, Kansas, with it?

A. No. The envelope remained at the jail when I left. It was -- it was being -- going to be placed in a safe somewhere. That's all I know.

Q. Why did you not take possession of it at that time?

A. Because he was not a -- Terry Nichols was not a subject at that point in time, and there was no reason to take his property.

Q. You had arrested him on a federal warrant, hadn't you?

A. I had, yes.

Q. But you left the property there in the custody of the Dickinson County jailer?

A. Well, I never take the property. When I place them in jail, I don't normally take that property. It remains in the custody of the jail until such point in time that legal proceedings go forth.

Q. And the last time you saw it, it was in the custody of the Dickinson County jailers. Is that correct?

A. That is correct.

Q. When you next saw it, Steve Smith handed it to you in Herington?

A. That is correct.

Q. And he said he had taken it all the way over to Wichita?

Daniel Jablonski - Voir Dire

A. That's right. It went with Mr. Nichols.

MR. WOODS: Your Honor, I would object to the entry of that item. The chain of custody doesn't seem to be proved up.

THE COURT: Well, we don't have the condition of the envelope at the time he received it.

DIRECT EXAMINATION CONTINUED

BY MR. MACKEY:

Q. Agent Jablonski, do you recall what condition the Dickinson County property envelope was when Agent Smith turned it over to you at 7 p.m. on Saturday?

A. Yes. It was sealed. It was taped shut when I received it.

Q. And after you had done the inventory and the processing you've described, did you seal it shut again?

A. I did.

Q. And on Exhibit 1852A, do you see any tape?

A. Yes, I do.

Q. And what tape is that?

A. This is FBI evidence tape.

Q. And who put that on there?

A. I did.

Q. And after doing so, what did you do again with the Dickinson County property envelope?

A. I put it in a second envelope and sealed that.

Q. And is that second envelope the exhibit you've identified as 1852?

Daniel Jablonski - Direct

A. Yes, it is.

Q. And did you seal -- excuse me. Did you prepare the handwriting label or the handwritten label that's on the front of 1852?

A. I did.

MR. MACKEY: Your Honor, I would renew the motion to admit Government's Exhibit 1852.

MR. WOODS: Still object to the chain of custody from the Dickinson County sheriff's office to Agent Jablonski.

THE COURT: 1852 is his envelope.

MR. WOODS: Pardon me?

THE COURT: I understand 1852 that's being offered is the envelope that this witness sealed and that 1852A has been received.

MR. WOODS: 1852A being the envelope --

THE COURT: Dickinson County envelope. So I don't understand the objection.

MR. WOODS: Was received through Agent Smith, you

mean, your Honor?

THE COURT: No.

MR. WOODS: I haven't --

THE COURT: Well, maybe I'm wrong. Did you offer 1852?

MR. MACKEY: 1852A was admitted through the previous witness, Mr. Hagerman.

Daniel Jablonski - Direct

THE COURT: The former deputy sheriff.

MR. WOODS: I understand, but that didn't prove the chain of custody to Mr. Jablonski, your Honor. His envelope contains the contents of 1852.

THE COURT: I haven't heard the contents yet. There are two envelopes.

MR. WOODS: Yes, your Honor.

THE COURT: This envelope is clearly admissible through the testimony of this witness. The objection is overruled.

1852 is received.

MR. WOODS: Is that just the envelope, or the contents, also, your Honor?

THE COURT: The envelope was what was offered.

MR. MACKEY: That's the only thing that that exhibit consists of.

THE COURT: All right



BY MR. MACKEY:

Q. Mr. Jablonski -- or Agent Jablonski, take a look now at Government's Exhibit 1901.

A. I have 1901.

Q. Do you recognize it?

A. I do.

Q. As what?

A. This is a Kansas driver's license issued to Terry Lynn

Daniel Jablonski - Direct

Nichols.

Q. Let me ask you: How do you recognize Government's Exhibit 1901?

A. I recognize it because I've previously seen it and I did place my initials, DLJ, and the date of 4-22-95 on the back of it.

Q. And when did you first see Government's Exhibit 1901?

A. I saw this just shortly after 7 p.m. on the 22d.

Q. And after you dated and initialed Government's Exhibit 1901, the Kansas driver's license, what did you do with that item?

A. Once again, I Xeroxed it to make copies of it, and then I placed it back in the wallet; and I placed the wallet back into 1852A, and then that was placed into 1852.

Q. And 1852 then was sealed after you did so?

A. That is correct.

MR. MACKEY: Your Honor, I'd move to admit Government's Exhibit 1901.

MR. WOODS: 1901 is the contents --

THE COURT: 1901 is the driver's license that he found in it, yes.

MR. WOODS: It's in the contents, and we object to the chain of custody.

THE COURT: Overruled. 1901 received.

BY MR. MACKEY:

Daniel Jablonski - Direct

Q. Agent Jablonski, let's turn now to Government's Exhibits 265 and 265B. Would you take a look at those together.

A. I have 265 and 265B.

Q. And tell the Judge and jury, please, Agent Jablonski, what each of those exhibits are.

A. Okay. 265 is the Wal-Mart -- Wal-Mart receipt that was found in Terry Nichols' billfold and that I did inventory.

Q. And how do you recognize Exhibit 265?

A. I recognize it in two ways. First of all, my initials, again, DLJ, are on this, and the date of 4-22-95 is on it.

The second way that I recognize this is from the pink Wal-Mart sticker which overlaps the top of the receipt itself.

Q. Do you recall that feature to the exhibit or to the receipt

when you first saw it in the wallet?

A. That's correct.

Q. What is Exhibit 265B, then.

A. 265B is the enlarged Xerox copy of that Wal-Mart receipt.

Q. And who made that?

A. I did.

Q. And when did you make it?

A. I made it on the evening of April 22, 1995.

Q. Does Exhibit 265B reflect your initials and date?

A. Yes, it does.

Q. What did you do with Government's Exhibit 265, the original Wal-Mart receipt, after inventorying it in the fashion you've

Daniel Jablonski - Direct

described?

A. No. 265 -- after I again inventoried the contents of the wallet, I initialed each of them. I did initial this receipt, and then I placed it back into the wallet. Then I placed the wallet back into the Dickinson County personal property envelope, which I then placed into my FBI envelope.

Q. Did you treat it, then, in the same manner you've described as to the Kansas driver's license?

A. I did.

MR. MACKEY: Your Honor, I'd move to admit both Exhibits 265 and 265B.

MR. WOODS: Same objection as to the chain of custody from the Dickinson County sheriff's office, your Honor.

THE COURT: That objection is overruled.

Is 265B simply demonstrative?

MR. MACKEY: Can I ask a question?

THE COURT: Well, what are you offering it for?

MR. MACKEY: Because it's a copy made at the time he first found it; and since then the 265 has been treated for fingerprints, the information is less legible. So it's offered not for demonstrative purposes but to be able to reflect --

THE COURT: It's illegible.

MR. MACKEY: Yes.

THE COURT: Both are received.

BY MR. MACKEY:

Daniel Jablonski - Direct

Q. Agent Jablonski, is that a fair characterization of the difference between 265 and 265B?

A. Yes. It's very difficult to read the information on 265; and the copy, you can read the information.

MR. MACKEY: Your Honor, at this time I'd like to publish 265B, the front.

THE COURT: You may.

BY MR. MACKEY:

Q. Agent Jablonski, let's zoom in, if we can, and ask you whether you see a city anywhere on the face of the Wal-Mart receipt now shown to the jury?

A. Yes, I do.  
Q. Can you circle what city you see there?  
A. Yes, I can.  
Q. And read to the jury what's shown.  
A. Arkansas City, Kansas.  
Q. Having lived in Kansas for a number of years, can you tell the jury where Arkansas City is?  
A. Yes. It's on Highway 77. It is the first city that you would come to if you were traveling from Oklahoma into Kansas.  
Q. Let's zoom in at the bottom of the front of 265B. And do you see a date of transaction that was recorded on that receipt at the bottom of 265B?  
A. Yes, I do.  
Q. Circle that, please.

Daniel Jablonski - Direct

For the record, what date is shown on that receipt?

A. 4-13-95.  
Q. And right next to that, do you see a time of transaction?  
A. I do.  
Q. Would you circle that, please.

And what was the time of transaction as recorded on this receipt?

A. On the receipt, it is 17:42:01.  
Q. You know that to be?  
A. I know that to be 5:42 p.m.  
Q. And just above those entries, do you see the words "oil filter"?  
A. I do.  
Q. If we could zoom in on that, please.

Would you circle that for the members of the jury.

A. I will.  
Q. Now, at the top of this same receipt, did you see some handwritten initials when you took it out of Mr. Nichols' wallet?  
A. Yes, I did.  
Q. Zoom at the top of the receipt, please.

Would you simply circle those for the jury so we'll know what we're referring to.

Were those initials on the receipt when you first looked at it in Herington on Saturday evening?

Daniel Jablonski - Direct

A. Yes, they were.  
Q. What appears immediately before the initials?  
A. Immediately above the initials is a pink sticker.  
Q. Now, this is in black and white. From the original, can you tell what color the sticker is?  
A. On the original, sticker is colored pink.  
Q. All right. And have you examined both sides of the sticker that drapes over the front and back of Exhibit 265B?  
A. I have.  
Q. What date appears on that tab?

Q. What date appears on that card?

A. It's the date of 4-15-95.

Q. Let's turn our attention to the reverse side of 265B, the reverse side of the receipt; and we'll zoom in if we can, please, on the handwriting that appears on the center of that receipt.

Would you circle the handwriting that appears there.

Did you notice that handwriting on the back of this receipt when you found it in Mr. Nichols' wallet?

A. I did.

Q. Would you read into the record what appears there?

A. It has the letters "SWB" and the numbers "9349."

MR. MACKEY: Your Honor, at this time we'd ask the Court to publish Stipulation No. 8.

THE COURT: Dealing with Exhibit 1721?

MR. MACKEY: Yes, your Honor.

Daniel Jablonski - Direct

THE COURT: "Government's Exhibit 1721 is a record from the Southwestern Bell Telephone Company regarding telephone service for a Terry Nichols, 109 South 2nd, Herington, Kansas. The record reflects issuance of a Southwestern Bell credit card. Government's Exhibit No. 2003 is a copy of the Southwestern Bell credit card issued in the name of Terry Nichols with personal identification No. 9349.

"The 'Terry Nichols' listed in the above records is the same person as the defendant, Terry Lynn Nichols."

That's the agreement?

MR. WOODS: Yes, your Honor. That's the business record of the phone company. Stipulate to that.

THE COURT: All right.

MR. MACKEY: Your Honor, we move to admit Government's Exhibit 1721 and 2003.

THE COURT: They're received pursuant to the stipulation.

BY MR. MACKEY:

Q. Mr. Jablonski, while that's still up on the screen, take a look, please, for Exhibit 2003.

A. I have 2003.

Q. It's also now being shown to the jury.

Do you see a PIN number on the face of Exhibit 2003?

A. I do.

Q. And for the record, what number appears there?

Daniel Jablonski - Direct

A. 9349.

Q. Agent Jablonski, on the back of that Wal-Mart receipt that we saw earlier, did you notice your initials and the date?

A. Yes, I did.

Q. And those are the date or the initials and date you put on it when you first saw it on April 22?

A. I did -- yes, I placed my initials "DLJ" and the date of 4-22-95 on the back of the receipt.

MR. MACKEY: Thank you, your Honor. That's all I have for this witness.

THE COURT: All right. Mr. Woods?

MR. WOODS: Yes, your Honor.

CROSS-EXAMINATION

BY MR. WOODS:

Q. Now, Agent Jablonski, you mentioned in your testimony that you were the one that arrested Mr. Nichols and took him to Abilene. Is that correct?

A. That is correct.

Q. And what time did you arrest Mr. Nichols?

A. Approximately 12:25 -- 12:20, 12:25.

Q. In the morning?

A. The morning of April 22, 1995.

Q. And where did the arrest take place?

MR. MACKEY: Judge, objection. Beyond the scope.

THE COURT: Overruled.

Daniel Jablonski - Cross

BY MR. WOODS:

Q. Where did the arrest take place, sir?

A. At the Herington Public Safety building.

Q. In what room?

A. The downstairs -- large room downstairs.

Q. And had you been in that room earlier with Mr. Nichols, during that evening and into the prior afternoon of Friday, the 21st?

MR. MACKEY: Objection.

THE COURT: Sustained.

BY MR. WOODS:

Q. Did you have a warrant for Mr. Nichols' arrest when you arrested him at 12:20 Saturday morning?

A. I did not have -- physically have a warrant, no.

Q. Were you advised to arrest Mr. Nichols?

A. I was.

Q. By whom?

A. By SAC David Tubbs.

Q. Was he there in the Herington police station?

A. Yes, he was.

Q. What time did he advise you to arrest Mr. Nichols?

A. Around 11:00. 11 p.m. on 4-21-95.

Q. And did he advise you that there was a warrant for his arrest?

A. Yes, he did.

Daniel Jablonski - Cross

Q. Did you see the warrant?

A. No, I did not.

Q. Did Mr. Tubbs tell you what the warrant concerned --  
MR. MACKEY: Objection.

BY MR. WOODS:

Q. -- either for --

MR. WOODS: I haven't finished the question.

MR. MACKEY: Sorry.

BY MR. WOODS:

Q. Was the warrant for a warrant of arrest as a subject of an investigation, or as a material witness?

MR. MACKEY: Objection.

THE COURT: Overruled.

THE WITNESS: Material witness.

BY MR. WOODS:

Q. Mr. Tubbs advised you of that?

A. Yes.

Q. Did Mr. Tubbs have a copy of the warrant?

A. I do not know.

Q. Were you aware that a copy had been received there at Herington police station?

A. I was not aware, no.

Q. What did Mr. Tubbs tell you?

MR. MACKEY: Objection.

THE COURT: Sustained.

Daniel Jablonski - Cross

BY MR. WOODS:

Q. Were you one of the FBI agents that interviewed Mr. Nichols during the course of that day, April 21, and April 22?

MR. MACKEY: Objection.

THE COURT: Sustained.

BY MR. WOODS:

Q. And you received word at 11:00 to arrest Mr. Nichols. Is that correct?

A. That is correct.

Q. What did you do then at that point?

A. I received word that we were going to arrest Terry Nichols on the material witness warrant. I did not actually go back into the interview room until 12:11 a.m.

Q. Who was in the interview room before you went in?

A. Agents Scott Crabtree and Steve Smith.

Q. What time did they leave?

A. At 12:11.

Q. Had you been ordered to get aggressive and confrontational with Mr. Nichols?

A. Yes.

Q. And you went into the room with Agent Foley?

A. I did.

Q. Just the two of you and Mr. Nichols were in there. Is that correct?

A. That is correct.

Daniel Jablonski - Cross

Q. Did you walk over and kick a chair, one of those rolling chairs that was near Mr. Nichols?

A. No, I did not.

Q. Did you have a folder that you slammed down on the table?

A. Possibly. I cannot specifically recall, but I may have done that.

Q. And did you go over and stand right in front of Mr. Nichols, who was seated in a chair?

A. No, I did not. I sat on the edge of a desk approximately 3, 4 feet from Mr. Nichols.

Q. Are you saying that at no time did you go and stand right in front of Mr. Nichols and look down at him?

A. I may have gotten up. I didn't say that, no. I said I was sitting on the edge of the chair -- on the edge of the desk when I initially went in there.

Q. Describe for the jury what you mean by being "aggressive and confrontational."

A. I told Mr. Nichols plain and simply that we did not believe him; that he had left out a considerable amount of his involvement in the crime, and that I would like -- I wanted him to tell the truth. I wanted him to be a man and step up and tell us what happened.

Q. And did you take notes of that confrontation?

A. No, I did not.

Q. Did Agent Foley?

Daniel Jablonski - Cross

A. I don't believe he did. I'm not aware if he did or not.

Q. Well, how long did this confrontation last before you placed him under arrest?

A. We went in there at 12:11. We went out at 12:28 a.m.

Q. What time did you advise Mr. Nichols that he was under arrest?

A. I would say about halfway through.

Q. Did you tell him he was under arrest as a material witness?

A. I did.

Q. And what happened after telling him he was under arrest halfway through?

A. We -- I read him his Miranda rights. We asked him to stand up. We placed the handcuffs on him. We proceeded to walk him out -- up the stairs and out into the garage of the Herington Public Safety building.

Q. What time did you ask him to sign the waiver of Miranda rights?

A. I would estimate probably 12:25.

Q. That's what the form says; right?

A. Yes.

Q. And Mr. Nichols refused to sign that?

A. He did.

Q. Now, you were aware that that form had been presented to him earlier and he had refused to sign it, weren't you?

A. That is correct.

Daniel Jablonski - Cross

Q. And yet you still wanted to try and get a signature on that page, didn't you?

A. No. What I -- plain and simply when I do place someone under arrest, it is my obligation when they're going to be taken into custody to read the Miranda rights, and that is what I did. It was his option to sign it or not sign it.

Q. And did you take notes during the course of your earlier interviews that evening with Mr. Nichols?

A. I did.

MR. MACKEY: Objection.

THE COURT: Sustained. I'm limiting it. You can, of course, inquire into this later, if you want.

MR. WOODS: We're going to have to, your Honor, bring him back.

THE COURT: Okay.

BY MR. WOODS:

Q. So you've testified for the prosecution, then, only about you picking up the wallet. Is that correct?

A. Yes, sir.

Q. And you stated that you observed Mr. Nichols when you took him to the Dickinson County police station; that he was placed against the wall and his personal items were removed by the deputy sheriffs.

A. That is correct.

Q. Now, who was there with you from the FBI?

Daniel Jablonski - Cross

A. Agents Jack Foley and SA Lee Roll.

Q. Who?

A. Lee Roll, R-O-L-L.

Q. And who is he?

A. He just simply was -- he is an agent out of the Kansas City division. He is the -- a -- he's on the Violent Crime Squad.

Q. Was he there in Herington police station at the time of the arrest?

A. He was there just at the -- I saw him just at the end when we walked up to the car. He rode in the car with us to the Herington -- or to Abilene, excuse me. Dickinson County.

Q. So three of you -- Foley, Lee Roll, and yourself -- took Terry Nichols from Herington to Abilene in Dickinson County?

A. That is correct.

Q. Is that the nearest jail, or why did you go to Abilene?

A. I don't know. That's where the car was headed. We were down in the interview process. I was not part of the decision where to take him, but I believe it was the nearest county location, county jail.

Q. How far away is Abilene?

A. I would estimate 20 minutes, 25 minutes.

Q. It's closer than Junction City?

A. To tell you the truth, I don't know.

Q. And when you say that's where the car was headed, I take it you weren't driving.



Daniel Jablonski - Cross

- A. I was not driving.
- Q. You get to Abilene, Dickinson County, what time?
- A. At approximately 1:00 in the morning.
- Q. And Terry Nichols is seated in the back?
- A. He is.
- Q. And which side of the car?
- A. On the passenger's side.
- Q. Okay. And he's handcuffed with his arms in the back of him. Is that correct?
- A. That's correct.
- Q. And you take him into the Dickinson County Jail, the three of you?
- A. That is correct.
- Q. And when did the marshals show up?
- A. I have no idea. I never saw a marshal.
- Q. You never saw any deputy United States marshals there that evening?
- A. I did not.
- Q. All right. You go into the building. Is it one-story or two-story?
- A. It's at least two stories.
- Q. And where was --
- A. Well --
- Q. Where was the booking office?
- A. If I may give -- finish my answer.

Daniel Jablonski - Cross

- We went in maybe on a basement level. So I know that we walked upstairs, and I think it's at least a two-level.
- Q. All right. Where was the booking office?
- A. I had never been there before, and I really don't know. We followed the people that were -- met us downstairs at the garage area and we followed them.
- Q. And who met you downstairs?
- A. I could not tell you who.
- Q. How many people met you?
- A. Well, at least one.
- Q. And you followed that person upstairs to the booking office?
- A. That is correct.
- Q. And the three FBI agents, Mr. Nichols, and how many deputy sheriffs in the booking office?
- A. I don't believe so. I believe that Jack Foley -- I went with Mr. Nichols. Lee Roll was not -- was not there. Jack was maybe just outside the office. There were maybe -- maybe three sheriff's deputies that were waiting there. Well, the person that took me up there and two additional.
- Q. All right. And at some point you take the handcuffs off Mr. Nichols; is that correct?
- A. That is correct.
- Q. All right. And you observed him placed against the wall,

spread-eagled, and he's searched by the deputy sheriffs?

Daniel Jablonski - Cross

A. That is correct.

Q. Did you advise them that you had already searched him?

A. No.

Q. You observed them remove Mr. Nichols' personal possessions from him?

A. That is correct.

Q. They removed the wallet?

A. They did.

Q. Did you see them go through the wallet?

A. No, I did not.

Q. They removed the comb?

A. They did.

Q. The watch?

A. Yes.

Q. The lip balm, or whatever you described it as?

A. That is correct.

Q. Removed all his items and they had them in their possession. Is that correct?

A. They removed the items and they placed them into 1852A, this envelope.

Q. And you watched that being filled out?

A. I did. I watched them place them in this envelope.

Q. Now, when you got the envelope the next day at 7 p.m. on Saturday, after it had been taken over at Wichita and then brought to you, you opened it up. Is that your testimony?

Daniel Jablonski - Cross

A. That is correct.

Q. And you went through the contents of the wallet of Mr. Nichols?

A. I did.

Q. Did you have on gloves?

A. Yes, I did.

Q. What kind of gloves did you have on?

A. I had on cloth gloves. Evidence -- gloves that we use when we handle evidence.

Q. And where are you again at the police station?

A. The Herington -- or the Herington Public Safety building, Herington, Kansas.

Q. And had you been handling evidence up to that point of time?

A. No.

Q. You just had a pair of gloves with you?

A. Always do.

Q. Okay. And anytime you touch anything, you're going to put on a pair of gloves -- that may be of evidentiary value; is that your testimony?

A. That is correct.

Q. Now, you had received a map or diagram of Mr. Nichols' house from him, had you not?

HOUSE FROM HIM, HAD YOU NOT:

A. Yes.

Q. And you had that in your possession when you took him to

Daniel Jablonski - Cross

jail in Abilene, in Dickinson County?

A. That is correct.

Q. What did you do with it after you got it from Mr. Nichols? What did you -- what did you do with that diagram?

A. Okay. I -- let me qualify that. I did not take into my possession the original diagram.

Q. All right. Who did?

A. Either Steve Smith -- I believe Steve Smith or Jack Foley did.

Q. All right. Are you saying you didn't end up with it that evening after Mr. Nichols' arrest?

A. That is what I'm saying.

Q. And you don't know where it went from there; is that correct?

A. What I can tell you is I saw Terry Nichols draw the diagram, do what he did on it; and the interview then proceeded. And that is correct: One of -- Jack Foley or Steve Smith took that diagram into his possession.

Q. When you say you saw him draw the diagram and do what he did, he put the location of the guns and the ammunition in his house on that diagram, didn't he?

A. When he was asked to, yes.

Q. And you did not take the diagram to the agents that were going to do the search on Saturday. Is that your testimony?

MR. MACKEY: Objection.

Daniel Jablonski - Cross

THE COURT: Sustained.

BY MR. WOODS:

Q. Are you telling the jury that you didn't end up with the diagram, sir?

A. That's what I'm saying, yes.

Q. And you don't know who did?

A. That is correct.

Q. Did you take part in the search of the house on Saturday, April 22?

A. I did not.

Q. Where were you on Saturday, April 22, after you went to Abilene? What time did you leave Abilene, and where did you go?

A. I think that I previously told you that I spent the night in a motel there.

Q. Yes, sir.

A. Okay. And then I got up the next morning bright and early and headed back to Herington to the Public Safety building.

Q. Spent the day there?

A. I did.

Q. Were you aware that searches were going on in the city of

Herington?

A. I was.

Q. And you did not participate in any of the searches?

A. I was in a supervisory role there, and I did not leave the

Daniel Jablonski - Cross

building.

Q. Oh. You were a supervisor? What were you supervising?

A. Just the general -- I was -- the collecting of information that came back, analyzing, etc., etc.

Q. You have the title as a supervisor in the FBI?

A. No, I do not.

MR. MACKEY: Objection.

THE WITNESS: I was an assistant RAC.

BY MR. WOODS:

Q. An assistant RAC? An assistant resident agent in charge of a small resident agency?

A. In Wichita, Kansas, which covers the state of Kansas.

Q. Did you advise anybody on April 22 as to the location of the weapons and the ammunition in Mr. Nichols' house based on what you had seen in the diagram?

A. No, I did not.

Q. Did you feel that would be important information for the agents doing the search?

MR. MACKEY: Objection.

THE COURT: Sustained.

MR. WOODS: Thank you, Mr. Jablonski. We'll see you

later.

THE WITNESS: You're welcome.

THE COURT: Any redirect on this testimony?

REDIRECT EXAMINATION

Daniel Jablonski - Redirect

BY MR. MACKEY:

Q. Agent Jablonski, did Mr. Nichols place on the diagram a notation for blasting caps?

A. No, he did not.

MR. MACKEY: Nothing else.

MR. WOODS: Your Honor, just one further question.

THE COURT: You may, yes.

RECROSS-EXAMINATION

BY MR. WOODS:

Q. Agent Jablonski, you mentioned that you took Mr. Nichols' driver's license. Is that correct?

A. That is correct.

Q. And you have that driver's license in front of you?

A. Yes, I do. I do, yes. 1901.

MR. WOODS: Your Honor, may we ask that be published?

THE COURT: Yes.

MR. WOODS: Thank you, sir.

THE WITNESS: You're welcome.

THE COURT: It's already up there, I guess, through

some magic process.

MR. WOODS: Magic of computers here.

BY MR. WOODS:

Q. Agent Jablonski, can you tell what date that driver's license was issued?

A. It's not on the big screen.

Daniel Jablonski - Recross

THE COURT: Well, it should be right in front of you.

THE WITNESS: It's on, yes.

BY MR. WOODS:

Q. Let me just give you the original, in case you can't read it.

Can you tell the date that was issued, sir?

A. Yes, I can. Issued 4-12, 1994.

Q. And at that point of time, Mr. Nichols gave an address in Marion, Kansas. Is that correct?

A. The address that appears on this driver's license is RR 3, Box 83, Marion, Kansas.

Q. And you've been part of this investigation, have you not?

A. Yes, I have.

Q. And you know that that's the correct address for Mr. Nichols as of April, '94?

A. I cannot say that. I did not look into that myself.

Q. Were you aware of him working at the Donahue farms during '94?

A. Yes, I did learn that.

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

MR. MACKEY: Just one, your Honor, about the driver's license.

THE COURT: All right.

MR. MACKEY: Honest to goodness.

Daniel Jablonski - Redirect

REDIRECT EXAMINATION

BY MR. MACKEY:

Q. Read into the record, please, Agent Jablonski, the handwritten language that appears immediately before the signature of Terry Nichols.

A. It says, "Without prejudice, UCC 1-207."

MR. MACKEY: Thank you. That's all.

MR. WOODS: Nothing further at this time, but we will re-call Mr. Jablonski, your Honor.

THE COURT: Understood.

I take it he can go back and then be subject to call.

MR. WOODS: Sure.

THE COURT: So you're -- you can leave now and be available for re-call.

THE WITNESS: Thank you, Judge.

THE COURT: You may step down.

Members of the jury, we'll be taking our noon recess at this time.

at this time.

And again, just a bit of explanation about procedure so that you -- your curiosity can be satisfied, if you are curious. There is in -- the cross-examination, generally speaking, is limited to what's in direct examination. And therefore, when there are objections, as there were in this case, with questions that go to subject matter that was not inquired into on direct examination by the prosecution, those objections can be -- should be sustained, and I did. That doesn't mean those questions were improper. It simply means that the timing of it is a matter that the prosecution can control with its witnesses; and this witness will undoubtedly be back to respond to questions like that, called again at a different time in the case, when the defense can call the witnesses.

So that's what went on there. You know, I think sometimes it helps you to understand something about the procedure so you don't get the wrong impression that Counsel has done anything improper.

So we will recess now till 1:35 with the usual cautions of keeping open minds, avoiding discussion about the case and anything connected with it and avoiding anything outside of our evidence.

You're excused till 1:35.

(Jury out at 12:05 p.m.)

THE COURT: Mr. Mackey?

MR. MACKEY: If I might just complete the record with respect to the Manning deposition.

THE COURT: Yes.

MR. MACKEY: For the record, I want to move formally to admit 273AA, which is the videotape portion that was displayed to the jury, and in addition, 273BB, which is the transcript of only the portion played to the jury.

THE COURT: And these are matters for the record.

MR. MACKEY: For the record.

THE COURT: Not to go to the jury.

MR. MACKEY: Yes.

THE COURT: They will remember his testimony as they will of the live witnesses.

MR. TIGAR: That was the purpose of my standing, your Honor. That's agreed.

THE COURT: I suspected it was.

MR. TIGAR: Thank you, your Honor.

THE COURT: All right. We'll be in recess, 1:35.

(Recess at 12:06 p.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
265	10330	10330			
265B	10330	10330			
273AA-273BB	10353	10354			
1721	10334	10334			
1852A	10301	10302			

PLAINTIFF'S EXHIBITS (continued)

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1852					
1852	10326	10327			
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DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D1656	10248	10248			

\* \* \* \* \*

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 24th day of November, 1997.

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Paul Zuckerman

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Bonnie Carpenter

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