



them that he was introduced in the opening statement.

MR. TIGAR: Yes, your Honor.

THE COURT: So that seems to me to be the solution to that concern.

With respect to the substantive matters, first, the agreement was, I believe, that the photograph would be cropped. D1625.

MR. TIGAR: Yes, your Honor. 1625 is in evidence and will be shown in its entirety through another witness. Our thought is that when that photograph comes on, we stop the tape as we do and show the portion of the photograph on the device with the portion of it obscured.

THE COURT: All right. Then on the question at page 32, question and answer, lines 5 to 13, the objection there is -- defense objection sustained.

So that should be edited.

And with respect to the material on page 40, I'm sustaining the objection on page 40, line 19, through 41, line 25, but denying it -- excuse me. The other way around. I'm overruling the objection on page 40, line 19, through 41, line 25, but sustaining it on page 42, line 1, through page 45, line 5.

I'll repeat that to make sure it's -- you got it right. Overruled on page 40, line 19, through page 41, line 25. But sustaining on page 42, line 1, through 45, line 5.

MR. TIGAR: Excuse me, your Honor. I'm turning pages slowly.

THE COURT: That's fine. I want to make sure you understand.

MR. TIGAR: Yes. Yes, your Honor. I have that.

THE COURT: All right. That -- that picks up then, sort of, at an -- yeah.

MR. TIGAR: Your Honor, if the -- if you have 45, line 5, there --

THE COURT: I have it here.

MR. TIGAR: -- lines (sic) 45, 6 through 19, I had thought there was an objection to that. Did I --

THE COURT: Well, there isn't -- it isn't shown as one, but --

MR. MACKEY: We agree. We withdraw that.

THE COURT: Yeah. That's what I assumed, that something had happened to that because I'm ready to sustain that objection.

MR. MACKEY: We anticipated that.

THE COURT: All right. And then as I understand it, the other objections have been resolved by agreement. Now, are you going to edit out --

MR. MACKEY: Yes.

THE COURT: -- the objections that have been -- that have been agreed, I assume?

MR. MACKEY: Yes.

MR. TIGAR: May I inquire of Government counsel through the Court when they think to present it so that Mr. Neureiter will be present to show the exhibits --

THE COURT: Sure.

THE COURT: Sure.

MR. TIGAR: -- he sponsored.

MR. MACKEY: I would expect what we can get accomplished in the course of the day is the editing and the review by defense counsel to be sure that what we produce is in accord with both our agreement and the Court's rulings, and we'll plan on playing it probably tomorrow.

THE COURT: Tomorrow. So there's plenty of time to get it edited.

MR. TIGAR: Counsel will keep in touch, then, your Honor.

THE COURT: All right. Yeah. I noticed that he was on the list for today, but --

MR. NEUREITER: Your Honor, if I may be excused. My presence here was for this purpose.

THE COURT: Certainly.

MR. NEUREITER: Thank you.

THE COURT: All right.

Well, with that, it's now 8:45. I assume we're ready to start with our next witness. Okay.

(Jury in at 8:45 a.m.)

THE COURT: Members of the jury, good morning. We're ready to resume and call for the next witness.

MR. MACKEY: Your Honor, we'll start the morning with Mr. Robert Dunlap.

THE COURT: All right. Mr. Dunlap.

(Robert Dunlap 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: Robert Dunlap, II, D-U-N-L-A-P.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mearns.

MR. MEARNS: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MEARNS:

Q. Good morning, Mr. Dunlap.

A. Hi.

Q. Where do you live?

A. Wichita, Kansas.

Q. And how long have you lived in Wichita?

A. My whole life.

Q. And what kind of education have you had?

A. I've got a bachelor of science in electrical engineering.

Robert Dunlap - Direct

Q. Where did you get your college degree?

A. Wichita State University.

Q. And when did you graduate?

A. 1986.

Q. Where do you work now?

A. Equity Standard Numismatics of Kansas.

Q. And what kind of a store or business is that?

A. We buy and sell coins, currency, stamps, things of that nature.

.....

- Q. What's your position or job at Equity Standard?  
A. I'm the owner.  
Q. Do you have any other employees besides yourself?  
A. No.  
Q. How long have you been in the coin business?  
A. Over 20 years.  
Q. How long have you had that particular business?  
A. Since October of 1989.  
Q. Where is your store located? Where is Equity Standard located?  
A. It's at 8237 East Kellogg in Wichita, Kansas.  
Q. Where is that, generally speaking, in Wichita?  
A. On the east side of town.  
Q. And how long has it been at that location?  
A. Since September of 1990.  
Q. Tell us a little bit more about what you do in your

Robert Dunlap - Direct

business on a day-to-day basis.

- A. We buy and sell coins. We appraise coins. We buy and sell currency, stamps.  
Q. Do you buy and sell actual precious metals, as well?  
A. Yes.  
Q. What kind of precious metals do you buy?  
A. We buy gold, silver, platinum.  
Q. And do you sell that, too?  
A. Yes, we do.  
Q. From what sources do you buy coins?  
A. From the public, wholesalers, other dealers.  
Q. And to whom do you sell your coins?  
A. To the same venue. The public, dealers, other wholesalers.  
Q. When you sell coins to individual customers, what do you accept for payment?  
A. We accept personal checks up to \$250 with proper ID, cash, and cashier checks.  
Q. And when you purchase coins from people who walk into your store from the general public, how do you pay them for your purchases?  
A. We pay them by check or cash.  
Q. Do you prepare a receipt, an individual receipt for every transaction that you engage in with an individual customer?  
A. No.  
Q. When do you prepare a receipt?

Robert Dunlap - Direct

- A. When requested by the customer.  
Q. And what kind of receipts do you prepare when a customer requests a receipt?  
A. We have Ready Forms. They are a duplicate, carbonless form.  
Q. And what kind of information is -- is put down on that form for a transaction?

A. What was purchased and payment method, check number or by cash.  
Q. Do you put the person's name, as well?  
A. If they want.  
Q. And you said those were duplicate, carbonless forms?  
A. Yes.  
Q. How many different forms are generated in a transaction like that?  
A. Two.  
Q. And what do you do with those two different copies?  
A. We generally give the customer the white copy, and we retain the yellow copy.  
Q. Is that yellow copy retained for your own record-keeping purposes?  
A. Yes.  
Q. When a customer doesn't request a receipt, do you -- do you create any kind of a -- a record for your own internal record-keeping purposes?

Robert Dunlap - Direct

A. We'll generally retain that on a piece of paper.  
Q. What do you do with that information?  
A. We'll generally go ahead and transfer that to a receipt at a later point.  
Q. What do you mean by put it on a receipt at a later time?  
A. Basically, one of the formalized receipts a customer requested, we'll transfer once the transaction is not -- the customer is not requesting a receipt to that receipt.  
Q. And so there can be more than one transaction listed on a particular receipt?  
A. Yes.  
Q. Do you have a security camera, any kind of a security camera in your store?  
A. Yes.  
Q. Is it a video camera or still camera?  
A. Video camera.  
Q. How long have you had that video security camera?  
A. Since late 1993.  
Q. What I want you to do now, Mr. Dunlap, if you would -- there's a large folder on the witness stand in front of you. If you would look in that folder and find Government Exhibit 235. Do you have that?  
A. Yes.  
Q. Do you recognize that?  
A. Yes. This is a videotape of my premises showing events

Robert Dunlap - Direct

that occurred between 9-13 of '94 and 9-23 of 1994.  
Q. How do you recognize that?  
A. It has my handwriting on it.  
Q. You wrote those dates?  
A. Yes, I did.

Q. And is that the original videotape for those dates, September 13 to September 23, 1994?

A. Yes, it is.

Q. And was that videotape then created by your security camera in the ordinary course of your business?

A. Yes, it was.

MR. MEARNS: Your Honor, we would offer Government Exhibit 235.

MR. WOODS: No objection.

THE COURT: Received.

BY MR. MEARNS:

Q. Now, Mr. Dunlap, if you would -- well, let me ask you a question before you move that away. If we were to put that videotape into a VCR and try to watch it, would we be able to see what was on that videotape?

A. It would be very difficult. It's a time-lapse version. It would be very choppy and go by very quickly.

Q. Look in your folder, if you would, for Government Exhibit 236. Do you recognize that, Mr. Dunlap?

A. Yes. This is a real-time version of the -- from the

Robert Dunlap - Direct

time-lapse version.

Q. And is that a real-time version of one single date from the original videotape, that date being September 14, 1994?

A. Yes it is.

Q. And is the only difference is that's a videotape that you could actually watch on a VCR?

A. Yes, it is.

MR. MEARNS: Your Honor, we would offer Government Exhibit 236.

MR. WOODS: No objection.

THE COURT: 236 received.

BY MR. MEARNS:

Q. Now, Mr. Dunlap, if you would look into your folder for Government's Exhibit 235A and 235B and 235C. Do you have those?

A. Yes.

Q. What are those?

A. These are pictures of my shop from 9-14 of 1994.

Q. And are those still photographs derived from the original videotape that you just testified about a moment ago?

A. Yes, they are.

Q. For September 14, 1994?

A. Yes.

MR. MEARNS: Your Honor, we would offer 235A, B, and C.

Robert Dunlap - Direct

MR. WOODS: May I examine them, your Honor?

THE COURT: Yes. Sure.

MR. WOODS: Thank you. No objection, your Honor.

THE COURT: All right. 235A, B, and C are received.

THE COURT: All right. 235A, B, and C are received.

MR. MEARNS: Your Honor, there's a stipulation that the individual depicted in that photograph is Mr. Timothy McVeigh.

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

THE COURT: All right. The jury will accept that agreement.

MR. MEARNS: At this time, I'd like to, with the Court's permission, publish 235A.

THE COURT: Please. You may proceed.

MR. MEARNS: Thank you.

BY MR. MEARNS:

Q. And, Mr. Dunlap, if you could, beginning in the upper left-hand corner, just orient us to what we see in that photograph. Tell us what we see.

A. In the upper left-hand corner is the date 9-14-94 and the time, which is 12:00, 4 minutes after and 15 seconds.

Q. And what do we see then generally in the -- in the photograph?

A. You see the premise itself. I'm setting (sic) on a chair.

Q. And you have a -- excuse me. If I can interrupt you. You have a pen that's attached to a wire up there, an electric pen.

Robert Dunlap - Direct

If you could just circle where you are, indicate with an X where you are in the photograph.

Okay. And could you indicate where Mr. McVeigh is in that photograph.

Now, is the area where Mr. McVeigh is standing -- is that the general customer area of your store?

A. Yes, it is.

Q. And if you could clear those marks and indicate where the front door of your store is.

And if you had -- if we were to go out that door, where would we go?

A. You'd go out on the sidewalk in front of the shopping center.

Q. What is -- what do we see in the photograph to -- on the -

-  
to Mr. McVeigh's right, or to the left of Mr. McVeigh and to the -- and to the right? On either side of those -- I guess they are counters there?

A. There's a chair.

Q. Well, what -- are those glass cases there?

A. Oh, yeah. Yeah. Those are showcases.

Q. And what is the -- contained in those?

A. Coins.

MR. MEARNS: And if we could have 235B, please.

BY MR. MEARNS:

Q. And if you could clear your pen and just indicate for the

Robert Dunlap - Direct

record the date and time of this photograph.

A. It's 9-14 of '94 at 12:05:23.  
Q. And if we could have 235C, please.  
And if you could indicate the date and time on that,  
please.  
A. This is 9-14 of '94. And this is 12:07:57.  
MR. MEARNS: May I just have a moment, your Honor?  
THE COURT: Yes.  
BY MR. MEARNS:  
Q. And if we could just zoom in on the customer there.  
These were all -- these were all photographs taken  
during the same transaction with Mr. McVeigh?  
A. Yes.  
Q. During this transaction, did you sell anything to  
Mr. McVeigh or buy anything from him?  
A. I purchased coins from him.  
Q. How many coins did you purchase from him?  
A. Six.  
Q. And what kind of coins did you purchase?  
A. 1-ounce gold Maple Leafs.  
Q. And how much did you pay for those coins?  
A. \$2330.  
Q. If you would look in your folder there, Mr. Dunlap, for  
Government Exhibit 237 and Government Exhibit 1722.  
Do you have those documents in front of you?

Robert Dunlap - Direct

A. Yes, I do.  
Q. Beginning first with 237, what is that?  
A. This is a check drawn on my business for \$2330 on September  
the 14th, 1994, payable to Marife Nichols.  
Q. Was that the check that you gave to Mr. McVeigh for the  
coins you purchased that day?  
A. Yes, it was.  
Q. And was that check created and maintained in the ordinary  
course of your business?  
A. Yes, it was.  
MR. MEARNS: We would offer Government Exhibit 237.  
MR. WOODS: May I examine the back of it, your Honor?  
THE COURT: Sure.  
MR. WOODS: Thank you. No objection, your Honor.  
THE COURT: 237 received.  
BY MR. MEARNS:  
Q. Mr. Dunlap, is this your handwriting on the check?  
A. Yes, it is.  
Q. And we see on the check that it's made out to the -- it's  
paid to the order of Marife Nichols.  
A. Yes.  
Q. Why did you make this check payable to Marife Nichols?  
A. I was instructed to do so by Mr. McVeigh.  
Q. Turning to 1722. What is that?  
A. This is a receipt from my business.



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Q. Is that a receipt that relates only to this transaction?

A. No. It relates to multiple transactions.

Q. And is one of the transactions the transaction with Mr. McVeigh on September 14?

A. Yes, it is.

Q. And was this document created and maintained in the ordinary course of your business?

A. Yes, it was.

MR. MEARNS: We would offer Government Exhibit 1722.

MR. WOODS: I can't read the copy. Your Honor, may I examine it?

THE COURT: Sure.

MR. WOODS: Thanks. No objection, your Honor.

THE COURT: 1722 is received.

BY MR. MEARNS:

Q. And if we could first display the entire document.

Tell us what we see on this document, Mr. Dunlap.

A. We see multiple transactions that occurred at my business during the month of September.

Q. Now, we see in the upper right-hand corner that the date there is September 15, 1994.

A. Yes.

Q. Is that the date that this purchase order was created?

A. Yes.

Q. And was this created for the transaction with Mr. McVeigh,

Robert Dunlap - Direct

or a different transaction?

A. For a different transaction.

Q. Is Mr. -- is the transaction with Mr. McVeigh reflected on this receipt anywhere?

A. Yes, it is.

Q. Could you circle where it's reflected on this receipt.

Okay. And if we could focus on that area of the receipt, please. Okay. If you could erase the light pen. If you'd press your -- there you go. And circle it again on this focused version.

Mr. Dunlap, how do you know that this is -- that this entry on this receipt is the one that pertains to the transaction with Mr. McVeigh?

A. Because it's the same check number as the one that I wrote and gave to Mr. McVeigh.

Q. Okay. Could you tell us what that check number is that's reflected on this entry.

A. Check No. 2423.

Q. And what is the information that's contained to the left there? There's a number 6 and then there's some writing there.

A. It's six 1-ounce GML, which is an abbreviation for gold Maple Leafs.

Q. And what kind of a coin is that?

A. It's a 1-ounce Canadian gold coin.

Q. During the course of this transaction, did Mr. McVeigh ask

Robert Dunlap - Direct

you anything about the check that you gave him?

A. Yes. He inquired about where he could go to cash it.

Q. Did you respond to that question?

A. Yes.

Q. What did you tell him?

A. I told him that he needed to go out to Kellogg and proceed through two stoplights to Armor and take a right and that the bank was located right next to Target.

Q. Now, I'd like you to look into your folder for Government Exhibit 1875, which is in evidence.

If you could pull it out of the larger plastic sleeve.

A. It's stapled shut.

Q. Oh, it's stapled shut. How do the coins that is contained in Government's Exhibit 1875 compare to the coins that you purchased from Mr. McVeigh on September 14, 1994?

A. The same type.

Q. Could you hold those up to the jury.

And there are two coins contained in there,

Mr. Dunlap?

A. It appears to be.

Q. And you purchased six from Mr. McVeigh that day?

A. That's correct.

Q. Thank you, Mr. Dunlap.

Now, if you would look into your folder for Government Exhibit 238.

Robert Dunlap - Direct

Do you recognize that?

A. Yes. This is a videotape of events that occurred at my premise on 10-13-94 through 10-24 of 1994.

Q. And how do you recognize that as the original videotape for those -- for those dates?

A. It has my handwriting on it.

Q. Was that videotape also created in the normal course of your business?

A. Yes, it was.

MR. MEARNS: Your Honor, we would offer Government Exhibit 238.

MR. WOODS: No objection.

THE COURT: Received. 238.

BY MR. MEARNS:

Q. Now, Mr. Dunlap, if you would locate the videotape that's marked Government Exhibit 239. And what is that?

A. This is a real-time version taken from the time-lapse tape.

Q. Is that for all of those dates or just for one particular date?

A. One particular date.

Q. And what date is that?

A. 10-19 of 1994.

Q. That's for October 19, 1994?

2. -----, -----

A. Yes, it is.

Q. And is that a real-time tape derived from the original

Robert Dunlap - Direct

information on Government Exhibit 238?

A. Yes, it is.

MR. MEARNS: Your Honor, we would offer 239.

MR. WOODS: No objection.

THE COURT: Received.

BY MR. MEARNS:

Q. Now, Mr. Dunlap, if you would locate three photographs marked 238A, 238B, and 238C.

Do you recognize those photographs?

A. Yes, I do.

Q. How do you recognize them?

A. These are pictures that reflect my business premise from 10-19 of 1994.

Q. And are those photographs still photographs derived from the videotapes, 238 and 239?

A. Yes, they are.

MR. MEARNS: Your Honor, we would offer 238A, B, and

C.

MR. WOODS: No objection.

THE COURT: They are received.

MR. MEARNS: And there is a stipulation with respect to the individual depicted in these three photographs, that it's the defendant, Terry Nichols.

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

THE COURT: All right. Then we accept that agreement.

Robert Dunlap - Direct

BY MR. MEARNS:

Q. If you would clear your light pen, Mr. Dunlap.

And if you could begin by telling us the date and time that we see reflected there in the upper left-hand corner.

A. This is 10-19, 1994, at 10:11:07.

Q. And if you could put a circle around the individual who's been identified as Mr. Nichols.

Now, we don't see you in this photograph; is that correct?

A. That's correct.

Q. Where were you at the time that this picture was taken?

A. I was in the back room, doing opening duties.

Q. What time does your store open every morning?

A. 10 a.m.

Q. And what time did you arrive at the store and open your store that morning?

A. 10:06 a.m.

Q. And who was the first customer to come in your store that morning on October 19?

A. Mr. Nichols.

Q. And what time did Mr. Nichols enter the store?

A. 10:07 a.m.

Q. Approximately four minutes before this still photograph was taken?

A. Correct.

Robert Dunlap - Direct

MR. MEARNS: If we could display 238B.

BY MR. MEARNS:

Q. And this is a photograph just taken a few seconds later at 10:11 and 8 seconds; is that correct?

A. Yes.

MR. MEARNS: And if we could finally have 238C.

BY MR. MEARNS:

Q. If you could clear your light pen there. And if you could indicate with an X where you are.

And an X where Mr. Nichols is.

And back behind Mr. Nichols, we see other individuals.

Do you see those?

A. Yes.

Q. Okay. Could you just put a circle where those other individuals are.

Now, if you could clear your light pen for us. And if we could focus on the camera more specifically on Mr. Dunlap and Mr. Nichols.

Did you buy anything or sell anything to Mr. Nichols that day?

A. I purchased some coins from Mr. Nichol (sic) that day.

Q. Do you recall how many coins that you purchased?

A. No, I do not.

Q. Do you have any record that reflects the purchase of those coins that day?

Robert Dunlap - Direct

A. No, I don't.

Q. How do you recall that then?

A. By viewing the videotape. It's normal procedure that I do.

Q. And how do -- how did you pay for the purchase of coins from Mr. Nichols that day?

A. I paid him in cash.

Q. On a typical day, how much cash do you have on hand to purchase coins or other items from customers that come in?

A. It varies.

Q. And what does -- what is the range?

A. It can be from a few thousand to 8-, 9-, 10,000.

Q. What time did your transaction with Mr. Nichols conclude that morning?

A. At about 10:17.

Q. And where did Mr. Nichols -- did Mr. Nichols leave the store at that 10:17?

A. Immediately.

Q. What was your -- the telephone number at your store, Equity Standards? What is the telephone number at your store?

A. It's area code (316) 689-8773.

Q. And was that the same telephone number that you had in October of 1994?

A. Yes, it is.

MR. MEARNS: I'd like to display Government Exhibit 1888, page 7, please.

Robert Dunlap - Direct

BY MR. MEARNS:

Q. Do you recognize this, Mr. Dunlap?

A. It appears to be a phone record from Tuesday, 10-18 of 1994.

Q. And have you examined this record prior to coming to court today?

A. Yes, I have.

Q. Okay. And as you see on that record, there are a series of telephone calls from a Coastal Mart pay telephone in Council Grove, Kansas, beginning at 3:32 in the afternoon, proceeding down the page to a call -- the last call reflected there at 4:05 p.m. Do you see that?

A. Yes, I do.

Q. And if you would look at the last phone call from that same Coastal Mart pay phone in Council Grove, and the "call to" on the right-hand side, do you recognize the phone number there that's listed for Equity Standard Numismatics?

A. Yes.

Q. And is that your -- was that your telephone number in October of 1994?

A. Yes, it was.

Q. Now, if we would turn to the next page, 1888, page A. Have you reviewed this record prior to coming to court?

A. Yes, I have.

Q. And you see there a series of six telephone calls from a

Robert Dunlap - Direct

Denny's pay phone in Wichita, Kansas?

A. Yes.

Q. And you see that there's a series of phone calls. Do you -- could you read into the record what the telephone number is at that Denny's pay phone?

A. Yes. It's area code (316) 684-9041.

Q. And the first call begins at 10:24 a.m.; is that correct, Mr. Dunlap?

A. Yes, it does.

Q. When -- when is that time in relation to when Mr. Nichols left your store that morning?

A. Almost eight minutes after he left my store.

Q. Do you know where that Denny's pay phone is located in relation to your store in Wichita?

A. Yes. It's about five minutes' walking distance.

Q. I'd like you to look in your folder for Government Exhibit

Q. I'd like you to look in your folder for Government Exhibit 1734.

Do you see it?

A. Yes, I have it.

Q. What is that?

A. This is an aerial photograph of the shopping center where my business is located and the surrounding area.

Q. And does it reflect your store?

A. Yes, it does.

Q. Does it also reflect the Denny's pay phone that you just

Robert Dunlap - Direct

spoke about a moment ago?

A. Yes, it does.

Q. And does it fairly and accurately depict the relative distance between those locations?

A. Yes, it does.

MR. MEARNS: Your Honor, we would offer Government Exhibit 1734.

MR. WOODS: No objection.

THE COURT: Received.

MR. MEARNS: And if we may publish it, please.

BY MR. MEARNS:

Q. Could you put an X by where your store is located in this photograph, 1734.

And now if you could put a circle around the Denny's restaurant where the pay phone is located.

And how is it that you know the Denny's pay phone number that was listed in that record, 1888, is located in that Denny's restaurant?

A. I went in and looked at it.

MR. MEARNS: I have no further questions, your Honor.

THE COURT: Mr. Woods.

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

CROSS-EXAMINATION

BY MR. WOODS:

Q. Good morning, Mr. Dunlap. My name is Ron Woods. I'm one

Robert Dunlap - Cross

of the lawyers appointed to help Terry Nichols in this case.

We saw some photographs from your business in September of '94 where Mr. McVeigh is captured on your video; is that correct?

A. Yes.

Q. Okay. Now, you keep videos for a long time, evidently, at your place, do you not?

A. For some -- for some circumstance, yes.

Q. What period of time do you keep the videos that are on your security camera?

A. It varies.

Q. Well, the FBI came to you in February of '96 and asked you for these videos, and you had them for October '94; is that correct?

A. Yes.

Q. So what period of time do you keep videos?

A. Well, the videos that I had were for another particular reason. I'd had a sprinkler system discharge in my space, and I was keeping them for that.

Q. For insurance purposes to show --

A. Yes.

Q. -- the damage?

A. Yes. And then the -- the refurbishing of it.

Q. So what -- what period of time did you start keeping videos then in '94?

Robert Dunlap - Cross

A. Initially about eight, ten weeks.

Q. No, what -- what month was it that you started keeping them?

A. I started -- I have the ones from 1994 from, like, late July or early August.

Q. All the way through till when?

A. Till now.

Q. So you've kept them every -- every day since August -- July, August '94?

A. Yes.

Q. Okay. And these are quick-time videos that you can then just write on your cassette and keep them?

A. Yes.

Q. Okay. Now, the first -- first series of photos that were offered into evidence showed Mr. McVeigh there during a weekday; is that correct? On Wednesday, September the 14th?

A. It was September the 14th, yes.

Q. And didn't your camera reflect that that was a workday, Wednesday?

A. I believe so.

Q. During the middle of the week?

A. I believe so.

Q. Okay. And he asked that the check be written out to a Marife Nichols; is that correct?

A. That's correct.

Robert Dunlap - Cross

Q. Did you notice how Mr. McVeigh arrived at your store; in any particular type vehicle?

A. No, I did not.

Q. Did you see him leave and get into a vehicle?

A. No, I did not.

Q. So you didn't see him with anyone outside; is that correct?

A. That's correct.

Q. Okay. The check was made out to Marife Nichols; is that correct?

A. That's correct.

Q. And it's endorsed by Marife Nichols on the back; is that correct?

A. I don't know.

Q. Well, why don't you take a look at it and see what name is on the back of where the -- for the endorsement.

A. Marife Nichols appears on the reverse of the check.

Q. Okay. And those are your checks that you keep as part of your business; is that correct?

A. That's correct.

Q. And you have a bank down the street as you related giving the directions to -- you have a bank that you do business with that'll cash your checks that you issue to the customers who sell you items; is that correct?

A. That's correct.

Q. And you directed Mr. McVeigh to that bank --

Robert Dunlap - Cross

A. Yes, I did.

Q. -- to cash that check?

A. Yes, I did.

Q. Okay. Now, the other series of photos that you talked about in your testimony was of Mr. Nichols on October 19, '94; is that correct?

A. Yes.

Q. And the FBI in February of '96 came to you and asked for the videos; is that correct?

A. I believe so.

Q. And by looking at that video, what, a year and a half later -- what's the time from October of '94 to February of '96?

A. It's about 18 months, I guess.

Q. 18 months. A year and a half later, by looking at that video, you can recall that you bought coins from Mr. Nichols?

A. Yes.

Q. Okay. But you didn't make any record of that one?

A. I can't find the record in my records that reflects that.

Q. Well, sometimes you use checks to pay customers for their coins; right?

A. Correct.

Q. Now, you're required by the Internal Revenue Service to report to Internal Revenue Service on various transactions when you buy coins of certain value and content of gold, aren't you?

Robert Dunlap - Cross

A. Certain quantities, yes.

Q. Okay. And the best way to keep those records is a check register, I assume; is that correct?

A. Check or cash. I mean, write down the receipts.

Q. And in the month of October, you have a check register and you had 37 checks that you wrote for the month of October, didn't you?

A. Yes.

Q. And those were to customers that were selling you items?

A. I couldn't tell you if all of those were to customers selling items or not.



selling items or not.

Q. Okay. Well, you have to keep records for Internal Revenue Service because of your business, don't you?

A. Yes.

Q. All right. But you don't have any record for this transaction for Mr. Nichols on October 19; is that correct?

A. I don't have any way of reflecting that actual transaction, no.

Q. Okay. And you have no idea what the transaction was, do you, a year and a half later when they asked you about it?

A. I know that I did pay the gentleman in cash, and I know I did buy coins from him.

Q. And you just don't have any recollection?

A. I don't have any recollection of the specific transaction, no.

Robert Dunlap - Cross

Q. And you do a lot of your business in cash, don't you, sir?

A. We do some, yes.

Q. But you just don't keep records of those cash transactions?

A. No. We do keep records of those cash transactions.

Q. Do you have a record for that day, October 19, '94, of that cash transaction?

A. I'm not certain of that particular transaction, no.

Q. Okay. Now, do you recall back on September the 6th, when an investigator from our staff came to interview you?

September the 6th of '95?

A. Yes, I do.

Q. And you told him you wouldn't talk to him but that you would check with the FBI and Mr. Randy Wolverton and he could come back the next day?

A. No. What I said was that I'd prefer not to speak with him at that time.

Q. But you asked him to come back the next day?

A. No.

Q. Okay. And is it true that Mr. Killam, the investigator, came back the next day?

A. No.

Q. On September the 7th, didn't you advise him that you had spoken to FBI Agent Randy Wolverton and that you had nothing to say to us?

A. No. What I did was I advised him of the agent's name I

Robert Dunlap - Cross

spoke to at his request.

Q. Okay. And after speaking to the FBI, you had nothing to say to us; is that correct?

A. I had nothing to say to you before.

Q. Uh-huh. And who was the agent that you advised Mr. Killam that you had spoken to?

A. I had contacted Mr. Wolverton.

MR. WOODS: Thanks for this opportunity, Mr. Dunlap,

to talk to you. Nothing further, your Honor.

MR. MEARNS: Very briefly.

REDIRECT EXAMINATION

BY MR. MEARNS:

Q. Mr. Dunlap, in your business, do you honor a customer's request to pay that customer either by cash or by check?

A. Yes.

Q. And on this particular transaction, the transaction with Mr. Nichols, you paid him -- you paid in cash?

A. Yes.

Q. Was that at his request or was that your decision?

A. I -- I couldn't recollect.

Q. If Mr. Nichols had requested a check, would you have given Mr. Nichols a check?

A. Most definitely.

Q. And if you had paid him with a check, would you have been able to identify the specific transaction?

Robert Dunlap - Redirect

A. Yes, I would have.

MR. MEARNS: Thank you.

RECROSS-EXAMINATION

BY MR. WOODS:

Q. You have no recollection of this transaction, do you, sir, in February of '96 when they first came to you?

A. No.

MR. WOODS: Thank you.

MR. MEARNS: Witness may be excused, your Honor.

THE COURT: Agree to excuse?

MR. WOODS: Yes, your Honor.

THE COURT: All right. Mr. Dunlap, you may step

down.

You're excused.

Next, please.

MR. MACKEY: Yes, your Honor. We'll call Mary Garza.

(Mary Garza 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: Mary Garza, G-A-R-Z-A.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Goelman.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Ms. Garza, where do you live?

Mary Garza - Direct

A. Abilene, Kansas.

Q. And where do you work?

A. Fort Riley, Kansas, at the DRMO.

Q. What does DRMO stand for?

A. Defense Reutilization Marketing Office.

Q. Are you in the military, ma'am?  
A. No. I'm a civilian.  
Q. Where in Kansas is Fort Riley?  
A. About the middle.  
Q. Is it between Manhattan and Junction City?  
A. Yes, it is.  
Q. How long have you been at DRMO?  
A. 12 -- a little over 12 years.  
Q. You've told us what the initials stand for. What does DRMO do?  
A. Defense Reutilization Marketing Office, and we're a -- sort of like a recycling center. Everything that's excess, surplus, or if it's broken, it comes to us and we try to find a new home for it within the DOD and federal agencies. And then if we can't do that, then it goes to the sales block and we sell it.  
Q. And this excess property comes from where?  
A. Comes from the Department of Defense within Fort Riley, some from Topeka, various organizations -- federal and DOD organizations.  
Q. Ms. Garza, can you make sure to speak into the microphone

Mary Garza - Direct

when you give your answers. Thank you.

What was your position at the DRMO when you started 12 years ago?

A. I was warehouseman.

Q. And what are the responsibilities of a warehouseman at DRMO?

A. I took in the property and confirmed the paperwork that went with it, placed it in the appropriate areas.

Q. Was that in-house, inside the DRMO warehouse area then?

A. Yes. Most generally, I worked inside.

Q. How long did you work in the warehouse?

A. About four or five years.

Q. What did you do after that?

A. I became a sales writer.

Q. What's a sales writer at DRMO?

A. We do an itemized description of the property and get ready to catalog it for sale.

Q. And the descriptions are -- are then compiled in a catalog; is that right?

A. Right.

Q. When are items offered for sale to the public?

A. It takes about 90 days for it to go through the whole process. It's -- first, we have to find a home for it, and it's called reutilizing properties. And if we can't find that home for it, then it goes to the sales block.

Mary Garza - Direct

Q. Okay. That first part of the process, the reutilization process, what does that involve?

A. That involves my -- my section having to find customers for

it. We check on the web and various organizations on the base to see if anyone needs that property first. And then the federal agencies get contacted, see if they need it.

Q. So in those first steps, is the public involved at all in purchasing the property?

A. No.

Q. Are you still a sales writer, Ms. Garza?

A. No. I'm not.

Q. What's your position now?

A. Chief of the distribution branch.

Q. What's the distribution branch at DRMO?

A. In charge of reutilization and the sales process.

Q. So you supervise both ends of the way DRMO gets rid of property?

A. Right.

Q. And how long have you been chief of the distribution branch?

A. About five years.

Q. Were you chief of the distribution branch in April, 1995?

A. Yes, I was.

Q. I'm going to show you what's been marked for identification as Government Exhibit 1962, which will pop up on your screen

Mary Garza - Direct

under your window there. Do you recognize that?

A. Yes. It's a layout of Camp Funston.

Q. And is Camp Funston where the DRMO is located?

A. Yes, it is.

Q. Is that a fair and accurate depiction of the way DRMO and the surrounding area looked in April, 1995?

A. Yes.

MR. GOELMAN: Move to admit Government 1962, your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MR. GOELMAN:

Q. Ms. Garza, can you take the light pen, which should be on your left up there -- it's got a cord attached to it -- and could you mark on this exhibit, just put a circle around the area that's the DRMO.

Is it about there?

A. It's a little to the left, but that's it.

Q. What are the other areas to the left of the DRMO, itself?

A. Okay. There's like a storage area. There are -- this is the National Guard units and -- are clear, clear to the left. And further down here, there is more areas. DOL, they store vehicles over there, but they are not part of the DRMO.

Q. Ms. Garza, if you're at the DRMO without a vehicle, is there anyplace to go within walking distance to get a cup of

Mary Garza - Direct

coffee or something?

A. No.

... ..

Q. I want -- ask you to take a look now at Government Exhibit 1961. And can you click the side of your pen, Ms. Garza, and get rid of those marks.

Do you recognize what's depicted in Government 1961?

A. Yes. DRMO.

Q. And is that a fair and accurate depiction of DRMO as it appeared in April '95?

A. Yes, it is.

MR. GOELMAN: Move to admit Government 1961, your Honor.

MR. WOODS: No objection, your Honor.

THE COURT: Received.

BY MR. GOELMAN:

Q. Okay. Ms. Garza, using your light pen, could you please describe the basic layout of the DRMO.

A. This is the -- this is the main warehouse right here. This part right here is where the offices are. This part here is where the inside warehouse storage is.

Q. Okay.

A. This is B warehouse. This is an overflow area. This is our outside yard. This is hazardous back here. We have more property. Here's -- the middle part coincides with this part, also. R deck.

Mary Garza - Direct

MR. WOODS: I'm sorry. I can't hear. What was the middle part?

THE COURT: Would you speak up?

THE WITNESS: This one here?

BY MR. GOELMAN:

Q. Yes.

A. This one. For the bigger, bulkier items. They will store them there, and they also are like Area 2, 3. This is Area 2, 3, 4. 2, 3, 4. 5 -- excuse me, last one is 5.

Q. Okay.

A. And this is the parking lot. And up front is also parking.

Q. Ms. Garza, we'll get into the numbers of the different areas in a minute. You mentioned that items turned in to the DRMO are first reutilized and only then offered for sale to the public; is that right?

A. Right.

Q. How -- once they are determined that they are going to be offered to the public, how is that done?

A. The sales writers go out and write up the property. And it's an itemized description. It gets catalogued, and we mail out catalogues.

Q. Okay. But when the property is finally offered to the public for sale, is it done through auction or through some different type of sale?

A. Yes. Auctions and sealed bids.

Mary Garza - Direct

Q. And what's the difference between an auction and a sealed-bid sale?

A. An auction is live, like in civilian sector. You have an auctioneer. You register, you have paddles. And a sealed bid is silent. You get a bidder's registration. You sign your sheets and your bid sheets. You annotate your bid sheets as to what item you want and how much you bid, and you hand it in. And then on the 4th day, that's when we decide who gets the bid. It's computerized.

Q. The item goes to the highest bidder at that point?

A. Right.

Q. Is the public given an opportunity to inspect items for sale before both auctions and sealed-bid sales?

A. Yeah. There's a three-day inspection period.

Q. Is that called -- are those days called "viewing days"?

A. Yes, they are.

Q. Okay. Now, for any given sale, Ms. Garza, would all the items at DRMO be offered for sale to the public?

A. No.

Q. About how much of the DRMO's property would be offered to the public each sale?

A. Just those areas. It's about a fourth of the property.

Q. About a fourth. And what about the -- the rest of the items that are not offered for sale to the public at that particular time? Is the public allowed to view those items on

Mary Garza - Direct

viewing days anyway?

A. No. They are not.

Q. Are the items that are for sale and the items that are not for sale mixed together in the same area?

A. No. They are separated.

Q. And is that what you were talking about before when you were listing the numbered areas?

A. Right.

Q. Does the DRMO have a policy about whether or not the public is allowed in areas where there are items that are not for sale on viewing days?

A. Yes. We try to keep the public out of those areas because they are not up for sale yet.

Q. What are the reasons for this policy?

A. Because the reutilization program is still in effect. The stuff can be reutilized all the way up to sale day. There's no point in having them go through those areas. No. 2, you don't want to allow some customers in there while others don't have the opportunity to look.

Q. And how is this policy enforced?

A. Well, the staff's all been informed to try to keep people out of those areas. So when we see someone, we do ask them to leave.

Q. Are the areas that are off limits marked in any way?

A. The inside and the outside areas, they have what we call

Mary Garza - Direct

"placards." There's like little signs, and they have numbers on them. They are all one color. And they should know that this property -- each pallet has that color on it, and that's what's up for sale.

Q. Does this policy mean that no one ever gets into an unauthorized area for any time?

A. No. It -- people have gone through. We try to catch them. It's hard to keep them in those areas sometimes.

Q. Who enforces this policy in the outside area, out in the yard?

A. That would be the outside man, Bill.

Q. What's Bill's last name?

A. McDonald.

Q. And what about the people who work inside the office? Do they have any role in enforcing this rule as it applies to the outside area?

A. Our office faces part of the yard, so we can pretty much see the RO area and the sales and "re-ute." section face that way. So they usually try to watch out the windows, too, when they can. And if we see somebody, we try to go get them.

Q. Have you ever from the inside personally observed someone in the off-limits area on the outside?

A. Yes.

Q. And what have you done on those occasions?

A. I've gone out myself, or I've sent someone.

Mary Garza - Direct

Q. Ms. Garza, have you reviewed your records to determine whether there was a sale in April, 1995?

A. Yes.

Q. And do you know whether it was an open auction or sealed-bid sale?

A. Sealed-bid.

Q. Do you know if the viewing days for this sale were the 17th, 18th, and 19th of April?

A. Yes, they were.

Q. And do you know which section of the DRMO the items for sale on April 18th, were located in?

A. Area 2.

Q. Would you please examine Government Exhibit 1960. It should be coming up on your screen, Ms. Garza.

A. Okay.

Q. Does this diagram accurately reflect which areas of the DRMO were open to the public on the viewing day of April 18, 1995?

A. Yes, it does.

MR. GOELMAN: Move to admit Government 1960, your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MR. GOELMAN:

Q. Now, Ms. Garza, if you could reach for your light pen

Mary Garza - Direct

again, and mark on this diagram where it is that customers who came to this viewing day would park.

A. Can you see that?

Q. Uh-huh.

A. That's the front parking lot. And over there is another parking lot.

Q. And where would customers first enter the sale?

A. Okay. Right here. It's on the yellow.

Q. That little arrow on the yellow part?

A. The yellow block is where they are supposed to go into, A02.

Q. Ms. Garza, would it help you if we showed you an enlargement of this diagram? Would it help you to explain?

A. I can see it. I can't work the pen.

Q. Okay. Would it help you if you could just point --

MR. GOELMAN: Your Honor, could we move to admit an enlargement of Government Exhibit 1960?

MR. WOODS: Your Honor, for demonstrative purposes only.

THE COURT: All right.

MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Ms. Garza, if you want to step down, or you can just use the pointer, whichever is more convenient for you. And point again to where the parking lots are that you marked down on the

Mary Garza - Direct

screen.

A. Here's the main parking lot. And right in front of here is parking.

Q. Okay. And then where do customers first enter the sale?

A. Through this door right here.

Q. What -- what does the customer see when they first enter at that door in the A02 area?

A. It has steps, and we've got pennants on it, banners indicating that's the area to go into.

Q. Okay. But once they get inside, what do they first see?

A. They see the ladies with a table and catalogues.

Q. Okay. What -- what else is at the table besides catalogues?

A. Registration, bidder sheets.

Q. And the catalogues that are at the table, are those what you were describing you would write when you were a sales writer?

A. Correct.

Q. They contain descriptions of items for sale?

A. Right.

Q. Is there any way for customers to get a catalogue besides getting one there at the sale, itself?

A. Through the mailing list.

Q. And in April, 1995, did the DRMO have a mailing list?



A. Yes, we did.

Mary Garza - Direct

Q. Then referring back to the diagram, Ms. Garza, after a customer went in and got a catalogue and signed in, what would they do after that?

A. They would look around the area inside here where the property is at. Then the -- the lady at the desk would tell them where the rest of it's at. They would have to exit back out of here and go through this fence, the gate, and see this property right there and there.

Q. And is there different types of property offered for sale in the different areas marked in yellow?

A. Yes. Inside property is right here. And that's the stuff that the weather would damage: Dressers, clothing -- military clothing, computers, typewriters.

Q. What about the R02 area?

A. Okay. R02 has got refrigerators, automotive parts, ammo cans, things of that area.

Q. You mentioned ammunition cans?

A. Yes.

Q. How were they sold? Were they sold individually?

A. No. By the lot. They were banded.

Q. So could customers open up and examine each individual ammunition can if they wanted?

A. No, they were -- were banded with a metal band through the handles of them.

Q. Okay. What kind of things were up for sale in the S2 area

Mary Garza - Direct

up top?

A. Vehicles, abandoned vehicles and cargo trailers.

Q. Abandoned vehicles and cargo trailers?

A. Right.

Q. And if a customer was interested both in items on the inside and on the outside, you indicated that -- would you point again to where they would walk.

A. Okay. They would come out of here, and that's the main gate, drive-in gate. Of course, they don't drive in. And they would go through this area and then through this area.

Q. And if, after viewing items, the customer decided that he or she wanted to put a bid down, is there a location to submit a bid?

A. Yes. They would come back through this area here. This is what the -- what is called the "auction room." It's the bid room. There's a cashier's cage here, and that's where they will go to and submit their bids.

MR. GOELMAN: Your Honor, can the record reflect that Ms. Garza was pointing at the upper left corner of the warehouse area depicted on Government 1960.

THE COURT: If you say so. I can't see it.

MR. GOELMAN: Thank you, Agent Tongate. Put it down

now.

BY MR. GOELMAN:

Q. You pointed out where customers would submit their bids.

Mary Garza - Direct

Did the DRMO have any practice of time-stamping the customer's bid?

A. Yes, we did.

Q. And when was that done?

A. After the customer completed his bid sheet and it was given to the individual taking it.

Q. After the customer handed in the bid sheet, how long would it take before the bid sheet was time-stamped?

A. Right then and there.

Q. Ms. Garza -- can you click -- no need.

You mentioned that when customers first arrived at the DRMO, there would be signs directing them where to go?

A. Yes.

Q. What if, for some reason, a customer did not want to follow the signs and sign in and instead wanted to go straight to the outside yard? Was there anything physically preventing them from doing that?

A. No.

Q. Ms. Garza, do you remember the April, 1995 sale?

A. Yes.

Q. Was there anything unique about that sale that makes you remember it?

A. It was a zone sale.

Q. What's a zone sale?

A. We had to combine Fort Leavenworth sale with our sale and

Mary Garza - Direct

sell them together, thinking that would help promote the property better by having two sales.

Q. And does that mean that you actually showed -- had the Fort Leavenworth property on your base?

A. No, we didn't.

Q. Did DRMO have any -- did DRMO Fort Riley have any zone sales before April, 1995?

A. No, we didn't.

Q. Did you have any after April, 1995?

A. No.

Q. Was there anything else unusual about the April, 1995 sale besides that it was in conjunction with Fort Leavenworth?

A. It was a small sale.

Q. What do you mean by that?

A. Smaller than what we'd been having in downsize. We were having about 350 to 400 lots. This one was somewhat over 200 lots, including Leavenworth.

Q. And when you talk about small, are you talking about the number of items offered for sale?

A. Right.

Q. I want to show you a series of different records

Q. I want to show you a series of different records, Ms. Garza, created at different points in the DRMO sale process. And I'll put up 1960 again. And would you identify again where the sign-in desk would be when customers first entered the sale.

Mary Garza - Direct

A. We'll get there. The yellow place.

Q. Right when they would walk in the building?

A. Yeah. Right when they walk in.

Q. Now, would all customers entering the building be required to sign in?

A. Yes.

Q. How strict was that policy in April, 1995?

A. I always had someone sitting there to -- to help the customers sign in.

Q. You always had someone sitting there at the desk?

A. Yes, I did.

Q. What about if the person sitting at the desk had to go away for five minutes to use the bathroom or something?

A. I had someone in the office cover that. I'd have them go down every hour to check on people to see if they needed to be relieved.

Q. Was there a reason that you were so strict about this sign-in policy?

A. It's part of the regulation. They want us to have people sign in when they come in.

Q. And as chief of the distribution branch, did you have any other interest in having people sign in, having that log accurately reflect sign-ins?

A. Well, I liked it because I could do my marketing with it. Found out where people were coming from. I do all the

Mary Garza - Direct

marketing for the branch.

Q. Okay. Would you look inside your folder, please, and see if you can find Government Exhibit 1963.

A. Okay.

Q. And could you also look and see if you can find Government Exhibit 1956. It should be the same type of document.

A. Okay.

Q. Are both of those DRMO sign-in logs?

A. Yes.

Q. And are both of those records that DRMO makes and keeps in its course of business?

A. Yes.

MR. GOELMAN: Your Honor, I move to admit Government 1956 and 1963.

MR. WOODS: May I examine these, your Honor?

THE COURT: Yes.

MR. WOODS: Thank you.

Thank you, your Honor. No objection.

THE COURT: They are received. 1963 and 1956.

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MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Ms. Garza, you said that the sign-in policy was strict.

Can you say the same for the sign-out policy?

A. No.

Q. Why is that?

Mary Garza - Direct

A. It was hard to control them once they left the yard.

Q. You mentioned that there would be a pile of catalogues when customers went in; is that right?

A. Right.

Q. Could you look and see if you can find what's already been received in evidence Government 1957 and 1958.

A. Okay.

Q. Do you recognize those booklets?

A. Yes. They are catalogues from the April sale.

Q. April, 1995 sale?

A. Right.

Q. They are both catalogues from the same sale?

A. Yes.

Q. Now, without opening up those catalogues, is there anything from the front of them that you can see that distinguishes one from the other?

A. One's been mailed and it's got a mailing label on it and one hasn't.

Q. Which is the one that has been mailed? Can you look at the number on that, please.

A. This. 1957.

Q. I want to show you the cover of that on the screen. And is that the cover from Government Exhibit 1957?

A. Yes.

Q. Is that the type of mailing label that the DRMO uses?

Mary Garza - Direct

A. Right.

Q. And can you please read into the record to whom this particular catalogue was mailed and the address.

A. Joe Rivers, 1228 Westloop, Apartment 197, Manhattan, Kansas.

Q. When a customer submits a bid at the DRMO, Ms. Garza, is there a form that the DRMO provides to them where they can list what items they are interested in bidding on?

A. Correct. It's a bid sheet.

Q. It's called a bid sheet?

A. Uh-huh.

Q. Are there any bid sheets contained in the DRMO catalogues?

A. Yes. They are printed inside there.

Q. Where in the catalogue are there?

A. Usually towards the end.

Q. Could you look in Government's Exhibits 1957 and 1958 to see if the bid sheets are still inside those two catalogues.

A. Yes, they are.  
Q. They have not yet been removed?  
A. No.  
Q. Okay. Could you see if you can find Government Exhibit 1964.  
A. Okay.  
Q. What's that?  
A. 1427 -- it's a contract. Bidder's registration -- excuse

Mary Garza - Direct

me. It's a bidder's registration.  
Q. The bid sheet?  
A. Yes.  
Q. It's one that's been filled out?  
A. Right.  
Q. Does DRMO keep the bid sheets once the customer has turned it in?  
A. Yes, we do.  
Q. And is that a business record of the DRMO?  
A. Yes.

MR. GOELMAN: Move to admit Government 1964, your Honor.

MR. WOODS: May I examine, your Honor?

THE COURT: Yes.

MR. WOODS: No objection, your Honor.

THE COURT: 1964 is received.

BY MR. GOELMAN:

Q. Is that the color of bid sheets at DRMO when they are first printed up, Government Exhibit 1964? Is that a --  
A. They are white. This one's --  
Q. That one is a little darker. Is it hard to read some of the items on that, Ms. Garza?  
A. A little bit. I can probably read them still.  
Q. Okay. Can you look and see if you can find Government Exhibit 1964A, which should just be a copy before the

Mary Garza - Direct

fingerprinting process of the front of that slip.  
A. Okay.  
Q. And is that just a copy of the front of the same bid sheet?  
A. Yes.

MR. GOELMAN: Move to admit 1964A, your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MR. GOELMAN:

Q. What name is this bid in, Ms. Garza?  
A. Terry Nichols.  
Q. Okay. You mentioned earlier that when customers submitted a bid, the bid sheet was time-stamped; is that right?  
A. Yes.  
Q. Can you see a time stamp on this bid sheet?

- ..

A. Yes.  
Q. Where is it?  
A. Left-hand -- 18 March, '95.  
Q. Upper left-hand corner?  
A. Yes.  
Q. And can you read the time stamp into the record, please.  
A. 18 March, '95, 12:37.  
Q. And could you now look at the back of 1964 and see if there's a different date where the customer signed.  
A. It's 18 April.  
Q. Do you know why the time stamp would be different from the

Mary Garza - Direct

written date, Ms. Garza?  
A. Because the time stamp was broke.  
Q. Do you know how broke the time stamp was?  
A. It was off a month and an hour.  
Q. Now, was it broke or was it just not set correctly?  
A. No. It -- we only used it three days a month. And by the time we realized it, every month, it would be off. It was -- it just didn't pick up the time. It would run, but it wouldn't catch up.  
Q. It would run, though?  
A. Uh-huh.  
Q. And it was consistently one month and one hour off; is that right?  
A. Right.  
Q. So adjusting for the discrepancy in the time stamp then, was this bid actually submitted at 1:37 p.m. on April, not March 18?  
A. Right.  
Q. Why don't you take a look at Government Exhibit 1972. It should be on your screen, Ms. Garza, if you don't want to bother finding it.

Is that also a bid sheet from the same sale?

A. Yes, it is.  
MR. GOELMAN: Move to admit Government 1972, your Honor.

Mary Garza - Direct

MR. WOODS: May I examine this original?  
THE COURT: Yes. Yes.  
MR. WOODS: Thank you.  
Thank you. No objection, your Honor.  
THE COURT: 1972 is received.  
MR. GOELMAN: Thank you, your Honor.

BY MR. GOELMAN:

Q. Just a couple more exhibits, Ms. Garza. Will you find Government Exhibit 1966, please.  
A. Okay.  
Q. Do you recognize that record?  
A. It's a contract.  
Q. How does the DRMO use this contract?

Q. How does the DRMO use this contract.

A. It's a 1427. We print it out after we've awarded the property to the highest bidder.

Q. So after the bidder gets the property, this is the kind of receipt of sale?

A. Right.

Q. And is this also a business record that DRMO keeps?

A. Right.

MR. GOELMAN: Move to admit Government 1966, your Honor.

MR. WOODS: No objection, your Honor.

THE COURT: Received, 1966.

BY MR. GOELMAN:

Mary Garza - Direct

Q. What sale is this particular document from?

A. 31st of March, '95.

Q. Okay. It's from the month before the sale we had been talking about?

A. Yes.

Q. I want to turn back to Government 1956, which is the sign-in sheet that was admitted a couple minutes ago. And I want to show you page 11 from that sign-in sheet. Would you please read the third name on this 11th page. I'll zoom in a little bit more for you.

MR. WOODS: I'm sorry. What number was that?

MR. GOELMAN: 1956, page 11.

MR. WOODS: Thank you.

BY MR. GOELMAN:

Q. Can you read that, the name on the --

A. Terry Nichols.

Q. And can you read the time that the sign-in reflects.

A. It looks like 12:50.

Q. Would that be a.m. or p.m.?

A. In the afternoon.

Q. So ten minutes before 1 in the afternoon?

A. Correct.

MR. GOELMAN: Your Honor, the parties have reached a handwriting stipulation that the -- that particular entry, including the name, date, and time of 12:50, is the handwriting

Mary Garza - Direct

of Mr. Nichols.

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

THE COURT: All right. Then we accept it, members of the jury.

BY MR. GOELMAN:

Q. I just have a couple more questions, Ms. Garza. At the Government's request, did you review the entire sign-in log from April 18, 1995, at the DRMO?

A. Right.

Q. And did you search for any other entries in the name of Terry Nichols?

A. Yes, I did.  
Q. Did you also search for any entries in the name of Joe Rivers?  
A. Yes.  
Q. And Joe Kyle?  
A. Yes.  
Q. And Ted Parker?  
A. Yes.  
Q. And Terry Havens, Joe Havens and Mike Havens?  
A. Yes.  
Q. Did you find that anyone using any of these names signed in at the DRMO at any time before 12:50 in the afternoon?  
A. No, I did not.  
Q. Have you been able to locate any record at all that

Mary Garza - Direct

reflects Terry Nichols' presence at the DRMO before 10 minutes of 1 in the afternoon on April 18?

A. No, I did not.

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

THE COURT: All right. Mr. Woods.

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

CROSS-EXAMINATION

BY MR. WOODS:

Q. Good morning, Ms. Garza. My name is Ron Woods. I'm one of the lawyers appointed to help Terry Nichols in this case.

You mentioned to the prosecutor that you're not in the military. Is DRMO -- is that a governmental agency?

A. Yes, it is.

Q. And you're employed by the government?

A. Yes, I am.

Q. Okay. How many times have you met with the prosecutors in this case?

A. Three.

Q. Okay. And when was that?

A. I believe the first week of September and Oc -- first week of October, and this week.

Q. All right. And prior to that, you've met with the FBI a number of times; is that correct?

A. Correct.

Q. Do you recall how many times you met --

Mary Garza - Cross

A. No. It was a lot of times.

Q. Okay. More than you can recall numberwise?

A. Yes, sir.

Q. Okay. Now, was it the FBI that made the request to you to try and figure out what's wrong with that clock?

A. Yes.

Q. Because your documents didn't make sense, did they, with --

A. No, they didn't.



Q. -- with your bidder registration and your sign-in -- or rather your bidder sheet that shows when the person submits a bid on April 18th, your time stamp shows March 18th; is that correct?

A. That's right.

Q. So they asked you, you know, would -- to check it and you checked it personally; is that correct?

A. That's right.

Q. Now, it's one month off, but it's also one hour off; is that correct?

A. Right.

Q. Which way is the hour off?

A. It was back an hour. So it should have been up an hour.

Q. So everything should have been up --

A. Daylight Savings Time or something with that.

Q. Well, Daylight Savings Time doesn't change the months, does it?

Mary Garza - Cross

A. No. It ran slow. Now, I don't -- before the sale, the lady is always supposed to change it so it's back up to par, but sometimes we didn't catch it.

Q. That's part of your strict compliance that you run --

A. No. That's common sense.

Q. -- there at the shop?

A. That's common sense. We were trying to get it fixed.

Q. Okay. You were trying to get it fixed for what period of time?

A. God, that was quite a while back. I think we had a work order in for it. Before --

Q. For the --

A. Before that.

Q. For the government to fix that clock, you had to submit a work order to get it moved up a month?

A. No. There had to be something wrong why it wouldn't run. It was just losing time. I'm not an expert in that field.

Q. Okay. But we know that this governmental time stamp stamps people in when they submit their bid. The clock was off one month and one hour.

A. Uh-huh.

Q. And it's behind time; is that correct? That month and hour. So if the person signs in at 12:00 on April 18th, your time stamp would have it March 18th at 11:00? Is that what you're telling us about this clock?

Mary Garza - Cross

A. I'm telling you the clock was off one month, one hour. When they sign in, it doesn't have anything to do with the clock.

Q. No, I'm speaking of your bidder sheet when the bidder sheet is submitted and you time stamp it.

A. Right.

Q. Okay. And your explanation was it just kept losing time

Q. Okay. And your explanation was it just kept losing time over --

A. It just wouldn't -- I don't have a clue why that did that.

Q. Okay. But I assume your other clocks there in that office were all perfect; is that correct?

A. I suppose not. They are all a couple minutes off.

Q. Okay. Now, you have an exhibit in front of you, 1957, the catalogue that was mailed to Joe Rivers, Manhattan, Kansas, a Westloop address.

A. Yes.

Q. Now, is that the catalogue that was mailed out in advance of this sale, your sealed-bid sale of April the 20th? Can you look at that and see if that's a catalogue that was mailed out for this sale?

A. Yes, it's the April sale.

Q. All right. And in the catalogue, it announces that you can view the items on the three days previously; is that correct?

A. Correct.

Q. And that's April 17, 18th, and 19th.

Mary Garza - Cross

A. Right.

Q. All right. Now, would you open that up. How many items were up for sale there at DRMO at Fort Riley for that sealed bid, sealed auction sale?

A. 196.

Q. And those are separate lot numbers. Like if you got a big lot number of ammo cans, that's one item; is that correct?

A. On those, yes.

Q. All right. Now, how many were inside of those items 196 -- how many of them were in the inside warehouse and how many of them were in the outside area?

A. Okay. In the catalogue, on Item 85, it'll tell you the outside area starts there.

Q. So the first 1 through 84 is on the inside in the warehouse and everything from 85 to 195 is on the outside; is that correct?

A. That's right.

Q. Now, would you look at the bidder sheet that you've identified that Mr. Nichols submitted.

He submitted bids on how many items?

A. Ten.

Q. All right. Out of that ten, were seven of them items that were on the outside?

A. Right.

Q. Now, if you would, go back to 1957, which is the catalogue

Mary Garza - Cross

that was mailed to Joe Rivers at the Manhattan address, Westloop. When those items are listed, 1 through 195, are some of them circled by pencil or pen?

A. Yes.

Q. Okay. Can you determine how many are circled there?

-           -           -           -  
You don't mail them out with those circles on them,  
do  
you?

A. No. I'm assuming the customer did this.

Q. Okay.

A. Three.

Q. There are only three items on there that are circled?

A. That's all I saw.

MR. WOODS: May I approach the witness?

THE COURT: Yes, you may.

MR. WOODS: Okay. Thanks.

May I confer with counsel, your Honor? We had been  
provided a Xerox copy.

THE COURT: Yes, you may.

BY MR. WOODS:

Q. Is there another catalogue up here?

A. Yeah. This one here.

Q. Thank you. That's the one. Thank you.

Ms. Garza, if you would look at 1958. Now, that is  
another catalogue for that same sale; is that correct?

A. Yes.

Mary Garza - Cross

Q. And if you would look through that. And how many of those  
items are circled?

A. 20.

Q. Okay. And are there prices out beside a number of those  
that are written in by pencil or pen?

A. Yes. Some of them have that.

Q. And do those prices match the prices that were submitted by  
Mr. Nichols on his bid sheet that he submitted?

A. Yes, they do.

Q. Okay. Thank you. Now, you further testified for the  
prosecutor that Mr. Nichols signed a time in on a sign-in log;  
is that correct?

A. Yes.

Q. Now, that sign-in log is kept at the office where you go in  
to submit your bids; is that correct?

A. No.

Q. Okay. Which sign-in log were you referring to --

MR. WOODS: May I approach the witness, your Honor?

THE COURT: Yes, you may.

THE WITNESS: Are you talking about this right here?

BY MR. WOODS:

Q. Yes.

A. That's at the area that we're selling at where the table is  
and the catalogs are.

Q. This is the March 28 one.

Mary Garza - Cross

A. Okay. Either way, they don't hold these at the room where  
they put in the bids.

THE COURT: We're getting a conversational tone here that's hard to hear.

MR. WOODS: I'm sorry. I'm sorry, your Honor.

BY MR. WOODS:

Q. If I may take these.

Now, Ms. Garza, you had discussed and testified about another sale that Mr. Nichols had taken part in the previous month; is that correct? In March of '95?

A. Right. Right.

Q. All right. And he had won the bid on that one; is that correct? On a number of items?

A. I can't recall that.

Q. Okay. Do you recall a contract that you testified about showing that Mr. Nichols was successful on a bid? It's -- it should be there in front of you, if you want to refresh your memory.

THE COURT: 1966, I think.

MR. WOODS: Thank you, your Honor.

THE WITNESS: Yes.

BY MR. WOODS:

Q. Okay. And what date was that?

A. 31st March.

Q. And that was a prior sale; is that correct?

Mary Garza - Cross

A. That was an auction.

Q. And the sales are all there at the same location, at the DRMO?

A. Yes, sir.

Q. Now, you testified for the prosecution that a person who parked there could walk into the gate to view the items in the outside area; is that correct?

A. Correct.

Q. Without going to the sign-in entry up at the -- up at the further part of the warehouse; is that correct?

A. Yes, sir.

Q. Okay. There's no locked gate and there's no one there barring entry into going in and looking at the outside items, is there?

A. No.

Q. Now, your time stamp on the bidder sheet which shows that Mr. Nichols filled out a bid for ten items, the time stamp shows -- again, what was it?

A. 18 March, 12:37. 18 March, '95.

Q. At 12:37?

A. Right.

Q. So by your calculations for the Government on April the 26th -- this is when they brought it to your attention, wasn't it? April 26 of '95?

A. I don't recall that date. I'm sorry.

Mary Garza - Cross

Q. It was -- by looking at the time stamp and looking at your watch, that was the day you figured out that it was a month and an hour off; is that correct?

A. Yes, sir.

Q. But we don't know what was --

A. I mean, we knew it was off before that.

Q. Pardon me?

A. We knew it was broke.

Q. But you're not sure of how far it was off the week before?

A. I can't recall.

Q. Okay. Now, was Mr. Nichols awarded the contract on any of those ten items that he submitted a bid on?

A. The ones on the contract, yes.

Q. Yes, ma'am. The ones for your April the 20th sale.

A. Correct. He has the contract.

Q. No. For the April the 20th sale, he submitted a bid on ten items.

A. Oh, I'm sorry. That --

Q. Was he awarded the contract on any of those?

MR. GOELMAN: May I make a foundational objection? If she knows. This might be something she doesn't know off the top of her head.

BY MR. WOODS:

Q. If you know. Did the FBI ask you to check the prices and to see what contracts had been awarded on that sealed bid?

Mary Garza - Cross

A. We just -- no. Not in particular.

Q. All right. Okay.

A. At that point, we were just pulling --

Q. Pulling the documents --

A. Pulling documentation.

Q. -- is that correct?

MR. WOODS: All right. Your Honor, we would ask that (sic) the stipulation that the Government and we have entered into that the handwriting on that catalogue with the circles and the price indications is the handwriting of Terry Nichols.

THE COURT: That is on 1957?

MR. GOELMAN: I think that's 1958, your Honor.

MR. WOODS: I believe it's on 1958, your Honor.

THE COURT: 1958. Yes. That's agreed?

MR. GOELMAN: Yes, your Honor.

THE COURT: All right. Jury accepts that agreement.

Now, that's the catalogue, not the mailed catalogue, the other one?

MR. WOODS: Yes, your Honor.

THE COURT: All right.

BY MR. WOODS:

Q. Now, the sign-out dates or sign-out times on that sheet are not accurate? Is that your testimony?

MR. GOELMAN: Your Honor, can I just have an exhibit number of what sheet he's talking about.

Mary Garza - Cross

MR. WOODS: Yes, your Honor. It's 1956.

THE COURT: All right.

BY MR. WOODS:

Q. When the customers leave the area, be it from the inside warehouse or the outside warehouse, most of them don't sign the sign-out sheet, do they?

A. Some of them don't.

Q. Okay.

A. True.

Q. And the ladies managing the sign-in/sign-out sheet often fill in the times for sign-out, don't they?

A. Sometimes they will try to lock in the times.

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

THE COURT: Any redirect?

MR. GOELMAN: Yes, your Honor.

REDIRECT EXAMINATION

BY MR. GOELMAN:

Q. Ms. Garza, you have two catalogues up there from the April, 1995 sale; is that right?

A. Right.

Q. Government 1957 and Government 1958?

A. Correct.

Q. Which one of those has the mailing label on it?

A. 1957.

Mary Garza - Redirect

Q. And which one of those has the circles around the items that Mr. Nichols bid on?

A. I think it was 1958. Just a minute. 1958's got the 20 in it with the prices on it.

Q. And which one has the handwritten prices that Mr. Nichols wrote? 1957 or 1958?

A. 1958.

Q. Is 1958 the kind of catalogue that you can get in the mail?

A. It's the same catalogue. This one was apparently picked up at the DRMO. It has no mailing label or post office stamp on it.

Q. And you indicated that people pick up catalogues at the DRMO when they sign in; is that right?

A. Yes.

Q. Do sometimes people use catalogues that they pick up when they first sign in to make notations when they are walking around, looking at items?

A. Exactly.

Q. And do sometimes those notations include the price that they want to bid so that they have a record of it?

A. Yes.

Q. Ms. Garza, if someone gets a catalogue in the mail, is that catalogue necessarily accurate as far as everything that is and is not going to be offered for sale that month?

A. No.

Mary Garza - Redirect

Q. Why is that?

A. Because of the regulations. The Department of Defense still has the right to draw property from the sale right -- right up to the sale day. So when we have to make a change, we -- we annotate that change and we put those -- that information on the table with the catalogues, let people know if something has been withdrawn or if there's been something altered.

Q. And if a customer were to, for whatever reason, not sign in when they first got there and go directly to the yard, would they have any way of finding out items that had been withdrawn?

A. Not -- no.

Q. Not until they signed in?

A. Right.

Q. Mr. Woods asked you some questions about the time stamp and when you noticed that it was off by one month and one hour. When -- when you spoke to the FBI after the bombing, did you do a test stamp, Ms. Garza?

A. Yes, I did.

Q. And what did you determine?

A. It was off by a month and an hour.

Q. Do you have any reason to doubt the time written down by the customer, Mr. Nichols, as 12:50 p.m.?

A. No, I don't.

Q. And have you ever known anyone to submit a bid before they

Mary Garza - Redirect

sign in?

A. No.

MR. GOELMAN: One moment, your Honor.

THE WITNESS: Unless it's faxed-in bids. We have faxed-in bids.

BY MR. GOELMAN:

Q. I'm talking about when customers are physically present at the sale. What do they do first? Do they sign in first or do they submit a bid first?

A. They sign in first, and then they look around and then they submit a bid.

MR. GOELMAN: Thank you, Ms. Garza. That's all I have.

MR. WOODS: No further questions, your Honor.

THE COURT: All right. Witness excused?

MR. GOELMAN: Yes, your Honor.

THE COURT: You may step down, and you're excused.

We'll take our midmorning recess at this time, members of the jury. And again, of course, with the recess comes the caution of keeping an open mind and avoiding discussion about any aspect of the case and avoiding anything outside of our evidence which could influence you which would be improper to do so on your decisions to be made.

You're excused now. 20 minutes.

(Jury out at 10:18 a.m.)

THE COURT: Okay. Recess.

(Recess at 10:18 a.m.)

(Reconvened at 10:39 a.m.)

THE COURT: Please be seated.

(Jury in at 10:39 a.m.)

THE COURT: All right. Next, please.

MR. MACKEY: Your Honor, our next witness is William McDonald.

THE COURT: Very well.

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

(William McDonald 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: William McDonald, M-C-D-O-N-A-L-D.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Goelman.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Mr. McDonald, do you work in the yard at the DRMO in Fort Riley?

A. Yes, sir.

Q. Where do you live, sir?

William McDonald - Direct

A. I live in Grandview Plaza. Grandview Plaza, Kansas.

Q. Grandview Plaza, Kansas?

A. Yes, sir.

Q. Do you have any children?

A. Yes, sir.

Q. Do you have any grandchildren?

A. Yes, sir.

Q. Did you spend some time in the U.S. military, Mr. McDonald?

A. 24 years, sir.

Q. What branch of the service was that?

A. U.S. Army, sir.

Q. Was a good part of those 24 years spent as a drill sergeant?

A. Seven of those years, sir.

Q. When did you retire from the Army?

A. 1 August 1986, sir.

Q. And what kind of discharge did you get?

A. Honorable.

Q. What position did you hold at the time you left the Army?

A. Sergeant major, sir.

Q. When did you go to work for the DRMO?

A. In 19 June 1989, sir.

Q. Have you been there ever since?

A. Yes, sir.

Q. What do you do for the DRMO at Fort Riley?



William McDonald - Direct

A. I receive surplus federal property, offload it, store it, document it, ensure it's on record.

Q. I want to show you what's already been received in evidence, Government 1961. Do you recognize that has a picture of DRMO?

A. Yes, sir.

MR. GOELMAN: Your Honor, may I have Agent Tongate put an enlargement of 1961 on the easel for demonstrative purposes?

THE WITNESS: I'm sorry, sir?

THE COURT: All right.

MR. GOELMAN: I'm talking to the Judge, Mr. McDonald.

THE COURT: Go ahead.

BY MR. GOELMAN:

Q. Mr. McDonald, is there a pointer up there?

A. Oh.

Q. Could you -- no, no. A wooden pointer? It should be on --

A. Oh, yes, sir.

Q. Could you, please, using Government's Exhibit 1961, or I guess -- is that 1926? Is that how that one is marked, the enlargement?

Oh, 1961.

Could you point out where you spend your time at the DRMO?

A. In this area right here, sir.

Q. And what is that area called?

William McDonald - Direct

A. It is designated RO2, 3, 4 and 5, sir.

MR. GOELMAN: Your Honor, could the record reflect that the witness pointed to the area directly to the left of the warehouse?

THE COURT: All right.

BY MR. GOELMAN:

Q. Now, what types of goods are sold at the DRMO, Mr. McDonald?

A. We have military tents, automotive equipment, tires, some household refrigerators, stoves, even some commercial-type equipment that come out of mess halls; and we have ammunition cans. We have a large variety of items that's offered for sale, sir.

Q. And you indicated that your particular area is the RO area?

A. Yes, sir.

Q. That part of the yard?

A. Yes, sir.

Q. What kind of things are offered for sale in your area?

A. Those items that can stand weather, that's durable-type goods that's stored outside, sir.

Q. Can you give us a few examples?

A. Tents, tires, automotive equipment, heavy axles, transmissions, engines.

Q. Ammo cans?

A. Yes, sir.

William McDonald - Direct

Q. When can the public come in and take a look at the property when it's offered for public sale?

A. Sir, we offer one sale per month under normal standards. And we have a three-day viewing cycle prior to the auction or be it opening date, whichever the case it may be, sir.

Q. Are you familiar with the routine followed by the DRMO on viewing days before sales?

A. Yes, sir.

Q. On viewing days, is the public allowed to view all of the property at DRMO?

A. No, sir.

Q. What is the public allowed to view?

A. The one area that is being sold, sir.

Q. And how many different sections are there in your particular area, in the RO area?

A. Four, sir.

Q. For any given viewing day, how many of those are people out in?

A. One, sir.

Q. And has this policy been consistent since you've been at the DRMO, since 1989?

A. Yes, sir.

Q. Have you received any directions from your supervisors about how to enforce this policy?

A. On many occasions, sir.

William McDonald - Direct

Q. And what are those instructions?

A. Politely ask the people to leave the area that they're not supposed to be in but ensure that they leave.

Q. You've described your job to us at DRMO generally. Does your job change at all on viewing days?

A. On those days, it increases somewhat because I have to direct a lot of attention to these areas where people should not be, sir.

Q. And out in the yard, do you do anything to let customers know what areas are open and what areas are off limits?

A. I have roped those areas off. I've put up metal containers to prevent people from going into them. I've put up "do not enter" signs.

Q. Does that mean that customers never go into any of the unauthorized areas?

A. No, sir.

Q. Do customers sometimes go in there anyway?

A. Yes, sir.

Q. What is your practice when they do?

A. My practice is to get to them as soon as I can and ask them to leave that area, sir.

Q. How much attention do you pay to what's happening in the off-limits areas on viewing days?

A. My attention is there quite often. If I'm off-loading a truck, I'll still look at these areas periodically to determine

William McDonald - Direct

if there is anyone in there.

Q. How long could a customer stay in one of the unauthorized areas before you ask them to move on?

A. 15 minutes.

Q. Is that maximum?

A. I would say no more than 20, sir.

Q. Have you ever had someone refuse to leave an off-limits area after you told them to?

A. No, sir.

Q. Have you ever had to tell someone twice?

A. No, sir.

MR. GOELMAN: Thank you, Agent Tongate.

BY MR. GOELMAN:

Q. I want to show you Government's Exhibit -- well, you've already seen Government's Exhibit 1961. Do you remember the April, 1995 sale, sir?

A. Yes.

Q. Do you remember what area in the RO area was open to the public?

A. It was R02, sir.

Q. And do you remember the March, 1995 sale?

A. Yes, sir.

Q. Do you remember which area was open to the public during that sale?

A. It was R05, sir.

William McDonald - Direct

Q. Is part of your job helping customers load items that they purchase into their vehicle?

A. Yes, sir.

Q. Do you know who Terry Nichols is, Mr. McDonald?

A. Yes, sir.

Q. And do you remember if you ever assisted him after the March, 1995 sale?

A. Yes, sir.

Q. I want to show you what's already been introduced into evidence as Government 1966. Do you see that?

A. Yes, sir.

Q. Do you recognize what kind of document this is?

A. That's our 1427. It's a release document after a sale, sir.

Q. And how is this document used?

A. When a bidder is awarded a bid on an item, this form is filled out, reflecting his name, address, the items that he was awarded, and of course, what he paid for those items.

Q. What's the -- I'm sorry.

A. And then it also shows us that we have a release for those

A. And then it also shows us that we have a release for those items, sir.

Q. What name is this particular form in?

A. "Terry Nichols," sir.

Q. Mr. McDonald, do you see anything on this form reflecting your name or initials?

William McDonald - Direct

A. The bottom line on this form, Item 340, sir, where the one, two -- fifth column over says "partial" or "part." That's my writing; and to the right of that, that's my initials, sir.

Q. Could you please circle those items.

Mr. McDonald, you have to go right on the screen.

You

have to go under the window. Sorry.

And now if you could just click your pen, the side of your pen, it will erase those two circles.

Mr. McDonald, you've indicated that you remember the April, 1995 sale at DRMO. Is that right?

A. Yes, sir.

Q. Do you know if it was an auction, or a sealed-bid sale?

A. It was a sealed-bid sale, sir.

Q. Do you remember the date of the sale?

A. The bid opening date was the 20th of April, sir.

Q. Do you remember what the viewing days before the sale were?

A. The three days preceding: 17, 18, 19, sir.

Q. Now, what hours is the DRMO open to the public on viewing days?

A. From 7:00 in the morning to 3:00 in the afternoon, sir.

Q. I want to show you Government Exhibit 1960. Does that accurately reflect those areas of the DRMO that were open to the public on April 18, 1995?

A. Yes, sir.

Q. And using your pen, can you indicate the R02 area, your

William McDonald - Direct

section of the yard, that would have been open to the public.

Now, where would customers go first when they arrived at DRMO?

A. They would go to the entrance door, sir.

Q. Can you make a mark where that is?

A. Located approximately right here.

Q. And then what would they do?

A. They would go outside. We have a door out that they would go in to view A02, sir.

Q. If they were interested in viewing items in the yard area, what would they do after that point?

A. Come back out of the warehouse, sir, proceed north. We have a small gate right here and a larger gate for vehicles moving, and then they could proceed on over to R02 to view that property, sir.

Q. Do you know if you worked on Tuesday, April 18, 1995, Mr. McDonald?

-----  
A. Yes, sir.

Q. Do you have any memory of the April, '95 sale for any reason?

A. Yes, sir.

Q. What do you remember about it?

A. Well, (1) we had an attached sale from Fort Leavenworth. We had some 30 items that we were selling for them on that sale.

William McDonald - Direct

And another thing is this was an extremely small sale as far as I was concerned because the previous three to four sales had in excess of 350 to around 400 line items that we were selling.

The RO2 area that we sold in April had less than 200, sir.

Q. Has your time at the DRMO been devoted exclusively to working in the RO area?

A. Yes, sir.

Q. And in your time out there, have you seen sales of different sizes, sir?

A. Yes, sir.

Q. Have you gotten to know some of your regular customers?

A. Yes, sir.

Q. Have you learned some of the people who buy some of the different items out there?

A. Yes, sir.

Q. Have you ever, since coming to work at DRMO in 1989, seen someone stay outside in the yard for longer than 45 minutes?

A. Only one person that I can recall, sir.

Q. And do you remember anything about that person?

A. Big man, 6' 2", 6' 3", heavy-set, was looking at some 10-hundred-20 tires we had in that area, sir.

Q. Do you remember what he was doing with the tires?

A. He was unstacking the tires, looking at each tire, making a

William McDonald - Direct

note on a notepad, and then he would restack the tires.

Q. Was the man who spent -- how long did that man spend there?

A. Four hours or more, sir.

Q. And was the man who spent four hours at the DRMO yard Terry Nichols?

A. No, sir.

Q. Where did you work on Tuesday, April 18?

A. I worked the RO area, sir.

Q. And do you remember seeing Mr. Terry Nichols in the RO area on that morning?

A. No, sir.

Q. Now, Mr. McDonald, are you saying that Terry Nichols was not there for any amount of time?

A. No, sir.

Q. If the defendant had been in the yard for, say, 10 minutes,

would you necessarily remember him?

A. No, sir.

Q. If the defendant had been in the yard for a half hour, would you necessarily remember him?

A. No, sir.

Q. Mr. McDonald, what if the defendant had been in the DRMO yard for five hours on April 18, from 8 a.m. till 12:50 p.m.? Would you remember him then?

A. Yes, sir, I would have.

Q. Do you?

William McDonald - Direct

A. No, sir.

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

THE COURT: Mr. Woods?

MR. WOODS: Yes, your Honor.

CROSS-EXAMINATION

BY MR. WOODS:

Q. Good morning, Mr. McDonald. My name is Ronald Woods. I'm one of the lawyers appointed to represent Terry Nichols in this case.

You related that you recall Mr. Nichols from an earlier sale. Is that correct?

A. Yes, sir.

Q. Okay. And did you help load those items when Mr. Nichols came and picked them up, or did you just sign the release, or what?

A. I loaded -- I loaded Mr. Nichols on the item that I indicated before, sir, Item 340.

Q. Okay. And what item was that?

A. That was four pallets of M2 ammo cans.

Q. And did other individuals load the other items that had been awarded on that contract?

A. Yes, sir.

Q. And who was that?

A. Harold Robinson loaded some. Robert Hanks loaded some.

Q. Okay. Now, you were shown the diagram 1960. Is that

William McDonald - Cross

correct?

A. Yes, sir.

MR. WOODS: Could we have that back on the board here.

Okay.

BY MR. WOODS:

Q. Now, you clicked your pen, and that's clear.

The items that were inside on that auction on April 19: Would you designate to the jury where those are.

Thank you.

For that sale, which is the April 20 bid sale, the viewing area was 17th, 18th, and 19th -- viewing time, that is.

A. Yes, sir.

Q. How many items were on the inside?  
A. I would say right around 100, sir.  
Q. If the records reflected that 1 through 84 -- the catalogue lists the items and the number, do they not? If the records reflected that Items 1 through 84 were on the inside, would you dispute that?  
A. No, sir.  
Q. Okay. And do you recall how many items were on the outside that were for sale?  
A. In R02, sir?  
Q. Yes, sir.  
A. Probably some 85 to 90 items, sir.  
Q. Now, R02 wasn't the only area where you had the outside

William McDonald - Cross

items. Is that correct?  
A. Yes, sir.  
Q. And you had them in -- is that "S" something?  
A. S02, sir.  
Q. Okay. And you had the vehicles over there. Is that correct?  
A. We had some property over there, sir. I don't know exactly what was in that area.  
Q. When you have vehicles for bidding on, is that where they're kept, in that "S" area?  
A. Yes, sir.  
Q. Do you recall -- have you looked at that catalogue for the sale of that day to see what items were for sale?  
A. No, sir.  
MR. WOODS: Okay. Do you have that handy?  
It's up there on the stand?  
May I approach the witness, your Honor?  
THE COURT: Yes.

BY MR. WOODS:

Q. Excuse me, Mr. McDonald. They inform me that it's up here in your folder.  
I'm going to show you what's been marked and admitted into evidence as Government's Exhibit No. 1958. Can you tell from that catalogue, sir, what items were for sale that day in total?

William McDonald - Cross

A. Sir, we started -- should have started an S02 at Item 181 and went on down to Item 196.  
Q. Okay. So you had, what, 15 items that were over at S02?  
A. Yes, sir.  
Q. Okay. And Items 1 through 84: Were they on the inside warehouse?  
A. I'm sorry, sir.  
Q. Yes, sir. The items listed in the catalogue.  
A. 1 through 84.  
Q. 1 through 190-some-odd. Is that correct?  
A. Sir. Items 1 through 83 should be on the inside of the

A. 811, items 1 through 83 should be on the inside of the warehouse. 84 and 85 was withdrawn.

Q. And what items pick up, then, on the outside area?

A. Items 86 through Items 180, sir.

Q. Now, the only way that a person can get in and view those items on the inside warehouse is to sign in. Is that correct?

A. Yes, sir.

Q. Now, a person can get in the outside area by just walking through that gate. It's a big area where you can drive vehicles in. Is that right?

A. Yes, sir.

Q. And people that have been there before are aware that the outside items are out there. Is that correct?

A. Yes, sir.

Q. And you've got it fenced off with little ropes and flags to

William McDonald - Cross

show what's available, what's not available. Is that correct?

A. Yes, sir.

Q. And you had over 100 items out there. And can you give the jury an idea of what type of items you had out there, sir?

A. We had refrigeration units. This is household-type. We may have had one or two commercial type.

Q. Excuse me for interrupting you. Would it help to refer to that catalogue just to note type of items available outside?

A. Okay. We had metal shipping containers. We had field wheel assemblies. We had containers, ammunition containers. We had tents and liners, final drive assemblies, engines. We had some scrap items out there, including stainless steel, radiators, scrap canvas, axles, numerous tires -- several tires, ice-making machine, scrap copper, compressors, spraying outfits, household ranges.

Q. Okay. A wide variety of items --

A. Yes, sir.

Q. -- is that correct?

All of it Army surplus, military surplus items that you're trying to work back into the public, get some sales value out of the surplus items. Is that correct?

A. Yes, sir.

Q. But at first your job at DRMO is to try to reutilize it, send it back to the military somewhere to be used before offering for sale to the public? Is that generally the

William McDonald - Cross

function of DRMO?

A. Yes, sir.

Q. But you end up giving sales -- having sales for these various items. Is that correct?

A. As a final result, sir.

Q. Yes. Now, have you viewed the documents of that day, sir, April 19, reflecting a sign-in date for Mr. Nichols -- sign-in time, rather, of 12:50?

A. Did I read that, sir?



Q. Yes. Have you reviewed the documents --

A. No.

Q. -- that the Government has provided to you?

A. No, sir.

Q. Are they in that folder, also?

MR. WOODS: May I approach the witness, your Honor?

THE COURT: Yes.

BY MR. WOODS:

Q. I'm going to show you what's been marked for identification as 1956, and it's in evidence.

I'll also ask you to look at 1964.

Now, looking at that sign-in sheet -- and there is a number up there on the corner again. What was that?

A. 1956, sir.

Q. '56, yes, sir. Do you see a sign-in time for Mr. Nichols at 12:50? It's that discolored one there that the Government

William McDonald - Cross

has got in there.

A. I see it, sir.

Q. Okay. And is that the sign-in time, 12:50?

A. It appears to be, sir.

Q. All right. And then look at the bidder sheet that I pointed out in front of you; and it's got a number on the corner which is?

A. 1964.

Q. 1964. And what is the time stamp, sir, on the top of that? Well, first let me ask you: When a person submits a bid sheet there in the bid office, is there a time machine there that stamps that when it's received?

A. Sir, I don't know this. I have no dealings with this whatsoever.

Q. You don't work in that bid office there?

A. No, sir.

Q. Can we put this 1960 back on the projector.

Can you point out to the jury there where the bid office is that a person enters into to submit their bid?

A. Right in there, sir.

Q. And that's after looking at the items, a person then walks in there with a bid sheet filled out on the bid they want to submit. Is that correct?

A. There is chairs and tables in there, sir. A person can take their bid sheet in there and fill it out, yes.

William McDonald - Cross

Q. But it's time-stamped when it's submitted. Is that correct?

A. Sir, I have no knowledge of this.

Q. All right. Is that a -- that Exhibit No. 1964 -- do you recognize that as being a DRMO exhibit that comes from that operation you worked with?

A. This is one of our bid sheets, yes, sir.

Q. Okay. All right. Now, the time stamp says March 18 --

right -- at the top?

A. 18 March '95, sir.

Q. And what time does it give?

A. 12:37, sir.

Q. Okay. And if the records show that the clock is off one hour, it's behind one hour, what time would that make it, one hour from 12:37?

A. It would be 11:37, sir.

Q. Well, if it's off -- if it's slow one hour according to the records, if it says 12:37, would 1:37 be the accurate time?

A. Yes, it should be.

Q. Okay. Now, there is another office right here on the front of that bid office; is that correct? From the outside as you're walking up, isn't there an entrance there and an office there?

A. This, sir -- oh, boy.

Right there, sir, would be our primary entrance.

That

William McDonald - Cross

is the main entrance that anyone would normally go to at our DRMO.

Q. And what do you have available out there for the public that wants to come and just look at the operation at DRMO?

A. Actually, we only have a small foyer there with three or four chairs where someone could sit down, and then we have a receptionist once you go through the next door.

Q. Okay. And what's available in that foyer?

A. Just -- I think we have three or four chairs right now, and it's just -- it's just a place to sit for a while.

Q. Okay. Okay. How big of an area was your area where you had all those outside items? Can you give us in just an estimation of the size of it?

A. Sir, that area right there --

Q. Yes, sir --

A. -- will run approximately 215 feet in length.

Q. Not quite a football field long? Not quite a football field long?

A. Right, sir.

Q. How wide was it?

A. This right here will go approximately 80 feet, sir.

Q. All right. And within that area, you had most of those outside items stacked up for viewing and inspection.

A. Yes, sir.

Q. And then over in your S2 area, you had the vehicles. Can

William McDonald - Cross

you tell from that catalogue whether or not you have vehicles for sale?

A. Yes, sir.

Q. How many?

Q. Now many?

A. We did, sir.

Q. Oh, you did. How many vehicles did you have for sale?

A. I'd have to look again for that, sir, but it wasn't many.  
10 vehicles, sir.

Q. All right. So you had approximately how many items then in RO2 for sale? 100-what?

A. I think we had less than a hundred. We ran items -- 86 is where this property started, and it would run up to Item 180.

Q. Okay. And some of those are big bulk items; is that correct?

A. Yes, sir.

Q. If you have 400 ammo cans, they're listed as one item?

A. Yes, sir, but if you look at all the "withdrawns" that are listed in here, like 148, 149, withdrawn -- there were several items that are withdrawn, and the numbers will not give the true story of the numbers that are for sale, sir.

Q. Can you tell on there how many are withdrawn?

A. It looks like three, sir.

Q. Three were withdrawn?

A. Uh-huh.

Q. In looking at that bid sheet, which was 1964 --

William McDonald - Cross

A. Okay, sir.

Q. It's a little discolored there. Can you tell how many items Mr. Nichols bid on?

A. 10.

Q. And out of that 10, can you tell from the numbers on there how many were outside items?

A. Six.

Q. Are there six, or seven?

A. I'm sorry, sir. Seven.

Q. Okay. Now, as I understand your testimony, somebody can walk through the big gate that -- gate that you have where vehicles can drive through. People can walk through that and look at the outside items first. Is that correct?

A. Yes, sir.

Q. Okay. But to get back and look at the inside items that's in the warehouse, you have to sign in; is that correct?

A. Yes, sir.

MR. WOODS: Okay. Thank you very much, Mr. McDonald.

No further questions.

THE COURT: Any redirect?

MR. GOELMAN: Just briefly, your Honor.

REDIRECT EXAMINATION

BY MR. GOELMAN:

Q. I'm going to put up the second page of Government's Exhibit 1964, which is the bid sheet that you were talking about with

William McDonald - Redirect

Mr. Woods. There are 10 items on there. Is that right, Mr. McDonald?

A. Yes, sir.

Q. Are any of those items something that was located in the SO2 area on April 18?

A. Yes, sir.

Q. Which one?

A. 109, 116, 131.

Q. Mr. McDonald, were those located in the RO2 area?

A. I'm sorry, sir?

Oh, oh, I'm sorry. These -- the ones I'm calling off are the RO2 area, sir. I'm sorry. I misunderstood you.

Q. Are there any items at all on that list that were located in the SO2 area?

A. No, sir. No.

Q. And how many of those items were located inside?

A. Some 84 items, sir.

Q. Okay. On this list, were the first three items on this bid sheet inside items?

A. Yes, sir.

Q. What happens if somebody enters that front office on a viewing day where you're talking about three or four chairs? What do the people in the front office tell them?

A. Explain to them where the items that are for sale are located, sir, and how to get to that area.

William McDonald - Redirect

Q. Where do they direct them? Do they direct them into the RO2 area, or do they direct them down to sign in at the AO2 area?

A. They direct them to the AO2 area, sir, to sign in.

Q. Mr. Woods asked you some questions about Government's Exhibit 1858. That's the sales catalogue.

A. Yes, sir.

Q. When you're out working in the RO2 area on viewing days, Mr. McDonald, are you carrying around a big stack of catalogues to hand out to customers?

A. No, sir.

Q. Where do customers get catalogues?

A. When they sign in, sir, at AO2.

Q. Does that catalogue have a mailing label on it?

A. No.

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

MR. WOODS: Just one question.

THE COURT: Yes. All right.

REXCROSS-EXAMINATION

BY MR. WOODS:

Q. Mr. McDonald, the bidder sheet, 1964, that's in front of you: Those items are listed in a numerical order. Is that correct?

A. Yes, sir.

Q. Okay. And bid prices are submitted for each of those

William McDonald - Recross

items. Is that correct?

A. Yes, sir.

MR. WOODS: Okay. Thank you. No further questions.

MR. GOELMAN: Nothing further. This witness may be excused, your Honor.

MR. WOODS: Yes, your Honor.

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

Next, please.

MR. MACKEY: Thank you, Judge. We'll call Carolyn Marin.

THE COURT: All right.

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

(Carolyn Marin 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: Carolyn Denise Marin, M-A-R-I-N.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Good morning.

A. Good morning.

Q. Where do you live, ma'am?

A. Bad Nauheim, Germany.

Carolyn Marin - Direct

Q. What do you do in Germany?

A. My husband is stationed with the Army.

Q. What does your husband do for the Army?

A. Drives a tank.

Q. Do you have any children?

A. Yes, I have two: a son that's 12 and a daughter that's 6.

Q. How long has your husband been stationed overseas?

A. Since January, '96.

Q. Where was your husband stationed before that?

A. Fort Riley, Kansas.

Q. And was he at Fort Riley, Kansas, in April, 1995?

A. Yes.

Q. Where did you live at that time?

A. We lived in government housing on Custer Hill on the post.

Q. That's right on post?

A. Yes.

Q. On Fort Riley?

A. Yes.

Q. When did you move into that government housing?

A. January, '95.

Q. In April, 1995, was your house on post fully furnished?

A. No.

Q. And to find furniture and other items, did you go to a sale at the Fort Riley DRMO?

A. Yes.

Carolyn Marin - Direct

Q. Do you remember what month that was?

A. It was April.

Q. Had you ever -- have you been to the DRMO for any reason before that?

A. No.

Q. And who went to the DRMO in April, 1995?

A. My husband, me and my daughter.

Q. Do you remember what day of the week it was?

A. I don't remember the day.

Q. How old was your daughter at that time?

A. She was 4.

Q. And did your husband work that day?

A. Yes. He was on his lunch break.

Q. What time was your husband's lunch break?

A. Anywhere from 11 to 11:30 until 1:00.

Q. And what was the plan for how you, your husband, and your daughter would get to the DRMO on that day?

A. He came from work to our house and picked me up and drove us there.

Q. What time did your husband pick you up?

A. Shortly after 11:30.

Q. About what time did you arrive at DRMO?

A. Maybe 11:40, quarter till.

Q. I want to show you Government's Exhibit 1961. Do you recognize that?

Carolyn Marin - Direct

A. Yes.

Q. Do you recognize that as DRMO?

A. Yes.

Q. Can you take your light pen and mark where you, your husband, and your daughter parked?

A. Right here.

No, wait. Right there.

Q. Did you and your husband and your daughter sign in when you first got to the sale?

A. Actually, no. We went into the office first because we didn't know what we were doing or where we were supposed to go.

Q. Did the office direct you where to go?

A. Yes.

Q. When you entered that particular door, was there a sign-in desk there?

A. Yes.

Q. Did you sign in?

A. At first, we just started to walk off because we didn't know we were supposed to sign in, and a man called my husband back and told him that he needed to sign in.

Q. Did you sign in at that time?

A. Uh-huh. My husband did.

Q. I want to show you Government's Exhibit -- first, can you mark -- strike that. I want to show you Government's Exhibit 1956 and ask you if you see your husband's name anywhere on

Carolyn Marin - Direct

here?

A. Yes.

Q. Could you circle that, please.

Do you recognize your husband's signature?

A. Yes.

Q. Did he write down a time when he signed in?

A. No.

Q. Are there entries just above and just below your husband's entry that you -- that do have times in them?

A. Yes.

Q. What are those times?

A. The top one is 11:50. The one directly below it, I can't read. But the next one says 11:56.

Q. Without regard to the log, what is your memory about approximately what time you and your husband signed in on April -- on the day that you went to the DRMO?

A. It would have been shortly before 12.

Q. So is the sign-in sheet at least roughly accurate?

A. Uh-huh. Yes.

Q. What did you see when you signed in? Where was this sign-in log located?

A. When you walked into the door, there was a table set up to the right, and there was like paper sitting there. There was a man and a lady there.

Q. You said there were papers on that table?

Carolyn Marin - Direct

A. Right.

Q. Did you get a chance to determine what those papers were?

A. Yeah. They were like a catalogue of the things that were in there. It had a description of the things that were there.

Q. And how do you know that those papers were catalogues?

A. Because the man handed it to us.

Q. What did you do once you got your catalogue?

A. I rolled it up in my hand and took off to go look at stuff.

Q. What kind of stuff was there?

A. There was dressers, furniture, big boxes of like old BDUs, old office equipment.

Q. What are BDUs?

A. The outfit that soldiers wear, battle dress uniform.

Q. Okay. What other kind of stuff did you see?

A. Old typewriters, just pieces of things, junk.

Q. Did you find anything that you were interested in?

A. Yeah. I found a dresser, and I looked at a table -- I mean a chair and a Foosball table.

Q. How long did you spend inside the warehouse on that day?

A. Oh, maybe about 15 minutes.

Q. And was the entire building available for you to go into and view items?

A. No.

Q. How much of it was -- was open?

A. There was like just two rows of things, and the whole rest

Carolyn Marin - Direct

of the left side was roped off, closed off.

Q. Was there a portion on the right side that was roped off, too?

A. Yes.

Q. What did you do after leaving the warehouse, after you spent 15 or 20 minutes there?

A. The man told us there was stuff outside, so we walked around the side of the building.

Q. I want to show you again 1961. And taking your pen, can you trace the path that you took when you left the warehouse.

Okay. What did you do when you got to that area?

A. There was a bunch of stuff like tires and lawn mowers and things we weren't very interested in, so we just kind of walked very quickly through there.

Q. How much time did you spend there?

A. Maybe a minute or two.

Q. Okay. And why did you spend such a short period of time there?

A. There was nothing there that we wanted to look at and it was cold.

Q. How were you dressed?

A. We were dressed warm, but I didn't have on a coat or, you know, hat and gloves or anything.

Q. Had you noticed the weather earlier when you first arrived at DRMO?

Carolyn Marin - Direct

A. Yes. It was very cold and windy.

Q. And do you remember asking your husband to do anything because of that?

A. I asked him to move the truck closer to the door so I didn't have to walk so far.

Q. How long a walk were you trying to avoid?

A. Maybe half a block.

Q. And did he do that?

A. No.

Q. Where did you go, referring back to the aerial -- where did you go after spending a minute or two in that area?

A. We walked around the storage shed to the back. There was a couple rows of cars back there.

Q. Can you mark the screen where the couple rows of cars were?

A. Right -- right there.

Q. Somewhere in between those lines?

A. Yeah.

Q. What kind of cars were there?

A. There was a lot of broken-down cars, you know, missing parts, with flat tires and stuff. And then our car was sitting at the very end, and it was in really good shape.

Q. Your car?



A. Yeah. We ended up buying the car.

Q. Okay. Tell me about the car that you later ended up buying.

Carolyn Marin - Direct

A. It was a little gray Chevette, and it was in really good condition. So we went over to look at it except that it was cold. So me and Jeneka got in the driver's door because they're not locked or anything, so we got in there and sat there because it was very windy, while my husband looked at the engine.

Q. Jeneka is your daughter's name?

A. Yes.

Q. Where in the Chevette did you and Jeneka sit?

A. In the driver's seat.

Q. How long did you spend there?

A. Just a couple of minutes.

Q. And what were you doing at that time?

A. Just sitting there.

Q. Did you eventually leave the car and --

A. Yeah. My husband asked me to come look at the engine.

Q. And do you know something about cars?

A. A little bit. We've owned a lot of junkers, so we've had to work on them ourselves.

Q. What happened when you looked at the engine?

A. We just looked at it. It was in really good shape except there was a fan that had come off and it was just kind of sitting in there propped up against the engine.

Q. How long did you spend checking out the Chevette?

A. Maybe 10 minutes. 10 or 15 minutes.

Carolyn Marin - Direct

Q. And what did you do at that time?

A. Then we went back inside.

Q. Do you remember the trip from where the cars were located back into the building?

A. Yeah. It was very cold and we were walking really fast, so my husband had to pick Jeneka up to carry her.

Q. And why is that?

A. Because we were walking fast and she couldn't keep up.

Q. Do you remember where in relation to your husband you walked during that journey?

A. Right -- yeah. Right behind him.

Q. Why were you doing that?

A. To block the wind.

Q. Did that work?

A. No.

Q. And how do you remember that?

A. My nose was running, my eyes were watering, my hair was whipping around my face. It was very, very windy.

Q. Did you end up submitting a bid on any of the items that you saw that day?

you saw that day:

A. Yes. The dresser and the car and the Foosball table.

Q. Were you successful on any item?

A. We got the car and the dresser.

Q. How much was the car?

A. \$150.

Carolyn Marin - Direct

Q. How much was the dresser?

A. \$100.

Q. I want to show you what's already been received in evidence, Government's Exhibit 1972. Do you recognize the writing on the front of that document?

A. Yes. All the writing is mine except the signature is my husband's.

Q. Is that the signature at the bottom left there, Ms. Marin?

A. Yes.

Q. Now, do you see both the dresser and the car that you bid on listed in this list of items?

A. Yes.

Q. And I want to turn your attention to -- back to the first page to a time stamp that appears in the upper left-hand corner. Do you see what that says? Can you read it off there?

A. Yeah. It says 18 March '95, 11:27.

Q. Were you at the DRMO on March 18, 1995?

A. No.

Q. Do you know approximately when you submitted this bid?

A. It was 18 April.

Q. About what time?

A. Probably about 12:30ish.

Q. So about a month and hour after the time stamp indicates?

A. Right.

Q. You mentioned that you were successful on bidding on both

Carolyn Marin - Direct

the car and a dresser. How did you find out that you were the high bidder on those items?

A. We got a thing in the mail.

Q. What kind of thing?

A. A statement saying that we had won the bid on these things.

Q. Would you look on your screen at Government's Exhibit 1973, which is not yet in evidence, I don't think.

Can you look down on your screen?

A. There is nothing there.

Q. What about now?

A. Yeah.

Q. Do you recognize that?

A. Yes.

Q. What is it?

A. It's the paper we got saying that we had gotten the car and the dresser.

MR. GOELMAN: Move to admit Government 1973, your Honor.

MR. WOODS: No objection.

THE COURT: Received.

BY MR. GOELMAN:

Q. Does that reflect that you and your husband were successful on any of your bids?

A. Yes.

Q. Which ones?

Carolyn Marin - Direct

A. The chest of drawers and the Chevy sedan.

Q. And that's the Chevette?

A. Right.

Q. What did you do when you got that Chevette?

A. We took it home and parked it for a while, and then we eventually worked on it and got it running.

Q. Have you ever bought another vehicle at a DRMO sale?

A. No.

Q. Have you ever bought another dresser?

A. No.

Q. Have you ever bought anything at any other DRMO sale except for the one in April of 1995?

A. No.

Q. I want to show you what's already been -- do you see what date the sign-in log where you identified your husband's name is?

A. 4-18-95.

Q. And is that consistent with your memory of when you went to see these items at the DRMO?

A. Uh-huh.

Q. How long total did you spend at the DRMO on April 18, 1995?

A. Maybe an hour at the most.

Q. And was that enough time to look at everything that you were interested in?

A. Yes.

Carolyn Marin - Direct

Q. Was it enough time to make a number of bids and actually to buy a car?

A. Yes.

Q. Did you see any other customers at the DRMO while you were there?

A. I saw an elderly black man outside, the man and the woman that were at the table. There was an older gentleman in there, and outside there was a worker on like a forklift type of tractor.

Q. After the Oklahoma City bombing, Ms. Marin, did you follow the investigation in the media at all?

A. A little bit.

Q. And do you remember seeing pictures of Terry Nichols in the media at sometime after the bombing?

A. Yes.

Q. I'm going to ask you if you would to take a look at

Mr. Nichols, who is sitting at counsel table there.

Did you see Mr. Nichols at the DRMO on April 18, 1995?

A. No.

Q. And does this mean that you can say with certainty that he wasn't there at any point in time?

A. No.

Q. I want to ask you a little more specifically about the different areas of the DRMO that you were in at different times.

Carolyn Marin - Direct

Can you again mark where you bought the Chevette?

A. Well, right in there somewhere.

Q. And when you were looking at the different vehicles up there, did you see anyone there just kind of standing there in the -- in that area of the yard?

A. No. There was a worker over to the right, but he was on a tractor.

Q. After leaving that area of the yard, did you go into the side of the building where there is a window, to submit bids?

A. Yes.

Q. And can you mark that on this particular diagram?

And when you went in there, did you see any customers just kind of sitting down there?

A. No. There was no one in there at all.

Q. When you walked back from the yard to the warehouse, did you walk in front of the warehouse at all?

A. Yes.

Q. And why did you do that?

A. There was no one in the bid office, so we had to go into the front office, and also because I took Jeneka to the restroom there.

Q. Can you mark the location where you went in the front office.

About what time did you go in there?

A. Maybe 12:30, 12:35.

Carolyn Marin - Direct

Q. And about 12:30, 12:35, on April 18, 1995, did you see Terry Nichols standing in front of the warehouse?

A. No.

Q. Did you see anyone just kind of standing in front of the warehouse waiting for a buddy to pick him up?

A. No.

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

THE COURT: Mr. Woods?

MR. WOODS: May we leave that particular item?

THE COURT: All right.

CROSS-EXAMINATION

BY MR. WOODS:

Q. Good morning, Ms. Marin. My name is Ron Woods. I'm one of the lawyers appointed by the judge to help Terry Nichols in

the lawyers appointed by the judge to help Terry Nichols in this case.

You told the jury that when you first got to DRMO that you went into that office on the corner; that you later went in to take your daughter to the bathroom. Is that correct?

A. Yes.

Q. Okay. And what did you notice inside that office when you were in there?

A. It was a very small room, and there was a counter that was like L-shaped.

Q. Okay. Did you notice any pamphlets around explaining DRMO or anything like that?

Carolyn Marin - Cross

A. I don't remember.

Q. Okay. And you were directed to go -- if you wanted to look at the items inside -- you were directed to go down to the building to another entrance. Is that correct?

A. Yes.

Q. And that's where you actually signed in for the first time.

A. Right.

Q. Your husband signed in in your presence. Is that correct?

A. Yes.

Q. And you looked at the items that were in the inside of the warehouse.

A. Yes.

Q. Do you recall how many items were for sale total when you were at that sale, that sealed bid?

A. No.

Q. Okay. So nothing that you were paying particular attention to the number of items. Correct?

A. No.

Q. You were interested in furniture to furnish your house?

A. Yes.

Q. And they had a few items on the inside. Is that correct?

A. Yes.

Q. And that's what you looked at is a chest of drawers, a Foosball machine?

A. Right. We walked around the whole area, but I was

Carolyn Marin - Cross

concentrating on the furniture.

Q. Looking for furniture; is that correct?

A. Yes.

Q. Then when you went outside and entered into the outside area, you didn't have to sign in to get into that outside area, did you?

A. No.

Q. In fact, it was a big, open gate that vehicles can drive through. Is that correct?

A. Yes.

Q. And do you recall how many items were available for viewing and inspection on that outside area?

-----  
A. There was just like a couple of rows. It wasn't a very big area.

Q. Do you recall the number of items that were there?

A. No.

Q. And you mentioned that you saw several things that you weren't interested in, tires and lawn mowers and things like that, and so you didn't spend any time inspecting those. Is that correct?

A. That's correct.

Q. Were you looking for anything in particular when you went out there?

A. No. We didn't even know what was out there. We just knew there was more stuff.

Carolyn Marin - Cross

Q. More stuff?

A. Yeah.

Q. Okay. Stuff that would stand the weather?

A. Yes.

Q. And you found a car that you were interested in.

A. Yes.

Q. And bought it for 150?

A. Right.

Q. Okay. But you were not inspecting those items carefully for buying them and then reselling them, all the items that were there lined up in rows. Is that correct?

A. No.

Q. Okay. And it took you approximately one hour to look at the items in total. Is that correct?

A. Yeah. The whole --

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

MR. GOELMAN: No questions, your Honor.

THE COURT: I take we're excusing the witness.

MR. WOODS: Yes, your Honor.

MR. GOELMAN: Yes.

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

Next, please.

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

-  
Special Agent, excuse me -- Patrick Daly.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Patrick Daly 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: Patrick J. Daly, D-A-L-Y.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Proceed.

MS. WILKINSON: Thank you.

DIRECT EXAMINATION

BY MS. WILKINSON:

Q. Good morning, Agent Daly. Can you tell the jury where you work.

A. I work in FBI office in Chicago, Illinois.

Q. Are you a special agent?

A. Yes. I'm a supervisory special agent there.

Q. How long have you been an agent with the FBI?

A. It will be 15 years next month.

Q. Did you have any prior law enforcement experience before you joined the FBI?

A. Yes. I was a police officer in Oak Park, Illinois, for six years.

Q. And then did you join the Bureau?

A. Yes, I did.

Patrick Daly - Direct

Q. Can you tell us what your current assignment is.

A. I supervise an FBI Task Force of FBI agents and police officers investigating organized crime.

Q. And you do that in Chicago?

A. Yes.

Q. How long have you been assigned to the field division in Chicago?

A. Since probably 3 1/2 years.

Q. So would that mean you were assigned there in April of 1995?

A. Yes, I was.

Q. Do you have any special duties or responsibilities other than your supervisory position in Chicago?

A. I also supervise our Evidence Response Team.

Q. And are you prepared today to tell us about your attendance at the Oklahoma City crime scene in April of 1995?

A. Yes, I am.

Q. Okay. Can you start first by telling us a little bit about what an Evidence Response Team does?

A. Our Evidence Response Team is made up of special agents in Chicago who are trained in the collection and logging in of evidence and also the processing of crime scenes.

Q. And is that something you and your fellow agents have been trained to do?

A. Yes, it is.

Patrick Daly - Direct

Q. What do you do as the supervisor of ERT?

A. I assign the assignments to the agents who are trained and belong to the Evidence Response Team. I decide whether or not the Evidence Response Team should be called out in FBI cases or local jurisdiction matters.

Q. And what type of training have you and your fellow agents had for these duties?

A. There is an 80-hour basic course, and then there are specialized courses that the agents and myself have taken, as well as quarterly training, two-day training each quarter for

the agents.

Q. Can you give the jury an idea of some of the specific training courses that you and your fellow agents have been to?

A. I recently myself taught a two-day post-blast course for the agents in Chicago on how to process bombing crime scenes. Last month we had a bullet trajectory course, which would enable us to do a crime scene involving the use of a firearm.

Q. I take it from your answers that you're constantly updating your training?

A. Yes.

Q. And prior to April of 1995, did you have any other specialized areas of responsibility or training?

A. In 1985, I was a -- trained as a bomb technician through the FBI/U.S. Army school at Redstone Arsenal.

Q. How long was that training, sir?

Patrick Daly - Direct

A. The basic course was a four-week course.

Q. After that, were you qualified as a bomb technician?

A. Yes, I was.

Q. Is there any kind of recertification process involved?

A. There is a one-week annual recertification that all FBI-trained bomb technicians take on an annual basis.

Q. Were you a certified bomb technician in April of 1995?

A. Yes, I was.

Q. What does that mean to be a certified bomb technician?

A. That I've gone through the basic course, the four-week course, and that I've kept current with the annual recertifications.

Q. You told us you've taught some post-blast courses. Is that right?

A. Yes. I teach it to the ERT team as well as I teach it to local law enforcement personnel.

Q. Have you ever taught overseas?

A. I've taught overseas as well, yes.

Q. In which subject matter area?

A. Post-blast crime-scene processing.

Q. Now, what do you do as a bomb tech for the FBI? What are your general responsibilities?

A. Generally it's to process and handle explosives in cases involving FBI matters and also to teach local law enforcement and public safety bomb technicians on not only the processing

Patrick Daly - Direct

of bombing crime scenes but also the render safe of improvised explosive devices.

Q. Are you permitted with your certification to actually render an explosive device safe?

A. It's not FBI policy unless there is some compelling reason why we should do it.

Q. So do you focus normally on post-blast investigations?

A. That's correct.

Q. Now, had you been to any other major bombing crime scenes



Q. Now, had you seen or any other major bombing crime scenes prior to the Oklahoma City bombing in April of 1995?

A. I was at the World Trade Center bombing crime scene in 1993.

I was also on temporary duty in Bogota, Colombia, in 1989, when the DAS, D-A-S -- the DAS building was blown up by a vehicle bomb.

Q. What is DAS?

A. The DAS is the equivalent of the FBI in Colombia.

Q. Through your participation in the investigation of the World Trade Center bombing, did you develop procedures for investigating post-blast crime scenes?

A. Yes. We applied the procedures already in place that we used in post-blast crime scenes to that crime scene.

Q. When you went to Oklahoma City to investigate that bombing, did you work with other agents who had also been with you at the World Trade Center bombing crime scene?

Patrick Daly - Direct

A. Yes, I did.

Q. Was that helpful?

A. Yes, because they had the experience especially in processing a major post-blast crime scene.

Q. Had you ever seen or participated in the investigation of an outdoor bombing crime scene like the one in Oklahoma City?

A. Not one such as to the scale, the large scale of Oklahoma City.

Q. Let's turn, if we can, to that crime scene and talk about April 19, 1995. Do you recall where you were when you learned about the bombing in Oklahoma City?

A. Yes. I was in a departure lounge at O'Hare Airport in Chicago. I was picking up an agent there, and I noticed on the monitor that broadcast CNN -- they showed a picture of the Murrah Building and said it was live; and that's when I first learned of the bombing.

Q. Who were you picking up that day at Chicago O'Hare Airport?

A. I was picking up Agent Jeffery Hayes, who was flying in from Hawaii; and he and I were going to drive to Huntsville, Alabama, for our bomb technician recertification.

Q. Were you going to drive on that day, April 19?

A. No. We were probably going to drive the next day.

Q. I take it you weren't able to attend the recertification course in 1995.

A. No, I did not.

Patrick Daly - Direct

Q. After you learned of the bombing through watching CNN, did you and Agent Hayes receive an assignment?

A. Yes. We were both tasked to travel to Oklahoma City to help in the processing of the crime scene.

Q. What did you do?

A. I -- myself -- I drove Agent Hayes back to the office. Then I drove to my residence to pack my clothes and my gear for

the trip to Oklahoma City.

Q. What type of gear did you bring for the Oklahoma City bombing investigation?

A. Well, this gear would be the gear that I would use as -- in processing a post-blast scene; that is, protective clothing, gloves, goggles and also items -- tools that I would use to collect evidence at the scene, hand tools, as well as evidence bag -- evidence collection bags, log sheets, things that I would use in a post-blast crime scene.

Q. What type of protective clothing did you bring with you?

A. I brought coveralls, heavy boots with steel toes, heavy leather gloves, helmets, goggles, things that I would use on the scene where there would be a potential because of post-blast destruction to cause damage to one's body.

Q. Okay. And had you ever worn those coveralls or any of that protective clothing to any other bombing crime scene?

A. Those particular coveralls, no. They were fresh coveralls.

Q. Do you have any procedures for what you do with your boots

Patrick Daly - Direct

that you wear when you're going out to crime scenes?

A. After a crime scene, normally we would disinfect the boots with a water and chlorine bleach solution and that serves two purposes: To counteract any blood-borne pathogens if there had been physical injuries as well as to wash away any type of debris that was taken from the scene and still on the boots.

Q. So were your boots clean when you went to Oklahoma City in April of 1995?

A. My boots were clean, yes.

Q. You told us you took some clothing and helmets and things like that. Did you take any other pieces of material or items for actually working the crime scene?

A. Yes. I took evidence recovery logs that we could use to log in any evidence that we may have taken from a crime scene, as well as evidence collection bags, cardboard boxes, other packaging material for items that we may take from a crime scene.

Q. What time did you actually arrive in Oklahoma City after the bombing?

A. I think the plane arrived there probably between 5 and 6 p.m. in the afternoon.

Q. On April 19?

A. On April 19.

Q. Do you recall what the weather was like when you arrived in Oklahoma City that evening?

Patrick Daly - Direct

A. It was cloudy and overcast; and then shortly after arrival, it began to rain.

Q. Do you recall how heavy the rain was?

A. It got to be extremely heavy with -- accompanied by thunder and lightning.

Q. When you arrived in Oklahoma City that night of April 19, did you go to the crime scene?

A. Yes.

Q. Do you recall what time it was when you arrived?

A. Sometime around 6 p.m., I believe.

Q. And do you recall where you went first when you got close to downtown Oklahoma City?

A. We were directed first by the Oklahoma City agents to the command post, which was set up approximately two or three blocks to the east of the Murrah Federal Building.

Q. By that time when you arrived on the evening of April 19, was there a security perimeter established around the Murrah Building?

A. Yes, there was. There was police officers maintaining a security perimeter around the federal building.

Q. What was the purpose of that?

A. I think there was a twofold purpose. There was a rescue attempt at the time going on; and for the protection of the people participating in an attempt and also to keep the public out to reduce confusion, that perimeter was set up.

Patrick Daly - Direct

And in addition, as any crime scene, the law enforcement would set up a perimeter to keep unwarranted intrusion into that crime scene.

Q. Now, after you went into the command post that night, did you actually go to the Murrah Building that evening?

A. Yes, I did.

Q. Can you tell the jury what you saw.

A. I saw a state of confusion. I saw a rescue attempt being done by fire department personnel on a building, the Murrah Federal Building, that had been blown up.

There was mass destruction in surrounding structures. I saw vehicles, cars on the street and in parking lots blown up. I saw vehicle parts strewn across the sidewalk, the street, up in trees.

I saw windows blown out and walls and roofs blown out in surrounding structures, and I saw the front of the Murrah Federal Building basically caved in. It reminded me of the DAS building that I had seen back in 1989 in Bogota which was blown up by a vehicle bomb; and also it reminded me of pictures I had seen of the American embassy and the Marine Corps barracks in Beirut in 1983, which had been blown up by vehicle bombs.

Q. When you went to the Murrah Building that evening, what was your focus?

A. My focus at the time was to try and determine what I would need as a crime-scene processor along with other agents that

Patrick Daly - Direct

were brought in as possible team leaders of Evidence Response Teams. We needed to determine No. 1, I think, how many personnel were required to process this scene, what tools and equipment we needed and just to get an idea of the extent of

equipment we needed and just to get an idea of the extent of the area that we needed to process.

Q. Were other agents from your Chicago ERT team coming down to Oklahoma to assist you with the crime-scene investigation?

A. Yes. A few, I think maybe four, had flown with me; and the balance, approximately 15 agents from the Chicago Evidence Response Team, were driving in vehicles that carried our equipment from Chicago.

Q. Excuse me. Had you instructed them to bring items like evidence tags and things like that to the crime scene?

A. Yes, I did.

Q. When you did your initial inspection that night of April 19, could you determine whether those materials that your fellow teammates were bringing would be sufficient to collect all the evidence you would need at the crime scene?

A. What we had in our two trucks that were coming down was not going to be sufficient to process this scene.

Q. And were you aware that other agents from around the country were coming in to Oklahoma City to assist you with processing the crime scene?

A. Yes, I was.

Q. And were they all bringing equipment with them?

Patrick Daly - Direct

A. Yes, they did.

Q. Now, when you looked at the Murrah Building that evening, did you focus on the parking lot right across from the building?

A. No. I focused obviously on the building. That's where the greatest damage was, the federal building. That's where the rescue attempt was going on, and that's where the lighting, the portable lighting was focused as well.

Q. And when you arrived that evening, did you notice the crater in front of the building?

A. Yes, I did.

Q. Did you examine it at that time?

A. I examined it visually but did no more than that.

Q. At any time that evening of April 19, did you actually collect any evidence?

A. I did not.

Q. Why not?

A. I wanted to do a systematic collection of evidence, and we hadn't set up a system at that time.

Q. Now, the next morning, April 20, did you come back to the crime scene?

A. Yes.

Q. And did you meet with fellow agents to determine this plan that you described you wanted to put in place?

A. Yes. We had a meeting early in the morning, brought in

Patrick Daly - Direct

agents identified who would be team leaders, evidence search team leaders, and decided how would we divide the scenes --

MR. TIGAR: Excuse me, your Honor. Object to the "we decided" without some foundation as to who is speaking and what they're saying.

THE COURT: Sustained, yes.

BY MS. WILKINSON:

Q. Mr. Daly, who was at the meeting with you that morning?

A. There were several agents from around the country, veteran agents who had participated previously in crime scenes, some of whom -- if you'd like me to name them, would be Agent Dave Williams from the FBI; Richard Hahn from the FBI; myself; some other agents from other agencies including the Bureau of Alcohol, Tobacco, and Firearms, whose names I can't recall right now, and also local jurisdictions, the Oklahoma City Police Department and the surrounding law enforcement State of Oklahoma police.

Q. After you had that meeting or during that meeting, were you designated as one of the team leaders?

A. Yes, I was.

Q. And can you tell us what your plan was to recover evidence from this entire crime scene.

A. In the discussion of how myself and the other team leaders would process the crime scene, we divided up basically the area surrounding the Murrah Federal Building, going out in each

Patrick Daly - Direct

direction into a grid-type system and assigned a team and a team leader to each grid to search that area and recover any evidence that was included in that area.

Q. Do you recall how many teams were assigned that morning to collect evidence?

A. I believe at least five, maybe six teams.

Q. And can you tell us without naming the specific people what organizations were represented on your team.

A. On my team, there were FBI agents; agents from the Bureau of Alcohol, Tobacco, and Firearms; Oklahoma City police, Oklahoma City fire marshals; State of Oklahoma officers; I think local county officers -- and I can't recall the name of the county -- and some other people from some neighboring counties that I don't recall the names of those counties.

Q. Why would you have fire personnel on your crime scene search team?

A. Well, they were fire marshals, they were experienced in processing especially arson crime scenes. Also, they provided the benefit of the equipment belonging to the fire department, including ladders, aerial ladder trucks so that eventually we could go up on roofs.

Q. Was that part of your plan to search the crime scene?

A. Yes. We were going to search the surrounding area which would include searching roofs of buildings, obviously.

Q. Now, your team was Team 1. Is that right?

Patrick Daly - Direct

A. Yes.

Q. What was the assignment for Team 1 when you began to search the crime scene?

A. Team 1 was assigned Grid 1, which encompassed an area from N.W. 5th going north to N.W. 9th and from Harvey going west to Shartrel (sic).

Q. Now, that's obviously a lot bigger than what's noted here on the model in front of the jury. Is that right?

A. Yes, it is.

Q. And in the command post when you were setting out assignments to the different teams, did you use a grid map?

A. Yes, I did, and the other team leaders did as well.

Q. What was the purpose of the grid map?

A. To document and to explicitly show the team leaders, where their areas of responsibility for the searches were.

MS. WILKINSON: Your Honor, may I ask for Agent Norman's assistance in showing exhibits to the witness that if they're admitted will be displayed?

THE COURT: Yes.

MS. WILKINSON: If you could show the witness Government's Exhibits 727 and 728, please.

BY MS. WILKINSON:

Q. Let's start with 727, Agent Daly. Do you recognize that? Don't show it to the jury yet. It's not in yet.

There you go.

Patrick Daly - Direct

Do you recognize that?

A. Yes, I do.

Q. What is it?

A. This is a portion of the grid map that was used by myself and the other team leaders to divide up the search area of the Oklahoma City bombing post-blast scene.

Q. And would it assist you in showing the jury some of the areas where you searched?

A. Yes, it would.

MS. WILKINSON: Your Honor, we'd offer Government's Exhibit 727.

MR. TIGAR: May I inspect it, your Honor?

THE COURT: You may, yes.

MS. WILKINSON: Your Honor, he may want to look at

728

while he's up there to save a trip.

THE COURT: All right.

MR. TIGAR: All right. I'll do it.

All right. I've looked at that.

Thank you, Agent.

Thank you. I have no objection to either one of

these.

THE COURT: All right. We'll receive.

MR. TIGAR: Which one shall I hand to Agent --

THE COURT: I can't answer your question.

MS. WILKINSON: Your Honor, I didn't offer 728; but

Patrick Daly - Direct

since Mr. Tigar doesn't object, I'll offer both 727 and 728.

THE COURT: 727, 728 are both received.

MR. TIGAR: May I inquire of counsel through the Court

which one shall I hand to the witness?

MS. WILKINSON: 728, the aerial photo.

MR. TIGAR: Is that the one you wanted?

MS. WILKINSON: Yes. Thank you.

Agent Norman, could you put the aerial photo on the easel, please.

BY MS. WILKINSON:

Q. Agent Daly, if you can keep your voice up, could you step down and orient the jury and show them where the Murrah Building is on this aerial photo of Oklahoma City?

A. The Murrah Federal Building is approximately here in the center of the photo.

MS. WILKINSON: Your Honor, I'm not sure all the jurors can see that photograph.

BY MS. WILKINSON:

Q. Can you just move it a little forward, Agent Daly.

Now, can you point out where the Murrah Building is?

A. Again it's approximately right here in the center of the photograph.

Q. Can you orient them by showing them where 5th Street is?

A. And 5th Street would be right here just north of the Murrah Federal Building.

Patrick Daly - Direct

Q. And using this aerial photograph, Government's Exhibit 728, can you show them how you roughly divided up the grid areas for the searches?

A. The main dividing line was 5th Street between the grid areas, and also this is Harvey Street here; and that was another dividing line.

My grid area was Grid No. 1, which was basically from Harvey up to 9th Street and from Hudson to Shartrel (sic), which those two streets, 9th and Shartrel, don't appear on this photograph of -- excuse me.

Q. Agent Daly, is that the area northwest of the Murrah Building?

A. That's northwest of the Murrah Building.

Q. Could you now look at Government's Exhibit 727, the grid map, please.

What does the yellow on Government's Exhibit 727 indicate?

A. That indicates the search area that was accomplished by myself and the other search teams.

Q. What about the white areas?

A. The white area would be outside of the areas that we searched.

Q. Can you tell the jury approximately how large the area was that you and your fellow agents and police officers searched

Did you and your fellow agents and police officers searched during this investigation?

Patrick Daly - Direct

A. It was approximately about a mile and a half in length and about a mile and a quarter to a mile and a half in width.

Q. Why was it necessary to go so far out from the building?

A. Basically, what we wanted to do was to ensure that we searched an area large enough that we would discover any type of fragment either from the container of the bomb or any bomb fragments.

Q. Now, where did you start when you and your team, Team 1, began your search?

A. We began our search on April 20, the day after the bombing, and we wanted to ensure that we would be able to collect any evidence that was remaining after the bombing, before it was disturbed. So we tried to first search the areas that were not secured by law enforcement that were basically open to the public, to the residents or any visitors that might come into the area.

So we started searching in -- on the streets to the northwest of the federal building, and basically we started with any location that was open to the public. And we did the northwest -- the east/west streets and the north/south streets. We went from block to block searching each street, sidewalk to sidewalk, alley to alley. We searched the roofs. We searched the interiors of any building that showed evidence of any penetration possibly by fragments of the bomb.

Q. Agent Daly, did you start at the outside of the yellow area

Patrick Daly - Direct

when you began on April 21?

A. Yes, we did, because that was the area that was most vulnerable to any entry by the public because it was not secured by police or law enforcement.

Q. Without describing for us each street and building that you covered, did you work from outside toward inside, toward the Murrah Building?

A. We worked from outside towards the Murrah Building, again because this was vulnerable to access to the public.

I had people going on the sidewalks, on the streets, in the alleys, on the lawns, in the buildings, on top of the buildings, and we searched each and every square inch of this area.

Q. You can take your seat, please.

THE COURT: I think we'll interrupt at this time for the noon recess.

MS. WILKINSON: Sure.

THE COURT: So you can step down now. We're going to take the recess.

And, members of the jury, we'll take our usual 90-minute luncheon recess; and, of course, please continue to follow the cautions regularly given, keeping open minds,



avoiding discussion of anything relating to the case and  
avoiding anything outside of our evidence.

You're excused now till 1:30.

(Jury out at 12:02 p.m.)

THE COURT: Recess, 1:30.

(Recess at 12:02 p.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
235	10538	10538			
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238	10547	10547			
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1963	10580	10580			
1964	10583	10583			
1964A	10584	10584			
1966	10586	10586			
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\* \* \* \* \*

REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from

the record of proceedings in the above-entitled matter. Dated  
at Denver, Colorado, this 25th day of November, 1997.

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Paul Zuckerman

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Bonnie Carpenter

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