

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 96-CR-68

UNITED STATES OF AMERICA,
Plaintiff,

vs.

TERRY LYNN NICHOLS,
Defendant.

REPORTER'S TRANSCRIPT

(Trial to Jury: Volume 91)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 1:30 p.m., on the 25th day of November,
1997, in Courtroom C-204, United States Courthouse, Denver,
Colorado.

Proceeding Recorded by Mechanical Stenography, Transcription
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APPEARANCES

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MICHAEL TIGAR, RONALD WOODS, and JANE TIGAR, Attorneys
at Law, 1120 Lincoln Street, Suite 1308, Denver, Colorado,
80203, appearing for Defendant Nichols.

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PROCEEDINGS

(In open court at 1:30 p.m.)

THE COURT: Please be seated.
(Jury in at 1:30 p.m.)
THE COURT: Please resume the stand.
(Patrick Daly was recalled to the stand.)
THE COURT: Ms. Wilkinson, you may continue.
MS. WILKINSON: Thank you, your Honor.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:
Q. Agent Daly, before the break, you were telling us about how
you and your team started your search of Grid Area 1; is that
right?

Patrick Daly - Direct

A. That's correct.

Q. You began that search on what day?

A. On Thursday, April 20th.

Q. Now, before you began the search, did you brief your team members on what you wanted them to do?

A. Yes, I briefed them on the process of how to collect the evidence, record it, package it. If we were going to photograph it, I assigned a photographer to do that. If we were going to do a sketch of the area that we were searching, I assigned a sketch artist to sketch that area and to locate items that we recovered on that sketch.

Q. Now, did you personally recover all items seized by your team?

A. I did not personally recover all items seized.

Q. What was your procedure for reviewing items that were seized by other members of your team?

A. I asked them to show me the items before we put them on the log and recorded them as items of evidence. And I made sure that they were given item numbers, and I initialed and -- and dated the item.

Q. How many people were on your team on average?

A. I would say on average, around 25 people.

Q. How many days did you work together as Team 1?

A. We started that -- the first day of the evidence collection, on April 20th, and continued until the crime scene

Patrick Daly - Direct
was finished.

Q. Do you recall when that was?

A. I think it was the 1st or 2d day of May.

Q. Now, you said there were five teams total who searched the grid area?

A. Initially, there were about five or six. Eventually, as we got more personnel into the Oklahoma City area, we assigned more teams and started doing evidence collection around the clock.

Q. Do you recall how many personnel were involved with searching the entire crime scene?

A. Approximately 250 FBI, other federal agency personnel, local, state and county agency personnel.

Q. Were all of them in the downtown Oklahoma City area?

A. No. There was a -- a portion of -- of approximately 80 to 85 people, law enforcement personnel assigned to an off-site area.

Q. What was the purpose of the off-site area?

A. They received truckloads of -- of debris from the crater area in front of the Murrah Federal Building and in the immediate area of the federal building, and their purpose or their job was to sift through that debris using screens to see if they could find any components of bomb.

Q. Did you participate in that sifting site?

A. I did not.

Patrick Daly - Direct

Q. Now, let's turn to what you did at the crime scene. You told us you were working on April 20th with your team?

A. Yes.

Q. And did you see -- seize several pieces of debris on that day?

A. Yes.

MS. WILKINSON: Your Honor, may I ask the witness to step down so he can identify evidence and use the model?

THE COURT: All right.

BY MS. WILKINSON:

Q. Agent Daly, I want to start with this exhibit, Government's Exhibit 713. Do you recognize that?

A. Yes, I do.

Q. How do you recognize it?

A. I recognize it by its distinctive shape; and also, I had marked that with my initials and the date that we collected it.

Q. Do you recall when Government's Exhibit 713 was seized?

A. This was seized the first day of the -- we began the search on Thursday, April 20th.

Q. Where was it seized?

A. It was seized on N.W. 5th, approximately in the middle of the 400 block of N.W. 5th.

MS. WILKINSON: Government offers 713, your Honor.

MR. TIGAR: No objection.

THE COURT: 713 is received.

Patrick Daly - Direct

BY MS. WILKINSON:

Q. Now, before you point out on the model where you found it, can you tell the jury what 713 is?

A. 713 appears to be a -- a gear, most probably from a truck.

Q. And do you know how heavy that gear is, Agent Daly?

A. It's very heavy. It's over 100 pounds. It took more than just myself to lift it into the pickup truck we had.

Q. All right. Can you show us on the model here and indicate for the jury and for the record where you found Government's Exhibit 713, the gear.

A. Again, this street in front of the Murrah Federal Building is N.W. 5th. And going west, I found this gear on the 400 block of N.W. 5th, approximately two and a half blocks from the Murrah Federal Building. It was resting against a fence. It actually knocked down a portion of a chain-link fence to the east of Fred's Auto Body Shop.

Q. Now, right here on this model, is there a yellow dot marking where you found Government's Exhibit 713?

A. Yes, there is.

Q. And how far did you say that is from the site of the crater?

A. It's about 600 yards or about two and a half city blocks.

Q. Show you a little smaller piece of evidence. Government's

Q. Show you a piece smaller piece of evidence, Government's Exhibit 720. Do you recognize that?

A. Yes, I do.

Patrick Daly - Direct

Q. How do you recognize it?

A. Again, I recognize it by its distinct shape. I recall that there were what appeared to be a letter and numbers on it, and I also initialed the exterior of the bag of this piece of evidence.

Q. Do you recall what day you found Government's Exhibit 720?

A. This -- I found it the next day, on Friday, the 21st of April, and it was found in an alley behind the Regency apartment complex on the -- on the 300 block of N.W. 5th.

MS. WILKINSON: Government offers 720.

MR. TIGAR: No objection.

THE COURT: Received 720.

BY MS. WILKINSON:

Q. Now, you said -- why don't you turn and face the jury. See if you can show them. You saw some numbering or markings on this.

A. Yes, there was -- although the piece of metal is twisted, there were some numbers or letters stamped into this piece of metal that I noticed.

Q. Where did you find Government's Exhibit 720?

A. It was found in the alley at the rear of the Regency apartment building between 5th and 6th Streets.

Q. Can you point that out here on the model, please.

A. Right here between the Regency apartments -- and there was a garage that was severely damaged by the blast, and I found

Patrick Daly - Direct

this in the alley.

Q. And is there a yellow dot in this alley right behind the Regency Towers indicating where you found Government's Exhibit 720?

A. Yes, there is.

Q. Now, Agent Daly, I want you to look at 722. Do you recognize that?

A. Yes, I do.

Q. How do you recognize Government's Exhibit 722? Excuse me.

A. Again, by its distinct shape. It's a -- a wheel from an automobile, or I believe it's from a truck. And its distinct shape. And also my initials and the date that I recovered it on April 23d is written on it.

Q. Do you recall where you found Government's Exhibit 722?

A. That was recovered adjacent to the Journal Record Building off of Robinson Street between 5th and 6th Streets.

MS. WILKINSON: We offer or move for the admission of 722, your Honor.

MR. TIGAR: May I inquire, your Honor?

THE COURT: You may.

MR. TIGAR: Shall I just do it from here so we don't

disturb the --

THE COURT: Whichever is more convenient.
VOIR DIRE EXAMINATION

BY MR. TIGAR:

Patrick Daly - Voir Dire

Q. Hello, Agent. My name is Michael Tigar. I'm one of the lawyers helping out Terry Nichols. We've never met.

A. No, we haven't.

Q. Okay. This wheel that you found here was, of course, in this terrible shape when you saw it; right?

A. That's correct.

Q. Did it have a tire on it?

A. No, it did not.

Q. Did -- were any portions of the -- were there any portions of rubber or tire that were adhering to it at the time that you first found it?

A. I don't recall seeing any. What I recall is what we see here today.

Q. Right. And your protocol -- that is, the way you would do it -- if there were any portions of a tire that adhered to this, you would have dealt with those in a way that they would be preserved; correct? You would have kept a record of it?

A. That's correct.

Q. And you don't recall having made a record of any tire being a part of this?

A. No.

Q. So this is the whole thing as you found it; correct?

A. As what I recall, yes.

MR. TIGAR: No objection, your Honor.

THE COURT: 722 is received.

Patrick Daly - Direct

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Okay. Agent Daly, can you lift this one?

A. Yes, I can.

Q. Turn it on end and show it to the jury.

And can you tell us exactly where you found -- can you hold it up just a little bit.

All right. And you said you found it in this condition?

A. That's correct.

Q. On what date?

A. I first saw it on April 19th when I went to the crime scene. It was laying in a sidewalk area in front of the Journal Record Building. I didn't recover it as evidence until Sunday, the 23d.

Q. Now, can you show the jury where you first saw it on April 19th?

A. Here's the Journal Record Building, and here's the Murrah

Federal Building. I found it approximately a few feet off the street --

MR. TIGAR: Can I move across, your Honor?

THE COURT: Yes.

MR. TIGAR: Thank you.

THE WITNESS: I found it a few feet into the sidewalk area just west of Robinson Street between 5th and 6th.

Patrick Daly - Direct

BY MS. WILKINSON:

Q. Was that where you recovered it?

A. Yes.

Q. Were there any -- why don't you take your seat.

Were there any markings around that wheel rim when you found it?

A. There was a circle that was -- pink circle that was painted

around the wheel rim.

Q. What was the purpose of that?

MR. TIGAR: If you know.

MS. WILKINSON: If you know.

THE COURT: Yes.

THE WITNESS: The first night of the -- the bombing on

the 19th, we had people from the different law enforcement agencies there, and someone -- and I don't know who -- or a group of people -- painted pink circles around items of -- such as this tire rim that they felt could be significant pieces of evidence.

BY MS. WILKINSON:

Q. Now, during your search of the crime-scene area, did you go into the Regency Tower building?

A. Yes. The team and myself searched the whole building to include the apartments within, the roof area and the surrounding structures, the pool area on Saturday, the 22d.

Q. Did you find any metal debris inside the Regency Tower?

Patrick Daly - Direct

A. Yes, I did.

Q. What did you find?

A. I found in Apartment 807 what appeared to be the -- part of a rear lock assembly off a cargo door of a truck.

Q. I'm handing you Government's 654. Do you recognize that?

A. Yes, I do.

Q. How do you recognize that?

A. I recognize it by its distinctive shape; and also, I had initialed the exterior packaging of this item.

Q. Where did you find Government's Exhibit 654?

A. Exhibit 654 was found embedded into a door frame at an entrance doorway of Apartment 807 in the Regency apartments.

Q. So it was inside the apartment?

A. Inside the apartment of -- on the eighth floor.

MS. WILKINSON: Your Honor, would offer Government's

MS. WILKINSON: YOUR HONOR, WE WOULD OFFER GOVERNMENT'S Exhibit 654.

MR. TIGAR: No objection, your Honor.

THE COURT: Received.

BY MS. WILKINSON:

Q. Now, when you found this item, were there pictures taken of it, in place?

A. Yes, I had my photographer take pictures of it as it was embedded into the doorway.

Q. And before coming to court today, did you review Government's Exhibit 656, 657, and 658, which show Government's

Patrick Daly - Direct
Exhibit 654 in place?

A. Yes, I did.

MS. WILKINSON: Your Honor, we'd offer 656, 657, and 658.

MR. TIGAR: May I just take a look at those, your Honor?

MS. WILKINSON: Sure.

THE COURT: Yes.

MR. TIGAR: Thank you.

No objection, your Honor.

THE COURT: They are received. May be displayed.

MS. WILKINSON: May I display them, your Honor?

THE COURT: Yes.

BY MS. WILKINSON:

Q. Agent Daly, I'm going to show you 656. Do you recognize that?

A. May I stand?

Q. Please.

THE COURT: Yes.

THE WITNESS: Yes, I do.

BY MS. WILKINSON:

Q. And if you could tell the jury what they are seeing here in Government's Exhibit 656.

A. This is a doorway in Apartment 807, and this item here is the item I just identified as being embedded into the door

Patrick Daly - Direct
frame.

Q. When you found that item embedded, what did you do?

A. Initially, we took this photograph; and then we extracted it from the door frame, and we took two more photographs of it.

Q. Okay. Let's look at the next one, if we could. This is Government's Exhibit 658. Is that right?

A. That's correct.

Q. What does that show?

A. Again, that represents or shows this piece as it was laying on the floor, and we added a -- a ruler or scale so that we could get a sense of the dimensions of it from the photograph.

Q. And this final photograph, Government's Exhibit 657, what does that show? You tell me. This way?

A. This way.

Q. Okay. What are we looking at in 657?

A. This is a picture of Exhibit 654, a photograph that was taken, again while it was embedded into the door frame. And again, we added a ruler to determine from the photograph the proportional size of this item.

Q. Now, let's take a look at Government's Exhibit 654. Is there some markings or some type of damage to 654?

A. Yes. There's cratering and pitting on the metal.

Q. And can you see any of that in Government's Exhibit 657?

A. Yes. I can. Right here.

Q. You can take your seat.

Patrick Daly - Direct

Agent Daly, at some point in the crime scene, was Agent Charles Gonzales a member of your search team?

A. Yes, I believe he was a -- he was from the Bureau of Alcohol, Tobacco, and Firearms; and I believe he joined us either the first day or one of the first few days.

Q. And did he recover evidence that he turned in to you?

A. Yes, he did.

Q. And we're going to ask you no further questions right now, but when you're called back, will you be able to tell us about the evidence that Agent Gonzales collected and turned in to you?

A. Yes, I can.

MS. WILKINSON: Thank you. No further questions at this time, your Honor.

THE COURT: All right. Mr. Tigar.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Hello again, Agent. I wanted first to show you a group -- excuse me -- of photographs that I have numbered D1661, 1662, 1663, 1664, 1665, and 1667 and ask you if they fairly and accurately reflect the parking lot across from the Murrah Building during the time you were conducting your investigation.

MS. WILKINSON: Your Honor, just to assist, I'd ask for a date for foundational purposes for when these were.

Patrick Daly - Cross

THE COURT: Well, the question was "during the investigation."

MR. TIGAR: During the investigation, yes.

THE COURT: I take it that means during the period of search.

MR. TIGAR: Yes, your Honor, during the time he was there, between the 19th -- 19th of April and the 2d of May.

THE COURT: All right.

THE WITNESS: Counselor, I would say that it represents the parking lot, not necessarily the first day or few days, but as the investigation and the crime scene

processing progressed.

BY MR. TIGAR:

Q. That is, you -- you can't tell exactly when these were taken, but it was during the time that you were there and walking past the parking lot; correct?

A. Well, I recall the parking lot having the devastation done to vehicles there, evidence that the vehicles received blast wave. The surrounding building structures, roofs torn off, windows blown in, walls torn apart. And also the construction vehicles were present during the processing of the crime scene, the cranes to lift up the heavy slabs as well as construction workers and law enforcement rescue personnel.

MR. TIGAR: We offer them, your Honor.

MS. WILKINSON: Your Honor, I'd like to voir dire on

Patrick Daly - Cross
this exhibit.

THE COURT: You may.

MS. WILKINSON: Can you leave those up there,
Mr. Tigar, so he may --

MR. TIGAR: Sure.

MS. WILKINSON: Thank you.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Agent Daly, was it part of your responsibilities on Team 1 to actually examine the parking lot?

A. No. We didn't do any evidence collection within the parking lot.

Q. So you cannot say whether these photographs that begin with 161 -- if you could, can you say whether that photograph fairly and accurately depicts the damage that was done to that portion of the parking lot?

A. No. I can't.

THE COURT: I think it's 1661.

MS. WILKINSON: I'm sorry. 1661.

BY MS. WILKINSON:

Q. Do you see that vehicle right there in the front and center of that photograph?

A. Yes, I do.

Q. Do you know whether that vehicle was in that position in the parking lot at any time during the investigation?

Patrick Daly - Voir Dire

A. No, I don't.

Q. Okay. Let's turn to 16 -- I mean 1662, please. Do you see that box there on the left-hand corner?

A. Yes.

Q. And can you say whether that box was there during the crime scene when you were walking past the parking lot?

A. No, I cannot.

Q. Can you say that this photograph fairly and accurately depicts the parking lot as you saw it?

depicts the parking lot as you saw it:

A. In general, from a general -- just passing by, but not in particular.

Q. Can you say that this is an accurate depiction of the cars and the state of the damage of the vehicles at the time you saw them?

A. No, I can't.

Q. Now, turn to 1 -- 1663, please. I believe this has some buildings in the background; is that right?

A. That's correct.

Q. You recognize those?

A. Yes, I do.

Q. Now, in -- in front, there is some damage to vehicles. Do you see that?

A. Yes, I do.

Q. And there's a person looking at those vehicles?

A. Yes.

Patrick Daly - Voir Dire

Q. Can you say that those vehicles were in that position when you walked by the parking lot during the crime-scene investigation?

A. Those particular vehicles, I -- I can't say.

Q. And 1664. Do you have any idea when 1664 was taken, at what time during the investigation?

A. No, I -- I do not.

Q. And do you see those boxes there in front?

A. Yes.

Q. Do you know whether those boxes were there at the edge of the parking lot when you walked by it?

A. No. I cannot say that they were there.

Q. Now, 1665 is an aerial photograph, is it not?

A. Yes, it is.

Q. And do you know or can you say whether the parking lot was in this position or the cars were in these positions during the investigation?

A. No, I cannot.

Q. Are you aware that Agent Sachtleben was in charge of investigating the parking lot?

A. Yes.

Q. And do you know whether at certain times during the investigation, he moved vehicles from the parking lot?

A. Yes, I saw -- as I was passing by, I would see vehicles being moved out of the parking lot.

Patrick Daly - Voir Dire

Q. And do you know whether 1665 -- at what point in the investigation 1665 was taken showing some of the vehicles in the parking lot?

A. No, I do not.

Q. Would that also be true for 1666?

A. That's correct. I couldn't say what date this was taken.

Q. And what about 1667? Do you know whether any vehicles had

been moved from the parking lot when 1667 was taken?

A. I could not be sure.

MS. WILKINSON: Your Honor, we'll object to all of these exhibits.

THE COURT: Well, what's the purpose of the offer, Mr. Tigar? Maybe that --

MR. TIGAR: They are pictures, your Honor -- they are pictures of the parking lot furnished to us by the United States of America in the discovery process. I simply wanted to establish the devastation. Not in any particular time, but just what -- what is there.

THE COURT: So it's for purposes of the general appearance of it.

MR. TIGAR: Yes, your Honor, the general appearance.

THE COURT: Without the details that were referred to in voir dire.

MR. TIGAR: That's right, your Honor.

MS. WILKINSON: Your Honor, if I could just say one

Patrick Daly - Voir Dire

thing, Agent Sachtleben will be here this afternoon, and he is the man that investigated the parking lot. We just ask that they wait until he can --

MR. TIGAR: Your Honor --

MS. WILKINSON: -- address those photos.

MR. TIGAR: Your Honor, I'm not an immediate gratification person. If the agent will be here later in the afternoon, I'll be happy to have them come in at that time.

THE COURT: All right. We'll reserve then.

MS. WILKINSON: Thank you.

MR. TIGAR: Thank you.

CROSS-EXAMINATION CONTINUED

BY MR. TIGAR:

Q. Agent, you got there on the evening of the 19th; is that correct?

A. Yes, sir.

Q. And did you -- at that time, did you go directly to the site?

A. I went to a motel, checked in, dropped my luggage, went -- then went to the temporary command post, and from the temporary command post, went to the site.

Q. Now, you've described for us several locales here. One is that you just talked about the temporary command post. Where was that?

A. I don't recall the street offhand. It was about three

Patrick Daly - Cross

blocks from the site of the blast.

Q. Showing you, sir, what's been received -- or a copy of -- as Government's Exhibit 728, this is an aerial photograph of -- are you able to pick out any details from this aerial photograph of where that command post was?

Would it assist you if we put the big one up on the easel? I'm just trying to find out where things are.

A. I don't believe it's on this photograph. I thought it was further to the east.

Q. Now, this photograph shows, where my finger is pointing, the bombed-out Murrah Building; is that correct?

A. Yes.

Q. And then this is -- is this north? The upper part of the photograph is north?

A. That would be north, sir.

Q. All right. And so east is over this way; is that correct?

A. Yes, sir.

Q. All right. And your testimony is that the command post is located off here, off the east edge; correct?

A. Yes. I -- I believe it's off this because I know it was further than just the two blocks shown in this photograph.

Q. Now, that command post, was that the command post where the daily briefings were held?

A. That was the initial location for daily briefings. Then we moved the daily briefings in closer to the bombed-out YMCA.

Patrick Daly - Cross

Q. I see. Can you find on here where the other location was for the daily briefings. This would be the Murrah Building. Catty-corner across is the YMCA; correct?

A. That's correct.

Q. And directly across is that parking lot that we've been fussing about; right?

A. Yes, sir.

Q. All right. And where was the -- the command post?

A. Well, we did -- the command post, again, is still off of this photograph.

Q. I see. But just closer than the first one?

A. You asked me where we did daily briefings.

Q. Yes.

A. And we did daily briefings eventually in the YMCA, which was catty-corner to the --

Q. I see it.

A. -- Murrah Building.

Q. Now, that first evening, were you -- were you aware that people that you had been colleagues with on previous explosion scenes would be present?

A. Yes.

Q. You were aware that Mr. David Williams would be with you whose name you mentioned on direct examination?

A. That's correct.

Q. And you knew that Mr. Rick Hahn would be with you; is that

Patrick Daly - Cross

correct?

A. Yes.

Q. It's another name you mentioned on direct examination?

A. Right.

Q. And what -- did you have an understanding when you arrived as to who would be in charge of the crime scene?

A. At that time, I did not have an understanding upon my arrival because I was not in direct communication with them.

Q. I see. When is the first time in April that you met with Mr. Williams, Agent Williams?

A. The next morning, the 20th.

Q. And is that also true of your meeting with Mr. Hahn? The next morning?

A. Yes.

Q. All right. Did you meet with any supervisory FBI personnel when you went to the site on the evening of the 19th, the FBI supervisory personnel?

A. There were FBI supervisory personnel in the command post from the Oklahoma City division. I don't recall their names right now. There were also -- there was also an FBI supervisory personnel, Wallace Higgins, whom I had worked with in previous bombing crime scenes.

Q. Now -- and which bombing crime scenes had you worked with Mr. Higgins?

A. At the Trade Center bombing in New York in 1993.

Patrick Daly - Cross

Q. You were assigned to the Trade Center case; is that correct?

A. I was one of the search team leaders in the Trade Center case, yes.

Q. And you testified that you, as a part of that experience, helped to develop procedures for use in post-blast crime-scene investigation?

A. I would say refined procedures that I used personally in post-blast crime scenes.

Q. And did -- you said on direct examination, did you not, it was helpful to you to know that Mr. Williams and Mr. Hahn would be leading this effort; is that right?

A. I don't think I said that. I think it was helpful to myself to know that there were other experienced agents who had previously been at, say, the World Trade Center that were a part of this search effort.

Q. And was it -- was Agent Williams one of the people whose presence you regarded as helpful to you?

A. Eventually, when I knew he was there, yes.

Q. Uh-huh. And that was -- you knew he was there as of the next morning; correct?

A. That's correct.

Q. Now, you also mentioned that you had participated in the investigation of the bombing of the DAS building in Colombia; is that correct?

Patrick Daly - Cross

A. I observed the investigation. The investigation itself was done by the DAS personnel

done by the DAS personnel.

Q. I understand. And the DAS personnel, that's the Colombian governmental people; is that correct?

A. But equivalent to, say, the FBI.

Q. And in that observation role, did you work with Agent Hahn?

A. Agent Hahn was there and -- but he wasn't involved directly in that investigation, as well. That was done by the DAS personnel.

Q. In addition to the World Trade Center -- in the World Trade Center case, did you work with Agent Hahn?

A. Approximately 15 years ago, he and I worked on the Chicago FALN terrorist case.

Q. So that's -- you met Mr. Hartzler there?

A. That's correct.

Q. All right. Now -- now, could you answer my question. Did you work with Agent Hahn on the World Trade Center case?

A. Yes.

Q. All right. And did Mr. Williams work with you in the Colombia case?

A. No, he was not there.

Q. All right. And did you work on the Avianca case?

A. Yes, I participated in that.

Q. And did you work with Agent Hahn in the Avianca case?

A. Yes.

Patrick Daly - Cross

Q. And was your experience with Agent Hahn in the Avianca case one of the things that you thought -- that led you to believe it would be helpful that he be there in Oklahoma City?

A. I knew he was able to organize well a major crime-scene search.

Q. My question is, was your work together on the Avianca case one of the things that led you to believe it would be helpful that he would be there in the Oklahoma City case?

A. Yes. He's very organized; and again, I felt he was beneficial.

Q. Now, you've testified about the command post and about these briefings. In addition to that, those locations, there was an evidence warehouse, was there not, sir?

A. Yes, there was.

Q. And was that a large, open building that the FBI had obtained for purposes of storing the evidence?

A. I'm not sure exactly when the FBI in Oklahoma City obtained it, but it was used for our evidence.

Q. And did you meet Mr. Elliott there?

A. Yes, I did.

Q. All right. And did Mr. Jim Elliott appear to be in charge of that building?

A. I believe that he and -- and Jeff -- Special Agent Jeffery Hayes were in charge of that.

Q. Now, did that building have a number of rooms in which you

Patrick Daly - Cross

would keep the evidence?

A. I believe it had rooms. I turned the evidence in every day to Agent Hayes; and what happened inside the building, I was not involved in.

Q. How did you turn the evidence in? Did you go through a big, open door, or little door, or what?

A. Normally, Agent Hayes came on site to wherever we were, either on the street collecting the evidence or at the Murrah Building, and had a truck that we loaded what we collected into that truck.

Q. What kind of truck was that?

A. It was a Ryder rental truck.

Q. Did -- did you have any role in off-loading the evidence from the Ryder rental truck into that storage facility?

A. On a few occasions, yes, because of the size of the evidence.

Q. And did any of those occasions relate to the items that you've identified today?

A. I don't believe so, no.

Q. Did any of those occasions relate to items that were metallic items that you thought might have been part of the Ryder truck?

A. Yes.

Q. All right. And did you observe how evidence was stored in that facility?

Patrick Daly - Cross

A. When I off-loaded the few times, the -- the -- say, pieces of large frame from the truck, they were carried and dropped at the entrance to the building itself, so I was not involved in the subsequent storage of that evidence.

Q. You didn't see how the evidence was organized that was in the warehouse; is that fair to say?

A. I was not involved, yes, in organizing it.

Q. Now, you testified that you had an Evidence Recovery Team kit with you; is that correct, sir?

A. A kit in that -- it included tools, protective clothing and -- and packaging materials for the evidence.

Q. Now, on the 20th, when you -- on -- was the morning of the 20th -- was that the first briefing you attended?

A. The night of the 19th, myself and a few agents that were there at the time met and decided that we would meet on the morning of the 20th. The first major informal briefing was that morning.

Q. And that was held at the command post?

A. Yes.

Q. And who chaired that meeting?

A. I believe it was Agents Williams and Hahn and possibly

representatives -- and I can't recall this specifically -- of the local field office, Oklahoma City field office.

Q. And Agent Hahn had what role in the investigation, as you understood it? How did he identify himself?

Patrick Daly - Cross

A. I believe he and -- he was assisting with Agent Williams as far as the coordination of the crime scene, making sure that the teams were assigned specific areas, the search teams. Making sure that there were enough personnel on site to perform the crime-scene search.

Q. And what was Agent Williams' responsibility?

A. I believe the -- the similar coordination of the crime-scene search and also liaison with the local field office special agent in charge to provide updates as to how this search was progressing.

Q. What did you understand to be the difference in their roles, if any?

A. I think overall, I understood that Agent Williams was in charge; and Agent Hahn, as I said, was assisting him.

Q. Now, that first briefing took place what, about 7:30 in the morning?

A. It was early. I can't give you an exact time, but I think it was early.

Q. And there was a schedule established at that time, was there not, about when there were to be morning briefings and evening meetings; correct?

A. There was a -- a schedule. I don't think we gave times, but we put in a morning briefing and then an end-of-shift briefing where the search team leaders such as myself would -- would indicate -- meet together and indicate to the other

Patrick Daly - Cross

people coordinating the search what was found basically, what we needed, any plans that we had for the next day. And also, as the search progressed, we had more than one shift. We had 24-hour shifts so we would brief the team leaders from the next shift coming on where we left off, what was found, so that they would have an idea of how the search was progressing.

Q. Now, during the time that you were searching, beginning on the 20th -- that's when you began, isn't it, actually searching?

A. Yes, it was.

Q. Were you wearing your coveralls?

A. I was wearing -- at first -- I put coveralls on, but initially, I think I was wearing just pants and shirt and jacket.

Q. Okay. When did you first put the coveralls on that you brought?

A. I think as I got colder during the day.

Q. All right. And did you -- what did you wear the second day? Same coveralls?

A. I had several with me. I don't know if they were the same or not.

Q. And how about the boots? How many pairs of boots did you have?

A. I had two pairs of boots with me.

Q. And you wore those on and off during the different days?

Q. And you wore those on and off during the different days?

Patrick Daly - Cross

A. Primarily one pair.

Q. Uh-huh. And what steps did you take to clean those boots at the end of each workday?

A. Well, since the -- the crime scene, as I described, was spread out for a mile and a half in one direction --

Q. What steps did you take to clean the boots at the end of each workday?

A. Well, normally, if I was fearful that I had had any exposure to blood or human remains, I would use the bleach and the water solution that the firemen had at the decontamination stations; and also, I would use a hose just to -- to clean my boots so that I wouldn't track, you know, the debris, mud, and dirt from the scene into vehicles or -- or back to the hotel.

Q. Washed them off with a hose from time to time, and sometimes you sprayed them with chlorine; correct?

A. That's correct.

Q. Do you remember any particular occasions on which you did those things?

A. When I was working inside the federal building, itself, where there were multiple casualties, I would, at the end of the day, go up to the firemen decontamination stations.

Q. What day did you first do searches in the federal building, sir?

A. I believe Monday, the 24th.

Q. All right. And so that would have been the first day on

Patrick Daly - Cross

which you used any chlorine solution; is that correct?

A. I may have used it just to wash my boots from the firemen's decontamination station previous to that.

Q. Now, in addition to deciding -- having these search teams, there was a perimeter set up, wasn't there?

A. Yes, there was.

Q. All right. And that's very important at bombing scenes -- correct -- to have a perimeter?

A. At any crime scene, it is.

Q. Bombing scenes, it's important, also; correct?

A. Correct.

Q. All right. Now, you testified that there were grids; right?

A. Yes, sir.

Q. And is it the case that there was a centerline established or a center point established about where the actual seat of the explosion was?

A. The -- the actual seat of the explosion was fairly evident as to being the crater.

Q. Yes, sir. My question is was that the center point from which you established the grid system?

A. I don't believe it was. I believe it was the intersection of Harvey and N.W. 5th.

Q. All right. Placing up here what's been received as Government 940, a map, there's N.W. 5th. I know it's hard to

Patrick Daly - Cross

see. And there's Harvey. So that would be the intersection that is down towards the Regency Tower from the Murrah Building and where the Water Resources Board is right on the corner; is that correct?

A. That's correct.

Q. All right. And that -- that was your center point; right?

A. Yes.

Q. And from that, you drew two intersecting perpendicular lines; right? Or not?

A. Yes.

Q. And those four areas that were described by those lines were the four grid areas; is that right?

A. I believe there was also -- going towards the east, we divided up two -- two more grid areas, as well.

Q. So you had -- now, one of those additional grid areas was the Murrah Building itself; correct?

A. That's correct.

Q. And what was the other grid area?

A. I can't say for sure what the other one was.

Q. Was it the parking lot?

A. I -- it may have been. I can't say for sure.

Q. You don't remember now?

A. I don't recall.

Q. Now, you testified that --

MR. TIGAR: May I have just a moment, your Honor?

Patrick Daly - Cross

THE COURT: Yes.

BY MR. TIGAR:

Q. Now, who made the assignment that you were to search the grid area that was assigned to you?

A. I believe it was Agent Williams and Agent Hahn.

Q. And they assigned you to Grid Area 1; is that right?

A. Yes.

Q. All right. And that was the northwest quadrant; correct?

A. That's correct.

Q. And it's -- for that reason that you were the person who was recovering items that were -- put 940 back on -- the northwest quadrant would be towards the Regency Tower up towards this corner of this map; correct?

A. Correct.

Q. All right. Now, the Journal Record Building is not part of Grid 1, is it?

A. That's correct.

Q. All right. And what was it that brought you from Grid 1 to the Journal Record area?

A. Well, my team had completed Grid 1 by the end of the 22d, beginning of the 23d. And we were tasked with -- with

assisting in recovery of evidence in other locations that hadn't been searched yet.

Q. Now, as you walked back and forth, doing your searches -- all right -- where was the police line limit beyond which no

Patrick Daly - Cross

civilian personnel were permitted to go?

A. That varied as the -- as the crime scene progressed. As the exterior areas were searched, then the interior perimeter was brought closer in towards the Murrah Building.

Q. Did you ever search the crater?

A. I did not.

Q. Did you -- did -- do you know if anybody searched the crater?

A. I know that the debris from the crater was shipped to that off-site I previously described where it was sifted through screening.

Q. When -- did there come a time when the crater was filled in?

A. Yes.

Q. When was that?

A. That was towards the latter stages of the investigation, the search. I can't recall the specific date.

Q. You don't remember the date?

A. I don't recall the specific date.

Q. Now, in these -- were you having -- were you on the day shift?

A. Day shift, and sometimes our day shift took into evening; and occasionally, I worked nights, as well.

Q. Did -- did you show up at these morning briefings every morning at 7:30?

Patrick Daly - Cross

A. I showed up to every morning briefing. I don't recall if they were always exactly at 7:30.

Q. But approximately 7:30?

A. Early morning.

Q. You were at every briefing; right?

A. Yes.

Q. And those were conducted by Special Agents Hahn and Williams; correct?

A. Hahn and Williams; or Hahn, or Williams. Or if they weren't available, some other representative from the command post.

Q. And did you show up at the evening meetings every evening?

A. Yes, unless I was occupied with something else. Then I sent a member of my team to represent me.

Q. And sometimes those evening meetings were held at what, about -- excuse me. These evening meetings were generally held about 5, 5:30; is that correct, sir?

A. Generally, I'd say around 5, 5:30, 6.

Q. In that -- in that neighborhood?

A. In that area.

Q. Now, in addition to your reporting at these meetings on what it was you were finding, these meetings were also opportunities for Agents Hahn and Williams to tell you what you should be looking for; correct?

A. Certainly.

Patrick Daly - Cross

Q. And they told you to look for Ryder truck parts, did they not?

A. Yes, I believe so.

Q. They told you to look for bomb components; correct?

A. Well, that's implicit in the post-blast crime scene. You look for bomb components.

Q. I understand it's implicit, sir. I'm asking you whether they asked you to look for bomb components.

A. I don't specifically recall them asking me to look for bomb components. I think they assumed I would look for bomb components.

Q. Did -- did there come a time when Agent Williams expressed a view as to what this device was made of --

MS. WILKINSON: Objection, your Honor.

THE COURT: Overruled.

BY MR. TIGAR:

Q. -- at one of these meetings?

A. I can't specifically recall if Agent Williams did that.

Q. Did there come a time when anybody who was directing these meetings -- Agent Williams, or Hahn, or anybody -- expressed an opinion as to what this device was made of?

MS. WILKINSON: Objection, your Honor, just to opinion.

THE COURT: Overruled.

THE WITNESS: I can't recall anyone making a specific

Patrick Daly - Cross

opinion statement.

BY MR. TIGAR:

Q. Well, whether it was specific or general, sir, did somebody express a view as to what this device was made of?

A. Not to my knowledge, because as far as I know, we were in the midst of collecting the evidence at the time.

Q. So is it your statement, sir, that at none of the meetings that you attended from the 20th of April through the 2d of May, that neither Special Agent Williams nor Special Agent Hahn expressed any opinion whatever as to what this bomb was made of? Is that your testimony?

A. I don't recall if Agent Williams or Hahn made any specific statements.

Q. I didn't ask you specifics, sir.

A. Well, or statements as far as what the construction of the device was. I don't recall that. I recall as far as possible explosive, ammonium nitrate explosive; but I don't recall if Agent Hahn or Williams made that statement.

Agent Hahn or Williams made that statement.

Q. Okay. Now, do you remember that somebody in a meeting talked about the possibility that this was an ammonium nitrate device? Is that your testimony?

A. Possible ammonium nitrate device, yes.

Q. All right. And as you sit there today, do you remember who it was that expressed such an opinion?

A. No.

Patrick Daly - Cross

Q. You're sure it wasn't Agent Williams?

A. I -- I'm not sure if it was Agent Williams.

Q. Do you remember discussing the velocity of -- the potential velocity of detonation of whatever device it had been?

A. No.

Q. When you recovered the door latch that you have identified --

MR. TIGAR: Excuse me, your Honor.

BY MR. TIGAR:

Q. -- 654 --

A. It's right over here.

Q. You have it here. Oh, good. May I -- I'm sorry. Hold that up.

You told the jury that you noticed pitting and cratering; correct?

A. Correct.

Q. Now, did you notice pitting and cratering at the time you recovered it?

A. Yes.

Q. Did you report the pitting and cratering to Agents Hahn and Williams at your meeting?

A. I don't recall it -- my reporting that, but I may have. I don't recall.

Q. Now, you worked with Agent Hahn in the Avianca case, didn't you, sir?

Patrick Daly - Cross

A. Yes.

Q. And you know that the presence or absence of pitting and cratering in bomb-scene res -- or bomb-scene evidence is important; isn't that right?

A. It's important, yes.

Q. And you knew from your experience in the Avianca case that the existence or nonexistence of pitting and cratering in bomb-scene recovered items can be controversial?

A. I'm not sure I understand that question.

Q. You knew from your experience in that case that different people can have different opinions about the meaning of pitting and cratering; isn't that right?

A. My participation in that case was collection of -- of items of evidence, and that was limited.

Q. My question is simply, sir, did you become aware as a result of your experience in the Avianca case that the

existence or nonexistence of pitting and cratering is a matter of -- of controversy?

A. I'm -- I wasn't aware of that.

Q. Okay. And when you noticed that there was pitting and cratering on that device, did that have any meaning to you as an experienced bomb-scene crime technician?

A. Yes.

Q. And it had meaning to you, sir, because pitting and cratering on the witness material -- is that what we call that?

Patrick Daly - Cross

"Witness material," sir?

A. I would call it a door-lock assembly.

Q. I understand you call it a door-lock assembly. In -- the bomb-scene crime expert that you are, would you call that "witness material"?

A. I've never used that term.

Q. All right. Is it material that helps us to see what the device might have consisted of?

A. This material helps me to -- indicates to me that this was in very close proximity to an explosive blast.

Q. And in your experience as a crime-scene bomb expert, does the presence of pitting and cratering as distinct from some other kind of marking tell you something about the velocity of detonation of the explosive device?

A. It -- it can, yes. It can indicate that.

Q. And in fact, sir, pitting and cratering is consistent with a velocity of detonation in a range over 16,000 feet per second; correct?

MS. WILKINSON: Objection, your Honor.

THE COURT: What's the objection?

MS. WILKINSON: I think it's beyond his area of expertise.

THE COURT: Well, you put in all of his background. The objection is overruled.

THE WITNESS: I would not know the exact velocity of

Patrick Daly - Cross

detonation.

BY MR. TIGAR:

Q. Well, you worked crime scenes where you recovered metallic items that contained pitting and cratering; correct?

A. Correct.

Q. You worked the Avianca case; right?

A. Yes.

Q. And in the Avianca case, you had metal items that had pitting and cratering; correct?

A. Correct.

Q. And in that case, were you a party to making any conclusions as to the velocity of detonation of the device?

A. No.

Q. Did you have discussions with other agents at that time in

which you learned about how to interpret the pitting and cratering in an attempt to determine the velocity of detonation of the device?

A. No. Not to determine velocity of detonation, no.

Q. All right. And did you have discussions at that time with other agents about how you might use pitting and cratering to determine of what the device was composed, what it was made of?

A. Yes. Other than possible residue or unexploded explosive in -- in those pitting -- or in those craters, I wouldn't know how else to determine the explosive used.

Q. Are you telling us, sir, that -- that in your experience,

Patrick Daly - Cross

you don't know how pitting and cratering correlates to what an explosive device is made of? Is that your testimony?

A. No. You -- I answered as far as the velocity of detonation. I couldn't tell you exactly what velocity of detonation of an explosive would produce --

Q. I understand.

A. -- an effect as this.

Q. You said "exactly"; correct, sir?

Does pitting and cratering help to establish a range of velocity of detonation?

A. I believe it could.

Q. Well, would -- and does that belief -- is that based on your training as a bomb-scene crime -- bomb crime-scene analyst?

A. It's based on my observations that most -- both post-blast scenes and also bombing crime-scene schools.

MR. TIGAR: Excuse me, your Honor.

THE COURT: Please just answer the question.

MR. TIGAR: I knocked off the cup of water that was left on the tray here. I don't want to set off an alarm.

THE COURT: Or short-circuit the equipment.

MR. TIGAR: Yes, your Honor.

THE COURT: Go ahead.

MR. TIGAR: Thank you. I didn't hear that, but I'll tell you, that's --

Patrick Daly - Cross

Now I know why Ms. Wilkinson puts those cups of water there, your Honor.

Now, I apologize.

THE COURT: Want to repeat the question?

MR. TIGAR: Yes, your Honor.

BY MR. TIGAR:

Q. In your training, do you know whether or not pitting and cratering on a material close to an explosive correlates to velocity of detonation?

A. Yes, it does, in that -- it would be indicative of it being a high explosive as opposed to a low explosive; low explosive being, say, a powder mixture, gunpowder or something similar.

Q. Okay. And what range of velocity of detonation is

Q. Okay. And what range of velocity of detonation is consistent with pitting and cratering of the witness material?

A. In general, a high explosive is greater than, say, 3500 feet per second. As far as a specific range, I'm not aware of any testing to make it any specific, say, 5,000 feet per second, 20,000 feet per second.

Q. Is it your testimony that an explosive with a velocity of detonation of 3500 feet per second can cause pitting and cratering like that?

A. In general, a definition of a high explosive is any explosive greater than 3500 feet per second. Pitting and cratering is indicative of a high explosive. I'm not aware if, say, an explosive that has a velocity of detonation of 4,000

Patrick Daly - Cross

feet per second could produce pitting and cratering. I'm not aware of --

Q. Were you a testifying agent in the Avianca case?

A. No.

Q. All right. Do you -- did you study the work in the Avianca case on the relationship between the pitting and cratering that was observed and the alleged velocity of detonation of the device?

A. No.

Q. Now, you said that there was some discussion or someone mentioned -- you don't remember who -- that this might be -- might have been an ammonium nitrate device; right?

A. That's correct.

Q. Now, from your observation as an expert on the scene, did you find that the device was of a heaving, bursting, thrusting character?

A. It certainly was heaving and bursting, because it heaved the floors in the Murrah Building and collapsed the floors of the Murrah Building. It also was heaving in that it thrust pieces of metal, as you see displayed before you, two and a half blocks, 100 yards, 300 yards, up into an eighth floor of an apartment building over a block away.

Q. Agent, is the word "heaving-type explosive" a word of art for people who are like you, experienced crime scene bomb analysts?

Patrick Daly - Cross

A. I'm not exactly sure what you determine as a word of art.

Q. Is the word -- have you ever heard before coming to court today the words "heaving-type explosive"?

A. Yes.

Q. And where is the first time that you heard the words "heaving-type explosive"?

A. I would think -- or I believe back in my initial training at Redstone Arsenal in 1985.

Q. And heaving -- what would you -- would you tell us -- and is it your opinion based on your observation that what you were seeing there -- let me back up.

There was a lot of devastation, wasn't there, sir?

A. Yes, there was.

Q. All right. Now, let's talk about -- was the devastation that you saw consistent with what you understood to be a heaving-type explosive?

A. Yes, it was.

Q. All right. And in your discussions that you had at these --

MR. TIGAR: Your Honor, I think we -- I think -- I think I've done it, Judge. It's all right. I don't -- I don't really need this podium. But I'll just --

THE COURTROOM DEPUTY: It's the water.

MR. TIGAR: Yes. Thank you.

BY MR. TIGAR:

Patrick Daly - Cross

Q. Agent, as you can tell, I don't know anything about this, so I have to rely on you.

Will you tell the jury, please, what is a heaving-type explosive? What are examples of it? Ammonium nitrate and fuel oil; correct?

A. From what I would understand, it's a lower-velocity explosive. Primarily, if I put it in terms that we can understand, if I own a quarry and I'm going to blast rock out of the quarry, I'm not going to use a high-velocity explosive, military explosive, for example, because I want to control the size of the rocks. I don't want powder.

Q. Right.

A. So I'm going to use a lesser velocity explosive, which would be a heaving or pushing explosive. That way, if I use, say, ammonium nitrate in the quarry or some other type of commercial explosive, even commercial dynamite that is a lesser velocity of detonation, I'll have management -- manageable material. But if I'm a military person and I'm using military explosives, I want to destroy. So if I put a charge against a tank or an armored personnel carrier, I want to make sure that that vehicle is destroyed. So I'm going to use a high-velocity-of-detonation explosive, which will produce smaller pieces and greater devastation.

Q. Now, just -- so the ammonium nitrate and fuel oil are heaving type explosives; correct?

Patrick Daly - Cross

A. They are lesser velocity.

Q. Yes. Lesser velocity. And how about a urea nitrate explosive?

A. I don't know the exact velocity of detonation, but it would be similar --

Q. Yes.

A. -- I would say, to ammonium nitrate.

Q. In fact, urea nitrate was what -- was thought to be

involved in the World Trade Center case; is that right?

A. I believe so, yes.

Q. And you knew that because -- did you know that by discussing it with Agent Williams?

A. I know it was discussed. I don't know if I personally discussed it with Agent Williams or heard it from some other agent on the scene.

Q. All right. So that was something that was talked about as part of your experience in the World Trade Center bombing scene; is that correct, sir?

A. That's correct.

Q. And are you aware of what conclusion Agent Williams eventually reached about whether or not that device was a urea nitrate device in the World Trade Center?

MS. WILKINSON: Objection.

THE COURT: Sustained.

BY MR. TIGAR:

Patrick Daly - Cross

Q. Now, sir, in addition to ammonium nitrate and fuel oil and urea nitrate, there are other examples of these heaving-type explosives; correct, sir?

A. Correct.

Q. There are water gel explosives?

A. Yes.

Q. There are ammonium based dynamites?

A. Yes.

Q. And a variety of others; correct?

A. That's correct.

Q. Now, during the time that you were in Oklahoma City from the -- the 20th of April through the 2nd of May, did you have a

discussion with Special Agent Hahn about what this device might have been made of?

A. I don't recall if I did or did not.

Q. May I just ask you again: Do you recall having a discussion with Agent Williams about it?

A. You know, specifically with whom I had a discussion, I can't say if it was Hahn, Williams, or some other agent.

Q. All right. Did you have a working hypothesis as to what the device was made of for purposes of your search?

A. Yes.

Q. Do you remember talking about what the device might have been made of with officials of the ATF?

A. Yes.

Patrick Daly - Cross

Q. Did you ever see a mockup made by ATF agents and exhibited in the vicinity of the Murrah Building?

A. I saw what they said was a mockup of it, yes.

Q. All right. And did -- and was that in a truck?

A. It was in a Ryder truck, I believe.

Q. Did you look in the truck?

Q. DID YOU LOOK IN THE TRUCK?

A. I went to the truck and then I decided that more or less, I knew what a Ryder truck looked like, and so I didn't go into the truck.

Q. Did you look into the truck, sir?

A. I didn't stop and look at the truck.

Q. Did you see any barrels inside the truck?

A. I don't recall seeing any barrels.

Q. Did you have a discussion with the ATF agents at the scene as to why they had brought the truck?

A. I don't think I -- any ATF agents at the scene -- I think an ATF agent or two on my team.

Q. Oh, you talked -- you talked to them about it?

A. I believe I -- they -- either they or someone else on my team told me there was a mockup of the device.

Q. And did you discuss this mockup at any of these briefing sessions that you had in the morning or the afternoon?

A. I don't recall if the mockup was discussed, no.

Q. Did you discuss whether or not it was a good idea to bring such a thing to a crime scene at any of the briefing sessions?

Patrick Daly - Cross

A. Well, from what I can recall, it wasn't within the search perimeter that we were conducting, so it was outside the crime scene.

Q. Did you have any discussions as to whether or not it was a good idea to have brought the thing to the vicinity?

A. Well, I think it was for those who weren't familiar with a Ryder truck. It might have been a good idea for them to see the different parts as we were recovering parts.

Q. What -- Is it your understanding that the ATF's purpose in bringing it was just to show people what a Ryder truck looked like?

A. I'm not sure what their purpose was.

Q. Okay. Now, is it planned, sir, that you're going to return here to talk about having found other items beyond what you've testified to today?

A. Yes.

Q. All right. And those would be plastic items?

A. Yes.

Q. All right. Well, then I won't ask those because they are not within the scope.

Now, you testified that you were there for all these days from the 20th to the 2nd; is that right, sir?

A. Even beyond the 2nd, I believe.

Q. Okay. And were -- did you participate during that time in sifting the debris?

Patrick Daly - Cross

A. No. That was done at a -- offsite.

Q. Did you supervise in collecting material that was to be sifted, the debris?

A. No.

--- ---

Q. Now, did you ever conduct any searches in that parking lot area?

A. The parking lot across from the Murrah Building?

Q. Yes, sir.

A. No.

Q. You searched right around the corner from it; correct, sir?

A. Around the corner and to the buildings in the rear of the YMCA and going down east on 6th Street.

Q. Now, you testified, sir, that you recovered 654, the door latch that you have on the table there, and you took a picture of it in place; is that correct?

A. Embedded into the wall.

Q. Yes, sir. And you took a picture of it in place with the ruler next to it; correct?

A. Right.

Q. And you took a picture of it removed and then on the floor directly in front; correct?

A. In the same room.

Q. In the same room; correct?

A. Right.

Q. And that is of course -- excuse me. That is correct crime

Patrick Daly - Cross

scene procedure, is it not, sir?

A. It's -- it's correct procedure, sure.

Q. It is a way to -- to verify exactly where that was found; correct?

A. It's a way to verify where it's found, yes.

Q. And you instructed your agents to photograph items before they were picked up; is that right?

A. I instructed them to photograph them and to log them in; and naturally, it would be best to photograph them before they are picked up where they are located.

Q. Were you given instructions about that at these meetings?

A. I don't recall any instructions as to photography.

Q. Was -- was that your instruction to your people as to what you would -- as to how that procedure was to take place?

A. That's correct.

Q. Now, in your training as an evidence recovery technician, do you get instruction as to the order in which you are to recover items of evidence; that is to say, the order of things you're supposed to do when you're recovering an item of evidence?

A. Yes.

Q. And is -- of course, the first thing you have to do is see it; right?

A. Exactly.

Q. And then the second thing you have to do is to recognize it

Patrick Daly - Cross

is something you're interested in; correct?

A. That's correct.

Q. And if you decided you're going to photograph it, is that the next thing you do?

A. That; or if you're going to measure it, exactly, you might measure it first.

Q. All right.

A. Either way.

Q. So the measuring and the photographing are next; right?

A. Correct.

Q. Now, do you also have a procedure that says that you should mark on a sketch map or plan where you found something?

A. If you're doing sketches, you would either mark it exactly or approximately on the sketch where you found it.

Q. Okay. And in your kit that you had on this day, were your team members handed forms that were generated by the FBI on which they could mark the precise location in which items of evidence were found?

A. We had sketch forms where they -- if they were sketching the location where the item was found, they can mark the location. I did not require them to measure so that they would have it precisely. They could do it approximately.

Q. Okay. So -- but in your team, when you were directing it, you asked that a record be kept before the item was moved so that there would be some contemporaneous notation of

Patrick Daly - Cross

approximately where it was found; is that correct?

A. Either we kept it as part of the regular evidence collection log, or in some areas in some occasions we either photographed the item or sketched the location of the item; so in addition to the evidence collection log, we would also note on the sketch or on the photo log where it was found.

Q. And in addition to that, you would have the photographer keep a record of what frame number was being used to photograph items that were being photographed; is that right?

A. Yes. Either the photographer, or I believe I assigned another agent to actually do the photographic log sometimes. That person would copy down the frame number to correspond with the item.

Q. Now, in addition to the briefings that you had from Agents Hahn and Williams, did you ever have a briefing from a man named Hank Gibbons?

A. I may have. I don't know who Mr. Gibbons is.

Q. You don't recall ever having met him?

A. No.

Q. Did you ever have a briefing from -- by an agent named Thurman?

A. I know Agent Thurman. I don't recall any briefings from him.

Q. Okay. The -- can you recall any briefings from any special agents at these sessions that you've told us about, the morning

Patrick Daly - Cross

and evening, other than Special Agent Williams and Special Agent Hahn?

A. I know there may have been other agents involved; but if they were from Oklahoma City, I really didn't know them.

Q. And do you recall any discussion of a possible makeup of this explosive device other than ammonium nitrate?

A. I also recall possibly looking -- or being aware of the possibility of the ammonium nitrate might have been in plastic barrels.

Q. Now, that -- you're going to talk about plastic later; is that correct, sir?

A. That's correct.

Q. All right. So I'm not going to ask you any questions about any plastic or containers now. I'll wait. I'm asking you not about containers. I'm asking you about what a device was made of. Did anybody ever express a view in any of these meetings other than about ammonium nitrate and fuel oil?

A. No. There was a view that the bomb was contained in a Ryder truck.

Q. I understand about containers, sir. I'm not -- the Ryder truck. All right. Then an opinion was expressed it was a Ryder truck?

A. Yes.

Q. Now I'm asking you about what -- the chemical composition of it. Did anybody express any opinion about it being anything

Patrick Daly - Cross

other than ammonium nitrate fuel oil, ANFO?

A. I recall ammonium nitrate and fuel oil. I don't recall.

Q. You don't recall any other thing being said?

A. I don't recall any other explosive being determined.

Q. Being what?

A. Being determined or said.

Q. Being determined or said.

MR. TIGAR: I have nothing further at this time, your Honor, on the understanding that the witness is going to be returning later.

THE COURT: That was. Maybe we'll take just a moment to try to wipe up this --

MR. TIGAR: I apologize, your Honor.

THE COURT: And see if the --

MS. WILKINSON: Maybe I could just ask my two questions --

MR. TIGAR: I promise the Court not to touch it.

THE COURT: Let's just hold on for a minute.

MS. WILKINSON: Can I just stand here and ask my questions, your Honor?

THE COURT: Well, I'd like to wait. The jury can stand and stretch for a moment while we see if we can make a field expedient repair here.

It just goes in one direction.

MS. WILKINSON: It only goes down, your Honor.

THE COURTROOM DEPUTY: Let it dry.

MS. WILKINSON: All right.

THE COURT: All right. Please proceed.

THE COURT: All right. Please proceed.

MS. WILKINSON: Thank you.

REDIRECT EXAMINATION

BY MS. WILKINSON:

Q. Can you tell us, Mr. Daily, approximately how much debris was collected from the crime scene during the investigation.

A. I'd say about 7,000 or more pounds.

Q. Now, was there a photograph taken of every piece of debris that was collected before it was turned in to Evidence Control?

A. No.

Q. And on your team, did you take a picture of every piece of evidence that was taken into your custody?

A. No. I instructed them only pieces that I thought were significant or that they thought were significant, that we would photograph.

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

THE COURT: Does that lead to any recross?

MR. TIGAR: Yes, your Honor.

RE-CROSS-EXAMINATION

BY MR. TIGAR:

Q. In this recovery process, sir, were -- right from the start, were you putting FBI labels on these things?

Patrick Daly - Recross

A. We didn't -- or my team from the start, we didn't have FBI labels. We would write on the packaging material; or we had, I think, at the beginning some twist-tie cardboard, plain cardboard labels that we could write an item number and a date and a location and the initials of the person, myself or some of the other team members who seized the item.

Q. Now, was there some controversy between the ATF and FBI about the labeling?

A. No.

Q. None that you observed?

A. None that I ever observed.

Q. All right. The labeling, was that then procedure that was established that first morning by Agents Hahn and Williams and that's what you followed?

A. And I'm not sure if they were the only ones establishing the procedures, but that first procedure was what we followed.

MR. TIGAR: Thank you, very much, sir.

MS. WILKINSON: He's dismissed for now, but will be re-called.

THE COURT: Yes. He's going to be called back. You may step down.

And we'll call for the next witness.

THE WITNESS: Thank you.

MR. MACKEY: That will be Mr. Bruce Lind.

THE COURT: All right.

(Bruce Lind 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: Bruce Alfred Lind. L-I-N-D.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Tigar, is there a problem?

MR. TIGAR: Now, your Honor, I just wanted to retrieve the exhibits that were given. I wasn't objecting. I wanted to make sure the table was clear.

THE COURT: Mr. Mackey.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Mr. Lind, good afternoon. I'm over here. It's a big courtroom with a lot of people in it.

I'm going to have some questions, and then perhaps defense counsel will; but let me start by asking you: Are you representing the Federal Highway Administration here in your appearance this afternoon?

A. Yes, I am.

Q. Let's tell the jury a little bit about yourself, please. How old are you?

A. I'm 56.

Q. And where do you live currently?

A. I currently live in Lincoln, Nebraska.

Bruce Lind - Direct

Q. And how long have you been in Nebraska?

A. About five months.

Q. Are you married?

A. Yes, I am.

Q. And how long?

A. 32 years.

Q. Have children?

A. Yes. Three.

Q. Tell us your educational background.

A. I received a bachelor of science degree from Carroll College in Waukesha, Wisconsin, and a bachelor of civil engineering from Marquette University College of Engineering.

Q. Are those joint degrees?

A. Yes.

Q. And in what year were they awarded?

A. 1964.

Q. And shortly after graduating from college, Mr. Lind, did you go to work for the United States?

A. Yes, I did. I went to work for the then Bureau of Public Roads.

Q. And has that agency since changed names?

A. Yes. To the Federal Highway Administration.

Q. Have you worked for anybody else in your employment career?

A. Not since I graduated from college.

Q. How many total years then have you worked for what is now

Bruce Lind - Direct

known as the Federal Highway Administration?

A. The Federal Highway Administration itself for 30 years.

Q. Could you give the jury, Mr. Lind, an overview of the

mission or the services provided by that agency.

A. Okay. The Federal Highway Administration is responsible for administering, as the name implies, the federal aid to highway program. Taxes are collected on gasoline, diesel fuel, and so on. And those funds are reallocated to the states for the purposes of design and construction of highways and the reconstruction of highways. As an example, the interstate system is probably the best known.

Federal Highways, the office that I'm responsible for, is the federal aid division. And we're responsible for the general oversight of the use of those funds, assuring that regulations, laws are complied with; that the projects meet design standards, and so on.

MR. MACKEY: It's drying out, Judge.

THE COURT: Yeah. Mr. Lind, we'll let you in on the inside here. We spilled some water at the lectern there and it's an -- it operates electrically and apparently shorted out for a time. Maybe we need your expertise.

THE WITNESS: I'm not an electrical engineer.

THE COURT: Oh, all right.

MR. MACKEY: He should step down from the stand, Judge.

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THE COURT: Well anyway, if you hear a strange noise, that's what is happening.

THE WITNESS: Okay.

BY MR. MACKEY:

Q. Thanks, Mr. Lind. Over the years, have you worked your way through various positions with the Federal Highway Administration?

A. Yes, I have. I started out in -- in 1964 in the three-year highway engineer training program, was in states including Oregon, Oklahoma, Washington, D.C., Virginia, Utah, and South Dakota.

Upon graduation, we went to Alaska. Spent about six or seven years there. Moved to Louisiana. Spent about seven years there. Went to New Mexico. Four years there. Went back to Washington, D.C., and spent three years there, and then transferred to Oklahoma; and I was three -- eight years there, until this April, when I moved to Lincoln, Nebraska.

Q. And are you the administrator or the top person for the state of Nebraska?

A. Yes. I'm the division administrator now in the Nebraska Division. I was the assistant division administrator in the Oklahoma Division.

Q. Mr. Lind, were you then in that position as No. 2 in Oklahoma in April of 1995?

A. Yes. I was. In addition to that, I was also serving as

Bruce Lind - Direct

the acting division administrator because our previous administrator had been transferred and the new administrator

administrator had been transferred and the new administrator had not moved into the office yet.

Q. So in April of '95, were you carrying out the responsibilities of both the first and second in charge?

A. Yes.

Q. And generally speaking, what was the nature of those dual duties for you in April of '95?

A. I carried, as assistant division administrator, two titles: the assistant and also engineering coordinator. And those duties consisted of being the chief engineer for the office and also a chief of staff. And I supervised all but myself and my immediate supervisor in the office.

Q. And in April of '95, where was the Federal Highway Administration officed? Where was it located?

A. We were located in Oklahoma City. We were in Room 454 of the Alfred P. Murrah Federal Building.

Q. And at that time, what was the size of your staff?

A. I believe we had 25 folks total.

Q. Let me turn your attention, if I can now, Mr. Lind, to the day of April 19, 1995, and that morning.

A. Okay.

Q. Would you tell the members of the jury approximately what time of day you arrived?

A. I arrived shortly before 7:00 in the morning.

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Q. Would you describe to the members of the jury what you did in the course of the next two hours.

A. After getting some coffee, I went into my office and turned on my computer, checked my calendar on the computer, looked over some paperwork left over from the day before; and then some guests came in and we chatted, waiting for a 9:00 meeting.

Q. Were you hosting a meeting, a business meeting that morning?

A. Yes. We were hosting a -- what's called a "forest highway meeting." It's an annual meeting that's held at the division office.

Q. And how many different visitors showed up that morning to participate in that meeting?

A. There were two gentlemen from the Forest Service, a lady from our eastern office of direct construction, and a gentleman from the Oklahoma Department of Transportation.

Q. In the course of that morning, Mr. Lind, and prior to the start of your meeting, did you have an opportunity to see, observe, or engage in any conversation with any other fellow employees of yours?

A. Yes. Let's see. My secretary, Kathy Quinn -- I know I saw her. I believe I ran into Jim Carver, our right-of-way officer; Johnny Wade, our planning and research engineer; Larry Jones, our computer specialist, and I believe Michelle Reeder. I think I saw her in the course of the morning.

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Q. What time again was the meeting to begin?
A. 9:00.
Q. And did you, in fact, begin that meeting?
A. Yes.
Q. Where?
A. In my office.
Q. Could you describe for the members of the jury where your office was located.
A. It's in roughly the southeastern corner of the building. I was just one office to the west of the most-corner office.
Q. So if I were in your office looking out the windows, would I see the Federal Courthouse south of the plaza?
A. Yes, you would.
Q. And do you recall approximately what time the meeting, in fact, started?
A. It was very close to 9:00, because I can remember remarking, "Well, it's 9:00, it's ready -- time we get started."
Q. And other than the visitors that you've referenced, were there any other fellow employees from the Federal Highway Administration in that meeting?
A. Yes. Gary Rimrodt, our financial manager, was also in the meeting.
Q. And shortly after 9:00, Mr. Lind, what happened?
A. Well, we had just started. Peggy De Weese, the lady from

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Eastern Direct Federal, was going over with us the minutes of our previous meeting. And then there was an explosion.
Q. And I'd like for you now, Mr. Lind, to describe to the jury what you experienced.
A. My first recollection or recollections where I was -- I found myself on the floor. I was lying on my right side. And at the same time, I heard a metallic -- very loud metallic bang. And I discovered my feet were pinned under my -- my desk. I had a Systems Furniture desk, and it fell off the pedestal and landed on my feet. There was a lot of commotion. A couple of the people in my office, you know: What -- what's happening? What's going on? Is everybody okay? And then they started dusting themselves off; and I said that I was okay, but my feet were trapped.
Q. Mr. Lind, were the -- excuse me. Were you trapped in such a fashion that you could free yourself?
A. Not readily, no. A couple of the -- the men in the office with me made an attempt to lift the -- the desk off my feet but were unsuccessful. And then the building started to come down. So they got under and with everybody else except me -- under a small conference table that I had in my office.
Q. This was a number of people that you've described all in your office --
A. Yes.
Q. -- shortly after the blast?

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A. Uh-huh.

Q. And you're laying on the floor, trapped underneath, or at least your feet trapped underneath your desk?

A. Yes.

Q. What was it that everyone heard that led them to seek cover under the conference table?

A. Well, you could hear a collapsing, the building was vibrating and -- and the floors were beginning to collapse.

Q. As an engineer, were you particularly attuned to what you were hearing?

A. I understood what was happening.

Q. What did you understand?

A. Well, the -- the building was -- was falling down. And it was starting, it appeared to be, from the bottom. And it would -- it seemed like a floor would fall and then it would maybe hesitate a few seconds and then another one and another one as it -- it worked its way up. Sometimes it felt like maybe a few seconds of a pause, but just almost a steady rain of debris coming down outside my office.

Q. This was all that you're learning and hearing as you're laying trapped underneath your desk?

A. Yes.

Q. After the debris came to subside and it grew quiet,

Mr. Lind, were you able to get out from underneath your desk?

A. Yes. We were able to clear enough of the debris off my

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desk that we were able to find the edges; and two of them lifted it just enough so I could pull my feet out. And then I was able to stand up.

Q. And all the persons who had been inside your office that morning at the time of the explosion, were they alive?

A. Yes. Yes. All were.

Q. And what did the group of you do then after you were freed from your desk?

A. A couple went over and helped Kathy Quinn, my secretary, out from under some debris at her desk, which was just outside my office. And then we all congregated in the division administrator's office, which was the corner-most office. And Jim Erickson, who was to be the new division administrator, had -- just happened to be in the office on a house-hunting trip that day and had just come in prior to the beginning of the meeting. And he was in there, as well. So the eight of us

congregated in the southern half of that office and let people down below know that we were there and asked for help.

Q. Mr. Erickson's office was immediately east of yours?

A. Yes.

Q. In that direction? It would be in the extreme southeast corner of the building?

A. That's right.

Q. Were you able to walk out of your office and head in the

direction of the stairwell?

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A. No.

Q. Why not?

A. There was a big gaping hole between my office and the stairwell.

Q. While you were laying on the floor -- earlier, Mr. Lind, I meant to ask -- was there anything you could see from that position that on any other day before April 19th, you had never been able to see?

A. I saw the sky. I was laying on my right side, but I could crane my neck over to my left and look out and see blue sky.

Q. In the course of that morning, Mr. Lind, were you and the other members in your group eventually rescued from that location?

A. Yes. They were able to secure an extension ladder and put it up to the windows, and we were able to slip out over the ledge and then down on the -- down the ladder.

Q. And you're on the fourth floor; is that correct?

A. That's correct.

Q. And this ladder that you gained -- escaped from: Was it on the back of a firetruck?

A. No. No. It -- I understand that it had been secured from an Oklahoma Gas and Electric Company truck that happened to be in the area. It was a two-section.

Q. Freestanding extension ladder?

A. Yes.

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Q. Did you take any steps to anchor the ladder at the top where you all were located?

A. Yes. The lad -- the ladder itself was standing almost vertically. And there were a couple good-sized men down at the bottom. And we had pulled down the drapes from the window in my office as well as some from the division administrator's office. And we tied the top of the ladder off onto one of the posts between the windows so that it wouldn't tip backwards.

Q. And did fire personnel come up to the floor and assist you and the others in your escape?

A. Yes. There was an off-duty fireman. He was the first one up. And he came up and he mainly assisted Kathy Quinn. She had gotten hit in the head and was bleeding, and she had also taken a pretty good hit to her hip.

Q. Approximately how long, Mr. Lind, were you trapped inside the building from the time of the explosion until your escape?

A. I would say probably on the order of 30 to 45 minutes.

Q. And after you made it to ground level, did you contact emergency personnel and eventually make it home safely that day?

A. Yes. After we got down, the first order of business was to make sure that Kathy was being taken care of. And she -- they had kind of a triage station on the south end of the building.

had kind of a bridge section on the south end of the building. And we confirmed that she had been taken care of and was taken to St. Anthony's Hospital.

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And then during that period, I also walked to the south side of the building and I found Jim Carver, who had also been in, but in the other end of the office. And I didn't see anybody else that I knew from our office.

So let's see. Charlie Younger ultimately walked back to the highway department offices. Gary Rimrodt walked over to the IRS building where his wife was working, and I guess he went home. And I took Bev Allen and Ed Tarver from the Forest Service and Peggy De Weese from our office and Jim Erickson, and we went over to the county jail. And then I walked over to a bail bondsman's office and called my wife, and she picked us up there. And we dropped Jim off at his motel and we took everybody else to my home.

Q. Mr. Lind, before you made it down the ladder, while you were still up on the fourth floor, did you take a moment to observe how much of the former offices of the Federal Highway Administration were no longer there?

A. I looked out towards the -- it would be the northwest and north, yes.

Q. What would you describe?

A. Well, there wasn't very much left. There was this big hole that cut all the way through nearly to the south wall, and it stretched all the way over to where Motor Carriers was. And of course, it went all the way to the south wall. Oh, excuse me. To the north wall.

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Q. Mr. Lind, on April 19, 1995, how many of the 25 staffers or people on the payroll were, in fact, present inside the office at the time of the explosion?

A. There were 16.

Q. And, Mr. Lind, how many of those 16 people died?

A. 11.

Q. Mr. Lind, take a look, please -- I'm going to ask to be displayed Government Exhibit 952D, the floor plan previously admitted into evidence for the fourth floor of the Alfred P. Murrah Building.

A. Okay.

Q. And orient the jury. Is the --

MR. MACKEY: Kathi, if we can show the jury, please.

THE COURTROOM DEPUTY: I'm sorry.

MR. MACKEY: Thank you.

BY MR. MACKEY:

Q. To orient the jury, is your floor space that in yellow?

A. Yes, it is. That, and the Office of Motor Carrier Safety.

Q. And let me take just a moment to ask you to explain to the jury what the difference is between those two offices, Motor Carrier Safety and the other facility.

A. We share offices and some responsibilities with the Office of Motor Carrier Safety. They are also a part of the Federal Highway Administration. Their thrust is more towards the trucking industry. High -- trucking safety and so on. Also

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truck size and weight.

Q. Mr. Lind, with the pen that's attached to a wire, reach down below your desktop and mark an X in the office in which the meeting was taking place that morning.

Do you want to try again? You can just press the button and -- for the record, we're marking an X in the box, the upper second one from the upper left; is that correct?

A. Yeah. Yes.

Q. Where was Mr. Erickson?

A. Okay. He would have been over in here.

Q. And what room was it that the group of you eventually escaped through the window?

A. In that room right in here.

Q. Mr. Erickson's?

A. Yes.

Q. You mentioned earlier that a Mr. Carver survived the blast, or you saw him present that day; is that correct?

A. Yes.

Q. Was he among those who was killed?

A. No. Mr. Carver was -- I saw him on the street on the south side on Forest Street after the bombing.

Q. Could you put an X where his office was located on April 19.

Can I ask you now -- can I ask you, Mr. Lind, with the pen, draw the approximate scheme of the hole that had emerged

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inside the building that morning.

A. Okay. Something on that order.

Q. All right. So essentially, the entire north wall of the fourth floor that housed Motor Carrier Safety personnel and the remaining personnel of the Federal Highway?

A. That's correct.

Q. And extending as far south as the office that fell between Mr. Carver's and yours?

A. Yes.

Q. And who was in the office, that third office?

A. The office immediately to the left of Mr. Carver is the -- Johnny Wade's office.

Q. Did a Jerry Kirk survive the blast that morning?

A. Yes, he did.

Q. And do you know where Mr. Kirk was at the time of the blast?

A. Yes. He was over in the men's room.

Q. Where was his office or his work station?

A. Somewhere in this neighborhood.
Q. Did a Michael Herron survive --
A. Yes.
Q. -- the explosion?
A. Yes.
Q. And why so?
A. Because he was on annual leave that day.

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Q. Would you mark an X for Mr. Herron's office had he been at work that day.

A. Right there. The second office from the left.

Q. You mentioned earlier that one of your staffers, Mr. Rimrodt -- is that how we pronounce it?

A. That's correct, Rimrodt.

Q. -- was present in the meeting at your invitation taking place on the south side of the building?

A. That's correct. Yes.

Q. Put an X where his office was normally.

To your knowledge, Mr. Lind, were all the persons inside the line that you have drawn and who were present on the morning of April 19 -- were they killed in the explosion?

A. Yes. At least either during the explosion or -- except for John Youngblood, and he died subsequent to the --

Q. As a result of injuries he sustained in the explosion?

A. Yes.

Q. Mr. Lind, prior to coming to court, did I ask you to examine a large chart, the same thing that's shown here before you, and affix to the chart name plates of those individuals who were employed by Federal Highway and the position of their offices on that morning?

A. Yes.

MR. MACKEY: Your Honor, we'd offer into admission Government Exhibit 952D and postpone displaying it.

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THE COURT: All right.

MR. TIGAR: Subject to the earlier discussion, yes.

THE COURT: Yes. Same position. It's received and may be displayed later.

BY MR. MACKEY:

Q. Finally, Mr. Lind, I'd like to show you Government Exhibit 1113. That, you've seen before, a number of photographs of those persons killed that morning?

A. I believe so. Uh-huh.

MR. MACKEY: Your Honor, I'd move to admit Exhibit 1113.

THE COURT: All right. Agent Tongate, will you help us?

Is this 1113?

MR. MACKEY: Yes, your Honor. 1113.

THE COURT: All right. We'll receive it with the same --

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

THE COURT: -- same continuing position.

BY MR. MACKEY:

Q. With the Court's permission, Mr. Lind, could you rise enough to go over and point to each photograph and tell the jury, please, the name of the person shown in each photograph and the position they held with Federal Highway on the morning of the bombing.

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A. This is Lucio Aleman. He was our traffic and safety engineer.

Mark Bolte was our environmental coordinator.

Mike Carrillo was the officer in charge of the Office of Motor Carriers.

Larry Jones was our computer specialist.

J. K. Martin was an area engineer.

Jerry Parker was an area engineer.

Michelle Reeder was one of our secretaries.

Rick Tomlin was a safety specialist with Office of Motor Carrier Safety.

Johnny Wade was our planning and research engineer.

Ronota Woodbridge was our pavement and materials engineer.

And John Youngblood was a safety specialist with the Office of Motor Carriers.

Q. Thank you, Mr. Lind. You can retake your seat.

Mr. Lind, of the 11 individuals who died that morning from your agency, how many were engineers like yourself?

A. Okay. I want to say there were six.

Q. And do you know the age range that was represented by those who died?

A. I think Mark was about the youngest, and I think he was on the order of late 20's. And the oldest, I believe, was John

Youngblood, and he was, I think, about 50, 52, somewhere in

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that range.

Q. And if you were to add up all the total years of service to the Federal Highway Administration for each of those 11 individuals, how much service did the agency lose that morning?

A. Probably on the order of 60 or 70 years.

MR. MACKEY: Thanks, Mr. Lind. That's all I have.

THE COURT: All right. Mr. Tigar, do you have questions?

MR. TIGAR: Very briefly, your Honor.

THE COURT: Very well.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good afternoon, sir. Hi. My name is Michael Tigar. I'm one of the lawyers appointed to help Terry Nichols.

I wanted to put up here what's been received in evidence -- I wonder if you could click the pen that you have there, just click the side. If we could get rid of the red marks there. I don't know if that -- keep -- keep clicking. I think they will all disappear.

Thank you very much, sir. I'm putting up here the map that's been received as Government's Exhibit 940 of the downtown area there -- which you recognize that, sir?

A. Yes, I do.

Q. Now, when you managed to -- when you got that ladder, you would have come out on this side of the building that's

Bruce Lind - Cross

indicated here that we call, what, the southeast --

A. Yes.

Q. -- side there?

A. That's correct.

Q. All right. And then you could walk -- you walked through the plaza and made your way, you said, to a bail bondsman's office?

A. Well, first, I went over to what would have been the east side of the building where Kathy was.

Q. Over here on --

A. On North Robinson.

Q. -- North Robinson?

A. And checked on her. And then went over on Forest Street and found Jim, and then went back and collected the rest of the people. And yes, we went to a bail bondsman's office.

Q. So you -- you did, you went out to check on -- on your colleague; right?

A. Yes.

Q. And then on 4th Street, just across, that's in front of this federal courthouse, here?

A. Yes.

Q. Below the south of the Murrah Building?

A. That's correct.

Q. Now, by the time that -- that you were checking on your colleagues and -- and assembling people so that you could be

Bruce Lind - Cross

helpful to them, a number of vehicles had begun to arrive to -- to help in this situation; is that correct?

A. Yes.

Q. And the -- and is it fair to say that not just the fire department, but a whole lot of other vehicles responded to this scene to be helpful?

A. Yes.

Q. And that included the -- the folks that helped you down. They were from OGE?

A. OG&E. Yes. There was at least one truck. I don't remember seeing the OG&E truck.

Q. I see. And the ladder that you were able to get down, was that an OGE ladder?

A. That's what I understand.

Q. And that's from Oklahoma Gas and Electric; right?

A. That's correct.

Q. And did you see some other cars, people showing up there to help with the triage and to help people get to the kind of care that they needed?

A. Except for ambulances and emergency-type vehicles, I don't remember specifically other vehicles.

Q. Okay. About how far away was the bail bondsman's office that you went to, if you can remember?

A. Oh, I would say -- well, it was over at the county jail's office, so I would say on the order of perhaps a half a mile.

MR. TIGAR: About half a mile.

Thank you very much, sir. I have nothing further.

Thank you, your Honor.

THE COURT: Mr. Mackey?

MR. MACKEY: No. The witness may be excused.

THE COURT: Agreed?

MR. TIGAR: Of course, your Honor.

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

We'll take our afternoon recess at this point and so, members of the jury, we'll take our usual rest stop here with, of course, the cautions always given. You get tired of hearing it, but you know that I must remind you as you must obey the caution of avoiding discussion of the case or anything about it among yourselves and with all other persons and continue to avoid anything outside of the evidence that could influence your decision.

You're excused now for 20 minutes.

(Jury out at 3:16 p.m.)

THE COURT: All right. We'll recess. 20 minutes.

(Recess at 3:17 p.m.)

(Reconvened at 3:36 p.m.)

THE COURT: Be seated, please.

(Jury in at 3:37 p.m.)

THE COURT: All right. Next, please.

MR. MACKEY: Thank you, Judge. FBI Agent Greg Carl.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Gregory Carl 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: Gregory Carl, spelled C-A-R-L.

THE COURT: Mr. Mearns.

DIRECT EXAMINATION

BY MR. MEARNS:

Q. How are you employed, sir?

A. I'm employed as a special agent with the Federal Bureau of Investigation.

Q. How long have you been an FBI agent?

A. Since 1990.

Q. Where were you assigned in April, 1995?

A. I was assigned to the Miami division of the FBI.

Q. Did there come a time in April 1995 when you were

Q. Did there come a time on April 19, 1995, when you were directed to report to Oklahoma City to assist in the investigation of the crime scene?

A. Yes, there was.

Q. And did you report to Oklahoma City on that same day, April 19?

A. Yes, I did.

Q. You understand that you're here to testify about your

Gregory Carl - Direct

recovery of one set of specific items; is that correct?

A. That's correct.

Q. I want to direct your attention, then, to April 23, 1995. Do you recall that you were participating in the investigation of the crime scene on that day?

A. Yes, I was.

Q. What was your assignment on that day, April 23?

A. On April 23, I was assigned to assist Team 2 in collection of evidence in Grid 2.

Q. And where was that grid located?

A. That was at the Journal Records Building.

Q. Where was that building located in relation to the Murrah Building?

A. Without a map, that would be directly, I guess, to the rear of the building.

Q. And what was -- where specifically was your assignment?

A. I was searching the rooftop of the Journal Records Building.

Q. Did you locate and collect any evidence on the rooftop of the Journal Records Building that day?

A. Yes, I did.

Q. What did you find?

A. I found numerous pieces of plastic and other metal fragments, things of that nature.

Q. With respect to the plastic that you found, did you collect

Gregory Carl - Direct

and seize those items?

A. Yes, I did.

Q. I'd like you to look inside that envelope that you have, which has been marked as Government's Exhibit 785. What is that Government's Exhibit 785?

A. This is the pieces of plastic I collected on April 23.

Q. And that plastic is contained in an envelope on which the Government exhibit sticker is?

A. The Government exhibit sticker is on the container that I collected.

Q. With respect to that envelope, how do you recognize that envelope as the envelope in which you put the plastic that same day, April 23?

A. I recognize my writing where I described where I picked up the evidence as well as my initials and date and the item number on the package right here.

Q. And the item number is what?

A. Item No. 14.

Q. Item No. 14 of 1B92?

A. That would be correct.

Q. What did you do with the plastic that's contained in that envelope when you located it on top of the Journal Record Building?

A. I sealed them and turned them over at the end of the afternoon to the Evidence Control Center.

Gregory Carl - Direct

Q. When you say you sealed them, did you seal it in that envelope that you have before you right now?

A. Yes, I did.

Q. That's the envelope that has your writing on it?

A. That's correct.

Q. Describe the plastic that's contained within that envelope.

A. Can I open the bag?

Q. No, don't open the bag. Just describe it by looking through it.

A. I have several pieces of charred-looking plastic with jagged edges, fragmented pieces of plastic.

Q. And in what area on top of the Journal Record Building did you locate those items?

A. It would be the lower roof of the Journal Records Building.

Q. In what kind of an area, how large of an area?

A. The area would have been based upon the dimensions of that lower roof -- we collected the evidence by a line search. We fanned out and searched the entire rooftop of that building, of the lower roof building; and we collected like items in this same bag. So it would be approximately -- guessing -- 30 feet by 80 feet.

MR. MEARNS: With the Court's permission, may Agent Carl step down and approach the model?

THE COURT: Yes.

BY MR. MEARNS:

Gregory Carl - Direct

Q. Agent Carl, are you familiar with this model, Exhibit 642?

A. I am not.

Q. Have you had an opportunity to look at this model before coming to court?

A. No, I have not.

Q. Could you locate on the model where you located the items contained in Government's Exhibit 785?

A. It would be on the lower portion here of the Journal Records Building.

Q. And the Journal Record Building is this building that's located just to the south of N.W. 6th Street?

A. Yes, it is.

Q. Directly to the north of the Murrah Building?

A. That's right.

Q. When you say "on the lower part of the Journal Record Building," you're referring to the part of the building that's on the west side of the total Journal Record Building?

A. Yes, sir.

Q. And approximately in the center of that roof?

A. They were spread out throughout the top of this -- the roof of this building. The majority of them were on this portion of the rooftop.

Q. By "this portion," you're referring to the southwest side?

A. The southwest portion, correct.

MR. MEARNS: Thank you, Agent Carl.

Gregory Carl - Direct

No further questions, your Honor.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Hello, Agent Carl.

A. Hello. How are you?

Q. Fine, thank you. How are you, sir?

A. Pretty good.

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

And just -- you were a part of a search team that was in Grid 2. Is that right?

A. That is correct.

Q. And Grid 2 is the second grid, counting in a clockwise direction, of the four geographic grids that were established; is that right?

A. That's right.

Q. And then there was an additional grid for the building itself and one for the parking lot. Is that your understanding?

A. That is correct.

Q. And now in this -- this particular time, you were searching in Grid 2, Zone L. Right?

A. That is right.

Q. And what was Zone L?

Gregory Carl - Cross

A. That would be the Journal Records Building.

Q. So you gave -- if I can step over here. You can see from there, can't you?

A. Uh-huh.

Q. Okay. The Journal Record Building is this one right here -- correct -- that I'm pointing to, or is it this one here?

A. It's my --

Q. This whole thing?

A. It's my understanding the entire thing.

Q. This whole thing is the Journal Record Building, and that was called Zone L. Is that correct?

- ..

A. Yes.

Q. Okay. Now, who gave you the assignment to do the search on the rooftop?

A. Well, I was assisting Team 2. The overall coordination would have been Rick Hahn.

Q. Rick Hahn?

A. That's correct.

Q. Had you been in a meeting where Mr. Hahn had discussed looking for plastic?

A. At one time I was, but I don't know at which point in the investigation that meeting took place.

Q. Okay. Was it -- you recovered this item, the item that you're looking at there, on the 23d; correct?

Gregory Carl - Cross

A. That's right.

Q. And on that same day, you also recovered miscellaneous plastic fragments, metal fragments, among other things. Correct?

A. Yes.

Q. Is that right?

A. That's right.

Q. I'm sorry. You have to say "yes" so the court reporter can get it.

A. That's right.

Q. And was the meeting that you had with Mr. -- at which Mr. Hahn said, "Look for plastic," before your recovery of this item on the roof of the Journal Record Building?

A. I don't know.

Q. Now, was the meeting at which Mr. Hahn said, "Look for plastic": Was that one of these morning or evening sessions that was held somewhere near the crime scene?

A. That would be correct.

Q. Now, the particular one at which -- was there more than one meeting at which Mr. Hahn discussed plastic, or just one?

A. I don't recall if there were more than one, or not.

Q. And was Mr. Hahn the only supervisory agent at these meetings who was discussing plastic?

A. No. Special Agent Dave Williams would have also been present.

Gregory Carl - Cross

Q. Now, Special Agent Dave Williams and Special Agent Rick Hahn were the people who were in charge of the overall crime scene; is that correct?

A. The special agent in charge of the Oklahoma City office would have been overall in charge of the crime scene. Dave Williams was working -- coordinating the crime scene at the behest of the special agent in charge.

Q. So was it your understanding that Special Agent Williams and Special Agent Hahn were coordinating the crime scene?

A. Yes.

44. 105.

Q. And how many of these briefings did you attend, or meetings, where Special Agent Hahn and Special Agent Williams were in charge?

A. At all meetings that I attended, they were in charge of them.

Q. You arrived at -- the first such meeting was the morning of the 20th; is that right?

A. I arrived on the 19th.

Q. I understand, but was the first such meeting at which they presided the morning of the 20th?

A. Yes.

Q. All right. And these meetings lasted -- were held twice a day until sometime in May; is that your remembrance?

A. That is right.

Q. Now, at these meetings, was there some discussion that a --

Gregory Carl - Cross

of a theory that the device was contained in a plastic container?

A. The discussion that there was probably some sort of a container, plastic, metal, otherwise; but yes, there was discussion that there would be a container that would probably have contained this device.

Q. Now, was there a discussion of any particular color of plastic?

A. There may have been discussions of white- and blue-colored plastic, but I couldn't say for certain, sir.

Q. Now, isn't it a fact, sir, that at one of the meetings that was held before the 23d of April, Agent Hahn or Agent Williams talked about blue plastic?

A. I don't know the dates.

Q. Isn't it a fact, sir, that -- then, that at one of the meetings that you had, Agent Hahn or Agent Williams talked about blue plastic?

A. That would be fair to say.

Q. Now, were you present at a time when the ATF brought a Ryder truck to the area near the Murrah Building?

A. I saw that.

Q. Did you see inside the truck?

A. I continued to walk past it.

Q. Did you see inside the truck?

A. I saw inside but not very closely.

Gregory Carl - Cross

Q. Did you see some white barrels with blue lids inside the truck?

A. Yes, I did.

Q. And did you have any conversation with the ATF agents about the white barrels with the blue lids in the truck?

A. I didn't speak to the ATF agents. I went back to our command post and discussed it with my superiors.

Q. And did you discuss with your superiors the advisability of

having such a thing near the crime scene?

A. I asked how -- how come they were inside the -- where they were.

Q. Where were they?

A. Well, they were a significant distance away from the crime scene when they were near the YMCA building.

Q. Now, the YMCA building is this white building catty-corner from the Murrah Building. Correct?

A. Correct.

Q. Where did you observe this ATF truck with the building -- with the barrels in it?

A. Which way is north?

Q. Today, or on the map?

A. On the map.

Q. All right. On the map, it's pointed directly towards the back of the courtroom, I believe.

A. It would be the northeast corner of the back of the YMCA

Gregory Carl - Cross
building.

Q. So we would refer to something -- can you see from where you are, sir?

A. Pretty good.

Q. It's this grayish -- this parking lot here that's on the other side of the YMCA building?

A. That's my recollection.

Q. All right. And your question to your superiors was, "Why are they there"; correct?

A. That's right.

Q. And to which superior did you communicate that concern?

A. I believe that was Agent Hahn.

Q. And?

A. Agent Hahn.

Q. All right. And did he direct -- do you know if he directed that anything be done as a result of this?

MR. MEARNS: Objection to the scope.

THE COURT: Overruled.

BY MR. TIGAR:

Q. Do you know whether he directed anything be done as a result of this?

A. I do not.

Q. Did he express an opinion about what you were telling him?

MR. MEARNS: Objection.

THE COURT: Overruled.

Gregory Carl - Cross

THE WITNESS: He was unaware that they were there.

BY MR. TIGAR:

Q. Did he express an opinion about the wisdom of that thing being in that proximity to the crime scene?

A. Not to me.

Q. Did you hear him express one to someone else?

A. No, I didn't.

Q. Now, how many days did you work there, sir?

A. I left near the first -- near the beginning of May. I don't know the exact date that I left.

Q. And are the fragments, part of which are in the exhibit before you, the only plastic that you recovered?

A. No, sir, it is not.

Q. And up on that roof where you were -- how did you get up there?

A. The stairway inside the building.

Q. And you just went out on the roof?

A. That's correct.

Q. Is it fair to say that the roof was a mess?

A. No.

Q. What did it look like?

A. The one staircase on the rear side of the Journal Records Building was collapsed, and some of the concrete blocks were broken away from its foundation. The upward ventilation system was sucked back towards the Murrah Building, and there was

Gregory Carl - Cross

general -- there were some pieces of metal and fragmentation that was scattered across the rooftop.

Q. Pieces of metal that evidently didn't belong there; correct?

A. That is right.

Q. You say that the ventilation was sucked back toward the Murrah Building?

A. Uh-huh.

Q. Have you had experience in bomb crime-scene investigation before April 19?

A. Yes, I have.

Q. So you know what the -- what's the second wave called? I mean there is the initial blast wave that goes in an outer direction, and then there is a -- that vacuum has to be filled

in. What's that second phase called?

A. It's referred to as a negative-pressure phase.

Q. The negative-pressure phase. Was it your impression, then, that whatever had deformed that air -- that air-conditioning unit was the negative-pressure phase? Is that what that looked like?

A. That's correct.

Q. You say you saw a bunch of pieces of metal up there. What kind of pieces of metal did you see?

A. I didn't analyze them. Just metal fragments.

Q. Now, were they fragments only, or were there also some

Gregory Carl - Cross

strips?

A. I don't recall collecting any strips.

Q. Well, did you see anything that looked like the trim strips off vehicles?

oil vehicles:

A. I believe there may have been a few.

Q. All right. And by "trim strips off vehicles," I'm referring to the strips that are put alongside the doors of passenger vehicles or vans that are attached by those plastic doohickies that the manufacturers put on. Is that what you're talking about also?

A. I -- I don't recall exactly if those were strips that I saw up there. I don't recall collecting any of them myself, but there may have been some on that rooftop.

Q. You saw some things that resembled that. Is that fair to say? And you can't be sure what they are. Right?

A. Right.

Q. But they didn't look like the sorts of things that were there to begin with; right?

A. That's right.

Q. Didn't look like an architectural or construction detail of the roof; correct?

A. That's right.

Q. Now, from the roof, did you also look down at the scene around?

A. Yes, I did.

Gregory Carl - Cross

Q. Did you look south?

A. I did.

Q. Now, as you looked south -- this is on the 23d?

A. Uh-huh.

Q. You saw this parking lot. Correct?

A. I did.

Q. And you see this tree there? That was there; right? Can you see the tree?

A. I cannot.

MR. TIGAR: Can he come down, your Honor?

THE COURT: Yes, he may. Yes.

THE WITNESS: Okay.

BY MR. TIGAR:

Q. You see the tree?

A. Uh-huh.

MR. TIGAR: May the agent approach?

THE COURT: Yes.

You may approach the model. Sure.

MR. TIGAR: All right.

BY MR. TIGAR:

Q. If you could stand back here next to me, then we don't block anybody's view.

This is the parking lot area; correct?

A. That's right.

Q. And there were on the 23d -- were there still vehicles in

Gregory Carl - Cross

this parking lot?

A. There were a few vehicles, yes, sir.

Q. Okay. You can go back up.

From -- what else did you see in that parking lot?

A. I saw other agents processing the vehicles in that parking lot.

Q. Now, did some of those vehicles appear to have exploded?

A. Did some of them appear to have exploded?

Q. Yes. Well, some of the vehicles you saw looked like they had been in a car crash; right?

A. They looked like they had received a tremendous force, yes.

Q. Yes. That is to say they were crumpled and bent and glass broken out. Correct?

A. That's right.

Q. Weren't there other vehicles that looked as though they caught on fire?

A. Yes.

Q. And were some of those vehicles that had caught on fire upside down?

A. I don't recall their orientation. I believe there were some upside down, though.

Q. And have you ever investigated a scene -- crime scene prior to this time in April of 1995 in which you have seen vehicles that have burned?

A. Yes, I have.

Gregory Carl - Cross

Q. And did these vehicles appear to be ones in which flame had engulfed the gas tank and the gas tank exploded and the -- and the gas tank exploded?

A. To be honest with you, I was doing other duties, and I didn't really look at these vehicles too closely.

Q. Okay. You did not look closely?

A. No, I did not.

Q. Let's go back to the top of the roof then.

In addition to the metal parts, you also -- were you the agent that made out the evidence log?

A. No, I was not.

Q. Which agent was that?

A. If you could show me, I would let you know.

Q. Sure. If it would refresh your recollection --

MR. TIGAR: I'm showing him the evidence recovery log -- I'm sorry -- Mr. Mearns, just to refresh his recollection.

MR. MEARNS: Thank you.

BY MR. TIGAR:

Q. I'm going to show you, just to refresh your recollection, not in evidence what I believe to be this evidence recovery log. Does that refresh your recollection as to the agent that made it?

A. Yes, it does.

Q. And did that agent do all the writing on here?

Gregory Carl - Cross

A. Yes, he did.

Q. Now, I see here that there are a number of agents listed. Were all of you on top of the roof?

A. Yes.

Q. Okay. And you said that it was a line search; correct?

A. Uh-huh.

Q. Now, what's a line search?

A. A line search is basically where you line up side by side.

Q. Like this?

A. Arm to arm.

Q. Arm to arm, like a line dance with no music. Correct?

A. I would assume that would be correct.

Q. And what you're trying to do is you're trying to cover all of this area and search; correct?

A. That's right.

Q. Okay. Now, as you were searching, did you notice pieces of automobiles, such as pieces of tires?

A. I believe there were some pieces of tires on the roof as well.

Q. Did you see miscellaneous auto parts, bulbs, wire harnesses, and so on?

A. I believe so.

Q. Let me show you this. I'm not showing you something you did, but you see where it says, "Lou Ann Sandstrom"?

A. Uh-huh.

Gregory Carl - Cross

Q. Did you see that item or items like that up there?

A. Yes, I did.

Q. Okay. And the "yes, I did" refers to bulbs and wire harnesses; correct?

A. Correct.

Q. You also said that these other plastic fragments -- did you see black plastic up there?

A. I picked up lots of pieces of plastic. I don't recall the colors of every piece I picked up.

Q. How many pieces of plastic do you think you saw up there?

A. Numerous pieces. I mean, it wasn't overwhelming.

Q. Right. On direct examination you said "numerous," and what I'm trying to get at is what you mean by "numerous."

A. 25, 50.

Q. Okay. Somewhere 25 to 50. Now -- and do you remember seeing plastic of other colors than white?

A. I think there may have been, yes.

Q. That's your best memory?

A. Yes.

Q. Okay. And can you remember as you sit there today what the other color pieces of plastic were?

A. I cannot.

Q. All right. Did anyone ever ask you to look for pieces of plastic other than white and blue?

A. No one asked me to look for any particular colors, no.

Gregory Carl - Cross

Q. All right. Well, no one ever asked you to look for any particular colors. Correct?

A. That's correct.

Q. You heard "blue plastic" mentioned at sometime in the meetings. Correct?

A. Uh-huh.

Q. You heard "white plastic" mentioned at sometime in the meetings; correct?

A. Yes.

Q. Did you ever hear any other color of plastic discussed in the meetings other than white and blue?

A. Not to my recollection.

Q. And did you ever hear anyone other than Agent Hahn and Agent Williams discussing the white and blue plastic?

A. No, I did not.

MR. TIGAR: Thank you, sir. No further questions.

THE COURT: Mr. Mearns, you have some?

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

THE COURT: Agree to excuse the witness?

MR. TIGAR: May I have just a moment, your Honor?

THE COURT: Yes.

MR. TIGAR: Thank you, your Honor. Nothing further.

He may be excused, yes.

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

Next, please.

MR. MACKEY: ATF Agent Charles Gonzales.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Charles Gonzales 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: Charles Richard Gonzales, last name spelled G-O-N-Z-A-L-E-S.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Proceed.

DIRECT EXAMINATION

BY MR. MEARNS:

Q. Mr. Gonzales, how are you employed?

A. I'm employed as a special agent with the Bureau of Alcohol, Tobacco, and Firearms.

Q. How long have you been an ATF agent?

A. Over 26 years.

Q. Where were you assigned in April of 1995?

A. In Phoenix, Arizona.

Q. Now, on April 19, 1995, were you assigned to assist in the -- assigned to assist in the investigation of the crime scene in Oklahoma City?

A. Yes.

CHARLES GONZALES - DIRECT

Q. When did you arrive in Oklahoma City?

A. Approximately the midafternoon of April 19.

Q. I want to direct your attention now to April 25, 1995.

Were you still assisting at that time in the investigation of the crime scene in Oklahoma City?

A. Yes, sir.

Q. Where were you searching on April 25, 1995?

A. On top of the roof west of the main portion of the Murrah Building. This was called the roof of the parking garage, and it was approximately a two-story level of building at that point.

Q. When you were searching on the roof of that area of the Murrah Building on April 25, did you locate and recover any plastic items?

A. Yes, sir.

Q. Where did you locate those items, and what did you do with them?

A. On top of the roof, I gathered the items which were plastic, pieces of plastic, and I placed them in a large plastic bag, a clear bag.

Q. What I'd like you to do is -- sitting in front of you is a can that's been marked Government's Exhibit 786D. If you could open that, please.

And inside that can, if you could locate Government's Exhibit 786, 786B, and 786C. And beginning first with Exhibit

Charles Gonzales - Direct

786 and 786B, can you identify those items for us, please.

A. Yes, sir, I can. These are pieces of plastic that I picked up on top of that roof on April 25.

Q. And when you say the "pieces of the plastic" -- are the items contained within 786 and 786B?

A. Yes, sir.

Q. And how do you recognize those as the plastic that you recovered on April 25?

A. Exhibit No. 786 is a piece that I remember as being unique, and it appeared to have what appeared to me as threading on it.

Q. Okay. Turning then to the items in 786B, how do you recognize those specific items of plastic as the ones that you recovered?

A. There is a piece of plastic in 786B that looks a little bit different from the other pieces I collected. It's not -- it doesn't appear to be the same type of plastic, but I placed it in this bag with all the other pieces that I collected.

Q. Now, when you say you placed it in the bag, are you referring to Government's Exhibit 786C?

A. Yes, sir.

Q. How do you recognize that as the original bag into which you put the plastic that you found on April 25?

A. The printing on here with the black ink marker is what I printed on this bag.

Q. And what did you write on that bag, 786C?

Charles Gonzales - Direct

A. "Item: Plastic debris. Location: Alfred P. Murrah Federal Building, west rooftop of parking garage and west plaza. Found by Special Agent Charles R. Gonzales, ATF, Phoenix. Time: April 25, 1995, 1435 hours."

Q. And after you put the plastic that you recovered on the roof of the Murrah Building into that plastic bag, 786C, what did you do with it?

A. I turned this over to the custody of FBI Special Agent Patrick Daly.

Q. And who was he in relation to you on that day?

A. He was my team leader.

Q. And the plastic that you recovered and put into 786C: Did you recover it simply because it was white plastic?

A. No, sir. I collected it because it was there. That was -- this plastic was essentially all that was on top of that roof.

Q. So if there were blue plastic items in similar shapes or appearance, you would have collected that as well?

A. Yes, sir.

MR. MEARNS: Your Honor, may the agent step down and approach the model?

THE COURT: Yes.

BY MR. MEARNS:

Q. Agent Gonzales, if you would step down and indicate in relation to the model, Government's Exhibit 642, where it is -- describe where it is that you located those plastic items.

Charles Gonzales - Direct

A. The plastic items were located above this sticker that says "Murrah west side." And it's towards the front of the roof near the street, which would have been N.W. 5th.

Q. So it's located on that roof closer to the street N.W. 5th?

A. Yes, sir.

Q. And the building that you're referring to is a two-story structure located just to the west of the main Murrah Federal Building?

A. That's correct.

MR. MEARNS: No further questions, your Honor.

THE COURT: Mr. Tigar?

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good afternoon, sir.

A. Good afternoon.

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

When did you arrive -- you said you arrived in Oklahoma City -- excuse me -- on the 19th?

A. Yes, sir.

Q. And then where did you receive -- or when did you receive your assignment about what role you were to have in this search effort?

A. Early the next morning.

Q. Was that at a meeting presided over by Special Agents Hahn

Charles Gonzales - Cross
and Williams?

A. I'm not sure. I don't recall the name of the special agents, sir. It was a group of agents, all the agents who were assigned to the scene to do the investigation.

Q. And that -- but that was where you received your assignment. Is that right?

A. Yes, sir.

Q. Now, the -- when you did -- were doing your first searches, did you use the same search-labeling technique as you used in the later searches?

A. I didn't label anything, sir.

Q. Did you use the same labeling technique for your recovery envelopes and so on that you used later on?

A. No, sir, because I didn't recover any -- I recovered some -- some items, but I did not use the -- I didn't do the labeling.

Q. Now, let me understand the procedure. You would recover an item -- correct -- and then it would go to Special Agent Daly, the team leader?

A. Yes.

Q. How did that work? Tell me how it worked. I'm not understanding.

A. Well, initially we were assigned to conduct the scene search in the city blocks northwest of the Murrah Building.

Q. That was Grid 1. Correct?

Charles Gonzales - Cross

A. Yes, sir.

Q. All right.

A. And whatever items we picked up in a certain quadrant of a certain block, we would turn over to the FBI special agent who was in charge of those number of -- particular agents assigned to that area.

Q. Okay. And they would do the labeling; right?

A. Yes, sir.

Q. Now, for the search that you're telling us about today, that was conducted on what date, sir?

A. April 25, 1995.

Q. Okay. The 25th. So that would be on a Tuesday?

A. I don't know what day of the week it was.

Q. Okay. If the 19th -- well, it's six days after the bombing; correct?

A. Yes, sir.

Q. Now, did you have a photographer with you that day as a part of the search team?

A. Which day, sir?

Q. On the 25th.

A. Do you mean on the roof?

Q. Yes, sir.

A. No, sir.

A. NO, SIR.

Q. Now, on the roof -- by "the roof," you're referring to this here?

Charles Gonzales - Cross

A. Yes, sir, towards the street.

Q. Towards the street on the west side. Correct?

A. Yes, sir.

Q. Now, before the 25th, had you been attending the briefing meetings that were held in the mornings?

A. Yes, sir.

Q. Did you attend all of them?

A. I attended a briefing meeting each morning.

Q. And did you then attend a meeting in the afternoon at which people would discuss what they had done during the day?

A. I don't recall doing that.

Q. At the briefing meetings in the morning, anytime prior to the 25th, was there some discussion of plastic?

A. Not that I recall.

Q. Now, you told us that the -- the plastic that you found there was white. Is that correct?

A. Yes, sir. It's white and it's other colors, also.

Q. All right. And you found what other -- what other colors are there in there?

A. Well, some of this plastic is -- appears to be charred black and gray.

Q. All right. Is there some blue plastic in there?

A. No, sir.

Q. Did you find some blue plastic that day?

A. I don't recall if I did or not.

Charles Gonzales - Cross

Q. Okay. I'm going to show you -- a computer printout that's been provided to us, sir. And just -- you see your name there?

A. Yes.

Q. Does that refresh your recollection that you found blue plastic?

A. Yes, sir. It says there was deformed blue, black, and white plastic.

Q. With that, does that refresh your recollection that you found blue and black and white plastic? Correct?

A. Yes, sir.

Q. And some of the plastic you found was charred? Is that right?

A. Yes, sir.

Q. And some of the plastic was not; correct?

A. Correct.

MR. TIGAR: No further questions. Thank you.

THE COURT: Anything else?

MR. MEARNS: I don't, your Honor. He may be excused.

THE COURT: Agreed?

MR. TIGAR: Yes, your Honor.

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

Next, please.

MR. MACKEY: Your Honor, we'd re-call Mr. Daly for the limited purposes of Mr. Gonzales' testimony.

THE COURT: All right.

MS. WILKINSON: You can leave all that up there.

THE COURT: Leave it.

If you'll resume the stand again, Agent Daly.

(Patrick Daly was re-called.)

DIRECT EXAMINATION

BY MS. WILKINSON:

Q. Welcome back, Agent Daly.

A. Thank you.

Q. In front of you, do you see Government's Exhibit 786D?

A. Yes.

Q. And do you recognize Government's Exhibit 786D?

A. Yes, I do.

Q. Were you working at the crime scene on April 25, 1995?

A. Yes, I was.

Q. And do you recall receiving some evidence from Agent Gonzales?

A. Yes, I did.

Q. What type of evidence did you receive from him?

A. Pieces of plastic, shredded plastic.

Q. Do you recall how he was carrying those pieces of plastic?

A. They were packaged in a clear plastic bag.

Q. Do you see that before you?

A. Yes, I do.

Q. Is that Government's Exhibit 786C?

A. Yes, it is.

Patrick Daly - Direct

Q. How do you recognize that bag?

A. I recognize it by the writing on it to include my initials and date.

MS. WILKINSON: Your Honor, we'd offer Government's Exhibit 786C, the plastic bag.

MR. TIGAR: May I look at that, your Honor?

THE COURT: Yes.

MR. TIGAR: May I inquire, your Honor?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. Agent, who put the 1B-142 sticker on there?

A. I'm not sure who did that. I believe it was done at our Evidence Control Center. I didn't do it.

Q. And the Evidence Control Center is the one in Oklahoma City?

A. That's correct.

Q. But other than that -- okay -- is the bag in the same condition?

A. Except it doesn't have its contents obviously.

Q. I understand. But I'm talking the bag itself, not the contents. Other than that sticker, is the bag in the same

condition on (sic) which you received it from Special Agent Gonzales on the 25th?

A. Yes, except for the Government exhibit tag that's been

Patrick Daly - Voir Dire
placed on there.

Q. Except for those two things?

MR. TIGAR: No objection to the bag, your Honor.

THE COURT: 786C received.

MR. TIGAR: 786D, I believe, your Honor.

MS. WILKINSON: No, it's C.

MR. TIGAR: C? Excuse me. Thank you, your Honor.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Agent Daly, I believe Agent Gonzales already told the jury what he wrote on there, on Exhibit 786C. Did you see that on the bag when he handed it to you?

A. Yes.

Q. Does that tell you the location of where he recovered the plastic fragments?

A. Yes, it does.

Q. And what did you do? You marked the bag with your initials; is that right?

A. My initials and the date. And I also assigned it an item number, Item No. 1.

Q. Once you marked that bag, what did you do with it?

A. I repackaged it in the plastic bag into this metal can here.

Q. Is that Government's Exhibit 786D?

A. Yes.

Patrick Daly - Direct

Q. How do you recognize that can?

A. I recognize it because my initials and the date are written on the lip.

Q. What date is on top by your initials?

A. 4-25-95.

Q. All right. Now, look at the side of the can there. Is there an FBI evidence sticker there?

A. Yes.

Q. Is there a date marked there?

A. 4-23-95.

Q. Is that date incorrect?

A. Yes.

Q. Now, did you mark that on that can at that time?

A. I did not.

Q. And you didn't assign it the 1B number. Is that correct?

A. That's correct.

Q. Once you had the plastic in 786D, the clear bag, and you put it into that can, what did you do?

A. That and other evidence recovered that day was eventually turned over at the end of the shift to the Evidence Control

Center

Center.

Q. Did you seal the can before you turned it in?

A. Yes. It was sealed. The lid was placed on top of the can.

MS. WILKINSON: Your Honor, we would offer Government's Exhibit 786D, the can.

Patrick Daly - Direct

MR. TIGAR: May I inquire, your Honor?

THE COURT: Certainly.

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. Sir, 786D, the lid, has a lot of initials on it. Correct?

A. I believe so.

Q. And how many of those initials were on it when you last saw it?

A. I believe just my own when I packaged it.

Q. And is it fair to say, sir, that there are three additional sets of initials that have been attached here?

A. Yes.

Q. And did you -- was this FBI evidence tag on it at the time that you surrendered it?

A. No.

Q. And these initials here: Those weren't on it, either, were they?

A. No, they weren't.

MR. TIGAR: We object to it, your Honor.

THE COURT: I'll have to have more foundation.

MR. TIGAR: Object at this time, your Honor; that is, I'm sure these other witnesses will be here.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Agent Daly, when you put your initials on the top of

Patrick Daly - Direct

Government's Exhibit 786D, did you seal the can?

A. Yes. Yes, I did.

Q. And did you turn it in to the Evidence Control Center in Oklahoma City?

A. Yes, I did.

Q. And did you understand, or do you know whether they assigned 1B numbers to the evidence?

A. The Evidence Control Center assigned the 1B numbers.

Q. And do they mark it on the outside of the containers that you gave it to them -- that you give them?

A. Yes.

Q. And, Agent Daly, there is a Q number marked on the side of this can. You didn't put that there, did you?

A. No, I did not.

Q. Is it your understanding that -- or do you not have personal knowledge of whether the laboratory puts Q numbers on items when they come into the laboratory for analysis?

A. Yes. The FBI Laboratory assigns the Q numbers.

MS. WILKINSON: We have no further questions, your

Honor.

THE COURT: All right. Mr. Tigar.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Hello again, sir.

The -- when you were last here, we were talking about

Patrick Daly - Cross

plastic barrels. Do you recall that?

A. Yes.

Q. Now I want to ask you, did you -- did you ever see the -- we talked about that ATF truck. Is that right?

A. Yes, we did.

Q. And you said you had not seen inside it. Correct?

A. Not in the inside.

Q. Did you talk to Agent Carl about that, about the truck?

A. I don't recall if I talked to Agent Carl. He wasn't on my team.

Q. Did you talk to Agent Hahn about the truck?

MS. WILKINSON: Your Honor, excuse me. I'm going to object. I think this is beyond the scope of this issue.

THE COURT: Sustained.

BY MR. TIGAR:

Q. Now, prior to the 25th of April, had you had a discussion with Agent Hahn or Agent Williams about plastic?

A. I recall having a discussion about plastic, but I don't recall with whom, if it was Agent Hahn or Agent Williams.

Q. At one of these briefing sessions we're talking about, did someone -- did you hear someone express the opinion before the 25th of April that the container or containers, in which parts of this device had been, were plastic?

A. I recall that the container -- about plastic barrels or containers, but I don't recall when that was expressed.

Patrick Daly - Cross

Q. Did you instruct your team to look for plastic?

A. I instructed the team to look for the evidence relating to proximity to the blast, of which this would have been part of that evidence.

Q. As team members collected evidence or collected things, they would bring them to you; correct?

A. That's correct.

Q. And you were free to make a decision as to whether to keep it or not to keep it. Right?

A. Yes.

Q. And there were times when you said "don't keep it" and times when you said "do keep it"; correct?

A. Correct.

Q. And you had that discretion on the 25th of April with respect to these pieces; correct?

A. Yes.

Q. All right. Now, was there anything in the discussions you

had had, the briefings you had had in the mornings or the afternoon meetings that led you to make a decision to keep the pieces of plastic that Agent Gonzales brought to you?

A. I know I had been told about plastic barrels; but again, I don't recall if that was before or after the 25th.

Q. Well, that's what I'm asking you, sir. Was there anything that had happened to you before the 25th that led you to make a decision to keep these pieces of plastic, as opposed to saying,

Patrick Daly - Cross

"Toss them away"?

A. These pieces here show to me evidence of close proximity to high heat source, possibly an explosion.

Q. And was that the sole basis on which you decided to keep them?

A. I know that is the basis why I kept them. I don't recall if it was related to having been told about plastic barrels or not.

Q. Now, did you know from your briefings or had it come up in your briefings that there had been a number of cars that had exploded?

A. Yes. Not exploded. Had explosive damage.

Q. Did it come up in your briefings that car gas tanks had gone up or exploded?

A. I don't recall anything mentioned about gas tanks.

Q. All right. Did you observe burnt-out automobiles in that parking lot prior to the 25th of April?

A. Yes. I observed vehicles that had suffered burn damage.

Q. And from your experience in evaluating crime scenes, did you make a conclusion as to how those vehicles had gotten in that burnt-out condition?

A. From their proximity to the explosion and the crater at the federal building, I would say that they were burned as a result of the explosion.

Q. Did you have an opinion as to whether the gasoline in the

Patrick Daly - Cross

gasoline tanks had burned also?

A. I really wouldn't know without looking -- to the exact vehicle and looking at the tank.

Q. Did you look --

A. No.

Q. -- at any of the vehicles? That wasn't part of your job; correct?

A. It wasn't part of the scene that we processed.

Q. Now, did you have any discussions prior to the 25th about -- in your evening or morning sessions about blue plastic?

A. I recall white plastic barrels, but I don't recall blue offhand.

Q. Is it your testimony, sir, that you do not remember either Agent Hahn or Agent Williams saying anything at all before the

25th about blue plastic being involved in some important way in the events of April 19?

A. I recall plastic, and I recall white; but I don't recall blue.

MR. TIGAR: No further questions, your Honor.

MS. WILKINSON: Just briefly, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MS. WILKINSON:

Q. Agent Daly, do you see the packages of plastic in front of

Patrick Daly - Redirect
you?

A. Yes.

Q. What are the two Government exhibit numbers there?

A. Government's Exhibit 786B and 786.

Q. Were 786 and 786B inside the can that you sealed on April 25, 1995?

A. Yes.

MS. WILKINSON: No further questions, your Honor.

EXAMINATION

BY THE COURT:

Q. May I ask in what manner did you seal the can, 786D?

A. Seal the can?

Q. Yes. When you say "sealed," what do you mean?

A. Covered the lid -- put the lid on top of the can with the contents inside, pressed it down so it was sealed, put my initials over it.

Q. So when you say "sealed," you just mean you closed the lid?

A. That's correct, and covered it.

MS. WILKINSON: Can I ask one other question?

THE COURT: Yes.

REDIRECT EXAMINATION

BY MS. WILKINSON:

Q. Agent Daly, I'm going to hand you back up Government's Exhibit 786D. Can you show the jury how you closed this can, please.

Patrick Daly - Redirect

A. After the contents were placed in, I pushed the lid on top of the can, and then I had some tools with me, a hammer, pounded it down so that it would seal.

Q. If someone were to turn that can over after you sealed it, would they have -- would the contents have fallen out?

A. No. It was sealed to keep the contents inside.

Q. Does this metal lid fit down into the can?

A. Yes, it does.

Q. And would you need -- if you had closed it -- did you close it all the way?

A. Yes.

Q. And seal it down? Would you have needed some tool to take this lid off of the can?

A. Most commonly, a screwdriver would take it off

A. Most commonly, a screwdriver would take it off.

MR. TIGAR: Excuse me. I couldn't hear the answer.

THE WITNESS: Most commonly, a screwdriver could be used to take the lid off.

BY MS. WILKINSON:

Q. Did you close it all the way down?

A. It was closed all the way down, yes.

Q. And did you do that?

A. Yes.

MS. WILKINSON: No further questions, your Honor.

MR. TIGAR: May I just ask about that?

THE COURT: Yes.

MR. TIGAR: May I approach?

THE COURT: Yes.

RE-CROSS-EXAMINATION

BY MR. TIGAR:

Q. At the time that you gave the can over, did it have these indentations and marks around the inner edge?

A. I don't recall if they did -- if the can had those indentations or not.

Q. And do you see the dents here in the lip here that I'm pointing to? Do you see those little dents there?

A. I see three small ones right here.

Q. Yes. Do you know if it had those or not?

A. That, I can't recall if it did or not.

Q. For the record, this is a -- like a paint can we get at the hardware store; right?

A. Yes.

Q. Except it doesn't have the bail or wire bail handle that you would get at the hardware store; correct? That's what this is?

A. Yes. Uh-huh.

MR. TIGAR: Nothing further, your Honor.

MS. WILKINSON: No other questions. The witness is now excused.

THE COURT: You're excusing the witness?

MR. TIGAR: Yes, your Honor.

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

THE WITNESS: Thank you, your Honor.

THE COURT: Next, please.

MR. MACKEY: We'll re-call Mr. Brett Mills.

THE COURT: All right.

Mr. Mills, you're subject to the oath taken earlier.

Resume the stand.

(Brett Mills was re-called.)

DIRECT EXAMINATION

BY MS. WILKINSON:

Q. Mr. Mills, when you were here before, did you tell the jury that you worked in the Explosives Unit as a lab technician back in April of 1995?

A. Yes, ma'am.

Q. And what were your responsibilities in connection with this case?

A. When the evidence would come in, I would log it in, assign an identifier number that we use in the lab, and parcel it out to other examiners.

Q. Now, were you working in the lab on April 26 through

April 28?

A. Yes, ma'am.

Q. All right. And when you take evidence in, do you -- before you examine it, do you determine whether the package is sealed or unsealed?

Brett Mills - Direct

A. Yes, ma'am.

Q. Do you see the envelope in front of you?

A. This accordion?

Q. Yes.

A. Yes, ma'am.

Q. And can you take the exhibit out of there.

A. Just this one?

Q. Both of them, please.

Do you see Government's Exhibit 785?

A. Yes, ma'am.

Q. And is there another item in there?

A. 785A and 785B.

Q. B. Let's start with Government's Exhibit 785. Do you recognize that bag?

A. Yes, ma'am.

Q. Did you receive that bag?

A. Yes, ma'am.

Q. When did you receive it?

A. April 26, 1995.

Q. Was it open, or closed when you received it?

A. It was closed.

Q. Okay. How do you recognize it?

A. It has my writing on it.

Q. Now, when you received it, what did you do with it?

A. I looked at the items to get a visual description of them

Brett Mills - Direct

because I was creating my worksheet at the same time. Then I put our laboratory number and then our Q identifier number on it.

Q. What Q identifier did you place on it?

A. Q116.

Q. Did you open the bag at that time?

A. No, ma'am.

Q. And why didn't you open the bag?

A. With plastic bags, when we're doing residue analysis or residue analysis is supposed to be conducted, we did not open any of the things we can see the item itself.

Q. And do you see the other 785 exhibits -- 785A, is that?

A. A and B, yes.

Q. And are there Q numbers marked on both of those?

A. Yes, ma'am.

Q. Do they have the same Q marking?

A. Yes, ma'am.

Q. What is that?

A. "From Q116." One is marked 116A, and the other one is marked Q116.

Q. Now, is there one of those items -- you can put the bag down you have in your hand. Is there one of those items that you don't recognize in the 785 series?

A. This one right here.

Q. What number is that? 785 what?

Brett Mills - Direct

A. 785A.

Q. And can you tell us what it looks like?

A. It's a -- almost like a powdered-up plastic.

Q. And you didn't do that to that plastic; is that correct?

A. No, ma'am.

MS. WILKINSON: Your Honor, we'd offer Government's Exhibit 785 and 785B but not 785A.

MR. TIGAR: May I inquire, your Honor?

THE COURT: All right.

MR. TIGAR: May I approach?

THE COURT: Yes, certainly.

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. Hello, Mr. Mills.

A. Hello.

Q. Could you show me what these are, here, you're looking at. 785?

A. This one is 785.

Q. Okay.

A. 785A and 785B.

Q. All right. Now, I'm holding up 785B. Does that have your initials on it?

A. No, sir.

Q. Okay. And 785 -- just 785: Does that have your initials on it?

Brett Mills - Voir Dire

A. Not my initials, no, sir.

Q. Does it have your writing on it?

A. Yes, sir.

Q. Now, where -- can you help me here? Where is your writing on this? 785.

A. Right here. This 50426Q116DW.

Q. Now, 50426?

A. 018.

Q. 018. And then it says Q116DW.

A. Yes.

Q. Right? Now, why did you put "DW" on there instead of "BM"?

A. Those are Mr. Williams' initials, and I'm supposed to put his initials after each Q number when I check in a case.

Q. Now, Mr. Williams was the principal examiner in this case?

A. Yes, sir.

Q. And did he instruct you to put his initials and not yours on items as you logged them into the laboratory?

on items as you logged them into the laboratory:

A. No, sir. He just told me to put his initials on the bag. Our policy -- my initials never went on a bag.

Q. All right. Now, on the -- you got these into your laboratory when, sir?

A. April 26.

Q. And where was Mr. Williams on the 26th of April?

A. He was in, I believe, Oklahoma.

Q. And had he left behind instructions that you were supposed

Brett Mills - Voir Dire

to -- well, how did it come to be that you put his initials on things?

A. During my training procedure in the Explosives Unit, when I was being trained, they explained how we would write the lab number, the symbol "S," "YR," Q number, and then "DW" for Dave Williams.

Q. Now, you say "YR."

A. Yes.

Q. Now, whose initials are "YR"?

A. The "YR" are symbols that are assigned by the laboratory to an examiner for internal functions. "YR" would be Williams. Another examiner would have other initials.

Q. So this -- and did you write "YR" on this one?

A. Yes, sir. It should be right after the end of the lab number.

Q. Okay. So we have "YR," and that's -- that is a code for David Williams; correct?

A. Yes, sir.

Q. And then you also put "DW," which is David Williams' actual initials. Correct?

A. Yes, sir.

Q. And what is the purpose in terms of keeping track of things, if you know, of putting somebody else's initials other than yours on these specimens as you check them into the laboratory?

Brett Mills - Voir Dire

A. That was just the way that I was told to when I wrote up Mr. Williams' bag -- all that information, I was to put his initials, "DW," on there.

Q. Now, of these three bags that we have here, which -- when you got the -- when you got the material, was it all in one bag?

A. I'd have to see the bag; but yes, sir, I believe so.

Q. Okay.

A. Yes, sir. It was all in this one bag here.

Q. So it was all in the bag that's marked Government's Exhibit 785. Correct?

A. Yes, sir.

Q. And that's the one that you wrote the numbers that include "YR" and "DW." Correct?

A. That's correct.

Q. And at the time you wrote that, was all the other information on here except the Government's exhibits tag on the bag? That is, has anything been added?

A. This has probably been added. These initials and these initials. This information here was already on there. I don't know about these initials here.

Q. So the -- you don't know about "MAK"?

A. No, sir.

Q. You don't know about "RH"?

A. No, sir.

Brett Mills - Voir Dire

Q. You don't know about "RM," or is that a "PM," whatever the green ink is?

A. Those were probably examiners in the lab.

Q. So is it your testimony, sir, that someone handled this bag after you put the bag marked 785 -- after you did?

A. I didn't mark this bag 785.

Q. I understand you didn't mark it, but did someone handle this bag after you put that information on you told us about?

A. Yes, sir.

Q. All right. And at the time you got the bag, were these little items that are in 785B in there also? These little -- whatever they are.

A. No, sir, I don't remember these.

Q. You don't remember those at all?

A. No, sir.

Q. And with respect to 785A, you don't even know what that is?

A. No.

Q. Of your own knowledge? Okay.

MR. TIGAR: We object to the admission.

MS. WILKINSON: Your Honor, we'll withdraw 785B and just offer 785, if I could ask a few questions more.

THE COURT: All right.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Agent Mills, take a look at 785. That is the original

Brett Mills - Direct

plastic bag that you received?

A. Yes, ma'am.

Q. And you wrote down the -- you wrote some markings on there; is that right?

A. Yes, ma'am.

Q. And is the plastic that's contained in there in the same condition as when you received it on April 26, 1995?

A. No, ma'am.

Q. What's the difference?

A. It seems some of the pieces have been cut.

Q. Okay. And other than that, are those pieces in the same condition as when you had them?

A. Yes, ma'am.

Q. And are you aware that this plastic was sent for testing?
A. Yes, ma'am.
Q. And other than those -- and you said you could not identify the pulverized --
A. No, ma'am.
Q. -- exhibit -- is that correct -- or plastic?
A. No.
Q. And other than the changes that you've described, do you recognize Government's Exhibit 785?
A. Yes.

MS. WILKINSON: Your Honor, we'd offer just 785.

VOIR DIRE EXAMINATION

Brett Mills - Voir Dire

BY MR. TIGAR:

Q. Isn't it true, sir, that neither the contents of the bag nor the bag are in the same condition in which they left your hands when you last saw them?
A. When it left me, no, sir.
Q. They're not in the same condition, are they?
A. No.
Q. The plastic is different. Right? The stuff inside?
A. Yes, sir.
Q. And the bag is different. Right?
A. Yes, sir.

MR. TIGAR: We object to it, your Honor.

THE COURT: Sustained.

DIRECT EXAMINATION CONTINUED

BY MS. WILKINSON:

Q. Just to make the record, Mr. Mills, on Government's Exhibit 785, the plastic bag we've been talking about, are you aware that other people have inspected the outside of that bag after you took it into the FBI Laboratory?
A. Yes, ma'am.

MR. TIGAR: If he knows, your Honor.

BY MS. WILKINSON:

Q. You know that?
A. Yes, ma'am.
Q. And is it the policy of the FBI for persons to initial the

Brett Mills - Direct

bag if they do any kind of inspection?

A. Yes, ma'am.
Q. And do you see Mr. Buechele's initials on there?
THE COURT: Well, the bag is not in the same condition. The contents are not in the same condition. It's objectionable.

MS. WILKINSON: Yes, your Honor.

BY MS. WILKINSON:

Q. Did you send the contents of Government's Exhibit 785 to Mr. Buechele?
A. Yes, ma'am.

Q. Now, are you aware that the Government's Exhibit 785 is sent

Q. Now, can you also look at the Government's exhibit in front of you, Government's Exhibit 786D and 786 -- start with 786C, the can.

A. The can.

Q. Do you recognize that?

A. Yes, ma'am.

Q. And did you receive that in -- back in the FBI Laboratory?

A. Yes, ma'am.

Q. When did you receive it?

A. April 26, 1995.

Q. Was the top sealed when you received it?

A. Yes, ma'am.

Q. And how did you open it?

A. I had to pry open the lid; and I looked inside, pulled out

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the bag to get a description of the items, and then I put it back in and put our Q identifier on it.

Q. Is your handwriting on Government's Exhibit 786C, the can?

A. 786D?

Q. D. I'm sorry. Yes.

A. Yes, ma'am.

Q. What portion is your handwriting?

A. The laboratory number, the Q number, and then the initials "DW."

Q. And again, when you received that, was Mr. Williams still out at the crime scene?

A. Yes, ma'am.

Q. Now, after you were able to open the can, what did you find inside of it?

A. I found this -- this bag here, 786C.

Q. Yes.

A. With these plastic items inside of it.

Q. And is there a Q number marked on the smaller bag in your hand?

A. This one here, 786B?

Q. Yes.

A. Yes, ma'am.

Q. Does that have the same Q number as the can in front of you?

A. Yes, ma'am.

Brett Mills - Direct

Q. What is that Q number?

A. Q112.

Q. And what is the purpose of marking the Q number on that bag similar to the Q number on the can?

A. Because these items are Q112, even though -- I mean, they were inside the can itself, and it's the items that I described in the can as Q112.

Q. And did you send those plastic fragments in your hand on for testing?

A. Yes, ma'am.

... 100, ma'am.

Q. And when you did that, did you send them with the can?

A. Yes, ma'am.

Q. And did you send them on to Agent Buechele?

A. Yes, ma'am.

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

THE COURT: Cross-examination.

MR. TIGAR: May I stand next to the witness to ask just a couple of questions about the can?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Can you just -- at the time that this can left your control, were the initials "SGB," "RGB," whatever that is, "RM" -- were they on there?

Brett Mills - Cross

A. These three?

Q. Yes.

A. No, sir.

Q. Okay. Were these initials here, the "POD," "4-25"?

A. Yes.

Q. And this is another instance in which you wrote the "YR" and the "DW"?

A. Correct.

Q. And what does the "RH" stand for?

A. That's somebody's initials.

Q. Were those on there at the time?

A. I don't remember them, no, sir.

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

THE COURT: Anything else of this witness?

MS. WILKINSON: No. He needs to be called back for another exam.

THE COURT: All right. You may step down. We'll see you later.

THE WITNESS: Thank you.

MR. MACKEY: Your Honor, our next witness I'm not sure

is on alert. So can I use some of this time to publish additional stipulations?

THE COURT: Yes.

MR. MACKEY: Your Honor, we'd ask the Court to publish

Factual Stipulation No. 5.

THE COURT: With 2046 -- relating to 2046?

MR. MACKEY: Yes, your Honor.

THE COURT: All right. It has been agreed, members of the jury, that Government's Exhibit 2046 is a record of a customer application at the Blockbuster Video in Junction City, Kansas, in the name of Timothy McVeigh and dated August 15, 1994.

MR. MACKEY: Your Honor, if I could display this to

the jury.

THE COURT: It's received, then, pursuant to this stipulation.

MR. TIGAR: Yes, your Honor.

THE COURT: All right. You may publish it.

MR. MACKEY: Your Honor, I'm displaying at this time Government's Exhibit 2046, which bears in the upper left-hand corner a printed name "Tim McVeigh," and ask the Court to note the parties' stipulation: All the handwriting that appears on this exhibit was authored by Tim McVeigh.

MR. TIGAR: May I publish additional portions at this time, your Honor?

THE COURT: Yes. But what has been announced is agreed to?

MR. TIGAR: Yes, that has been agreed to, your Honor.

THE COURT: All right.

MR. TIGAR: May I publish additional portions at this time?

THE COURT: Yes.

MR. TIGAR: I'm going to read off some more.

MR. MACKEY: I'm starting with the name, Mr. Tigar.

MR. TIGAR: I'm sorry, your Honor. I thought he was only going to do that, but he tells us he's going to do the rest.

THE COURT: The whole agreement. Let's have the whole agreement.

MR. TIGAR: Thank you.

MR. MACKEY: I'm not done.

For the record, appearing in the box in the upper left-hand corner of this exhibit is the name --

MR. WOODS: Your Honor, excuse me. The TV is not facing the jury. We would like to disclose that to the jury.

THE COURT: Thank you.

MR. MACKEY: Thank you, Mr. Woods.

THE COURT: Move it around.

Do you want to start over? It's a little confusing now where we are, so go ahead with Exhibit 2046.

MR. MACKEY: Which is the document entitled, "Membership Application," preprinted form, Blockbuster Video. I'll read into the record customer information in the box that appears in the upper left-hand corner of that exhibit. The name is "McVeigh, Timothy J." The address is "P.O. Box 2153." The next line is line 4. The entry is "Ft. Riley, Kansas." The Zip provided, "66422." The home number provided is "(913) 239-4846."

Immediately to the right on the upper right-hand portion of this same document under line 7 for identification appears the initials "KS" and then a series of numbers "J9YST1." Below that on line 8, Social Security No. "912-34-1968."

Below that on line 8 (sic) appears the entry "U.S. Army/" and "C.CO 516th" Maintenance or "Maint."

Line 10 appears the numbers "(913)," end parentheses, "239-4981."

In the section marked No. 11, there is handwritten

entries on line 14. Following the word "(Type)" is the handwritten words "Military I.D." Next to that is the number "8125476." Next to that after the title "(Expiration Date)" appears the numbers "11 APR 95."

Below that, a series of initials appear to be "TJM."

I'll read into the record now the entries in the box entitled, "ADDITIONAL FAMILY MEMBERS." Line 15 is entered the word "None."

"NUMBER . . . CARDS REQUESTED" on line 18 is "1"; and on the far right-hand corner of that same box under the title "Parent Signature" is some scribbling that I would describe as illegible.

The very bottom of Exhibit 246 (sic) is a signature of Timothy James McVeigh as agreed to by the parties. Next to that the date entered, "AUG 94."

That's all that I would publish at this time of this exhibit, Mr. Tigar.

MR. TIGAR: Yes, your Honor. That's -- I wonder if I could just show the top, because the TV was moved over there afterwards.

That's the Blockbuster Video membership application, and the stipulation relates that this is -- I'm sorry, your Honor. Does the stipulation say which Blockbuster Video this is?

MR. MACKEY: Junction City.

THE COURT: Yes, it does say "Junction City."

MR. TIGAR: Junction City, Kansas. Thank you, your Honor.

MR. MACKEY: I have additional exhibits to display, or if we've had notice to the witness, we can proceed to testimony.

THE COURT: We have the witness. All right.

MR. MACKEY: Your Honor, at this time we'll call Mr. Ron Buechele.

THE COURT: If you'll just stand there and raise your right hand.

THE COURTROOM DEPUTY: Raise your right hand.

(Richard Buechele affirmed.)

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

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

THE WITNESS: My name is Richard Buechele. The last name is spelled B, like in boy, U-E-C-H-E-L-E.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MS. WILKINSON:

Q. Mr. Buechele, do you work for the FBI?

A. Yes, ma'am, I do.

Q. Where are you currently assigned?

A. I'm currently assigned to the Pittsburgh field division in Pittsburgh, Pennsylvania.

Q. In April of 1995, were you assigned to the FBI Laboratory?

A. Yes, I was.

Q. Just briefly tell us what your duties were there.

A. My duties in the FBI Laboratory specifically I was

A. My duties in the FBI laboratory, specifically I was assigned to the materials analysis units. My duties was the examination of evidence that included paints, tapes, adhesives, cosmetics, and plastics.

Q. And were you asked during the investigation of the Oklahoma City bombing to examine some plastic fragments found at the crime scene?

Richard Buechele - Direct

A. Yes, I was.

Q. Do you see some exhibits before you?

A. Yes, I do.

Q. Do you see those items? Do you recognize some of those items?

Why don't we start with the one that's in your hand. Can you read the Government exhibit sticker?

A. Exhibit No. 786B, I recognize. It's a Ziploc bag, and it bears my initials.

Q. Now, that Ziploc bag: Did you write the Q number on it?

A. No, I did not.

Q. Okay. And you initialed that bag?

A. Yes, I did. My initials are faintly present right here in the upper left corner.

Q. And did you receive -- do you recall when you received that plastic?

A. I received that May 11 of 1995.

Q. And did you remove some of the plastic for testing?

A. Yes, I did.

Q. What did you do to it?

A. The plastic in that bag, I examined under a microscope; and pieces that I thought were worthy of further examination, I removed and placed in a separate Ziploc bag.

Q. Do you see that before you?

A. Yes, I do.

Richard Buechele - Direct

Q. What Government exhibit number is that?

A. This is Government's Exhibit No. 786.

Q. 786. Okay. And what did you do with the items in 786?

A. I examined them further than just microscopic examination. I used an instrument in the laboratory to tell me what type of plastic it was.

Q. Does that -- does that instrument have limited capabilities?

A. Yes, it does.

Q. And did you perform the test?

A. Yes, I did.

Q. And after the test, did you place that plastic back into the bag?

A. Yes, I did.

Q. By performing that test, did you change the chemical composition of the plastic in any way?

A. No, ma'am.

Q. Now, at any time did you cut off portions of the plastic fragments in Government's Exhibits 786 or 786B -- or A, was it? I'm sorry.

Excuse me, I'm sorry. The first bag you picked up: What is the Government's --

A. 786B.

Q. 786B. Did you cut off portions of the plastic in either 786B or 786?

Richard Buechele - Direct

A. In 786, I would have sliced a small fragment of that plastic off, approximate size of a fingernail clipping for my examination.

Q. And that's the only way you altered those pieces of plastic. Is that right?

A. Yes. That's correct.

MS. WILKINSON: Your Honor, we offer Government's Exhibits 786 and 786B.

MR. TIGAR: May I approach, your Honor?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. This is 786 and this is 786B?

A. Yes, sir, that's correct.

Q. Thank you. Mr. Buechele -- am I pronouncing that correctly?

A. Yes, sir, you are.

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

What is your -- what was your title in the FBI as of April and May of 1995?

A. During that time period, I was a special agent in the FBI Laboratory.

Q. And you -- a special agent who was assigned to the laboratory. Is that right?

Richard Buechele - Voir Dire

A. Yes, sir, that's correct.

Q. And you have told us that you performed certain tests; is that right?

A. That's correct.

Q. Now, 7 -- is 786, which is a Ziploc bag -- correct?

A. Yes, sir, that's correct.

Q. And it arrived when you first saw this piece of plastic or something like it -- it arrived in a Ziploc bag. Correct?

A. That is not correct.

Q. That is not correct. Well, what -- what did it arrive in?

A. Exhibit 786 was in the bag with Exhibit 786B. I examined everything which is in your left hand and removed Exhibit 786 and placed it in that second bag.

Q. I see. And when you placed it in the second bag, did you make some writing on it?

A. Yes, sir, I did.

Q. Okay. And can you tell me from here what writing you put on it?

A. No, sir, I can't.

MR. TIGAR: May I approach?

THE COURT: Yes.

BY MR. TIGAR:

Q. Can you tell me, please, what writing is yours on here.

THE COURT: Which exhibit are you --

MR. TIGAR: 786, your Honor.

Richard Buechele - Voir Dire

THE COURT: Thank you.

THE WITNESS: The writing which I would have placed on Exhibit 786 would be my initials up here, the initial "F/" indicating that this is from Q112.

BY MR. TIGAR:

Q. Right.

A. I also wrote on here that this is --

Q. Hold it. It's not in evidence yet. That's why I'm stopping you. You wrote on here a potential conclusion. Is that correct? A possible something; right?

A. That is correct.

Q. And is that the -- and did you write the "1B142," etc.?

A. No, sir, I did not.

Q. And did you put this piece of paper inside with the Q number and the typewritten information?

A. No, sir, I did not.

Q. Did you prepare that?

A. No, sir, I did not.

Q. And you didn't put any of this "MAK," "RCB" and the blue writing that says "YR" on it?

A. The blue writing is not mine. The "RCB" again is my initials.

Q. Is the "MAK" yours?

A. No, sir.

Q. Now, the blue writing: Was that on the bag at the time it

Richard Buechele - Voir Dire
left your custody?

A. No, sir, it was not.

Q. And do you know what the initials "YR" stand for? Correct?

A. I believe I do, yes, sir.

Q. Whose are those?

A. I believe those are the symbols for an examiner in the laboratory.

Q. And his name is?

A. David Williams.

Q. The -- now, is this piece of plastic that's inside this bag, 786, in the same condition as when it left your custody?

A. Yes, sir, it certainly appears to be.

MR. TIGAR: Your Honor, we have no objection to the

MR. TIGAR: YOUR HONOR, we have no objection to the admission of the contents, the piece of plastic. The bag with the writing, we object to.

MS. WILKINSON: We have no problem with that, your Honor. We just want the contents in.

THE COURT: That's what I assumed, since it's the relevant evidence.

MS. WILKINSON: We don't care about the bag.

THE COURT: Well, are the contents marked in some fashion?

MS. WILKINSON: No. It's almost impossible to mark the contents. What we'll do is get a clean plastic bag. We obviously needed this for the chain of custody. We'll get a

Richard Buechele - Voir Dire

clean plastic bag, put another sticker on it, if that's okay with Counsel and the Court. The problem is for the witnesses to recognize it, we need the bag.

THE COURT: We can keep it in there for now.

MR. TIGAR: Yes, your Honor. There is a question of what goes to the jury. We want to make sure the bag itself is preserved, because I intend to cross-examine about the bag.

THE COURT: I understand. So what we're receiving is the content of Exhibit 786.

MS. WILKINSON: We also offer the contents now of 786B, although I don't believe there are any markings on here that aren't Mr. Buechele's.

MR. TIGAR: I haven't examined about that yet, your Honor.

THE COURT: Go ahead.

MR. TIGAR: I may consent when I'm done.

BY MR. TIGAR:

Q. Agent Buechele, you probably weren't ready for all this, were you?

A. I was ready for whatever testimony was needed, sir.

Q. Okay. Well, good.

You put -- this is a bunch of plastic -- right -- in

786B?

A. Yes, sir, that's correct.

Q. Okay. And you put it in this Ziploc bag?

Richard Buechele - Voir Dire

A. Again, no, sir, that's not correct. That is the condition I received it.

Q. I see. You initialed the Ziploc bag?

A. That's correct.

Q. And other than the Government evidence sticker on it, has this changed any since it left your hands that you can see?

A. No, sir, it does not appear to have.

Q. Okay. And this -- and is -- did you take any clippings from this -- any of the plastic in here?

A. I don't believe I did, no, sir.

Q. The clipping -- the fingernail-size clipping: That's from the piece of plastic we said already would come in evidence?

A. That's correct.

MR. TIGAR: We have no objection, your Honor, to 786B, nor to its bag.

THE COURT: All right. 786B is received.

MS. WILKINSON: We're making progress, your Honor.

THE COURT: Well, it's 5:00.

MS. WILKINSON: Oh, shoot.

THE COURT: You can step down for now. We'll have you back tomorrow.

Members of the jury, just so that you understand what we're doing here, it's not just lawyers quibbling. What is involved here is what is called the "chain of custody." And the effort is to determine whether what is being offered in evidence is in the same condition as it was at a different time; so it's not, you know -- it's an important part of the rules of evidence that we're going through, and I want you to understand that. We're not playing a little game here, although it may seem that way sometimes. But these are important rules; and that is a part of what I told you is my function in the case, to make sure that what you receive in here and consider as evidence is consistent with the rules.

Now, of course, the only thing that you can work from in making your decision in the case is the evidence, and that's why I always caution you, as I do now again at this recess, to keep open minds, to not discuss anything about the case, and to continue to be in a position by avoiding anything outside of our evidence, to be able under your oath to decide according to the evidence and the law to be given to you.

So with that, we'll excuse you till 8:45 in the morning and hope you have a pleasant evening.

(Jury out at 5:00 p.m.)

THE COURT: May I have counsel for a few minutes, please.

(At the bench:)

(Bench Conference 91B1 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

THE COURT: All right. The bench conference here, the side bar, was with respect to scheduling and what would be expected by way of the evidence tomorrow and Friday. Counsel have been helpful; and we anticipate going forward at 8:45 in the morning, so we'll recess till then.

(Recess at 5:08 p.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
654	10682	10682			
656-653	10683	10683			
713	10675	10675			
720	10677	10677			
722	10678	10679			
785					
785B	10800				
785					
785	10805				
786C	10785	10786			
786D					
786					
786B					
786 (contents)		10822			
786B	10822	10823			
952D	10747	10748			
1110	10740	10740			

1113 10/48 10/48
2046

DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D1661-D1665	10686				
D1667	10686				

* * * * *

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.

Paul Zuckerman

Bonnie Carpenter

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