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3 District of Oklahoma, and RANDAL SENDEL, Assistant U.S.  
4 Attorney for the Western District of Oklahoma, 210 West  
Park  
5 Avenue, Suite 400, Oklahoma City, Oklahoma, 73102,  
appearing  
6 for the plaintiff.  
7 LARRY MACKEY, SEAN CONNELLY, BETH WILKINSON,  
GEOFFREY  
8 MEARNS, JAMIE ORENSTEIN, and AITAN GOELMAN, Special  
Attorneys  
9 to the U.S. Attorney General, 1961 Stout Street, Suite  
1200,  
10 Denver, Colorado, 80294, appearing for the plaintiff.  
11 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,  
REID  
12 NEUREITER, and JANE TIGAR, Attorneys at Law, 1120

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13 Street, Suite 1308, Denver, Colorado, 80203, appearing  
for  
14 Defendant Nichols.

15 \* \* \* \* \*

16 PROCEEDINGS

17 (In open court at 9:00 a.m.)

18 THE COURT: Please be seated.

19 Good morning.

20 You have, Mr. Mackey, an estimate of the  
length of

21 your opening? Or whoever is delivering the openings.

22 MR. MACKEY: I am, your Honor; and I would  
estimate an

23 hour and 40 minutes, perhaps.

24 THE COURT: All right. Is the defense going  
to do an

25 opening?

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1 MR. TIGAR: Yes, your Honor. We'll open. Mr.  
Woods

2 and I will open about the same amount of time.

3 THE COURT: Well, we'll probably be needing or  
--

4 maybe need a recess in there; and instead of my  
interjecting,

5 you may suggest where it's an appropriate time, seeing  
how it  
6 develops.

7 MR. TIGAR: We'll do that, your Honor. Thank  
you.

8 THE COURT: Okay. All right. Let's bring in  
the  
9 jury.

10 (Jury in at 9:01 a.m.)

11 THE COURT: Members of the jury, good morning.

12 We've assigned seats for you this morning, and  
what  
13 we'll be doing in the course of the trial is changing  
the  
14 seating arrangement every now and then so that each  
person on  
15 the jury will, in the course of the trial, then have a  
little  
16 different perspective on the courtroom and the ability  
to see  
17 the exhibits and so forth. So we'll let you know when  
we  
18 change the seat assignments.

19 Now, as I indicated when I reviewed with you  
when we  
20 were last together, on Thursday, the outline of the  
trial,  
21 we're going to begin, first of all, with asking all of  
you to  
22 take the oath as jurors for deciding the case according  
to the  
23 law and the evidence, and then we'll proceed with

opening

24 statements.

25  
stand, raise

And at this time, I'll ask you please to

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1 your right hands, and take the oath as the jury for the  
trial

2 of this case.

3 (Jurors sworn.)

4 THE COURT: Please be seated.

5  
again the

Now, again, just to review with you briefly

6 stages of the trial that I outlined for you before, we  
will

7 start with opening statements. And the opening  
statements are

8 simply an opportunity for the lawyers on each side to  
give you

9 an overview, a preliminary view, an introduction, if  
you will,

10 of what they expect the evidence in the case to be.  
But before

11 hearing from counsel, I want to remind you that what is  
said in

12 opening statements is just that, expectation of what  
the

13 evidence may be in the case. It will not be a part of  
the

14 evidence. The evidence will come in, of course, as  
witnesses  
15 are called to the stand and the evidence is taken.  
16 So these opening statements, though, are a  
chance for  
17 us to sort of get a picture in the beginning of just  
what we  
18 can expect to hear and what the issues will be in the  
case. So  
19 with that, I'll call on the Government counsel for the  
opening  
20 statement, Mr. Mackey.

21 OPENING STATEMENT

22 MR. MACKEY: Thank you, your Honor.  
23 May it please the Court. Ladies and gentlemen  
of the  
24 jury, good morning. April 19, 1995, fell on a  
Wednesday, the  
25 middle of the workweek. On that morning, Terry Nichols  
was

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1 home. He was home in Herington, Kansas, with his wife  
and his  
2 daughter. He was home and at a very safe distance from  
a truck  
3 bomb that exploded in downtown Oklahoma City in front  
of the  
4 federal building in Oklahoma City in the heartland of  
America.

5 And Terry Nichols had planned it just that way.

6 There were others in Oklahoma City on that morning,

7 and Terry Nichols had planned on that, too. Tim McVeigh was in

8 Oklahoma City on the morning of April 19. He was one of those

9 people. And on that day, Terry Nichols knew exactly where Tim

10 McVeigh would be and knew exactly what he would be doing.

11 Tim McVeigh was there to do one thing, one thing only,

12 the only thing left to do, the final act in a plan of terrorism

13 that Terry Nichols and Tim McVeigh had embarked upon months and

14 months before that date.

15 This is a case about two men who conspired to murder

16 innocent people. Their plan succeeded when the bomb went off

17 and people died.

18 On that day, at that moment, Terry Nichols was not in

19 Oklahoma City; but during the months before that date, Terry

20 Nichols had been side by side with Tim McVeigh, together in

21 their plan of violence.

22 And true to that plan, on Wednesday, April 19, 1995,

a large  
building  
McVeigh

23 Terry Nichols knew that Tim McVeigh would be delivering  
24 Ryder truck as close as he could get it to the federal  
25 in downtown Oklahoma City. And true to that plan, Tim

6361

1 detonated that bomb.  
2           When the bomb exploded at 9:02 that morning,  
it  
3 consumed the truck, it destroyed the building, and it  
changed  
4 the face of American history forever. And it killed  
168  
5 people, men, women, and children, the cross section of  
this  
6 country, whites, African-Americans, Hispanics, Native  
7 Americans, people of all ages, races, and backgrounds.  
8           For just as Terry Nichols and Tim McVeigh had  
planned,  
9 there were others in Oklahoma City on April 19,  
innocent  
10 others. And at that moment, in fact, there were  
hundreds of  
11 people inside the Murrah Building. Most of those  
people were  
12 there as workers, men and women carrying out the  
business of

13 the federal government. Others were there as citizens,  
seeking  
14 the assistance of that very same government. And still  
others  
15 were youngsters and toddlers and infants entrusted by  
their  
16 parents to the safekeeping of the day-care center in  
that  
17 building.

18 Those who died were there inside the building.  
Scores  
19 of people, including 19 children, died because they  
were there  
20 inside the building. They were inside a nine-story  
building as  
21 the floor below them gave way and the ceiling above  
them  
22 crashed down.

23 As time stood still in downtown Oklahoma City  
that  
24 morning, Terry Nichols was home in Kansas, a long, safe  
25 distance from the blast that rocked that city just the  
way he

6362

1 had planned it.  
2 At that same moment, Terry Nichols also  
thought he was  
3 safe from ever being linked to that horrible crime.  
Prior to

4 the blast, without detection, Tim McVeigh and Terry  
Nichols had  
5 together managed to buy or steal every ingredient  
necessary to  
6 build that bomb: 4,000 pounds of ammonium nitrate,  
hundreds of  
7 blasting caps and explosives, 165 gallons of racing  
fuel, and  
8 numerous 55-gallon plastic barrels. And they had  
managed to do  
9 so for months before their target date of April 19,  
1995, the  
10 second anniversary of the tragedy at Waco.

11 Together, they had hidden the ingredients in  
storage  
12 sheds, many of which were under false names. Together,  
they  
13 had acquired the knowledge to make those ingredients  
into a  
14 bomb; and together, just the day before the bombing,  
they had  
15 mixed those ingredients and prepared that bomb, just as  
they  
16 had planned.

17 And as they had planned, by the time the bomb  
went  
18 off, Tim McVeigh's getaway car was safe in Oklahoma  
City,  
19 waiting for him as his means of escape. Their plan did  
not  
20 call for Terry Nichols to be in Oklahoma City on that  
day.

21 But Susan Hunt, whom you will meet in this  
case, did  
22 need to be in Oklahoma City on April 19. She had a  
job. She  
23 had an important job. She was the office manager for  
the  
24 Department of Housing, Urban and Development (sic).  
And she  
25 had a plan. It was a simple plan: go to work and do  
what she

6363

1 could to provide housing for people in the state of  
Oklahoma.  
2 She followed her plan that day and somehow survived the  
3 bombing.  
4 But Terry Nichols and Tim McVeigh also  
followed their  
5 plan that day, and 35 of Susan Hunt's co-workers died.  
6 Their plan was not perfect. As the evidence  
will  
7 show, not all things went according to plan. Within  
minutes of  
8 the blast, Tim McVeigh was arrested by an alert  
Oklahoma  
9 highway trooper stopped on the highway. At the time of  
his  
10 arrest, Tim McVeigh was carrying a concealed weapon and  
driving  
11 on Interstate 35, north out of Oklahoma City, north to

Kansas.

12                    Within hours of the blast, the FBI had traced  
the  
13                    Ryder truck bomb back to its origin, back to Junction  
City,  
14                    Kansas. And by the next day, the FBI had found a  
witness who  
15                    had seen Tim McVeigh driving a Ryder truck in Junction  
City,  
16                    Kansas. Junction City, Kansas, is only a short  
distance from  
17                    Herington, Kansas, where Terry Nichols was living at  
that time.

18                    And within two days of the blast, on Friday,  
April 21,  
19                    FBI agents were on the way to Herington, on their way  
to talk  
20                    to Terry Nichols. Terry Nichols had not planned on Tim  
21                    McVeigh's arrest nor on the rapid developments of the  
FBI's  
22                    investigation. He had not planned on any of it  
happening at  
23                    all and certainly not as quickly as it did. And within  
two  
24                    days of the blast, Terry Nichols was being questioned  
by the  
25                    FBI, and his home was searched. And in the course of  
this

1 trial, you will hear what Terry Nichols told the FBI,  
the  
2 denials of involvement; and you will see the physical  
evidence  
3 taken from his home that contradict those denials.  
4 You will see the physical evidence such as a  
receipt  
5 for the purchase of 2,000 pounds of ammonium nitrate  
and a  
6 phony name with Tim McVeigh's fingerprint on it found  
in Terry  
7 Nichols' house. You will see 300 feet of blasting caps  
found  
8 in Terry Nichols' house, a cordless drill used to break  
in and  
9 steal explosives found in Terry Nichols' house, 55-  
gallon  
10 plastic barrels of the kind used to hold the bomb found  
in  
11 Terry Nichols' house, and stolen guns used to finance  
in part  
12 the bombing plan, all found in Terry Nichols' house.  
13 In the course of the days that will now  
follow, you  
14 will hear the testimony from witnesses that will prove,  
as the  
15 grand jury has charged in an 11-count indictment,  
first, that  
16 Terry Nichols conspired with Tim McVeigh and others  
unknown to  
17 use a truck bomb against the Murrah Building and the  
people  
18 inside the building; second, that Terry Nichols aided

and

19 abetted Tim McVeigh's use of that truck bomb to kill  
people and

20 destroy that building; and third, that Terry Nichols  
aided and

21 abetted the first-degree murder of the eight federal  
law

22 enforcement officers who died that morning on April 19.

23 During this case, you will hear legal terms  
like

24 "conspiracy" and "aiding and abetting," and these terms  
simply

25 mean that a defendant may be guilty of a crime even if  
he

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1 wasn't at the scene. Under the law, Terry Nichols did  
not have

2 to be in Oklahoma City on April 19 to be guilty of  
conspiring

3 with Tim McVeigh or to be guilty of aiding and abetting  
the

4 murders that took place that day.

5 Those criminal charges will shape the evidence  
in this

6 case. They will focus on the question: Did Terry  
Nichols know

7 of the plan to bomb the Murrah Building? And if he did  
know,

8 did he intentionally help carry out that plan? The

answer to

9 those questions, as the evidence will show, is that  
Terry  
10 Nichols knew from the beginning of the plan to bomb the  
Murrah  
11 Building and he intentionally helped that plan succeed.  
Terry  
12 Nichols was there at the beginning and he was there at  
the end.  
13 The evidence will show that Terry Nichols was there at  
the  
14 beginning to acquire the bomb ingredients and he was  
there at  
15 the end to stash Tim McVeigh's getaway car in Oklahoma  
City and  
16 to prepare the bomb.

17 Prior to the explosion, Tim McVeigh -- excuse  
me --  
18 Terry Nichols was there side by side with Tim McVeigh  
each step  
19 of the way. Terry Nichols plus Tim McVeigh equaled the  
20 destruction of the Murrah Building.

21 The prosecution's evidence in this case will  
focus on  
22 the conduct of Terry Nichols. The only person on trial  
is  
23 Terry Nichols. The only charges before you are those  
against  
24 Terry Nichols. And as his Honor has told you, the  
ultimate  
25 question for you in this case will be did the United  
States

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Terry  
possible  
will  
Nichols.

1 prove beyond a reasonable doubt the charges against  
2 Nichols. This case will not seek to identify every  
3 other co-conspirator. As we proceed through trial, we  
4 keep the evidence focused on the conduct of Terry

fact is

5 You are the fact-finders in this case. One

bombing that

6 horribly true: 168 people died as a result of the

murder case;

7 morning. 168 men, women and children. This is a

the

8 and because it is a murder case, we will prove to you

their

9 identity of each of those victims and the manner of

by no

10 death. That kind of testimony will be emotional, but

trial.

11 means will every victim's story be told during this

one

12 Instead, in the course of our case, you will hear from

that once

13 representative of the 13 agencies and organizations

14 had offices in the Murrah Building.

the

15 Those representative witnesses will describe

16 events of that morning. They will identify their  
fellow  
17 workers who died. They will tell you about the way the  
blast,  
18 the loss of life, and the total destruction of their  
workplace  
19 changed their lives and stopped the flow of services to  
the  
20 people in Oklahoma. And you will see from those  
representative  
21 witnesses, those federal employees who were there  
inside that  
22 building that day that they were hard-working,  
conscientious  
23 people who had done no harm to Terry Nichols or Tim  
McVeigh and  
24 certainly did not deserve to die.  
25               But there were more victims than those who  
simply

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1 worked there. The Murrah Building was a modern office  
complex  
2 and it had a day-care center. It was called the  
America's  
3 Day-Care Center (sic), and it was located on the second  
floor.  
4 There were deaths inside the day care that day. But no  
one  
5 from the day care can come to court and tell you about

those

Every one 6 who died. There were three adult workers that day.

care. 7 of those women died. There were 21 children in the day

survived 8 15 of those children died. Obviously, those who

And so 9 cannot come to court and testify about those who died.

appear 10 instead, one mother representing those who died will

workers 11 before you and identify the children and the adult care

12 who died.

the 13 But there were yet other victims, more than

Wednesday, 14 workers and more than the day-care people. On

And quite 15 April 19, the Murrah Building was open for business.

visitors 16 predictably, at the moment of the blast, there were

office 17 inside, people at the first floor Social Security

18 seeking assistance and others inside that public office

simply 19 building. 29 people, including four children, were

any 20 visiting at the moment the bomb exploded, people who on

alongside the 21 other day would not have been there. They died

22 federal workers and the people in the day-care center.

will be 23 All of this testimony about the loss of life  
This 24 difficult to listen to, but it's the reason we're here.  
25 is a murder case.

6368

outside a 1 The image of anyone exploding a truck bomb  
ugly 2 day-care center is almost unthinkable, but that is the  
reason in 3 reality of this case. What could give anyone enough  
Terry 4 their own mind to commit such a crime? The answer for  
bombing, 5 Nichols and Tim McVeigh is revealed in the date of the  
Waco, 6 April 19, 1995, two years to the day after the fire at  
federal 7 Texas. Terry Nichols and Tim McVeigh blamed the  
April 19, 8 government for the events at Waco, and they selected  
government. The 9 1995, as the date to strike back against that  
and Tim 10 date of the bombing was no coincidence. Terry Nichols  
11 McVeigh intended to send a message on that day.  
the 12 Then why that place? Why Oklahoma City? Why

not only 13 Murrah Building? The motive in this case is revealed  
As you 14 by the date but by the building they chose to attack.  
thought 15 will learn from a friend of Tim McVeigh, Tim McVeigh  
offices in the 16 that ATF agents who had served at Waco had their  
he was 17 Murrah Building in Oklahoma City. You will learn that  
who was 18 right, and you will hear testimony from one ATF agent  
19 at Waco and who was also in that building on April 19.

compare the 20 The proof in this trial will allow you to  
Terry 21 views of hatred of the federal government shared by  
arrested 22 Nichols and Tim McVeigh. When Trooper Charlie Hanger  
on the 23 Tim McVeigh on the morning of the bombing on April 19,  
Waco. 24 front seat of McVeigh's car were documents referencing  
later, 25 And when the FBI searched Terry Nichols' house two days

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Terry 1 inside that house, they found documents about Waco.  
bombing, he 2 Nichols felt strongly about Waco. And before the

in this 3 described it as an injustice and predicted civil unrest  
4 country because of it.

5 Terry Nichols and Tim McVeigh thought that  
attacking 6 the Murrah Building was a justified way to express  
their views 7 about Waco. The bombing of a federal office building  
after the 8 workers and the day-care children had arrived was  
nothing less 9 than an act of terror.

10 Of course, there could be no prosecution if  
the only 11 proof was that Terry Nichols viewed the federal  
government with 12 contempt. Each of us has our rights to our political  
views. 13 But the proof will show far more than political dissent  
and 14 contempt for the government. The proof will show that  
Terry 15 Nichols teamed with Tim McVeigh in a plan of action, a  
plan to 16 commit a horrendous act of murder. Actions do speak  
louder 17 than words.

18 And we are not here because of anything Terry  
Nichols 19 thought or said. We are here because of the actions of  
Terry 20 Nichols. We are here because Terry Nichols purchased

4,000

Terry 21 pounds of ammonium nitrate in a false name, because  
blasting 22 Nichols stole, transported, and concealed hundreds of  
barrels 23 caps and other explosives, because Terry Nichols bought  
Nichols rented 24 in which to mix those ingredients, because Terry  
ingredients, 25 storage sheds in false names to hide the bomb

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in 1 because Terry Nichols stashed Tim McVeigh's getaway car  
prepare the 2 Oklahoma City, because Terry Nichols helped McVeigh  
destroy the 3 bomb and because Terry Nichols tried to conceal and  
actions, Terry 4 evidence of his own role in that plot. By these  
with the 5 Nichols displayed his commitment to a plan that ended  
federal 6 death of many, many people and the destruction of a  
7 building.  
will 8 This will be a trial about that conduct. You  
other and 9 learn that Terry Nichols and Tim McVeigh knew each

10 had known each other for many years before the bombing,  
before  
11 they decided to take action against the federal  
government and  
12 its employees. Their relationship dates back to 1988  
when they  
13 first met as they entered the U.S. Army together. Tim  
McVeigh  
14 was a 19-year-old recruit, and he worked hard to  
impress his  
15 platoon leader, Terry Nichols, a man who had enlisted  
in the  
16 Army at the age of 33. These men were more than 13  
years apart  
17 in age. They left the service at different times, but  
they  
18 remained friends. By 1993, they were living together.  
Tim  
19 McVeigh spent a part of 1993 with Terry Nichols and his  
family  
20 in Decker, Michigan. By that time, Terry Nichols,  
divorced  
21 from his first wife, was married to a young Filipino  
woman whom  
22 he had met during a short visit to that country. But  
both  
23 Terry Nichols and Tim McVeigh left Michigan in 1993 and  
neither  
24 ever returned there to live.

25 Instead, by early 1994, Tim McVeigh had  
settled in

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of 1 Kingman, Arizona, a small town near the western border  
Tim 2 Arizona and Nevada. Terry Nichols lived briefly with  
Marion, 3 McVeigh in Kingman and then in early 1994 moved to  
distance did 4 Kansas, central Kansas. But as you will learn,  
the late 5 not separate these two men for long. In fact, during  
Arizona -- 6 summer 1994, Tim McVeigh traveled from Kingman to  
his 7 excuse me -- to Kansas and lived with Terry Nichols and  
September 8 family. Tim McVeigh was still there in Kansas in mid  
this 9 of 1994 when Terry Nichols' wife and his daughter left  
daughter 10 country and returned to the Philippines. His wife and  
Their 11 did not return to this country for the next six months.  
together 12 departure left Terry Nichols and Tim McVeigh alone and  
place 13 in Marion, Kansas, and that combination of time and  
jury's 14 begins a series of events spelled out in the grand  
15 indictment.

16 September 1994 marks the time and central  
Kansas marks

17 the place where Terry Nichols and Tim McVeigh took  
their first  
18 steps in their plan to attack the federal government.  
They  
19 began with their commitment to each other and Tim  
McVeigh's  
20 attempt to recruit a third person, a man named Michael  
Fortier,  
21 into their plan.

22 Michael Fortier, who had met both Terry  
Nichols and  
23 Tim McVeigh when they were together in the Army, will  
be called  
24 by the government as a witness. Michael Fortier is in  
custody  
25 and is awaiting sentencing on his conviction on four  
felonies,

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1 including conspiring with Terry Nichols and Tim McVeigh  
to  
2 transport and sell stolen firearms and including crimes  
arising  
3 from false statements he made to the FBI when first  
questioned  
4 about the bombing in 1995. Because he is testifying  
pursuant  
5 to a plea agreement, you should consider Michael  
Fortier's  
6 testimony with caution and care and look for

corroboration.

7 The evidence in this case will provide that  
corroboration.

8 Michael Fortier will tell you that after he  
left the

9 Army, he and Tim McVeigh remained friends and the two  
of them

10 spent time together, time together in Kingman; and  
because of

11 the time spent together, Michael Fortier knew that Tim  
McVeigh

12 held a deep-seated hatred for the federal government  
about

13 Waco. He will tell you that in 1994, he got a letter  
from

14 McVeigh and in the letter, Tim McVeigh told him, "Terry  
and I

15 have decided to take offensive action against the  
government."

16 The letter went on to solicit Michael Fortier to join  
McVeigh

17 and Terry Nichols in their plan of violence.

18 Michael Fortier will also tell you that  
shortly after

19 he got the letter, he had a face-to-face conversation  
with Tim

20 McVeigh, who was there to recruit Michael Fortier.  
Michael

21 Fortier spelled out to -- Tim McVeigh spelled out to  
Michael

22 Fortier what their plan was. He described the plan of  
Terry

23 Nichols and Tim McVeigh. "Our plan is to bomb a

federal

24 building." Michael Fortier rejected McVeigh, but his  
refusal

25 did not stop Terry Nichols and Tim McVeigh from  
pursuing their

6373

1 plan. And in fact, in the 30 days thereafter, in the  
fall of

2 1994, Terry Nichols and Tim McVeigh together had  
gathered

3 virtually all of the ingredients they would need for  
their

4 bomb.

5 The Murrah Building in downtown Oklahoma City  
is gone.

6 It's gone entirely from where it once stood. And the  
hole that

7 remains is proof that it takes very little to build a  
weapon of

8 mass destruction; a little know-how and just a few  
ingredients.

9 The truck bomb that exploded on that day in downtown  
Oklahoma

10 City, as the evidence will show, was enormously  
powerful, but

11 it was also quite simple. It consisted of tons of  
ammonium

12 nitrate fertilizer, gallons of fuel, mixed inside large  
plastic

13 barrels. And that mixture was then rigged with  
explosives that  
14 would both ignite the blast and boost the power. And  
you will  
15 hear from experts in this case who will describe the  
recipe for  
16 that bomb and how very, very simple that recipe is.  
And you  
17 will learn, too, that Terry Nichols and Tim McVeigh had  
the  
18 know-how. They knew how to build a fertilizer bomb.  
19 The main component of that bomb was ammonium  
nitrate,  
20 and it was Terry Nichols who acquired it. Unlike Tim  
McVeigh,  
21 Terry Nichols had spent many years on farms in Michigan  
and  
22 Kansas, and that farming experience made Terry Nichols  
the  
23 natural candidate to walk into a Kansas farm supply  
store and  
24 pay for 4,000 pounds of ammonium nitrate. And the  
proof will  
25 be that Terry Nichols did just that.

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1 Buying ammonium nitrate fertilizer is not  
illegal.  
2 Possessing ammonium nitrate fertilizer is not illegal.  
And yet

when he 3 as the proof will show, Terry Nichols used a phony name  
op in 4 bought 4,000 pounds of fertilizer at the Mid-Kansas Co-  
on both 5 McPherson, Kansas. The phony name Terry Nichols used  
first on 6 occasions at the farm supply store was Mike Havens,  
fertilizer 7 September 30, 1994, when he paid for 2,000 pounds of  
pounds. 8 and later on October 18, when he paid for another 2,000

9 On both occasions, he used the false name Mike Havens.

10 Staying at motels is certainly not illegal.  
And yet

11 as the proof will show, Terry Nichols used phony names  
when he 12 registered at motels. And twice in October of 1994,  
within 13 days of the ammonium nitrate purchases, Terry Nichols  
used the 14 phony name Havens when he checked into motels. First,  
he used 15 the name Terry Havens, and later, he used the name Joe  
Havens.

16 And on both occasions, Terry Nichols checked in under  
the same 17 false address and the same false license plate number.

18 The trail that began at the farm supply store  
in 19 McPherson, Kansas, in the fall of 1994 ended at Terry  
Nichols' 20 house in Herington, Kansas, in the spring of '95. On

April 22,

21 the FBI executed a court-issued search warrant at the  
Terry  
22 Nichols residence; and inside the house, they found a  
receipt,  
23 a receipt from the McPherson farm supply store. The  
receipt  
24 was found inside a kitchen drawer in Terry Nichols'  
kitchen.  
25 The receipt was dated September 30, 1994, and it  
reflected the

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1 sale of 2,000 pounds of ammonium nitrate to a customer  
using  
2 the name Mike Havens. So the proof in this case will  
answer  
3 the question who was Mike Havens, and the answer is  
Terry  
4 Nichols.

5 The proof will be that on September 30, Terry  
Nichols  
6 was at that farm store, using the name Michael Havens  
and  
7 purchasing a ton of fertilizer, a key ingredient in the  
bomb.  
8 September 30, 1994, was a Friday. It was also  
the  
9 last day that Terry Nichols worked for a Kansas  
rancher, a man

located 10 by the name of Tim Donahue. Mr. Donahue's ranch is  
store. 11 less than 40 miles from the McPherson, Kansas, supply  
tell 12 Mr. Donahue will be a witness in this case, and he will  
work 13 you that Terry Nichols surprised him on the last day of  
early. 14 when Terry Nichols announced that he would be leaving  
several hours 15 Terry Nichols did leave work early that day; and  
Terry 16 later that same day near dusk, Tim Donahue went back to  
Terry 17 Nichols' house to run an errand. When he got back to  
McVeigh. 18 Nichols' house, Terry Nichols was there and so was Tim  
truck, a 19 Parked at the house on September 30 was Terry Nichols'  
20 dark-colored pickup with a light-colored camper shell.  
day will 21 The employee at the farm store on that same  
that the 22 also testify, Rich Schlender. And he will tell you  
pickup with a 23 customer, Mike Havens, was driving a dark-colored  
the same 24 light-colored camper shell. Mr. Schlender encountered  
returned to 25 Mike Havens the second time on October 18 when he

again, 1 buy yet another 2,000 pounds of ammonium nitrate; and  
2 the customer was driving the dark-colored pickup with a  
3 light-colored camper.

point 4 Rich Schlender will not come to the stand and  
5 out Terry Nichols to you and swear to you that he knows  
that 6 man was Mike Havens, but he will tell you that the  
receipt 7 found in Terry Nichols' house was for the sale of 2,000  
pounds 8 of ammonium nitrate from his store; his store in  
McPherson, 9 Kansas.

10 The evidence in this case will also answer the  
11 question if you buy 2,000 pounds of ammonium nitrate  
for an 12 illegal purpose, what do you do with it. And the  
answer is you 13 hide it. And that's what Terry Nichols and Tim McVeigh  
did as 14 part of their plan. They rented storage sheds,  
multiple 15 storage sheds, and more often than not in phony names.  
Before 16 Terry Nichols purchased that first 2,000 pounds of  
ammonium 17 nitrate on September 30, they already had a place to  
hide it.

and 18 On September 22, several days before, while Tim McVeigh  
rented a 19 Terry Nichols were living together in Kansas, McVeigh  
20 storage shed. He used a phony name, but he left his  
provide 21 fingerprints behind on the lease. And when asked to  
And on 22 for an address, he gave them Terry Nichols' address.  
the 23 that date in September of 1994, Tim McVeigh selected  
the very 24 storage facility in, of all places, Herington, Kansas,  
March of 25 same city that Terry Nichols selected to move to in

6377

1 1995, only weeks before the bombing.  
cannot 2 Ammonium nitrate fertilizer, even tons of it,  
is an 3 hurt you if left alone, but by its chemical nature, it  
it can 4 oxidizer; and combined with certain other ingredients,  
Tim 5 become deadly. In the fall of 1994, Terry Nichols and  
ingredients 6 McVeigh launched a plan to acquire all those other  
very 7 that would turn commonplace fertilizer into something

8 dangerous, and together, they used whatever means  
necessary to

9 get those other ingredients.

10 Burglary and theft were some of those means  
that Terry

11 Nichols and Tim McVeigh used to get the explosive  
components.

12 Together, they broke into explosive sheds at a Kansas  
rock

13 quarry near where Terry Nichols lived; and together,  
they stole

14 from the sheds hundreds of blasting caps and other  
explosives.

15 In the course of this trial, you will hear  
from people

16 who make their living around explosives. One such  
person is

17 Bud Radtke. Mr. Radtke has a job title. He's known as  
a

18 blaster, and he does that just about every day at the  
Kansas

19 rock quarry where he has worked for years. It's his  
job to use

20 explosives to blast rock out of the earth for road

21 construction. And each day, Mr. Radtke sets off  
explosives

22 that are a combination of ammonium nitrate fertilizer  
and fuel,

23 and he boosts the four of those explosives with  
sausage-shaped

24 explosives called Tovex, and he often initiates those

25 explosions with blasting caps often referred to as

Primadet.

6378

1                   Mr. Radtke's explosives are obviously  
dangerous, and  
2                   so they are stored some safe distance away from the  
operations  
3                   quarry as well as the offices of the quarry. They are  
secure  
4                   under padlock, and they are surrounded by walls of dirt  
to keep  
5                   them safe.

6                   When Bud Radtke came to work on Monday,  
October 3, he  
7                   discovered that his explosives sheds had been broken  
into and  
8                   hundreds and hundreds of Tovex sausages and Primadet  
blasting  
9                   caps had been stolen. Whoever broke in had come  
prepared  
10                  because each shed was protected with a padlock and that  
padlock  
11                  in turn protected by a shroud, and someone had a  
cordless drill  
12                  to reach up inside that shroud and drill out the  
padlocks that  
13                  protected the sheds. The thieves left behind one  
padlock,  
14                  padlock that had been drilled out; and that padlock has  
become

15 evidence in this case.

16 The evidence in this case will answer the  
question

17 where was Terry Nichols when Bud Radtke's explosive  
sheds were

18 broken into. And the answer will be that he was  
together with

19 Tim McVeigh, engaged in the theft of those explosives.  
You'll

20 learn that Mr. Radtke's rock quarry is about 10 miles  
from

21 where Terry Nichols and Tim McVeigh were living in  
central

22 Kansas in the fall of 1994. And on the other hand,  
Kingman,

23 Arizona, is more than 1,000 miles away, more than 1,000  
miles

24 away from central Kansas. And that's how far Terry  
Nichols and

25 Tim McVeigh drove in order to hide the stolen  
explosives.

6379

1 On Tuesday, April 4, the day after Mr. Radtke  
had

2 discovered the burglary, Terry Nichols and Tim McVeigh  
were

3 together in Kingman, Arizona. And on that date in  
Kingman, Tim

4 McVeigh rented a storage shed. And Michael Fortier  
will tell

and  
5 you that he went to that storage shed with Tim McVeigh  
6 Terry Nichols. He'll describe what he saw: Boxes with  
7 emblem of explosives.

8           The FBI's investigation in this case led not  
only to  
9 Oklahoma and to Kansas but to Arizona, as well. And  
after the  
10 bombing, the FBI recovered Primadet blasting caps from  
Kingman,  
11 Arizona, and they tested those blasting caps for  
fingerprints,  
12 and you'll learn the results of those tests. Terry  
Nichols'  
13 fingerprints were found on blasting caps recovered in  
Kingman,  
14 and you will learn that the blasting caps that had  
Terry  
15 Nichols' fingerprints were identical to the blasting  
caps found  
16 in Terry Nichols' house in Kansas and, in turn,  
identical to  
17 the blasting caps stolen from Bud Radtke.

18           In the course of this case, you will also hear  
yet  
19 other kinds of physical evidence that links Terry  
Nichols to  
20 the theft of Mr. Radtke's explosives. In April 1995,  
when the  
21 FBI learned about the break-in at the rock quarry, they  
22 gathered up the evidence from the local sheriff's

office,

found a 23 including the padlock. And at the same time, they also  
Nichols' 24 cordless drill and a set of drill bits inside Terry  
those 25 home, and then they went to work to see if either of

6380

You'll 1 might hold the clues to the identity of the burglars.  
2 learn what they found.

3 Under a microscope, a person can see and study  
the 4 marks that were inside the padlock, the drilled-out  
padlock, 5 and they can see the marks left by the drill bit that  
drilled 6 that padlock out. And just as easily, someone can see  
and 7 study the marks of which -- the marks that would be  
left by 8 drill bits taken from Terry Nichols' home. And expert  
marks are 9 witnesses will tell you when those two sets of tool  
one of 10 compared, they match and tell you that one of the bits,  
used to 11 the drill bits found in Terry Nichols' home was the bit  
12 drill the padlock at Bud Radtke's quarry.

13 Of course, it is not illegal to use phony  
names. But  
14 in this case, you will learn that Terry Nichols did so  
over and  
15 over again. And the question is why. And the answer  
is, the  
16 evidence will show -- is that he did so repeatedly in  
order to  
17 conceal his involvement with Tim McVeigh and the  
bombing plan.  
18 When questioned, Terry Nichols was asked by the FBI,  
"Have you  
19 used a name other than your own?" He told them about  
two, Ken  
20 Parker and Jim Kyle, but he concealed others. Terry  
Nichols  
21 did not reveal his use of the name Havens, but then  
Havens was  
22 the name used to purchase 4,000 pounds of ammonium  
nitrate.  
23 The other name he concealed was Bridges, Daryl  
24 Bridges. And during this trial, you will learn exactly  
why  
25 Terry Nichols concealed from the FBI the fact that he  
was Daryl

6381

1 Bridges, because to discover that fact would mean the  
FBI could  
2 easily trace the activities and the whereabouts of both

Terry

3 Nichols and Tim McVeigh.

4 What Terry Nichols attempted to conceal from  
the FBI

5 nonetheless will be proven to you in this trial, and  
you will

6 learn that, together, Terry Nichols and Tim McVeigh  
bought a

7 telephone calling card in the name of Daryl Bridges and  
the use

8 of that phone card left a trail. By following that  
trail, you

9 will see that both men used that card in 1994 to  
acquire

10 bombing components; and by following that trail, you'll  
see

11 that both men used that card in 1995 to finalize their  
plan of

12 violence.

13 And during the course of this trial, you'll be  
able to

14 follow the entire trail left by the Daryl Bridges phone  
card.

15 The trail begins at Terry Nichols' house again because  
that's

16 where the FBI found the Daryl Bridges phone card. And  
as you

17 will learn, they followed that trail by trying to  
determine who

18 paid for the phone calls on that card. And the proof  
will be

19 that only two men ever paid for calls on the Bridges  
card: Two

20 men, Terry Nichols and Tim McVeigh.

21 But the FBI did not stop there. They gathered  
the

22 records that would show when and where those phone  
calls were

23 made on the Bridges card. And you'll hear testimony  
from a

24 computer specialist from the FBI, a man named Fred  
Dexter, who

25 studied those records and prepared a chronological  
summary of

6382

1 the phone calls made on the Bridges phone card, and  
that

2 summary is the rest of the trail. The Daryl Bridges  
phone

3 summary will serve as an important source of  
information to you

4 in the course of this trial. It will help you and  
other

5 witnesses reconstruct the activities of Terry Nichols  
and Tim

6 McVeigh. And the trail left by the Bridges phone card  
will be

7 part of the proof, for example, that Terry Nichols and  
Tim

8 McVeigh were successful in the fall of 1994 in finding  
yet

9 other bomb ingredients.

10                    Again, ammonium nitrate by itself is harmless,  
but if  
11                    mixed with fuels, a sensitizing process, it is one step  
closer  
12                    to becoming an explosive. One different -- among the  
different  
13                    types of fuels that can be used to accomplish that  
purpose is  
14                    nitromethane. Nitromethane is not the kind of fuel you  
buy at  
15                    a gas station. It's a special kind of fuel for  
dragsters and  
16                    race cars. It's sold by chemical companies and by  
distributors  
17                    at dragstrips, and the proof in this case will show  
that Terry  
18                    Nichols and Tim McVeigh knew that's where you go in  
order to  
19                    find nitromethane.  
20                    The evidence in this case will answer the  
question  
21                    where was Terry Nichols during the month-long search to  
acquire  
22                    nitromethane. The answer will be right there side by  
side with  
23                    Tim McVeigh. Like the other bomb components, the  
search for  
24                    nitromethane began in central Kansas in the fall of  
1994. The  
25                    Bridges phone card left a trail of 30 phone calls made  
to

6383

1 chemical companies, racetracks, and distributors for  
2 nitromethane. Most of those calls were made during the  
last  
3 week in September, the last week of Mr. Nichols'  
employment at  
4 the Donahue ranch, the same week of the purchase of the  
2,000  
5 pounds of ammonium nitrate.

6 The search for fuel that began in Kansas in  
1994 ended  
7 in Texas later in October of 1994. It ended on October  
21 at a  
8 dragstrip south of Dallas, Texas, almost 500 miles from  
central  
9 Kansas. The search ended when a fuel salesman at a  
dragstrip  
10 sold three 55-gallon drums of nitromethane for cash to  
a man  
11 with Tim McVeigh's physical features. The salesman  
will  
12 testify in this case, and he will tell you that he  
loaded that  
13 165 gallons of racing fuel into the back of a pickup  
with a  
14 light-colored camper shell.

15 He will tell you that Terry Nichols was not  
there when  
16 he made that sale. But the proof in this case will  
show you

17 where Terry Nichols was, and the answer will be close  
at hand.

18           You will see proof that Terry Nichols spent  
the night  
19 before the fuel purchase in a motel in Oklahoma. That  
motel  
20 sits south of Oklahoma City and on the interstate that  
connects  
21 to Dallas. When Terry Nichols left the motel the next  
morning,  
22 the same day of the fuel purchase, he was driving his  
pickup  
23 with the camper shell, and he left his fingerprints  
behind on  
24 the registration card, a card he had filled out in a  
phony  
25 name.

6384

1           Now, in order to mix ammonium nitrate and  
2 nitromethane, you need a container, and the evidence in  
this  
3 case will answer the question where was Terry Nichols  
when the  
4 containers for the bomb were being sought. And the  
answer  
5 again, just as with the ammonium nitrate, just as with  
the  
6 explosives, side by side with Tim McVeigh.

7           As the evidence will show, in October 1994,

Terry

8 Nichols and Tim McVeigh were quite busy. They were  
hiding the  
9 stolen explosives in Arizona, they were acquiring the  
second  
10 ton of ammonium nitrate in Kansas, they were tracking  
down  
11 racing fuel in Texas, they were searching for  
containers that  
12 would hold those ingredients and they were  
crisscrossing huge  
13 parts of this country while doing all of that. And  
again, the  
14 trail left by the Bridges phone card will reconstruct  
that  
15 activity, including the search for the bomb containers.  
16 On October 18, 1994, the second 2,000-pound  
purchase  
17 of ammonium nitrate was made; and later that same  
afternoon,  
18 October 18, there were a number of phone calls made on  
the  
19 Bridges calling card from nearby Council Grove, Kansas.  
Calls  
20 were made from a pay phone located across the street  
from a  
21 storage facility where Terry Nichols had rented a unit  
in one  
22 of his false names. Several of the calls from that  
Council  
23 Grove pay phone were made to companies that used  
barrels and  
24 containers.



crater in

15 Oklahoma City. The other part of the proof is found in  
Terry  
16 Nichols' garage. The bomb that destroyed the Murrah  
Building  
17 left very few traces of the bomb that it once was.  
Large,  
18 well-made bombs, when they explode, leave little trace  
behind,  
19 and that was the case here. But there were some clues  
that did  
20 remain. Small amounts of ammonium nitrate were found  
embedded  
21 into a piece of the Ryder truck. And in addition,  
small  
22 plastic fragments were found among the streets  
surrounding the  
23 bomb crater. You will see those plastic pieces. They  
are  
24 off-white in color. And you will see when you look at  
them  
25 that they have been subjected to intense heat and  
pressure.

6386

1 You will hear testimony from witnesses about  
those  
2 plastic pieces, including Linda Jones. Linda Jones is  
an  
3 explosive expert from Great Britain, and she will tell  
you that

close, 4 those plastic pieces found near the bomb crater were  
5 quite close to the explosion.

plastic 6 And as you will see in this case, the same  
7 fragments found in the streets of Oklahoma City were  
linked to 8 evidence taken from Terry Nichols' garage. Among the  
many 9 items discovered during the search were plastic  
barrels. Each 10 was a 55-gallon container. Each was off-white in  
color.

11 Plastic is a chemical compound and a trained chemist  
can look 12 inside a piece of plastic and tell you how it was made  
and a 13 chemist will do so in this case and he will tell you  
that the 14 charred pieces of plastic found in Oklahoma City and  
plastic 15 from the barrels found in Terry Nichols' garage were  
made by 16 the same manufacturer.

17 Your Honor, this would do. How long did you  
want to 18 go?

19 THE COURT: Well, all right. We'll -- we'll  
take a 20 break at this time. Perhaps we can take a 15-minute  
break.

21 And members of the jury, we're doing this so -- you can

step

22 back to counsel table. We're doing this so that, you  
know, you

23 can focus attention on these statements. We're not  
going to

24 always be breaking at the same time in our recesses  
here, so

25 I'll acquaint you with that now, but we know that all  
of us

6387

1 have limited attention spans, so we're going to be  
breaking in

2 at times to assist, recognizing the importance of what  
counsel

3 are providing here in these overviews and we'll be  
doing the

4 same thing, of course, during the defense opening.

5 So I'm going to also be saying to you at every  
break

6 what I'm going to say to you now and which you'll get  
very

7 tired of hearing, but it is important for you to  
recognize that

8 you must, among yourselves, wait until you've heard it  
all

9 before you even talk about it or talk about any part of  
it. So

10 during all of our recesses, I'm going to be instructing  
you

11 that you must not discuss anything that you see and  
hear in the  
12 courtroom or anything about the case. That seems  
unnatural at  
13 first, but I'm sure you'll get used to it. And it  
simply  
14 recognizes, as I'm sure each of you does recognize,  
that we  
15 can't put the trial on all at once and of course, we're  
not  
16 into any evidence even yet, so please withhold  
discussion of  
17 the case among yourselves and even in your own minds  
withhold  
18 forming any judgments.  
19                   Opening statements are not a part of the  
evidence in  
20 the case so what is said in opening statements does not  
factor  
21 in to your decision, even, but I just mention this  
caution to  
22 you now and as I say, I'll be repeating it whenever we  
recess  
23 because it is an extremely important part of your duty  
as  
24 jurors to withhold judgment in the case as well as not  
let  
25 anything outside of the case interfere with your  
decisions that

1 are to be made on the law and the evidence.

2 We're going to recess now about 15 minutes.  
So you're

3 excused from the jury box.

4 We'll be going out this way. We'll get you  
used to

5 this routine as we go.

6 (Jury out at 9:52 a.m.)

7 THE COURT: Okay. 15 minutes.

8 (Recess at 9:53 a.m.)

9 (Reconvened at 10:07 a.m.)

10 THE COURT: Be seated, please.

11 (Jury in at 10:08 a.m.)

12 THE COURT: All right.

13 Mr. Mackey, you may resume.

14 MR. MACKEY: As you will learn through the  
course of

15 this trial, by the close of October of 1994, Terry  
Nichols and

16 Tim McVeigh had acquired virtually all of the  
ingredients they

17 would need in order to build the bomb. Those  
ingredients were

18 hidden safely in storage sheds. But the two men knew  
at that

19 time there would be more costs to put their plan in  
final

20 stages, more costs as they waited for April 19 to  
arrive, they

21 would need money to rent a bomb truck, they would need  
money to  
22 continue to pay the rent on the storage sheds where  
they hid  
23 their components, and they would need money to pay the  
bills on  
24 the Bridges phone card, all of those needs at a time  
when  
25 neither man had regular income and both were living out  
of

6389

1 hotels and traveling great distances. That was their  
problem.  
2 Armed robbery was their solution. And again the search  
at  
3 Terry Nichols' house produced evidence that you will  
see, this  
4 time evidence of armed robbery.

5 In addition to the 55-gallon off-white plastic  
6 barrels, in addition to the receipt for the ammonium  
nitrate,  
7 in addition to the drill and drill bit, in addition to  
the  
8 blasting caps, in addition to the Bridges' phone card,  
in  
9 addition to all of that, the FBI found firearms and  
ammunition  
10 stolen during an armed robbery of an Arkansas gun  
collector.

the 11 That evidence and other testimony will answer  
when Tim 12 question where was Terry Nichols on November 5, 1994,  
was 13 McVeigh's former friend and gun collector, Roger Moore,  
14 robbed at gunpoint at his home in Arkansas.

the answer 15 The answer is that Terry Nichols was there;  
16 is Terry Nichols was the robber.

Nichols, 17 As the evidence will show, on that day, Terry  
18 wearing a ski mask and carrying a pistol-gripped  
shotgun, stole  
pieces 19 firearms, ammunition, currency, gold and silver coins,  
Terry 20 of jade, and other valuables from Roger Moore. And  
his plan 21 Nichols committed that robbery as one means to finance  
22 with Tim McVeigh.

Roger 23 During this trial, you will meet Roger Moore.  
remote 24 Moore is 62 years old. For many years, he's lived in a  
other 25 area of Arkansas near Hot Springs. He owns horses and

6390

1 livestock that he keeps on his property. And for

years, he has

2 run a mail-order business from that home selling  
ammunition

3 around the country. He also attends weekend gun shows  
where he  
4 sells ammunition.

5 And Roger Moore will tell you that during one  
of those  
6 gun shows, he met Tim McVeigh and that on more than one  
7 occasion afterward, Tim McVeigh stayed at his home in  
Arkansas.

8 Roger Moore will also tell you that his relationship  
with Tim

9 McVeigh ended very badly, ended in an argument. On  
Saturday,

10 November 5, 1994, Roger Moore was home alone because  
his

11 business associate and companion, Karen Anderson, was  
on the

12 road at a gun show.

13 And around 9:00 that morning, Roger Moore  
walked out

14 of his home to tend to his animals; and just as he  
stepped

15 outside his home, he was confronted by a man wearing a  
ski

16 mask, carrying a pistol-gripped shotgun. The man tied  
Roger

17 Moore up, put duct tape across his eyes, and over the  
course of

18 the next hour or so virtually cleaned out Roger Moore's  
home.

drove off. 19 He loaded the loot into Roger Moore's van and then

Moore 20 That van was recovered empty a short distance from the  
21 home later.

22 During the robbery, the masked gunman took  
scores of 23 firearms, cash, gold and silver coins, precious stones,  
pieces 24 of carved jade, camera equipment, ammunition, alarm  
devices, 25 even the quilt off of Karen Anderson's bed and the keys  
to

6391

items 1 Roger Moore's safe-deposit boxes. I mention these  
2 because many of them were found, found in Terry  
Nichols' house.

Roger 3 Because the gunman wore a ski mask and because  
4 Moore had his eyes taped, he cannot positively identify  
the 5 robber, but he knows it was not Tim McVeigh. He knows  
Tim 6 McVeigh is tall and thin and that the robber, his  
robber, was 7 shorter with a medium build. And as the evidence will  
show, 8 Tim McVeigh was not the robber. Tim McVeigh was not  
even

9 there. Instead he was miles away at a gun show and  
then later  
10 at his father's home in western New York. But because  
the  
11 gunman knew exactly where to find many of Roger Moore's  
12 possessions and because they had split on very bad  
terms, Roger  
13 Moore always suspected that Tim McVeigh had something  
to do  
14 with the robbery. Roger Moore was right.

15 Michael Fortier will testify that Tim McVeigh  
told him  
16 that he and Terry Nichols had settled upon a plan to  
rob a gun  
17 collector who Tim McVeigh knew and who lived in  
Arkansas.  
18 McVeigh also told Fortier that Nichols and he -- that  
is,  
19 McVeigh -- would share the proceeds from that robbery.

20 In the course of this case, you will learn a  
bit about  
21 U.S. geography. You will learn, for example, if you  
drive from  
22 Roger Moore's house in Arkansas, you can get to  
Junction City,  
23 Kansas, in nine and a half hours, time enough to rob  
Roger  
24 Moore in the morning and check into a motel in Junction  
City  
25 the same day.

1           The Sunset Motel in Junction City is where  
Terry  
2           Nichols checked into that day. When he checked in, he  
used a  
3           false name and a false address. And on the next  
morning,  
4           Sunday, Terry Nichols began calling for Tim McVeigh in  
New  
5           York, and Tim McVeigh began calling for Terry Nichols  
in  
6           Kansas. And as the evidence will show, they did not  
stop  
7           calling until they connected. Between Sunday morning  
and  
8           Monday evening, the two men made 16 phone calls to each  
other,  
9           often from pay phones, six different pay phones.  
10           November 7 was a Monday, the first business  
day after  
11           the robbery. And on that Monday, Terry Nichols rented  
a  
12           storage shed, Unit No. 37, at Council Grove, Kansas,  
using the  
13           name Ted Parker. The woman who met Terry Nichols at  
the  
14           storage facility to rent him the unit remembers him  
driving a  
15           dark-colored pickup with a light-colored camper shell.  
Terry  
16           Nichols rented Unit No. 37 on that day even though he

already

17 had Unit No. 40 at the very same facility.

18 As of November 7, Terry Nichols had two  
storage names

19 (sic) under two different false names at the same  
facility in

20 Council Grove, Kansas, two units that he would pay to  
keep for

21 months. The evidence will show that at least one thing

22 happened between the time that Terry Nichols rented his  
first

23 storage unit at Council Grove and the second. And the  
answer

24 is that Roger Moore lost a truckload of property.

25 Within days of the Roger Moore robbery, Terry  
Nichols

6393

1 left Kansas and drove to Las Vegas. He spent time with  
his

2 ex-wife, Lana Padilla, and their 12-year-old son, Josh;  
and two

3 weeks later, he left this country and flew to the  
Philippines.

4 You will learn that when Terry Nichols left for the

5 Philippines, he was afraid that he would not come back  
alive.

6 And so before he left, Terry Nichols took steps to  
assure that

7 his bombing plans with Tim McVeigh could succeed, even  
in the 8 event he did not return alive.

9 On November 22, 1994, immediately before he  
boarded 10 his plane to the Philippines, Terry Nichols handed Lana  
11 Padilla, his ex-wife, a paper bag, a paper bag wrapped  
in tape 12 with instructions not to open the bag unless he failed  
to 13 return by a future date. Lana Padilla was curious; and  
shortly 14 after Terry Nichols left, she opened the bag. She was  
not 15 supposed to unless Terry Nichols did not come back.  
She did so 16 anyway.

17 Inside the bag, as she will tell you, she  
found, among 18 other things, a letter from Terry Nichols to Tim  
McVeigh. And 19 in that letter, Terry Nichols specified that he was  
writing to 20 Tim McVeigh only in the event that something should  
happen to 21 him; in his words, only for my -- purpose of my death.  
The 22 letter explained that if McVeigh received the letter,  
it was 23 because Lana Padilla had mailed it to him at Terry  
Nichols' 24 instructions, but Terry Nichols assured Tim McVeigh in  
that

25 letter that was all Lana Padilla knew.

6394

1                   The letter to Tim McVeigh spelled out  
instructions to  
2                   McVeigh about the two storage units that Terry Nichols  
had in  
3                   Council Grove, Kansas. And at the end of those  
instructions,  
4                   Terry Nichols wrote the words, "You're on your own. Go  
for  
5                   it." At the very bottom of the letter, Terry Nichols  
added the  
6                   words, "As far as heat, none that I know."  
7                   Inside the bag, Lana Padilla also found  
directions to  
8                   a secret compartment that Terry Nichols had built into  
the back  
9                   of one of her kitchen cabinet drawers. She followed  
the  
10                  directions and found \$20,000 of currency hidden in that  
11                  compartment.  
12                  Inside the paper bag, she also found  
instructions to  
13                  another storage unit, yet another one, and this one in  
Las  
14                  Vegas. Lana Padilla visited that storage shed while  
Terry  
15                  Nichols was still in the Philippines. She'll describe

what she

16 saw. She spent time in that storage shed.

17                   Inside the shed she saw a ski mask. She also  
saw a  
18 box of carved jade, camera equipment, precious stones,  
among  
19 other things, like the things just stolen from Roger  
Moore.

20                   As it turns out, it was never necessary for  
Lana  
21 Padilla in fact to mail anything to Tim McVeigh. In  
mid

22 January, 1995, Terry Nichols came back from the  
Philippines  
23 safe and unharmed. And so Terry -- excuse me -- Lana  
Padilla  
24 never married -- excuse me -- never mailed Terry  
Nichols'  
25 letter.

6395

1                   When he got back, they talked about what she  
had

2 found, and they quarreled about the money that Terry  
Nichols

3 had hidden in her drawer, and she kept part of it. But  
she did

4 not tell Terry Nichols that she also kept a copy of the  
letter

5 that he had written to Tim McVeigh. After the bombing,

Lana

6 Padilla turned over that copy to the FBI, and you will  
see that  
7 letter in evidence in this case. And you will see in  
Terry  
8 Nichols' own words, "Go for it."

9  
Philippines in

10 When Terry Nichols returned from the  
January of 1995, he was alone. His wife and daughter  
were

11 still in the Philippines. He owned no real estate  
anywhere.

12 He had no job, no regular paycheck. He could have  
chosen to

13 live anywhere. He could have chosen to live in Las  
Vegas near

14 his son. His choice was to return to Kansas. Within  
days of

15 his return to this country, he was back in Kansas and  
together

16 again with Tim McVeigh, together with Tim McVeigh at  
the Sunset

17 Motel in Junction City, Kansas.

18 Terry Nichols immediately went back to the  
place where

19 the bomb components were stored, the stolen property  
hidden,

20 and back to the company of Tim McVeigh.

21 As the evidence will show, after their initial  
22 rendezvous in January of 1995, Terry Nichols and Tim  
McVeigh

23 kept their distance from one another during the waiting

period

24 that followed. Terry Nichols stayed in Kansas; Tim  
McVeigh  
25 stayed in Arizona. While Terry Nichols waited, he made  
more

6396

1 payments on the storage shed, paid money on the Bridges  
card,  
2 but other than that, there was little else left to do  
but wait  
3 for April 19. In 1995, there was no need for the plan  
to  
4 absorb every waking hour; and in fact, in 1995, Terry  
Nichols  
5 did other things, many entirely innocent things.

6 But on April 11, 1995, the wait was over.  
Eight days

7 before the bombing, the wait was over. On that day,  
April 11,

8 Terry Nichols called for Tim McVeigh in Arizona, and  
Tim

9 McVeigh called for Terry Nichols in Kansas. And on the  
next

10 day, Tim McVeigh checked out of his Arizona motel and  
began the

11 drive to Kansas, to the site of the bomb components and  
to

12 Terry Nichols.

13 The proof in this case will establish exactly

when Tim

14 McVeigh arrived in Kansas in April of 1995. Proof will  
not  
15 come from police authorities but from men who make  
their living  
16 working on cars. On the evening of Thursday, April 13,  
six  
17 days before the bombing, Tim McVeigh had just made it  
across  
18 the Oklahoma border into Kansas. Tim McVeigh stopped  
there  
19 briefly at a Wal-Mart, the city called Arkansas City,  
Kansas.  
McVeigh  
20 And at the Wal-Mart, because he had car problems, Tim  
21 bought an oil filter that would fit the small Pontiac  
station  
22 wagon he had just driven from Arizona. Tim McVeigh got  
a  
23 Wal-Mart customer receipt for the oil filter, and that  
receipt  
24 showed the purchase took place shortly before 6:00 p.m.  
on  
25 Thursday, April 13.

6397

April 14,  
1  
2  
into

1 At 9:00 a.m. the very next morning, Friday,  
2 Tim McVeigh drove that same small Pontiac station wagon

just a 3 the Firestone store in downtown Junction City, Kansas,  
wagon was 4 few miles north of Terry Nichols' home. The station  
were too 5 belching white smoke, and in time it was clear repairs  
6 expensive.

7 In the course of that morning, as the evidence  
will 8 show, Tim McVeigh got another car and made two phone  
calls.

9 For \$250, Tim McVeigh bought a 1977 Mercury Marquis  
from the 10 Firestone manager and left his Pontiac station wagon  
there as 11 part of the deal. And while the Firestone store was  
working on 12 the Mercury to get it ready for the road, Tim McVeigh  
walked

13 across the street to the bus stop and made two pay  
phone calls 14 at that bus stop, using the Daryl Bridges card. The  
first call 15 he made from that pay phone at the bus stop was to  
Terry 16 Nichols' home. It lasted about a minute. He hung up  
and 17 immediately made a second phone call.

18 Tim McVeigh's very next phone call was to the  
Ryder 19 dealership in Junction City, Kansas, to the very same  
Ryder 20 dealership that would later rent him the bomb truck.

21                   When Tim McVeigh drove out of the Firestone  
store that

22                   morning with his old, large Mercury, he told the  
manager he was

23                   headed to Michigan. That's not where he went. He  
stayed right

24                   there in Kansas near Terry Nichols. Later that same  
day,

25                   Friday, April 14, McVeigh drove his Mercury into the  
Dreamland

6398

1                   Motel in Junction City. The Junction City Dreamland  
Motel sits

2                   right next door to the Sunset Motel. When he checked  
in, Tim

3                   McVeigh used his true name, Tim McVeigh. But he listed  
as his

4                   address the Decker, Michigan, farm where Terry Nichols  
and he

5                   had once lived together.

6                   At the time he checked in, he paid for four  
nights in

7                   advance, four nights' lodging, indicating he would  
leave on

8                   Tuesday, April 18, the day before the bombing.

9                   When Tim McVeigh drove into the Dreamland, he  
had his

10                  Mercury. In the course of his stay, the car  
disappeared, and

in this 11 he was last seen driving a Ryder truck. The evidence  
would 12 case will explain why and how it came that Tim McVeigh  
proof 13 show up with a Mercury and leave in a Ryder. And the  
days 14 will focus on the events that happened in the three  
15 immediately preceding the bombing.

Sunday, Tim 16 The proof will be that on Sunday, Easter  
City and 17 McVeigh's Mercury was driven from Kansas to Oklahoma  
his 18 parked near the Murrah Building where it would serve as  
McVeigh 19 getaway car. The proof will be that on Monday, Tim  
components, the 20 rented the Ryder truck. On Tuesday, the bomb  
preparation of 21 tons of bomb components were mixed together, the  
McVeigh 22 the bomb complete. And of course on Wednesday, Tim  
23 delivered that truck bomb to downtown Oklahoma City.

question: 24 The evidence in this case will answer the  
answer 25 Where was Terry Nichols on each of those days? And the

1 will be that whenever Tim McVeigh needed help to finish  
the  
2 plan, Terry Nichols was there, side by side with Tim  
McVeigh.  
3 Their plan called for stashing the getaway car in  
Oklahoma  
4 City. Terry Nichols was there to do that. Their plan  
called  
5 for moving and mixing the ingredients to prepare the  
bomb.  
6 Terry Nichols was there to do just that.

7 In the course of this trial, you will learn  
there is  
8 no dispute about one thing: Terry Nichols was in  
Oklahoma City  
9 on Easter Sunday. He was in Oklahoma City on Easter  
Sunday  
10 with Tim McVeigh. There will be considerable dispute  
about  
11 why. As fact-finders in this case, you will be called  
upon to  
12 decide: Was Terry Nichols in Oklahoma City on Easter  
Sunday  
13 with McVeigh to stash the getaway car as part of the  
bombing  
14 plan or, as Terry Nichols told the FBI, was he there to  
pick up  
15 a used television set?

16 The answer in this case will be that Terry  
Nichols on  
17 April 16, 1995, Easter Sunday, was there just as he had  
been,

18 as Tim McVeigh's partner in the plan to bomb the  
building. His  
19 presence in Oklahoma City had nothing to do with a  
television  
20 set and everything to do with completing their plan.  
21 You must resolve that question in the course  
of this  
22 trial because Terry Nichols first posed it when he made  
his  
23 statement to the FBI after the bombing.  
24 The series of events that led the FBI to Terry  
Nichols  
25 all emanate from one single clue left behind by Tim  
McVeigh.

6400

1 When Tim McVeigh checked into the Dreamland, as I  
mentioned, he  
2 left behind the address of Decker, Michigan, an address  
shared  
3 with he and Terry Nichols. When he was arrested on the  
day of  
4 the bombing, April 19, he listed his address as Decker,  
5 Michigan. That clue led the FBI to Terry Nichols in  
Herington,  
6 Kansas. It led them to Terry Nichols on Friday, April  
21. And  
7 by that day, April 21, the FBI knew that Terry Nichols  
and Tim  
8 McVeigh had been friends. They knew they had lived

together in

9 Decker, Michigan; and they knew that at that very time  
Terry  
10 Nichols was living in Herington, a city just nearby  
Junction  
11 City where Tim McVeigh had stayed before the bombing  
and where  
12 the bomb truck had been rented.

13 And the proof will show, just as the FBI was  
learning  
14 about Terry Nichols, Terry Nichols was learning about  
the FBI's  
15 investigation. Before Terry Nichols ever spoke to the  
FBI, he  
16 already knew that Tim McVeigh had been arrested. He  
knew that  
17 the bomb truck had been traced back to Kansas, and he  
knew that  
18 it was suspected that the bomb was made of ammonium  
nitrate and  
19 he heard news on the radio that the FBI was looking for  
him.

20 Terry Nichols later told the FBI he left his  
house  
21 that Friday to avoid another Waco. At 2:45 p.m. on  
that  
22 Friday, Terry Nichols, his wife, and his daughter got  
into his  
23 pickup and drove off. They did not go to the Herington  
police  
24 station. Instead they drove off in the opposite  
direction.  
25 And only when Terry Nichols spotted the FBI cars that

arrived

6401

1 in tiny Herington did he stop, turn around, reverse  
course, and

2 then go to the police station.

3 In the course of this trial, you will have the  
4 opportunity to hear what Terry Nichols told the FBI on  
Friday,

5 April 21. You will hear from Agents Steve Smith and  
Scott

6 Crabtree. They'll describe that interview for you.

7 They'll tell you that consistent with FBI  
policy, they

8 did not tape-record Terry Nichols' statement but rather  
took

9 contemporaneous notes and then prepared a written  
report.

10 Agent Smith, who is a former accountant for Arthur  
Andersen,

11 will describe the very meticulous notes that he took as  
he

12 spoke to Terry Nichols at Herington police station, and  
he will

13 describe how Terry Nichols' very deliberate manner in  
answering

14 allowed him to keep pace with everything that Terry  
Nichols

15 said. In his statement to Agent Smith and Crabtree,  
Terry

bombing, 16 Nichols denied any involvement in the Oklahoma City  
17 and he denied knowing of anyone else's participation.

18 Now with the benefit of the FBI subsequent  
19 investigation, you'll have the opportunity to test the  
20 truthfulness of Terry Nichols' statements. Terry  
Nichols will  
21 fail that test because what he told the FBI on April 21  
simply  
22 was not true.

23 As you might expect, Agents Smith and Crabtree  
wanted  
24 to know from Terry Nichols about his last contact with  
Tim  
25 McVeigh. Terry Nichols told them that he had spoken  
personally

6402

1 with Tim McVeigh on Easter Sunday and that Easter  
Sunday was  
2 the first time that he had any contact with Tim McVeigh  
for  
3 months. Terry Nichols told the FBI that on Easter he  
got an  
4 unexpected phone call from Tim McVeigh who told him  
that he was  
5 calling from Oklahoma City. Of all people, Tim  
McVeigh; of all  
6 places, Oklahoma City; of all times, three days before

the

7 bombing.

earlier 8 And according to Terry Nichols' story, months

used 9 he had written to Tim McVeigh and asked him to bring a

Arizona. 10 television set to Kansas. Tim McVeigh was living in

Easter, 11 Terry Nichols was living in Kansas. And supposedly on

Terry 12 Tim McVeigh called from Oklahoma City, announced to

Nichols 13 Nichols that his car had broken down, and if Terry

drive 14 wanted his used television set, he would simply have to

15 to Oklahoma City and pick it up.

despite 16 Despite the fact that it was Easter Sunday,

Easter 17 the fact that McVeigh called while Nichols finished his

18 dinner with his family, despite the fact that Josh, his

despite all 19 12-year-old son, was visiting on his spring break,

home and 20 of that, Terry Nichols agreed to immediately leave his

Oklahoma 21 to make the 500-mile, 10-hour, round-trip drive to

22 City and back.

Nichols 23 Within 10 minutes of McVeigh's call, Terry

24 left his house. He left his wife, his daughter, and

his son.

25 Before he left his family, he told them where he was  
going. He

6403

1 said, I'm going to Omaha, Nebraska. Omaha, Nebraska.

He did

2 not tell his family that he was going to Oklahoma City.

3 In the course of this case, you will have to  
answer

4 the question: Why would Terry Nichols lie to his  
family about

5 where he was headed on Easter Sunday?

6 According to Terry Nichols' story, he was to  
go to

7 downtown Oklahoma City and McVeigh would find him.  
Terry

8 Nichols said he drove past the Murrah Building and then  
found

9 Tim McVeigh in the vicinity.

10 He told Agents Smith and Crabtree that when he  
picked

11 up McVeigh, McVeigh was standing there in a light rain  
with his

12 used television set and green laundry bag, no car in  
sight,

13 according to Terry Nichols.

14 Terry Nichols also told the agents that he  
drove Tim

15 McVeigh from Oklahoma City back to Junction City,  
Kansas,  
16 passing through Herington along the way, and then  
dropped Tim  
17 McVeigh off in the middle of the night, 1:30 in the  
morning, at  
18 a closed McDonald's restaurant. According to Nichols,  
without  
19 knowing where Tim McVeigh would be staying, without  
knowing  
20 when or if he would ever see him again, he left his  
Army buddy  
21 standing at a closed McDonald's in the middle of the  
night.  
22 Agents Smith and Crabtree asked Terry Nichols  
about  
23 the conversation he had with Tim McVeigh as the two  
drove back  
24 from Oklahoma City to Junction City, the 5-hour drive.  
Terry  
25 Nichols admitted that the two men talked about Waco.

6404

1 The Government's evidence in this case will  
prove that  
2 Terry Nichols concealed what he knew to be the real  
purpose of  
3 the trip to Oklahoma City on Easter. He made a false  
statement  
4 when he told the agents that he assumed the call came  
from

5 Oklahoma City because, as the evidence will show, there  
was a  
6 phone call to Terry Nichols' house on Easter Sunday,  
about  
7 3:00 p.m. It didn't come from Oklahoma City. As the  
evidence  
8 will show, it came from Herington, a few blocks away  
from Terry  
9 Nichols' house, a phone call made from Tim McVeigh on  
the Daryl  
10 Bridges phone call. It was the phone call to let Terry  
Nichols  
11 know it was time to take the vehicles to Oklahoma City.  
12 And that Easter afternoon, two vehicles drove  
from  
13 Kansas to Oklahoma City, Terry Nichols' pickup and Tim  
14 McVeigh's Mercury; and that evening, that night, one  
vehicle  
15 came back, Terry Nichols' truck carrying Tim McVeigh  
and Terry  
16 Nichols. The getaway car was planted in Oklahoma City.  
17 Terry Nichols also made a false statement, as  
we will  
18 prove, when he told the agents that he had not spoken  
or talked  
19 to Tim McVeigh for months before the Easter Sunday  
phone call.  
20 In fact, as the evidence will show, the two men saw or  
spoke to  
21 each other virtually every day in the week preceding  
the  
22 bombing.

23                    You will see physical evidence that Terry  
Nichols and  
24                    Tim McVeigh got together almost immediately after Tim  
McVeigh  
25                    arrived in Kansas in April of 1995 and that they had  
been

6405

1                    together in Kansas before they ever drove to Oklahoma  
City.

2                                       As you will recall, when McVeigh arrived in  
Kansas, on  
3                    April 13, he bought an oil filter at Wal-Mart. By the  
next  
4                    morning, Friday, he had no use for that oil filter for  
that  
5                    small Pontiac station wagon. He had just bought a  
large  
6                    Mercury.

7                                       On the next day, Saturday, April 15 -- before  
Easter  
8                    Sunday -- Saturday, April 15, Terry Nichols had both  
that  
9                    Wal-Mart receipt and the oil filter in his possession.  
You  
10                    will see the receipt, and you will learn where the FBI  
found  
11                    it.

12                                       When Terry Nichols arrived at the Herington  
Police

inside 13 Department on April 21, he was carrying his wallet, and  
could not 14 the wallet was the Wal-Mart receipt. Terry Nichols  
provide 15 have known the clues that would -- that receipt would  
on it, 16 to the FBI's investigation. The receipt had two dates  
filter, and 17 April 13, the day that Tim McVeigh bought the oil  
filter 18 April 15, the day that Terry Nichols presented that oil  
19 at a Wal-Mart store near his home.

One 20 The receipt also had two fingerprints on it.  
McVeigh. 21 belonged to Terry Nichols. One belonged to Tim  
McVeigh 22 According to his story, Terry Nichols had not seen Tim  
receipt 23 for months until Easter Sunday, but he had the Wal-Mart  
show, 24 on Saturday, the day before. And as the evidence will  
25 both can't be true.

6406

that Terry 1 The Wal-Mart receipt will show, will prove,  
central 2 Nichols and Tim McVeigh were together face to face in

Nichols 3 Kansas before Easter Sunday. It will prove that Terry  
4 tried to conceal the real purpose of his drive to  
Oklahoma 5 City.

Nichols, 6 On Monday morning, only hours after Terry  
7 according to his story, had dropped Tim McVeigh off in  
the 8 middle of the night, the two men were in touch again.

That 9 Monday morning, Tim McVeigh called Terry Nichols' home  
from the 10 Dreamland. And later that same day, Tim McVeigh went  
to the 11

Junction City 12 Ryder truck dealership, Elliott's Body Shop, in  
13 and rented the truck that would become the truck bomb.

On that 14 Monday afternoon, using the false name of Bob Kling,  
Tim 15

16 McVeigh picked up the 20-foot Ryder truck that would  
become the 17

18 bomb truck. Terry Nichols was not with Tim McVeigh at  
19 Elliott's Body Shop, but Tim McVeigh had to tell the  
dealership 20

21 where it was that he was taking their 20-foot Ryder  
truck, just 22

23 like Terry Nichols had to tell his family where he was  
going 24

25 when he left on Easter Sunday. They both chose to say  
Omaha, 26

20 Nebraska.  
21 Monday ended the way it started, with phone  
calls  
22 between the two men. This time it was Terry Nichols  
who called  
23 for Tim McVeigh. Standing at a pay phone late Monday  
night,  
24 April 17, only hours before -- or rather after the bomb  
truck  
25 had been rented, Terry Nichols called for Tim McVeigh  
at the

6407

1 Dreamland. The evidence will be that on that Monday  
night,  
2 Terry Nichols drove his son, Josh, to Kansas City to  
put him on  
3 a plane to send him home to his mother. With his son  
on a  
4 plane and while still at the airport, Terry Nichols  
called Tim  
5 McVeigh at the Dreamland using the Bridges phone card.  
Even  
6 Tim Mc -- excuse me, even though Terry Nichols had  
insisted to  
7 the FBI he had no idea where Tim McVeigh was staying,  
he called  
8 the Dreamland Motel, the precise place where Tim  
McVeigh was  
9 staying.

Monday 10 And the evidence will show that Terry Nichols'  
purpose 11 night phone call from the airport had a purpose. The  
location 12 was to make plans to meet the next morning at a  
The place 13 between Terry Nichols' home and Tim McVeigh's motel.  
that 14 was Geary Lake, a low-lying area next to the highway  
Junction 15 connects Herington, where Terry Nichols lived, and  
men, 16 City, where Tim McVeigh was staying, a place where two  
storage, 17 after removing the tons of ingredients from nearby  
18 could mix those same ingredients into a bomb.  
before the 19 The next day, April 18, Tuesday, the day  
sitting 20 bombing, was a day that one man spotted a Ryder truck  
pickup. A 21 on the bank of the Geary Lake. He also spotted a  
workday 22 second man got an even better look. April 18 was not a  
go 23 for Army Sergeant Richard Wahl. He took the day off to  
fishing by 24 fishing with his son. It was not a perfect day for  
miserable. But 25 any means. It was cold. It was windy. It was

1 a promise is a promise, and his son insisted.

2           And Richard Wahl will tell you that he fished  
all  
3 morning on Tuesday, April 15, at Geary Lake. He will  
tell you  
4 that he didn't catch a thing and that it was unpleasant  
to be  
5 outside as the wind, so strong, continuously blew his  
boat to  
6 shore. But as he and his son fished there for three  
hours, he  
7 noticed something. He noticed that though there were  
no other  
8 fishermen there, his son and he were not alone. From  
the time  
9 he got there in the morning until the time he left at  
noon,  
10 there were two other vehicles parked nearby, less than  
11 150 yards from the boat ramp that he used. And while  
he was at  
12 that lake, those two trucks remained parked side by  
side. One  
13 was a large, yellow Ryder truck. The second one was a  
14 dark-colored pickup with a light topper.

15           Richard Wahl watched for people around the  
truck but  
16 did not see anyone, but he will tell you that he saw  
signs of  
17 activity because the side door on the Ryder truck was  
open at

18 one point and then later closed shut.

19                   And as you will hear, Terry Nichols and Tim  
McVeigh

20 knew how to build fertilizer bombs. They had spent  
time

21 reading literature, researching the different recipes,  
talking

22 among themselves about which recipe was most explosive.  
They

23 knew what they were doing on April 18.

24                   After helping to mix the bomb on Tuesday,  
April 18,

25 Terry Nichols' part of the plan was over. The last  
step would

6409

1 be left to Tim McVeigh, just as they had planned. When  
Terry

2 Nichols drove from Geary Lake that morning, he drove to  
a

3 military surplus center at Fort Riley, an Army post  
outside of

4 Junction City. We will prove to you that he did not  
sign in

5 until 1 p.m. that afternoon.

6                   However, Terry Nichols gave an entirely  
different

7 accounting for his whereabouts that same day when  
questioned by

8 the FBI. He told Agents Smith and Crabtree that he had  
been  
9 there all morning outside looking at surplus military  
items,  
10 all morning in the cold, windy, miserable conditions.

11 He also told the agents that early that  
morning,  
12 unexpectedly, he got another phone call from Tim  
McVeigh; and  
13 Tim McVeigh wanted to borrow his pickup. And with very  
few  
14 questions asked, according to Terry Nichols, he loaned  
his  
15 pickup to Tim McVeigh that morning.

16 But as the proof will show, Terry Nichols was  
not at  
17 the Army surplus center all morning on Tuesday, April  
18. No  
18 one saw him there, because he wasn't there. He was  
with his  
19 truck at Geary Lake. He was with Tim McVeigh. And  
Terry  
20 Nichols' and Tim McVeigh's plan was tragically  
completed the  
21 next day at 9:02 in downtown Oklahoma City.

22 On Friday morning, April 21, Gladys Wendt, who  
will be  
23 a witness in this case, as usual, drove from her  
farmhouse to  
24 her hair appointment in Herington, Kansas; and after  
her hair  
25 appointment, as usual, she went to her friend's home to  
pick

6410

1 her up for the two to go out for coffee.

2 The friend lived in Herington on 2d Street,  
the same

3 street that Terry Nichols lived on. Gladys Wendt  
pulled her

4 car up and, as was her custom, waited outside for her  
friend to

5 come out. As she sat there waiting, she noticed a man  
across

6 the street furiously tossing ammonium nitrate on his  
tiny

7 unkempt yard, as she will describe it, so much so, that  
it

8 began to accumulate like snow. The man was Terry  
Nichols. And

9 the fertilizer toss was one attempt to conceal his  
involvement

10 in the Oklahoma City bombing. Later that day, Terry  
Nichols

11 admitted to the agents that he had tried to get rid of  
the

12 ammonium nitrate because he thought having fertilizer  
in his

13 house would make him look guilty to a jury.

14 He also insisted the only ammonium nitrate he  
had ever

15 purchased was a hundred pounds in the spring of 1995  
and that

16 the only reason he bought that was to resell it as  
plant food  
17 at gun shows.  
18 On Wednesday morning, April 19, 1995, the huge  
truck  
19 bomb exploded outside the nine stories of plate glass  
windows  
20 in downtown Oklahoma City. The explosion ripped a  
gaping hole  
21 in the building and snuffed out the lives of 168  
innocent men,  
22 women, and children. No one in that building, no one  
in that  
23 city, no one in the nation could comprehend that anyone  
could  
24 hate so much. But the evidence in this case will prove  
us  
25 wrong. It will prove that over the eight months  
leading up to

6411

1 April 19, Terry Nichols and Tim McVeigh had together  
carefully  
2 and methodically prepared for that one day when they  
would  
3 launch a violent attack against America. And on that  
day,  
4 America's TV screens filled with the images of  
collapsed  
5 buildings, a city in chaos, and the lifeless bodies of

small

6 babies. And on that day, Terry Nichols was home. He  
was home

7 in Herington, Kansas, with his wife and his daughter.  
Terry

8 Nichols had planned it just that way.

9 Thank you.

10 THE COURT: Are you prepared to proceed, Mr.  
Tigar?

11 You have heard of course, only from counsel  
for the

12 Government. There is another side in the case, of  
course. So

13 you'll hear now opening statement for the defense. Mr.  
Tigar.

14 MR. TIGAR: I will begin, your Honor, then;  
and at

15 some point, we might take a break.

16 THE COURT: Yes, wherever you say.

17 OPENING STATEMENT

18 MR. TIGAR: May it please the Court, Counsel,  
19 Mr. Nichols, members of the jury, on the 19th morning  
of April

20 at 9:02 in the morning, or actually just a few minutes  
before,

21 Timothy McVeigh parked in front of the Murrah Building  
in

22 Oklahoma City. He was in a Ford F-700 truck from Ryder  
rentals

23 with a 20-foot box. And Timothy McVeigh was not alone.  
With

24 him in the cab of that truck were one or two other  
people. The  
25 driver parked the truck and set the bomb to go off.

6412

1 Yes, Terry Nichols was not there and did not  
know  
2 about the bombing until the next day. He was at home  
in  
3 Herington, Kansas, at 109 South 2d Street in a house  
he'd  
4 bought and moved into one month and six days before.  
He was at  
5 home. With him there were his pregnant wife, Marife;  
their  
6 infant daughter, Nicole; Marife Torres Nichols, born in  
the  
7 Philippines, who came to the United States as Terry  
Nichols'  
8 wife. Terry Nichols was building a life, not a bomb.  
9 My name is Michael Tigar; and with our team, I  
10 represent Terry Nichols. We're here to gain respect  
for the  
11 undeniable fact that right now Terry Nichols is  
presumed  
12 innocent. We're here to help point out the hundreds of  
13 reasonable doubts that lurk in the evidence.  
14 In this opening statement, I want to introduce  
you

15 first to our team members, the ones that are going to  
help us

16 here; and then I want to outline for you the  
allegations, the

17 charges, to point out what is not in dispute, what we  
agree

18 with these prosecutors about, and what on the other  
hand we do

19 contest, what the Government will try to prove and  
fail, and

20 where you may find the reasonable doubts when the  
evidence is

21 all in. Yes, when the evidence is all in.

22 Can you see my hand? You can't see my hand.  
Not

23 until I've turned it over and showed you both sides  
could you

24 say that you've seen my hand.

25 And just as in life, the last bit of evidence  
about an

6413

1 important thing may be the thing that lights up the  
whole

2 picture, so we beg you to have open minds. We'll  
present

3 evidence to you, beginning with our cross-examination  
of the

4 very first witnesses that take that witness stand; but  
for the

5 first few weeks of the trial, the Government has the  
choice of  
6 what witnesses to bring, what evidence to bring. He  
that  
7 pleadeth his cause first seemeth just, but the  
defendant come  
8 and searcheth it out.

9 Over and over again, you're going to hear  
about the  
10 presumption of innocence. That means we start with a  
clean  
11 page. That means that suspicion, prejudice,  
prejudgment,  
12 speculation have no place.

13 Now, when the Government rests, we are going  
to  
14 present our witnesses and exhibits. So after  
introductions and  
15 review of the allegations here, Ron Woods and I, my co-  
counsel,  
16 are going to do an opening statement in three parts so  
that you  
17 can have a perfect way of keeping track of the strands  
of  
18 proof.

19 First, I'm going to describe for you the  
results of  
20 our investigation into the Oklahoma City bombing. I'm  
going to  
21 describe for you how Timothy McVeigh planned this  
crime, who he  
22 planned it with, and who helped him commit it. I will  
tell you

the 23 about the people that Timothy McVeigh used and lied to,  
24 people he used in ways that he had to know would put  
them under 25 unjustified suspicion.

6414

about 1 Second, Ron Woods and I are going to tell you  
community, 2 Terry Lynn Nichols, born and raised in a farming  
you about 3 married, the father of three children. Ron will tell  
radio that 4 what happened when Terry Nichols first heard on the  
McVeigh, how 5 he was being sought as somebody who knew Timothy  
a-half 6 he went right to the police station and spent nine-and-  
FBI, even 7 hours telling the truth -- yes, the truth -- to the  
lied to 8 as the FBI agents lied to him, lied to his family, and  
9 the court.

about the 10 And third, I'm going to talk very briefly  
of whom 11 FBI and its laboratory, its so-called "experts," some  
vital 12 are going to testify here, how those people ignored

rushed 13 evidence, used junk science, did sloppy fieldwork, and  
"briefly," 14 to a very wrong and quite early judgment. I say  
examine 15 because when their witnesses testify, we will cross-  
that's 16 them fully and you'll have a chance to see who it is  
17 right and who is not.

18 So who's on the Nichols team? Well, the first  
member 19 is Terry Lynn Nichols. Me, I'm Michael Tigar; and I am  
a 20 school teacher. I teach at the University of Texas in  
Austin, 21 Texas. My co-counsel is Ron Woods, solo practitioner  
from 22 Houston, former United States Attorney for the Southern  
Federal 23 District of Texas and formerly special agent for the  
young 24 Bureau of Investigation. We have some lawyers here,  
25 lawyers helping: Reid Neureiter from Washington, Adam

6415

1 Thurschwell from New York, and Jane Tigar from Austin.

2 Now, handling the evidence -- and you'll see

3 people working in the courtroom from time to time -- we

have

4 Rose Haire, Tia Goodman, and Jan Halbert and Molly Ross  
from  
5 Oklahoma City and Stephanie White from Denver.

6 So let's begin by asking: What are those  
prosecutors

7 charging that Terry Nichols did? What are they going  
to try to

8 prove beyond a reasonable doubt? Well, you know  
there's an

9 indictment, and there are 11 separate charges. When  
the case

10 is all over, Judge Matsch will tell you what the  
formal, legal

11 elements of each of these charges are; and he'll say to  
you, in

12 effect, that if the Government fails to prove any  
element of a

13 charge beyond a reasonable doubt, then it becomes your  
duty to

14 acquit on that charge and to say not guilty.

15 Now, the first charge is that Timothy McVeigh,  
Terry

16 Nichols, and others used -- conspired to use a weapon  
of mass

17 destruction against the Murrah Federal Building and the  
people

18 in it. We do not contest that Timothy McVeigh did  
indeed

19 conspire with several other people to blow up that  
building.

20 We agree and understand and stipulate and concede that  
at least

21 168 people died from that crime, that the crime visited  
22 enormous harms on the hundreds of others. There's no  
dispute  
23 about that. The dispute is can they overcome the  
presumption  
24 in law that Terry Nichols had nothing whatever to do  
with it.

25 But I want to warn you: The prosecutors may  
choose

6416

1 not to accept the reality that we accept. They may  
choose to  
2 put before you graphic, emotional, tragic evidence of  
the  
3 devastation on April 19. These evidence -- these  
events, I  
4 repeat, are -- they're not in dispute. We understand  
that  
5 there's not a joy the world can give like -- like that  
it takes  
6 away. The prosecutors may replay these terrible images  
over  
7 and over as if to say that somebody has to be punished  
for  
8 these things. That, of course, is not the question.  
The  
9 question for you at the end of the evidence will be  
who; and  
10 that is a question to be answered, we trust, in the

light shed

11 by the evidence and the law and not in flashes of  
anger.

12 If the prosecutors present this evidence, our  
concern

13 will be to show how it fits the picture that we have  
drawn and

14 not theirs. We will cross-examine all the witnesses  
who come

15 here, even those who have lost so much. By doing that,  
we mean

16 them no disrespect. To the living, we owe respect. To  
the

17 dead, we owe the truth.

18 Now, there will be plenty of evidence that  
Timothy

19 McVeigh promised to do violence and that he preached  
his gospel

20 of hate, that he assembled the bomb materials. But  
there will

21 not be any witness who will say that they heard Terry  
Nichols

22 utter any threats of violence to anybody. The key to  
this case

23 is the charge, the allegation that Terry Nichols knew  
there was

24 a conspiracy to use a weapon of mass destruction  
against the

25 building and the people in it and intentionally joined  
in that

1 agreement. As to that, Terry Nichols says not guilty,  
and as  
2 to that, the evidence will show you plenty of  
reasonable  
3 doubts. Guilt by association is not conspiracy,  
knowing is not  
4 conspiracy, being associated is not conspiracy.

5 In saying what the evidence will show -- by  
the way --  
6 we don't assume a burden we don't have. Terry Nichols  
is  
7 innocent. He's presumed innocent. If they want to  
change  
8 that, they've got to bring you evidence, to satisfy you  
beyond  
9 a reasonable doubt. We don't have any burden of proof  
here.

10 And our job is simply to show the reasonable doubts;  
and to do  
11 that, we'll show you the hard evidence, the truthful  
12 alternatives to their theory. And from the first  
witnesses  
13 they present, we'll do that when we rise to cross-  
examine.

14 Back to the charges. The second charge is  
that Terry  
15 Nichols -- who wasn't there -- knowing, intentionally,  
16 willfully, maliciously helped Timothy and others to  
make and  
17 deliver a weapon of mass destruction. Once again,  
plenty of

18 reasonable doubts; we'll ask for a verdict of not  
guilty.

19 The third charge is that Terry Nichols  
knowingly,  
20 intentionally, willfully, and maliciously helped  
Timothy  
21 McVeigh destroy the Murrah Building and cause death to  
people  
22 in it. The evidence will show reasonable doubts; we'll  
ask for  
23 a not guilty verdict.

24 And the charges in Counts 4 through 11 are  
murder,  
25 premeditated murder of federal officers working that  
day in the

6418

1 Murrah Building. They all were killed; they all were  
on duty  
2 at that time. The bomb killed them. There will be  
many, many  
3 reasonable doubts that Terry Nichols knew there was a  
plan to  
4 kill and that he intended to kill anybody. Not guilty.

5 So those are the charges. Here's the  
evidence:

6 Part 1. How did this bomb arrive there on the  
19th  
7 morning of April just before 9:02? Timothy McVeigh was  
born in

8 New York. He enlisted in the Army in May 1988. There  
he met  
9 Terry Nichols and Michael Fortier. By coincidence,  
Nichols  
10 from Michigan, McVeigh from New York, and Fortier from  
Arizona,  
11 all entered the Army on the same day, May 24, 1988. In  
the  
12 Army, Timothy McVeigh began to show interest in bombs  
and  
13 bombing. I don't just means military ordnance. One  
expects  
14 that of a soldier. I don't mean pop-bottle bangers.  
The  
15 evidence will show that his interest, that he pursued  
by  
16 writing away for publications, was in manufacturing  
fringe  
17 large-scale, homemade bombs. He was also drawn to  
18 groups with an agenda of violence, racial violence.  
19 McVeigh stayed in the Army until December 31,  
1991,  
20 just the new year, just the start of '92. Terry  
Nichols had  
21 gotten out of the Army in May of '89. Timothy McVeigh  
served  
22 in the Gulf War. But after he got out of the Amy,  
McVeigh's  
23 friends noticed that he became changed, more prone to  
talk  
24 about violence. The evidence will show that he began  
to talk

25 about his views to anyone who would listen and even  
some who

6419

1 did not want to.

2 He gave away copies of books in which he had  
marked

3 things, he gave away pamphlets and writings with racist

4 messages and sent out mailings with violent sentiments.  
He

5 sent copies of this stuff to dozens of people,  
including all

6 his former Army friends, including Terry Nichols. And  
not

7 surprisingly, some of Tim McVeigh's friends handled  
these

8 things, they'd had them in their house, they got their

9 fingerprints on it. In fact, at one time Timothy  
McVeigh even

10 borrowed Terry Nichols' copier to make copies of  
things.

11 Well, as the evidence will show, this is not  
or should

12 not be a case about controversial beliefs. Everybody  
-- you,

13 me, the prosecutors -- has a right to that. Timothy  
McVeigh

14 was different. His expressed beliefs included acts of  
massive

15 violence. Yes, there will be evidence that Terry

Nichols went

16 to gun shows; that he had copies of the literature you  
can get

17 at gun shows. Some of that literature contains  
sentiments that

18 could only be described as radical, right-wing  
sentiments. And

19 the evidence will be that there are movements in this  
country

20 who think that we shouldn't have a strong federal  
government,

21 who think that the gun laws are wrong, who think that  
there

22 shouldn't be an income tax, who think a lot of things  
like

23 that.

24 And the important thing will be to try to  
distinguish

25 among people who associate with those movements or who  
hang

6420

1 around with people who have those views, between those  
who

2 express violence and a willingness to use violence and  
those

3 who do not. That will be the crucial inquiry.

4 So let's look at the crucial period here, from

5 McVeigh's discharge from the Army, beginning of '92,  
until

6 April 19, 1995, a little over three years.

7                   During this time, McVeigh held all sorts of  
jobs. He  
8 was a security guard, stock clerk, a farmhand, and he  
9 discovered the world of gun shows, where all sorts of  
things  
10 are bought and sold. Now, once again, you know, there  
are  
11 millions of Americans, I think, trade at, go to, make  
their  
12 living at these gun shows, including Terry Nichols; and  
you're  
13 going to hear a lot about them. If you've never been  
to one,  
14 they're a little bit like a swap meet or a flea market  
or a  
15 craft show even, in some respects. A promoter,  
somebody like  
16 Sertoma civic organization hires a space and advertises  
the  
17 show. And individual dealers can then rent tables to  
sell  
18 their wares. People sell guns, ammunition, military  
goods, and  
19 other things that would appeal to those at the show or  
to some  
20 of them. Roger Moore, for example, who you'll meet,  
made  
21 thousands of dollars selling porn movies at gun shows.  
22                   But for Timothy McVeigh, the gun shows were a  
special  
23 place. Mr. McVeigh began his interest in gun shows in

the

24 Army, and he first worked one in May 1992. Terry  
Nichols was

25 not there.

6421

1 Early in 1993, Mr. McVeigh was preaching his  
ideas to

2 his friends Michael and Lori Fortier in Kingman,  
Arizona.

3 Terry Nichols was living with his family on the Nichols  
farm in

4 Michigan.

5 On February 13, 1993, McVeigh met Arkansas gun  
dealer

6 Roger Moore at a gun show in Florida. Moore and  
McVeigh became

7 friends and allies. Yes, the evidence will be that  
they

8 remained friends and allies through the spring of 1995.  
Moore

9 came to trust McVeigh, as he trusted few others. Moore  
also

10 goes by the name Bob Miller, or just "Bob from  
Arkansas."

11 The McVeigh/Miller friendship provides the key  
to the

12 so-called "robbery" of Roger Moore. The Government  
will not be

13 able to prove that Roger Moore was robbed. Too many

doubts,

14 too many contradictions in Moore's own stories to  
different

15 people, just beginning with one version in which he  
said his

16 robber was a smelly guy who hadn't taken a bath for  
three

17 months, weighed 180 pounds, was big enough to drag  
Moore across

18 the floor, had a beard, and was extremely dark-  
complexioned.

19 Roger Moore has told six different stories at least  
about that

20 robbery to as many different people. And whatever  
version he

21 comes up with will be contradicted by the evidence. He  
never

22 heard of Terry Nichols.

23 No, there was too much going on, as the  
evidence will

24 show, between Timothy McVeigh and Roger Moore and  
between

25 Timothy McVeigh and Roger Moore's girlfriend, Karen  
Anderson.

6422

1 Within two weeks of their first meeting, McVeigh and  
Moore were

2 partners at a gun show at Dinner Cay, Florida on  
February 27

3 and 28, 1993.

Nichols -- 4 Later in 1993, McVeigh did visit the Terry  
5 did visit Terry Nichols at the Nichols family farm in  
Michigan.

6 Now, there was where Terry grew up; where his dad,  
Robert, and

7 his mother, Joyce, lived. Robert and Joyce were  
divorced,

8 living apart. Terry's older brother, James Nichols,  
was

9 managing most of the old family farm. Terry's eldest  
brother,

10 Les, drove a truck. Sister Susie lived nearby. Tim  
McVeigh

11 did stop by there. Worked a little bit, hung around  
mostly,

12 moved on.

13 During part of the year, 1993, Terry Nichols  
wasn't

14 even in Michigan, because the evidence will be that his  
wife

15 Marife was a citizen of the Philippines, and the family  
would

16 visit there as much as they could.

17 But something else did happen in 1993. On

18 February 28, the Bureau of Alcohol, Tobacco and  
Firearms, the

19 ATF, raided the Branch Davidian compound in Waco. On  
April 19,

20 1993, was the tragic fire that cost the lives of so  
many men,

21 women, and children. Many Americans were concerned and  
even  
22 angry about these episodes. People have the right to  
hold  
23 differing opinions about Waco, and Terry Nichols  
certainly held  
24 opinions about it.

25 For Timothy McVeigh, the Waco events -- you're  
going

6423

1 to hear this in the evidence -- they were a turning  
point. It  
2 moved him to step outside the law. It increased the  
kind of  
3 paranoia he had, even to the point of believing that  
Russian  
4 vehicles were being secretly stored at bases in  
Mississippi.  
5 And he spoke of this to his friends Michael and Lori  
Fortier  
6 and to Roger Moore -- but to Michael and Lori Fortier  
in  
7 Kingman, Arizona.

8 This is a good point to introduce to you  
Michael and  
9 Lori Fortier. Today, Michael Fortier is in prison.  
He'll find  
10 out when he gets out, only after he testifies in this  
trial,

11 and after these prosecutors decide whether to make a  
12 recommendation about his cooperation. Lori Fortier has  
been  
13 given complete immunity from prosecution. But in 1992,  
through  
14 May 1995, the Fortiers were living in a trailer house  
in  
15 Kingman, Arizona. Michael Fortier was Timothy  
McVeigh's Army  
16 buddy. The Fortiers barely knew Terry Nichols. He  
never spent  
17 more than an hour in their company. The evidence will  
be that  
18 McVeigh used the Fortiers' trailer house as a base and  
that  
19 they were his most trusted confidants, to them were to  
go  
20 warning messages. To them they described in detail how  
he was  
21 going to make a bomb to avenge Waco, or so they say.  
22 You will hear in great detail because the  
Fortiers  
23 helped Timothy McVeigh and were used by him and lied to  
by him  
24 and how they wove their own web of lies. But the  
Fortiers,  
25 despite all this, are not conspirators with Timothy  
McVeigh to

such by 1 bomb the Murrah Building and are not being treated as  
2 the Government.

Michael 3 And here is the prosecutors' problem: Neither  
4 Fortier nor Lori Fortier ever heard Terry Nichols say  
that he 5 was going to bomb anything, wanted to bomb anything,  
planned to 6 bomb anything, was going to hurt anybody, wanted to  
hurt 7 anybody, or planned to hurt anybody.

8 In order to believe that Terry Nichols ever  
planned or 9 wanted any such thing, you would have to put your faith  
in the 10 Fortiers, even though they never heard it and more.

All they 11 know is what Tim McVeigh told them. And the evidence  
will be 12 that what Tim McVeigh told them was a series of lies,  
provable 13 lies. The evidence will be that the story told by the  
Fortiers 14 here in court is just one more version that they've  
concocted,  
caught 15 a story a day, a story a week, until they saw they were  
about 16 by their own involvement and made a deal. You'll hear  
of them 17 that deal. And you're also going to hear that the two  
18 were habitual users of one of the most dangerous drugs

being

19 peddled today, methamphetamine, speed. It makes you  
paranoid,

20 it gives you delusions, and it makes you a liar.

21 The Fortiers you'll meet today are very  
different from

22 the Fortiers of 1993, '94, and '95. We're going to  
show you

23 the original Fortiers with pictures, their words, their

24 writings before they made their bargains and cleaned  
themselves

25 up for presentation. We'll show you that they did not  
even

6425

1 come up with a story about Terry Nichols until Terry  
Nichols

2 had been charged and the major details they now recount  
were

3 published in the papers.

4 It will be a dramatic moment, Michael Fortier  
in a

5 motel in Oklahoma City with Lori Fortier and some FBI  
agents,

6 and Michael Fortier steps out onto the balcony of the  
motel and

7 says to the FBI agent, "You give me immunity, I'll give  
you Tim

8 McVeigh." And the FBI agent looked back and said in  
effect,

to get 9 "Son, we've already got Tim McVeigh. If you're going  
10 something, you'll have to give us somebody else."

11 This would be a good point to break.

12 THE COURT: All right. Once again, members of  
the

13 jury, we'll take a brief recess here to help us be  
attentive

14 with respect to our ongoing proceedings and these  
arguments.

15 Now, we may go into what would be the normal noon hour  
a little

16 bit, so you may want to refresh yourself during this  
break.

17 And again, of course, as you're recessed from  
the --

18 excused from the courtroom during the previous recess,  
please

19 hold on, don't talk about the case or anything about  
it,

20 remembering that we're just in the very preliminary  
statements

21 here. So you're excused now again about 15 minutes.

22 (Jury out at 11:10 a.m.)

23 THE COURT: Okay. We'll again be in recess.

24 (Recess at 11:11 a.m.)

25 (Reconvened at 11:26 a.m.)

1 THE COURT: Please be seated.

2 (Jury in at 11:26 a.m.)

3 THE COURT: Please continue.

4 MR. TIGAR: Thank you, your Honor.

5 Members of the jury, we were talking about the  
6 Fortiers. The evidence is going to show that a lot of  
the  
7 things they say don't make sense because they defy the  
laws of  
8 the physical universe, one of which is that nobody can  
be in  
9 two places at once.

10 This evidence, however, is going to show there  
is some  
11 reason to sympathize with the Fortiers' plight. There  
is no  
12 question that Timothy McVeigh used them and lied to  
them. He  
13 used their tools. He used their house. He used their  
phone.  
14 He used their typewriter to make false identification.  
He got  
15 them to disguise bomb components; and we know these  
things from  
16 the Fortiers -- not solely from them but because there  
is  
17 independent evidence of each of them.

18 Every time that we ask you to accept something  
that  
19 the Fortiers have said, we're going to bring

independent

20 evidence to verify or corroborate it; and the  
independent

21 evidence will show that Timothy McVeigh used the  
Fortiers just

22 as he tried to use others, such as arms dealers Ed and  
Dave

23 Paulsen, his boyhood friend Dave Darlak, his friend  
Greg Pfaff,

24 the Nichols' family friend Kevin Nichols, James  
Nichols, and

25 yes, Terry Nichols, too.

6427

1 So let's continue tracking Timothy McVeigh on  
the road

2 to Oklahoma City. On March 16, 1993, Timothy McVeigh  
visited

3 Waco in sympathy with the Branch Davidians. He was  
4 photographed there. Terry Nichols was not there.

5 But later in 1993, later in March of that  
year,

6 Timothy McVeigh began shopping for det cord. Now,  
that's

7 something you can use to make an explosion; and there  
is

8 nothing wrong, by the way, with having det cord or  
blasting

9 caps or dynamite. And the evidence in this case will  
show that

kind of 10 a very large number of people in this case had this  
Michael 11 material or had access to it. Michael Fortier had it,  
brother had 12 Fortier's father-in-law had it, Michael Fortier's  
it, to 13 it, other Kingman residents had it, the Paulsens had  
14 name just a few.

as well 15 Indeed, the evidence will be -- and we might  
his 16 tell you -- that in 1976 and 1977, Terry Nichols and  
Michigan 17 brother James used dynamite on their family farm up in  
part of 18 to clear stumps; and the evidence will be that in that  
for mixing 19 Michigan that farmers have ready access to a formula  
for such 20 ammonium nitrate and fuel oil to use (sic) explosions  
In 21 things as ditching and trenching and clearing the land.

office in 22 fact, you can go to the county agriculture agents'  
nitrate and 23 that county and you can get a recipe for ammonium  
government 24 fuel oil for farm purposes, the same official  
all over 25 publication that you can get in county agents' offices

1 the United States in farm country.

2 We're also going to show you when witnesses  
come how  
3 many millions of tons of ammonium nitrate are used by  
farmers  
4 all over the United States every year. But McVeigh's  
shopping  
5 for det cord was in a different context, and Terry  
Nichols  
6 didn't have anything to do with that.

7 During the first eight months of 1993, Timothy  
McVeigh  
8 was on the move part of the time. Some of the time he,  
9 however -- most of it, in fact, he spent in Kingman,  
Arizona,  
10 with his friends the Fortiers. Kingman, Arizona, was  
Timothy  
11 McVeigh's base of operations until April 12, 1995; and  
the  
12 evidence of this close, continual contact will be  
indisputable.

13 McVeigh also traveled to gun shows to make  
money and  
14 to keep up connections with his friend Roger Moore. He  
and  
15 Moore were at a gun show in Kentucky on October 2 and 3  
of  
16 1993.

17 In early December of '93, Terry Nichols and

his family

18 had left the family farm in Michigan to move to Las  
Vegas, so

19 Terry could look for work and be closer to his son by  
his first

20 marriage, Joshua. McVeigh stayed in Michigan. He and  
Terry

21 Nichols had very little contact, and McVeigh continued  
to work

22 gun shows. But by the end of 1993, McVeigh's  
sentiments were

23 taking shape. He confided them in a letter to his  
sister, and

24 Terry Nichols wasn't there.

25 The evidence about these casual contacts,  
people

6429

1 writing letters, people visiting each other, is  
important, for

2 it helps to explain some of the fingerprint evidence in  
the

3 case that I'll talk about later.

4 But by the spring of '94, Terry Nichols  
despaired of

5 finding good work in Las Vegas -- wasn't his kind of  
town; so

6 he moved back to farm country. His wife and daughter  
returned

7 from a trip to the Philippines, so the Nichols family

occupied

8 a farmhouse together in Marion, Kansas. Terry Nichols  
was  
9 employed by the Donahue ranch.

10 You're going to hear that he was a good farm  
worker.

11 He made from 325 to \$350 a week and had the use of a  
12 three-bedroom house with utilities paid. But the work  
was hard  
13 and the hours were long, and everybody who worked for  
14 Donahue -- some of them will be here -- will tell you  
that.

15 And Marife and Terry Nichols wondered if there wasn't a  
kind of  
16 work that would let Terry spend more time at home with  
the rest  
17 of his family.

18 And that was when in the summer of 1994  
Timothy  
19 McVeigh, in one of his trips across the country, came  
to the  
20 Nichols' home in Kansas with a proposal. He wanted  
Terry  
21 Nichols to work with him, he said, in buying, selling  
and  
22 trading items at gun shows. McVeigh, with much more  
experience  
23 in this field, promised that they could make a good  
living and  
24 most of the shows are on weekends so they'd have free  
time.

25 McVeigh, you see, was kind of a drifter. He'd

work

6430

1 some gun shows, hold a regular job, work some gun shows  
some  
2 more. No real family ties except to his dad and his  
sister in  
3 New York, who he rarely saw. His real attachments  
where he  
4 spent most of his time were with his friends the  
Fortiers and  
5 their buddies in Kingman, Arizona, and with his  
confederate,  
6 Roger Moore. Later, as the evidence will show, he  
formed some  
7 alliances with others.

8 In 1994, however, McVeigh had been living with  
the  
9 Fortiers before he came back to Kansas. He had been  
the best  
10 man at their wedding. In July of that year he was  
their  
11 housesitter when they went on their honeymoon. He sold  
them  
12 explosive components when he left Arizona. McVeigh and  
Michael  
13 Fortier had even gone to a militia organizer in Arizona  
in  
14 April of 1994, and Terry Nichols wasn't there.

15 Terry Nichols, not knowing these facts, agreed

to do

getting 16 business with McVeigh. And while the business was

Philippines 17 started, Marife Nichols decided to return to the

parents 18 with young Nicole, their daughter, to visit Marife's

home. 19 and take classes at the university near her childhood

20 She left the United States September 18, 1994.

working 21 On September 30, 1994, Terry Nichols finished

working in 22 at the Donahue ranch. Up until that date, he was

weekday and 23 the fields most weekdays and -- excuse me -- every

McVeigh had a 24 most Saturdays. As for the gun show partnership,

Fortiers that 25 different agenda. You're going to hear from the

6431

September, 1 McVeigh sent them a letter in late August or early

to take 2 1994, saying that McVeigh and Terry Nichols were going

this 3 action against the government. There is no copy of

4 so-called "letter" in existence.

5 The Fortiers never mentioned it until they

were

and 6 dealing with the prosecutors to escape years in prison  
called 7 perhaps a greater punishment. In any event, this so-  
they 8 "letter" that only the Fortiers know about was written,  
9 say, by Timothy McVeigh.

Fortier says 10 One trouble with their story is that Lori  
Arizona 11 that just after they got the letter, McVeigh came to  
Arizona 12 and they talked about it. She says that McVeigh was in  
in 13 September 16, 1994; but he could not have been. He was  
14 Kansas at that time. The Fortiers and physical reality  
so. 15 collide. Another problem, of course, is that it isn't  
16 Terry Nichols never agreed to any such thing.

contradictions, 17 When we speak of these dates, these  
evidence. 18 there are going to be thousands of documents in  
19 Sometimes you'll have to resolve contradictions.

we have 20 The FBI cast its net very wide. For example,  
made by 21 a record in this case of almost every telephone call  
went out 22 everybody connected with this case for years. The FBI  
23 and got all those records. Now, the problem with these

phone

24 records is sometimes the phone companies make mistakes.  
We can

25 prove that. The problem with these phone records, such  
as

6432

1 those that "Mr. Computerman," Mr. Dexter, is going come  
in --

2 is that sometimes the FBI makes mistakes, and you'll  
see that.

3 And often, the records don't show what is claimed for  
them.

4 There are some examples. Let's take phone  
records for

5 a minute. There is no dispute way back in 1993, long  
before

6 anybody is charged with doing anything wrong, Terry  
Nichols

7 bought one of those prepaid calling cards. He and  
Marife were

8 living in Michigan at the time on a farm that's run by  
Terry's

9 brother James. They didn't have long distance service  
of their

10 own.

11 Well, these days you can go to the drug store,  
the

12 laundromat, the service station and get one of these  
calling

13 cards; and the way you use it is you pay a certain  
amount and

14 you get so many minutes of talk time.

15 And back in 1993, however, they were  
relatively new;

16 and the conservative publication Spotlight advertised  
them.

17 Terry Nichols not only didn't have long distance  
service, he

18 had some financial difficulties. He had judgments  
against him.

19 And he started doing business exclusively in cash, so  
he didn't

20 have bank accounts, and in trade names, not his own  
name. He

21 got one of these Spotlight cards in the name Daryl  
Bridges; and

22 when he and McVeigh started their gun business, McVeigh  
got the

23 PIN number so he could make calls on it, too. There  
are a lot

24 of calls charged to that Bridges card, but the evidence  
is

25 going to show you that the Bridges records cannot be  
the basis

6433

1 to conclude that anybody ever called anybody. They're  
just

2 numbers. In order to make a conclusion about who  
called whom,

on, 3 you need more evidence. And in every instance we rely  
4 we'll present that evidence to you.

5 But why would Terry Nichols get a card in a  
different 6 name than his own? Well, the evidence is that one of  
the 7 judgments against him was from AT&T. They had sued him  
on a 8 credit card bill. He figured that if he tried to get  
long 9 distance service in his own name even with some other  
company 10 maybe AT&T could interfere with it. And the evidence  
will be 11 that the forms are filled out and somebody on the farm  
took 12 them to the post office, and we can prove that.

13 Now, that card was still being used in late  
September 14 of 1994. So while Terry Nichols is out working on the  
Donahue 15 ranch in Marion, Kansas, we can prove that he's out  
there. 16 Somebody else -- and the only other person that had the  
card 17 number is Tim McVeigh -- used that telephone card to  
call 18 places that might supply components for a bomb. We can  
track 19 the calls that were made, the sequence, the time of day  
and

In 20 show you how that worked. Terry Nichols was not there.  
stand 21 fact, members of the jury, we'll have witnesses on the  
him before 22 that will identify Timothy McVeigh from having known  
23 based on having made those calls.

McVeigh; 24 One of those is a person that had known Tim  
because 25 that Tim McVeigh called -- and it had to be Tim McVeigh

6434

Terry 1 the person recognized him -- to get racing fuel. And  
2 Nichols wasn't there and didn't make that call.

made? 3 What calls can it be shown that Terry Nichols

places where 4 Well, he called places he did business. He called  
5 you'd buy things, lawful things you use in the gun show  
6 business and 6 business, to store things that you need for your  
7 things you're going to sell.

evidence will 8 Let's take just one example of what the  
9 be about what Terry Nichols shopped for.

this little 10 The Nichols family: They have this house,

11 house in Herington, Kansas. There is a storage shed  
out behind

12 it. They have plastic barrels back there. You're  
going to see

13 pictures of those barrels, the ones that they had.  
Now, you're

14 also going to hear evidence that when Timothy McVeigh  
built the

15 bomb, he may have used plastic barrels to hold the  
explosive

16 mixture.

17 Now, let's look what the evidence is going to  
show.

18 First, most obviously, it's going to show that the  
barrels that

19 the Nichols family had could not have been used to  
build the

20 bomb because the Nichols family still have their  
barrels back

21 in their shed. But the evidence is also going to show  
that

22 these barrels -- they're 55-gallon barrels. 8 million  
of them

23 are made every year by a single manufacturer. They're  
made of

24 HDPE, high-density polyethylene, and they are designed  
under

25 federal and international regulations to be reused from  
15 to

1 30 times. Otherwise, you couldn't sell them.

2 And the evidence will be that in the heart of  
Kansas,

3 in dairy barns, for example, which is where Terry  
Nichols got

4 his barrels, there are -- there is udder wash and  
dairy-barn

5 cleaner that is sold in these 55-gallon containers; and  
when

6 the containers are empty, the dairy barn people put  
them out to

7 recycling depots and you can buy them for five bucks  
apiece,

8 which compares quite favorably to a Rubbermaid trash  
barrel at

9 your local hardware store.

10 The barrels at Terry Nichols' house were not  
even from

11 a barrel company in Wichita about which reference has  
been

12 made.

13 Now, you also heard about fertilizer. Well,  
it's true

14 that on September 30, 1994, and October 18, 1994, two  
men

15 bought ammonium nitrate at a farm cooperative in  
McPherson,

16 Kansas. The two co-op employees who sold the ammonium  
nitrate

17 in bags were unable to identify the purchasers while  
the

18 transactions were fresh in their minds. These

employees are

19 called Rick Schlender and Jerry Showalter. But Mr.  
Schlender

20 gave a very precise description of the vehicle. He  
said that

21 the men were in a Dodge pickup truck with Kansas  
license

22 plates, pulling a trailer made from a Ford truck bed.

23 Terry Nichols had a GMC pickup truck with  
Michigan

24 license plates and never owned a Ford pickup bed  
trailer.

25 Now, the FBI got to these two witnesses,  
accused them

6436

1 of making false statements, tried to get them to change  
their

2 story; and you'll hear about how that process worked.  
You will

3 even hear that Mr. Schlender committed perjury before  
the grand

4 jury that indicted this case; but in the end, the  
evidence is

5 that Terry Nichols was not there. In fact, on  
September 29,

6 1994, Mr. Showalter, the other fellow -- he remembers  
he got a

7 call. He was at McPherson at the co-op there working.  
He got

8 a call from another branch of the co-op in Galva,  
Kansas,  
9 saying somebody is in the store, wants to buy 2 tons of  
10 ammonium nitrate in bags. Showalter advised his  
colleague in  
11 Galva to send that person over to the McPherson store.

12 Now, on September 29, 1994, Terry Nichols was  
working  
13 on the Donahue farm. Couldn't have been him.

14 Now, Terry Nichols did have access, no  
question, to  
15 storage units, those rental storage units in the mid-  
Kansas  
16 area. You know the ones. When Terry Nichols told the  
FBI

17 about these sheds -- and he did, and he told them in  
what names  
18 he rented them. They went out and searched them. No  
residue  
19 of any ammonium nitrate or other bomb component was  
ever found  
20 in these sheds. They were, as Terry Nichols told the  
FBI, used  
21 to store household furniture and things he was keeping  
to sell  
22 in trade.

23 Now, you are going to see a receipt for a  
large  
24 purchase of ammonium nitrate. The Government has told  
you  
25 what's on the front of the receipt. But let's turn the  
receipt

6437

1 over on its back; and by the time all the witnesses  
have  
2 testified, you'll know the whole story, for on the back  
of that  
3 receipt are fingerprints of one and only one  
individual,  
4 Timothy McVeigh. And the way that that fingerprint  
evidence  
5 showed the receipt was handled shows exactly what  
happened and  
6 supports Terry Nichols' innocence.

7 Now, beginning October 1, 1994 -- that's the  
time  
8 we're in -- Terry Nichols was working to create a  
viable gun  
9 show business. Tim McVeigh had a different plan.  
Unbeknown to  
10 Terry Nichols, he called Michael Fortier and asked him  
to max  
11 out his credit cards and give him the money.

12 On October 2, 1994, McVeigh visited a  
racetrack and  
13 inquired about buying racing fuel. Terry Nichols was  
not  
14 there.

15 On October 21, 1994, McVeigh bought three 55-  
gallon  
16 drums of nitromethane, in Ennis, Texas. Terry Nichols

was not

17 there. And Lori Fortier's description of that  
transaction will

18 prove again that she has a powerful imagination, for  
she has it

19 taking place even before it could possibly have done  
so.

20 The evidence will show that in searching for  
racing

21 fuel, McVeigh used the Fortiers' phone on October 7,  
1994. And

22 Terry Nichols was not there.

23 By late October, 1994, McVeigh's bombing plans  
were

24 well advanced. Terry Nichols, who had started this gun  
show

25 venture, had reached a parting of the ways with  
McVeigh. Now

6438

1 their paths begin to diverge again. McVeigh went his  
own way,

2 hooking up with the Fortiers in Kingman, keeping in  
touch with

3 Roger -- Roger Moore -- excuse me -- and confiding in  
the

4 Fortiers about his plans.

5 On October 29, 1994, Terry Nichols called a  
travel

6 agency to book a flight from the United States to the

and 7 Philippines. He was going to join his wife, Marife,  
8 daughter, Nicole, over there.

9 Terry Nichols planned to bring Marife and  
Nicole back

10 to the United States and settle somewhere in the  
Midwest to be

11 in business by and for himself. He had already sold  
some coins

12 and things to raise money to make the trip and to help  
finance

13 Marife's education; and before going to the  
Philippines, the

14 evidence is going to show that Terry Nichols did not  
just one

15 thing but many things that a normal person does when  
going on a

16 trip to a foreign country where the political situation  
is

17 unstable and there is a record of violence.

18 First, he updated his life insurance.

19 Second, he had some penny stock, so he changed  
20 ownership provisions so they'd go to his family in the  
event of

21 his death. We're not talking about a rich man with  
lawyers to

22 draft wills; talking about practical things. He put  
his

23 belongings, including his pickup truck, into a storage  
shed,

24 rented a big enough one to put his pickup truck. And  
he had

Vegas; 25 things spread around in storage sheds in Kansas and Las

6439

1 and some of these sheds were in different names for  
reasons

2 you'll hear.

3 So Terry Nichols wrote a letter to be opened  
only

4 after his death, so it couldn't be part of a live  
conspiracy.

5 We're going to show you the entire letter, and you'll  
see

6 evidence behind every word of it. In the letter he  
asked

7 Timothy McVeigh to go to the storage units, take things  
out,

8 and see that they were properly distributed to Mr.  
Nichols'

9 family in the event of Mr. Nichols' death.

10 The letter also reminds Mr. McVeigh that the  
rent on

11 the storage shed is due on particular days and so --  
need to

12 pay that if he's not going to do it in a timely way.

13 Then it says something that somebody might say  
to

14 someone that you had known in life but would be reading  
the

15 words after you're dead. It says, "You're on your own;  
go for  
16 it," which happens to be one of the most overused  
expressions  
17 in the language and which was a motivational slogan in  
an  
18 insurance agency where Terry Nichols worked during the  
1980's.  
19 Today, "Go for it" is such a well-worn phrase you can  
even find  
20 it on boxes of Girl Scout cookies. There is no letters  
-- no  
21 reference in this letter to bombs or bombings or  
violence or  
22 anything illegal at all, not a word.

23                   Having settled his affairs, Terry Nichols  
spent a few  
24 days camping with his son Josh to talk about the trip  
he was  
25 going to take. Then he went to the Philippines, where  
he spent

6440

1 Thanksgiving, Christmas, and New Year's with Marife and  
Nicole.  
2 He planned to return and did return in January of 1995.  
The  
3 evidence will show that after he did he bought a house  
for his  
4 family, for Marife, Nicole and Josh, began acquiring a  
stock of

and 5 military surplus items to sell supplementing gun sales,  
his own 6 then began to establish his own separate business in  
7 name centered in Kansas.

Terry 8 What did McVeigh do during those months while  
States, 9 Nichols was there in the Philippines, not in the United  
Fortier's 10 gone away with his family? McVeigh enlisted Michael  
right wing 11 help. He reached out to known adherents to radical  
negotiated 12 causes, he investigated Ryder truck rentals, and he  
wasn't 13 for the purchase of bomb components. Terry Nichols  
who was 14 there for any of this, but the evidence will tell you  
15 and what they did.

was 16 On November 30, 1994, a power company employee  
letter 17 working in the Arizona desert near Kingman. He found a  
and 18 from Timothy McVeigh fastened to a high-voltage tower  
Colbern, 19 addressed to SC. SC, the evidence will show, is Steve  
his 20 connected to McVeigh through gun dealer Roger Moore and  
recruit 21 paramour Karen Anderson. The letter was an effort to

Karen 22 Colbern, whose identity had been given to McVeigh by  
23 Anderson and Roger Moore.  
24 McVeigh contacted an arms and explosives  
dealer named 25 Dave Paulsen. In a series of meetings and telephone

6441

1 conversations, McVeigh tried to induce Paulsen to sell  
or trade 2 dynamite to him. First meeting was December 3 or 4,  
1994, in 3 Kalamazoo, Michigan; and Terry Nichols, of course,  
wasn't 4 there.

5 The evidence suggests a question. If, as the  
6 Government claims, there was a robbery or burglary in  
October 7 to get components, what was McVeigh doing seeking  
dynamite in 8 December? On December 13, 1994, McVeigh sent a letter  
to a 9 friend volunteering to help if she needed anybody, as  
he put 10 it, "blown up."

11 In the middle of December, McVeigh enlisted  
the 12 Fortiers once again. Lori Fortier wrapped up some  
blasting

13 caps for McVeigh in Christmas paper so McVeigh could  
transport  
14 them. Tim McVeigh offered Michael Fortier \$10,000 to  
help him  
15 by driving to Kansas to pick up some things and to help  
in  
16 other ways. Michael Fortier went along with this plan,  
17 although later McVeigh stiffed him for the 10,000.

Terry

18 Nichols was with his family in the Philippines  
preparing for  
19 Christmas.

20 McVeigh's Christmas packages were to trade  
with arms  
21 dealer Dave Paulsen for dynamite. The Fortier driving  
trip was  
22 to case the Murrah Building. Yes, Michael Fortier and  
Tim  
23 McVeigh drove together to Oklahoma City to look it  
over; and  
24 Terry Nichols wasn't there.

25 From early December, 1994, until January,  
1995, Tim

6442

1 McVeigh called arms and explosive dealer Dave Paulsen's  
phone  
2 dozens of times. One of those calls was 49 minutes  
long. When  
3 Tim McVeigh was arrested on April 19, he still had Dave

4 Paulsen's business card, which he apparently tried to  
get rid  
5 of by dropping it in the arresting officer's patrol  
car.

6 Oh, those blasting caps to trade with Paulsen?  
7 McVeigh told Kevin Nicholas he had bought, not stolen  
-- bought  
8 them.

9 Tim McVeigh also reinforced his connection  
with  
10 Arkansas gun dealer Roger Moore. In September 1994,  
McVeigh  
11 had asked Michael Fortier to forward a letter to "Bob"  
that  
12 McVeigh had sealed in a plastic baggy to prevent there  
being  
13 fingerprints. Then in January, 1995, McVeigh sent  
another  
14 letter to Moore. Roger Moore's reply to that letter,  
which  
15 refers to a plan, refers to it being secret from  
satellite  
16 surveillance and other things. Moore's letter to  
McVeigh  
17 you'll find in evidence, and it is significant.

18 On January 16, 1995, Terry Nichols returned  
from the  
19 Philippines. He visited for a few days with his son  
Josh, made  
20 financial settlement for Josh's support with Lana  
Padilla, his  
21 former wife, assembled his available resources, met

with Tim

22 McVeigh in Junction City to divide up their wares; and  
after  
23 that meeting, Terry Nichols never worked with Timothy  
McVeigh  
24 again. Instead he bought -- shopped for and bought a  
house in  
25 Herington, Kansas, centrally located for the business  
he was

6443

1 going to enter. He shopped for and bought furniture.  
He began  
2 to buy and sell at gun shows in his own name. He began  
to  
3 deal, in addition to the arms he had for sale, in  
military  
4 surplus, going to the Fort Riley, Kansas, sales and  
auctions to  
5 build an inventory, a business technique that Timothy  
McVeigh  
6 never used.

7 And Terry Nichols prepared for his wife,  
daughter, and  
8 son to come and live in Herington. We'll show you the  
9 telephone calls he made, the places he stayed, and  
introduce  
10 you to the people he met along the way.

11 In Kingman, however, at the end of January,  
McVeigh

12 was working on his plan. He enlisted the Fortiers to  
go to gun  
13 shows and sell weapons with him. On January 31,  
McVeigh  
14 checked into the Belle Arte Motel in Kingman, saying  
that he  
15 would stay several weeks. The motel management kicked  
him out,  
16 and he left on February 8. What happened? McVeigh was  
having  
17 loud gatherings in and near his motel room, including  
one with  
18 a person who resembles the description of the man with  
McVeigh  
19 when he rented the Ryder truck months later and when he  
drove  
20 it to Oklahoma City. Lori Fortier helped Tim McVeigh  
make a  
21 false driver's license in the name Robert Kling, the  
name  
22 McVeigh was to use when renting the Ryder truck in  
Junction  
23 City, Kansas.

24 Tim McVeigh approached a friend of the  
Fortiers, James  
25 Rosencrans, to recruit him to do some driving from one

6444

1 undisclosed location to another. Rosencrans says he  
refused.

2                                   The evidence shows a pattern here. Tim  
McVeigh didn't  
3                                   confide his plans to the Fortiers, just like he didn't  
tell his  
4                                   boyhood friend Darlak or his other friend Pfaff why he  
wanted  
5                                   racing fuels. Except for the Fortiers and some hints  
to his  
6                                   sister Jennifer, he used people without leveling with  
them.  
7                                   Tim McVeigh left the Belle Arte Motel; but he stayed in  
8                                   Kingman, some of the time in motels and some of the  
time living  
9                                   with the Fortiers at their home. This was his base of  
10                                  operations.

11                                 In March and April, 1995, Tim McVeigh told  
Michael and  
12                                 Lori Fortier that Terry Nichols would not have anything  
to do  
13                                 with any plan to blow up a building. Now, of course,  
the  
14                                 evidence is the Fortiers are unreliable witnesses. You  
can't  
15                                 believe anything Tim McVeigh told them unless you find  
16                                 independent corroboration. So let's look at what  
McVeigh and  
17                                 the Fortiers did, not just what they said.

18                                 Tim McVeigh questioned Michael Fortier about  
using  
19                                 James Rosencrans as a driver. He mentioned the  
underground

20 connections of Roger Moore as a potential getaway plan,  
21 corroborated by Rosencrans. The continued contact with  
Moore  
22 is documented by the exchange of letters.

23 But all during this time, Terry Nichols  
continues to  
24 his earn his living at gun shows in the Midwest and to  
furnish  
25 the home he bought for his family. On March 17, 1995,  
Marife

6445

1 and Nicole Nichols arrived in Kansas, and the Nichols  
family  
2 took another step towards being reunited March 31,  
1995. The  
3 following two weeks, in Kansas, Terry Nichols continues  
to work  
4 and earn his livelihood.

5 But from Kingman, Arizona, on April 5 -- 14  
days to  
6 go -- Timothy McVeigh called a Ryder truck rental  
outfit in  
7 Lake Havasu, Nevada, and got a quote for a rental.  
Terry  
8 Nichols at that time was on his way to Michigan, to  
visit his  
9 family and work at a gun show.

10 But in Kingman, just minutes after calling the  
Ryder

of a 11 Truck Rental place, Timothy McVeigh called the leader  
Oklahoma, 12 violent right wing separatist group in Elohim City,  
Germany 13 and asked to speak to Andreas Strassmeier, a citizen of  
14 known for terrorist activities.

15 On April 5, McVeigh, using the name Tim  
Tuttle, called  
16 the National Alliance in Arizona, another arms  
separatist  
17 organization, and he called them nine times in two  
days.

18 April 12, 1995, McVeigh headed east. He lied  
to  
19 Michael Fortier and told him he was going to Colorado.

20 When Timothy McVeigh arrived in Kansas, he  
bought an  
21 old Mercury Marquis from a Firestone dealer in Junction  
City.  
22 It was the car he was driving when he was arrested. On  
the  
23 drive from Arizona to Kansas, he may have stopped at  
the  
24 Oklahoma City federal building yet again. A senior  
federal  
25 employee reports seeing him there.

1                   Friday, April 14, Junction City, Kansas:  
McVeigh

2                   using the name Robert Kling, the name on the fake  
license that

3                   Lori and Michael Fortier helped him make, called the  
local

4                   Ryder rental place and reserved a truck for the next  
Monday.

5                   He already knew how Ryder truck rentals worked from his  
Arizona

6                   call.

7                   Timothy McVeigh stayed from April 14 to April  
18 at

8                   the Dreamland Motel in Junction City. He registered in  
his own

9                   name; but to leave a false trail, he gave an address  
belonging

10                  to Terry Nichols' older brother James in Michigan,  
knowing to

11                  do so would draw attention away from his base in  
Kingman.

12                  Saturday, April 15, in the evening, a Chinese  
13                  restaurant, the Hunam Palace, in Junction City received  
a

14                  delivery order from McVeigh's motel room. The caller  
used the

15                  name Robert Kling.

16                  When the food was delivered to McVeigh's room,  
the

17                  order was accepted by a male person not McVeigh and  
certainly

18                  not Terry Nichols, matching the description of the man  
who was

the man 19 with McVeigh when he rented the Ryder truck on April 17

20 who came to be known as "John Doe No. 2."

owner Lea 21 Saturday or Sunday night, Dreamland Motel

22 McGown heard two male voices talking in the McVeigh  
motel room.

23 Terry Nichols was not there.

Mercury 24 Sunday, April 16, Timothy McVeigh drove his

Terry 25 Marquis to Oklahoma City. Along the way, he called

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come to 1 Nichols at his home and prevailed on Mr. Nichols to

2 Oklahoma City and give him a ride back to Junction  
City.

Josh's 3 Terry Nichols knew that McVeigh had gone to

4 house in Las Vegas -- Josh Nichols' house to pick up a  
5 television set of Terry's. You'll hear Josh Nichols  
say that

6 McVeigh did come to the house in Las Vegas, pick up  
that

7 television set. And McVeigh had agreed to deliver it;  
so when

8 McVeigh called, he told Mr. Nichols, "You want the TV  
set?"

9 Come get it or forget about it."

10 And indeed, when Terry Nichols returned home  
after  
11 that drive, both Josh and Marife noticed he had brought  
the TV  
12 set with him. Ron Woods will give more detail on that.

13 Monday, April 17, Tim McVeigh, posing as  
Robert Kling,  
14 picked up the Ryder truck. And the Ryder rental dealer  
in  
15 Junction City is Elliott's Body Shop. There are three  
16 Elliott's employees who stood in the small office at  
Elliott's  
17 during the time that truck was being rented, and their  
names  
18 are Eldon Elliott, Tom Kessinger, and Vicki Beemer. If  
the  
19 Government does not call them, we will do so; for each  
of them  
20 said that McVeigh was not alone, he was with a somewhat  
stocky  
21 man with a dark complexion. And independently, they  
all agreed  
22 on the description of that second person. This other  
person  
23 was not Terry Nichols. Terry Nichols was not there.  
And  
24 later, a lot of people saw that Ryder truck with Tim  
McVeigh  
25 and this other person in and near it.

1                   But all that weekend, except for picking up  
the TV  
2                   set, the Nichols family did their chores; and on that  
Easter  
3                   Sunday, they went to church. Terry Nichols' son Joshua  
was  
4                   visiting from Las Vegas. The whole family was  
together.

5                   Tuesday, April 18, a crucial date: Terry  
Nichols did  
6                   not build a bomb. There will be a great deal of  
evidence on  
7                   that day. During a part of the day, Timothy McVeigh  
had  
8                   borrowed Terry Nichols' pickup truck while Terry was at  
an  
9                   auction at Fort Riley, Kansas. These are places where  
military  
10                  surplus dealers, like Terry was becoming, buy goods to  
sell or  
11                  trade. To buy the goods, you have to inspect batches  
and  
12                  batches of stuff that are spread out over a big area.  
You then  
13                  have to look and see what you think the stuff is worth,  
and  
14                  then you make a sealed bid.

15                  We'll present video footage of how that  
process  
16                  worked. You make the bid; if you win, the stuff is  
yours. We

17 have a lot of documents from that date to prove to you  
that in  
18 his new independent business, Terry Nichols was buying  
19 peaceable military surplus items like picks, shovels,  
nails,  
20 ammo cans -- empty ammo cans.

21 As for what Terry Nichols did that day, there  
is  
22 plenty of evidence. After McVeigh returned the truck,  
23 Mr. Nichols picked up his business cards at Kinko's,  
picked up  
24 a license plate tag at the local Kansas tax  
authorities, did  
25 other errands. He was building his life, not a bomb.

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1 The Government will try to tell you a  
different story  
2 about what Terry Nichols did that day, and they're  
going to  
3 present evidence of times and timers, of clocks and  
clockers.  
4 The biggest difficulty in the Government's evidence,  
members of  
5 the jury, will be their own clock. Yes, folks, the  
official  
6 time clock at the Fort Riley military base that day was  
at  
7 least one month and one hour off. We will have to

reconstruct

8 Mr. Nichols' movements from other evidence, and we'll  
present

9 that evidence.

10 Terry Nichols knew where he had been that day,  
and he

11 told the FBI where he had been that day. He was at  
home with

12 his family Tuesday night.

13 But that night, Timothy McVeigh and his  
accomplice

14 were on the move. At 9 p.m. that night, 12 hours and a  
little

15 more before the bomb was ignited, Timothy McVeigh and  
that same

16 man were at the wheel of the Ryder truck in Council  
Grove,

17 Kansas; and other people saw McVeigh and his  
accomplices that

18 night as well.

19 Notice what the evidence will be: Recruiting  
in

20 Kingman, McVeigh with associates in Kingman, reaching  
out to

21 known havens of violence, with another man on April 17  
with

22 similar features to one of the people he's seen with in

23 Kingman; and on the 18th, we see him again with that  
same

24 person matching that same description.

25 And on the 19th morning of April, in Oklahoma  
City, a

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testify 1 half-dozen witnesses, each of whom will be called to  
And 2 before you, spotted Timothy McVeigh and his accomplice.  
3 Terry Nichols wasn't there at 9:02 a.m.  
4 Actually, a few minutes before, Timothy  
McVeigh and 5 his accomplice got out of the Ryder truck. An  
explosion as 6 quick as a heartbeat and sadness as long as life.  
McVeigh was 7 arrested less than 90 minutes later. He told the  
trooper who 8 arrested him, he was coming and going from Arkansas  
where Roger 9 Moore lives.  
10 He did not give the address he had been using  
in 11 Kingman, Arizona, where he told the Fortiers to keep  
his mail, 12 where they had intercepted and delivered key messages  
from him. 13 No, he gave the address of the Nichols family farm in  
Michigan, 14 where he had been a couple of years before. In doing  
so, he 15 focused unjustified suspicion on Terry's brother's  
James and

16 diverted attention from his Kingman base.  
17 Terry Nichols did not even know about the  
bombing  
18 until the next morning, when he went to arrange for  
cable TV  
19 service for his home. But by the evening of April 20,  
1995,  
20 the FBI had set its forces in motion, forces that would  
result,  
21 as the evidence will show, in false conclusions and  
inaccurate  
22 evidence. When Terry Nichols heard his name mentioned,  
he  
23 gathered up his wife and daughter and went to the  
Herington  
24 police station. And Ron Woods will describe what  
happened  
25 there.

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1 THE COURT: Mr. Woods.  
2 MR. WOODS: Thank you, your Honor.  
3 If it please the Court, counsel, Mr. Nichols,  
members  
4 of the jury, the evidence will show that in conducting  
the  
5 investigation right after the bombing that the FBI did  
an  
6 excellent job for a day and a half. The evidence will

show

7 that the FBI was able to find the rear axle of the  
Ryder rental

8 truck which had been blown a block away from the site.  
And on

9 that rear axle is a VIN number, a vehicle  
identification

10 number. Each vehicle has a separate identification  
number so

11 that it can be traced back to the manufacturer. By  
looking at

12 that number, they were able to trace that Ryder truck  
back to a

13 Ford manufacturer; and then the sale from Ford to Ryder  
rental.

14 They were able to go to Ryder rental's  
national

15 headquarters in Miami and, through their computer  
records, find

16 that that truck had been rented only two days before in

17 Junction City, Kansas, by Robert Kling. They had that

18 information on Wednesday, the 19th, that afternoon,  
quickly, by

19 checking records and doing an efficient job.

20 They immediately sent the closest FBI agent  
they could

21 find to Junction City, who was Scott Crabtree, in  
Salina,

22 Kansas. They told him to call Eldon Elliott's Body  
Shop and

23 get there right away.

24 Scott Crabtree will testify that he called

Eldon

25 Elliott's Body Shop, told them to keep the documents  
handy,

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1 don't talk about the case: I'm coming there right away  
to

2 interview everybody involved in the rental.

3 Agent Crabtree got there that afternoon and  
separated

4 Eldon Elliott, Vicki Beemer, and Tom Kessinger, and  
interviewed

5 them in depth as to the description of Robert Kling and  
the

6 second person that was with him.

7 He then had the FBI headquarters in Washington  
fly

8 down that evening one of their forensic artists, who  
arrived

9 early morning hours and met with Vicki Beemer, Tom  
Kessinger

10 and Eldon Elliott separately; and by interviewing them  
and by

11 getting descriptions, he was able to come up with  
sketches of

12 Robert Kling and John Doe No. 2.

13 During this period of time, the FBI, utilizing  
the

14 information on the contract, had determined that the  
name

15 Robert Kling and the address in South Dakota was false,  
did not  
16 exist, there was no address.

17 So when the artist completed the sketches,  
they were  
18 designated as John Doe 1 and John Doe No. 2. This is  
early  
19 Thursday morning, the 20th. And you may have seen --  
you may  
20 recall having seen those on television, those two  
sketches.

21 That was done by talking to the three  
witnesses whose  
22 memory was fresh. This is on the 19th. Remember that  
the  
23 rental had only occurred two days earlier. Their  
memories are  
24 fresh. They can recall the details.

25 The FBI then took these sketches of John Doe 1  
and 2

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1 and dispersed their forces throughout the Junction City  
area  
2 and the surrounding area, taking these sketches around  
to all  
3 the businesses, the filling stations, the restaurants,  
the  
4 motels, attempting to find out who John Doe 1 and 2  
were. They

5 were also at that time released nationwide on  
television that

6 you probably recall seeing.

7 They were very fortunate in arriving at the  
Dreamland

8 Motel that afternoon, and the owner of the Dreamland,  
Lea

9 McGown, told the FBI agents, this John Doe No. 1 sketch  
is Tim

10 McVeigh, who was a renter in my motel from Friday,  
April 14,

11 till Tuesday, April 18. The FBI looked at the  
registration

12 records and found that Tim McVeigh had registered in  
his own

13 name and had given North Van Dyke in Decker, Michigan.

14 They immediately contacted their Detroit,  
Michigan

15 office and had them run down the address.

16 The FBI called Sergeant David Hall, who is a  
deputy

17 sheriff in Sanilac County, near Decker, who has 20-  
years-plus

18 experience. Mr. Hall -- Sergeant Hall checked his  
records in

19 the sheriff's office and found that he did recall that  
address,

20 3616 North Van Dyke, because several months earlier, he  
had

21 conducted an investigation at that address. He  
recalled that

22 Kelly Langenburg, the ex-wife of James Nichols, during

a child

23 custody dispute had made allegations that James Nichols  
was

24 building small explosives on his farm there in Decker.

25 Sergeant Hall told the FBI this. The FBI was  
very

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1 interested. They requested an immediate meeting with  
Sergeant

2 Hall and Kelly Langenburg. That meeting was set up  
early the

3 morning of Friday, the 21st.

4 The FBI came to Decker and met with Sergeant  
Hall and

5 Kelly Langenburg; and at this time, Kelly Langenburg  
told the

6 FBI that yes, she was the former wife of James Nichols,  
she

7 lived at that address in Decker on the farm, and that  
she knew

8 a brother by the name of Terry Nichols who had lived  
there with

9 his family, his young Filipino wife, back in 1993, but  
that he,

10 Terry Nichols, had moved away from that address in late  
'93 to

11 move to the Las Vegas area to get work there and be  
near his

12 son Josh, who was a son by the former marriage of Lana

Padilla.

13 And it's interesting, because Kelly Langenburg is the  
sister of  
14 Lana Padilla. Kelly Langenburg was able to tell the  
FBI the  
15 phone numbers for both the office and the home of Lana  
Padilla.

16 She also said that she recalls meeting a Tim  
McVeigh  
17 who was an army friend of Terry Nichols -- had visited  
and  
18 stayed and did work around the farm for a very short  
period of  
19 1993.

20 The FBI became very interested in this  
information and  
21 told Sergeant Hall: This is the best information to  
date we  
22 have, and we're going to run with it.

23 Sergeant Hall will tell you that within an  
hour or  
24 two, by noon, on Friday, the 21st, the FBI had  
assembled over  
25 100 agents in this small community for the purpose of  
executing

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1 a search warrant and arresting James Nichols on his  
farm, in  
2 which Sergeant Hall took part in.

a half 3 The evidence will show that this is a day and  
evidence 4 later, after the -- the investigation began; and the  
5 will show that this is when the FBI began to jump to  
6 conclusions and conclude guilt by association.

was 7 The evidence will show that the search warrant  
in 8 executed; that Mr. James Nichols was arrested and kept  
evidence will 9 custody for 32 days before he was released. The  
10 further show that all charges were dismissed.

immediately 11 Continuing the FBI investigation, they  
12 notified the Las Vegas office to go pick up Lana  
Vegas 13 the 12-year-old son, Josh, and bring them to the Las  
14 office, which they do, early morning, Friday. Keep in  
mind the 15 time difference here between the East Coast and the  
West Coast.

16 But all this is happening Friday morning, the 21st.

Josh into 17 They bring Lana Padilla and her 12-year-old  
different 18 the FBI office and they separate them, put them in  
And 19 rooms. And teams of people interview the two of them.  
keep them 20 they don't let them go back home for five days. They

21 in hotel rooms at night and not let them return home.

Lana 22 But during this meeting on Friday morning,

23 Padilla says: Well, yes, Terry Nichols is my former  
husband.

24 As a matter of fact, I just got off the phone with him  
a few

25 minutes ago. He's at his home in Herington, and here's  
the

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just 1 address, 109 South 2nd Street. And my son Josh had

Easter 2 returned home a couple of days ago because he spent the

3 holidays with him.

4 That's the information that the FBI was  
gathering at

5 that time.

6 Now, it's interesting: At this time the FBI  
has set

7 up -- first, let me cover one more incident that  
happened that

8 morning. The FBI finally decides to put Tim McVeigh's  
name

9 into the National Crime Information Center computer  
system

10 midmorning Friday, after they've had his name for a day  
and a

11 half. They put it into the computer system and find  
out  
12 immediately that there is a Tim McVeigh who has been  
arrested  
13 in Perry, Oklahoma, was arrested approximately 10:30 in  
the  
14 morning on the 19th. That's approximately 90 minutes  
away from  
15 Oklahoma City and 90 miles away from Oklahoma City.  
They found  
16 out that Tim McVeigh was still in custody in Perry,  
Oklahoma.

17 So they sent agents immediately to Perry,  
Oklahoma, to  
18 arrest and take custody of Mr. McVeigh and bring him  
out. And  
19 many of you probably recall seeing that scene; being  
brought  
20 out with the orange jacket.

21 By this time, the FBI has set up an SIOC -- an  
SIOC is  
22 a strategic information operations center -- in  
Washington,  
23 D.C., which is staffed by all of the top senior  
officials of  
24 the FBI and the top senior officials of the Department  
of  
25 Justice. They have an open phone line to the FBI  
offices that

1 are involved in this investigation. They have an open  
phone  
2 line to the Detroit office. They have an open phone  
line to  
3 Oklahoma City, of course, because that's where the  
4 investigation is centered. They have an open phone  
line to Las  
5 Vegas, and they have an open phone line to Junction  
City and to  
6 Kansas City, where the agents are conducting the  
investigation.

7 Through this phone line, they're able to  
coordinate  
8 and distribute and share the information that they're  
getting  
9 so that everybody involved in the investigation will  
know the  
10 facts that they are obtaining at that time.

11 And at this time, approximately noon on Friday  
of  
12 April 21, a decision is made in Washington at the  
highest  
13 levels to arrest Terry Nichols. The problem with it is  
they  
14 didn't have any evidence that Mr. Nichols had committed  
a  
15 crime, so they make the decision, well, we're going to  
go to  
16 Herington and we're going to arrest him as a material  
witness.  
17 And a material witness warrant allows the individual to  
be kept

jury. 18 in custody without bail until he is taken to the grand

office, 19 So the FBI sends out word to the Kansas City

team, a 20 the nearest big office; and they dispatch a S.W.A.T.

all their 21 special weapons arrest team, out of Kansas City, with

and their 22 vehicles, their black uniforms, their heavy weapons,

Nichols. 23 flak jackets to head to Herington to arrest Mr.

SOG, 24 They also send out a special operations group,

of agents 25 which is just a surveillance team. It's just a bunch

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1 who go to Herington, Kansas, for the purpose of keeping  
material 2 Mr. Nichols under surveillance until they can get a

3 witness warrant signed by a judge in Oklahoma City.

that 4 Now, the problem that develops for the FBI is

Terry 5 somebody in the Government leaks word to the press that

case. 6 Nichols and James Nichols are wanted as suspects in the

was about 7 And that afternoon, shortly after noon -- in fact, it

8 2:00 in Central Daylight Time -- Terry Nichols is  
running an  
9 errand to the lumber store in Herington, Texas (sic),  
and he  
10 hears over the radio that Terry Nichols and James  
Nichols are  
11 wanted as suspects in this case.  
12 He turns around and goes back home and tells  
his wife,  
13 Marife, who is at home on 2nd Street, he's just heard  
his name  
14 along with James Nichols' name as suspects wanted in  
connection  
15 with the Oklahoma City bombing case. They turn on the  
news;  
16 and within a few moments, they're able to see the news  
that Tim  
17 McVeigh has been arrested in connection with the  
bombing; that  
18 Janet Reno is holding press conferences demanding the  
death  
19 penalty, and that Terry Nichols and James Nichols are  
wanted as  
20 suspects in the case.  
21 Now, Marife Nichols will testify that Terry at  
this  
22 time became very concerned and very worried and that he  
wanted  
23 to go to the police station right away.  
24 She will testify that she and the infant  
daughter,  
25 Nicole, who is under two years old and is still breast-  
feeding

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1 at that time, got in the truck with Terry to go to the  
police  
2 station; but she said, Look, just calm down; try to get  
your  
3 senses about you.

4 So Terry drove back to the lumber store where  
he was  
5 going initially to run the errand to try to calm down.  
The  
6 evidence will show that he went to surplus center and  
got out  
7 of the vehicle, but he became so concerned that he knew  
he  
8 needed to go to the police station as soon as possible.

9 He got back in his vehicle and drove directly  
to the  
10 police station.

11 Marife Nichols, along with everybody that was  
in the  
12 police station, Chief of Police Barry Thacker, Director  
of  
13 Public Service Dale Kuhn, Officer Delbert Lindsey, and  
the  
14 dispatcher, Leslie Starwalt, will testify that Mr.  
Nichols,  
15 along with his young wife and his infant daughter,  
walked into

16 the police station and that he looked pale and scared,  
but he

17 was very cooperative. He submitted to a search  
immediately by

18 the officers when he said that Look, my name is on  
television

19 as being involved in the bombing. I'm here to answer  
any

20 questions and I'd like to know, you know -- ask some  
questions

21 myself. What's going on?

22 The officers asked to search him. He readily  
23 consented to a search; and then they asked him to sit  
down and

24 have a seat while they were able -- or while they would  
try to

25 contact somebody that could answer his questions.

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1 Now, the officers there didn't tell Mr.  
Nichols that

2 an hour before, there had been an FBI agent that had  
come into

3 the police station, Mr. Steve Smith, Agent Steve Smith.  
Agent

4 Smith had come in and asked for information about Terry  
5 Nichols: What is his address, because we're going to  
set up

6 surveillance on him in connection with this bombing.

7                   The problem was Steve Smith didn't leave any  
way to be  
8                   contacted when he left; so all the officers there,  
Chief  
9                   Thacker and Director Kuhn, just had to wait until the  
FBI  
10                  contacted them.

11                  Now, the evidence will show that Mr. Nichols,  
his  
12                  house, and his vehicle had been under surveillance for  
about an  
13                  hour beginning shortly after 2 p.m. This is 3 p.m.  
when they  
14                  walked into the police station.

15                  The evidence will show that all these  
surveillance  
16                  agents from Kansas came out in a mass and grouped  
together on  
17                  the outskirts of Herington to get from Steve Smith  
information  
18                  that he obtained as to the address and to plan their  
19                  surveillance; that after spending some time trying to  
get their  
20                  cars unstuck from the mud, they then proceeded to set  
up  
21                  surveillance on Mr. Nichols' house and observed him  
leave the  
22                  house with his wife and his infant daughter, drive to  
Surplus  
23                  City, and then drive to the police station, which is  
called the  
24                  Director of Public Service. That's the name of the  
building.

25                    They watched him enter the building with his  
young

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1                    wife and his infant daughter, carrying the infant  
daughter; but

2                    the agents didn't go in, because the surveillance  
agents had

3                    come to the conclusion that Mr. Nichols was now holding  
the

4                    police officers hostage. That's the mind-set that  
we're

5                    dealing with.

6                                       They were so concerned that they radioed their  
7                    supervisor in Kansas City, Bill Chornyak, and asked  
Chornyak to

8                    please call the police station, talk to the chief or  
the

9                    director, and ask discreet questions in a sort of a  
coded

10                    manner: Are you in danger, is there a hostage  
situation,

11                    what's going on?

12                                       They've surrounded the place. Yet their  
assumption is

13                    Mr. Nichols is holding the officers hostage. Chief  
Kuhn -- or

14                    Director Kuhn will testify that yes, he received a call  
from

Director 15 Chornyak, who was talking in an unusual manner; but  
16 Kuhn assured him no, there is no hostage situation,  
there is no  
17 danger, there is no crisis. Mr. Nichols has been here  
for some  
18 time, and he wants to talk to you, so why don't you  
come on in.

19 The evidence will show that the FBI then  
picked their  
20 most experienced interviewers from the group they had  
out there  
21 to go in and interview Mr. Nichols and his wife. And  
you will  
22 see that Scott Crabtree is one of those that went in.

23 The agents went in and immediately separated  
his wife  
24 and child and began to interview her in teams and then  
took  
25 Mr. Nichols downstairs, where they interviewed him in  
teams.

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1 Two teams of two each began to interview him.  
2 And that when Mr. Nichols said, you know, I'd  
like to  
3 know why I'm being named as a suspect in the case, they  
lied to  
4 him. They said, We have no idea why you're being named  
as a

5 suspect. We want to talk to you. Will you answer our  
6 questions?

7 And they gave him a form to sign, a waiver of  
rights  
8 form. And Mr. Nichols said, I don't want to sign this  
form.

9 I'd like to find out more information.

10 They then -- the agents then get on the phone  
to

11 Howard Shapiro, who you will see is the top lawyer in  
12 Washington for the FBI. Mr. Shapiro tells them: Keep  
talking

13 to him. Try to get him to talk until we can get this  
material  
14 witness warrant signed and get him in custody.

15 So the agents go back in and they ask  
questions and

16 Nichols asks questions. And at that point, the  
interview  
17 starts; and it lasts for nine-and-a-half hours.

18 Now, while this interview is going on, in  
Oklahoma

19 City, where they're drafting the warrant, the  
information has

20 been relayed to everybody in the country in the FBI.  
The

21 information was relayed that Mr. Nichols had gone into  
the

22 police station at 3:00, so the agents were on the phone  
to

23 Washington. Washington is aware that he had  
voluntarily walked

24 into the police station at 3:00. They get on the phone  
line,  
25 they notify Oklahoma City, Kansas City, Junction City,  
and

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1 Vegas and Detroit: Mr. Nichols has voluntarily walked  
in.

2 Yet in Oklahoma, where the people have this  
3 information, they draw up an arrest warrant at 4:45  
p.m., and  
4 they go to a judge and tell the judge that Mr. Nichols  
has  
5 attempted to flee the jurisdiction of the United States  
and  
6 that we need an arrest warrant because it's impractical  
to  
7 secure his attendance in front of a grand jury any  
other way.

8 The judge, based on this information, issues a  
9 warrant; and this warrant allows the FBI to take Mr.  
Nichols  
10 into custody and hold him without bail until they take  
him to a  
11 grand jury.

12 This warrant is then faxed to all the offices  
out of  
13 Oklahoma City. It's faxed to Washington, it's faxed to  
the

14 agents in Kansas City, and the agents there in  
Herington who  
15 are doing the interview. Everybody knows that there is  
a  
16 warrant issued at that time at 4:45 p.m. Yet they  
never tell  
17 Terry Nichols until the next morning when they conclude  
the  
18 interview.

19 But this interview is very important. It  
lasts  
20 nine-and-a-half hours. And I'm not going to go over  
every  
21 detail that's in the interview. We certainly will go  
over  
22 every detail when these agents take the stand and talk  
about  
23 it, because there are hundreds of factual statements in  
that  
24 interview that are true, and the FBI went out and  
verified  
25 them.

6464

1 Now, as the prosecutor told you, the interview  
is not  
2 recorded. It's not video-recorded and it's not tape-  
recorded.  
3 Whereas every major police department in this nation  
tape-

FBI 4 records interviews with suspects, the FBI doesn't. The  
5 wants to rely on the recollection of the agents.

6 The evidence will show that one of the reasons  
they do 7 this is because at trial, the Government wants to rely  
on the 8 credibility of the FBI, as opposed to the credibility  
of the 9 suspect being interviewed.

10 The evidence will show that a tape recording  
of that 11 interview would clear up those questions, would show a  
jury 12 exactly what the suspect said and would clear up  
exactly how 13 the FBI framed the question and in what context it was  
said.

14 But we don't have a tape recording, and you  
don't have 15 it in any FBI case. All you have is the recollections  
of the 16 agents.

17 So when that happens, we're -- when these  
agents take 18 the stand, you're going to see a lot of questions, and  
you're 19 going to see these notes that this accountant wrote up.  
They 20 are totally illegible. But we're going to spend a lot  
of time 21 with him.

the 22 Now, I want to take us from that point where  
that 23 interview has begun, because there are several things  
need to be 24 happened in this interview, several things that you  
case, the 25 aware of before you start hearing the Government's

6465

will 1 evidence they put on, because I anticipate the agents  
2 probably come later after you've heard some evidence.

told the 3 Now, the evidence will show that Mr. Nichols  
had seen 4 FBI during that nine-and-a-half hour interview that he  
16, and 5 and been with McVeigh on Sunday, Easter Sunday, April  
Sunday 6 on Tuesday, April 18. He told the agents as to the  
months 7 visit with Mr. McVeigh -- he advised them that two  
was 8 earlier, he had mailed a letter to McVeigh, who he knew  
go by 9 staying in Kingman, Arizona, and asked Mr. McVeigh to  
is very 10 Josh Nichols' and Lana Padilla's house in Vegas, which  
belonging to 11 near Kingman, and to pick up the television set

12 Terry Nichols, to bring it to him on his next trip  
through the  
13 Midwest. And you will see during the course of this  
trial that  
14 McVeigh is always on the road. He is traveling from  
one state  
15 to the other constantly. Mr. Nichols asked that if he  
would  
16 please pick that set up and drop it by on his next trip  
17 through.

18 Josh Nichols will testify in this trial that  
yes, at  
19 the end of March, Tim McVeigh came by and picked up the  
20 television set.

21 Mr. Nichols will testify that on Easter  
Sunday, after  
22 returning from church with his wife and after having  
Easter  
23 dinner -- that shortly after 3 p.m., Tim McVeigh called  
and in  
24 this telephone call, he asked Terry Nichols to come to  
Oklahoma  
25 City to pick him up because his, Tim McVeigh's, car was  
broken

6466

1 down in Oklahoma and that he was pressed for time to  
get back  
2 East to visit his relatives in New York state.

3                   Mr. McVeigh also told Mr. Nichols, I've got  
your  
4                   television set and if you want that, you can pick me up  
down  
5                   here.

6                   Mr. Nichols will testify -- told the FBI,  
rather --  
7                   Mr. Nichols told the FBI that the -- that he, McVeigh,  
asked  
8                   him, Terry Nichols, to tell his family that he was  
going to  
9                   Omaha rather than to Oklahoma City. Mr. Nichols told  
the FBI  
10                  that McVeigh was of a very private nature, never wanted  
anybody  
11                  to know his business, and was always asking him to keep  
things  
12                  secret or confused.

13                  Mr. Nichols told the FBI he considered many of  
these  
14                  requests to be trivial and unimportant, and that will  
come out  
15                  during the interview of these agents.

16                  Mr. Nichols will also -- told the FBI at that  
time  
17                  that he had told his family he was going to Omaha, but  
that he  
18                  then told his wife that he went to Oklahoma City  
instead on  
19                  that day he told his wife.

20                  So Mr. Nichols had not kept that a secret from  
his

21 wife.

22                   Mr. -- the police -- the FBI will, through  
their  
23 relating this interview -- will relate that Mr. Nichols  
told  
24 the FBI that McVeigh said come to Oklahoma City, take a  
25 particular exit, take 8th Street, go down to some city  
blocks

6467

1 and follow the city blocks around in a circle, and you  
will see  
2 me.

3                   Mr. Nichols told the FBI that's what he did.  
It took  
4 him approximately five hours to drive to Oklahoma City  
from  
5 Herington and that he took that exit, he went down 8th  
Street,  
6 and then he went and circled these blocks; and the FBI  
asked  
7 him, Well, did you go by the federal building? And he  
said,  
8 Yes, I went by there a couple of times and I finally  
saw  
9 Mr. McVeigh at the end of an alley. I went around the  
block  
10 and picked him up; and he had with him a television set  
and a

picked 11 green laundry bag which he had his clothes in; that I  
him up 12 him up. I didn't see a car anywhere around. I picked  
We got 13 and drove back to Junction City, where he wanted to go.  
morning, and 14 back to Junction City, Kansas, about 1:30 in the  
15 he wanted to be dropped off at a McDonald's.

this time 16 Now, the evidence is going to show that at  
knew that 17 on Friday the 21st, neither the FBI nor Terry Nichols

Apartments one 18 there was a video camera on the Regency Towers  
This 19 block down from the federal building in Oklahoma City.  
vehicles 20 video camera looks out into the street and photographs  
21 in the street.

video 22 The evidence will show that upon finding that  
camera going 23 camera that Mr. Nichols' vehicle is shown on that  
p.m., 24 by this block twice, once at 8:17 p.m. and once at 8:24  
25 just exactly as Mr. Nichols had told the FBI.

6468

1 But the important thing to note in this video

is there

front of 2 is no Mercury Marquis that Mr. McVeigh had that's in

3 him or anywhere around. It never shows on that video.

the 4 The important thing to note is because that's

5 Government's theory -- and you just heard it -- the

caravanned down 6 Government's theory is that McVeigh and Nichols

show 7 to plant the car there. The physical evidence doesn't

told the 8 that. The physical evidence corroborates what Nichols

some 9 FBI. He was asked to go down there, he drove around

told 10 blocks. It's five hours after he left. It's 8:17. He

shows him 11 the FBI it took about five hours to get there, and it

what he 12 going by twice on this video camera. It corroborates

13 said.

City, 14 He told the FBI he then went back to Junction

-- he 15 took five hours to drive back. The reference to Waco

be some 16 told the FBI McVeigh mentioned Waco; there is going to

anniversary. 17 demonstration in Washington come the two-year

18 That's the extent of what he told the FBI.

19 But Mr. McVeigh wanted to be dropped off at a

call 20 McDonald's in Junction City. He said that he would

21 someone from there.

22 Now, it's very important to remember this  
McDonald's

23 in Junction City on Washington Street. This is early  
Monday

24 morning, the 17th, at 1:30, because this is the same  
McDonald's

25 that later in the day, the evidence is going to show,  
that Tim

6469

1 McVeigh called a cab in Junction City and had the cab  
deliver

2 him to this McDonald's where he was captured on video  
inside

3 the McDonald's. There must be videos everywhere now,  
which

4 you're going to find out. But you're going to see a  
video

5 inside this McDonald's that captures Tim McVeigh there  
at 3:57

6 that afternoon. You're then going to hear from Vicki  
Beemer,

7 Eldon Elliott, and Tom Kessinger that 15 minutes later  
and one

8 mile away, Tim McVeigh and John Doe No. 2 walk into  
Eldon

9 Elliott's to rent that truck.

10                                This is sort of Tim McVeigh's base of  
operations there

11                                in Junction City, hanging around this McDonald's.  
That's where

12                                he asked to be dropped off, and he told Terry Nichols  
he was

13                                going to call somebody.

14                                Now, Terry Nichols told the FBI that he  
dropped him

15                                off in Junction City and then drove back home 25 miles  
south to

16                                Herington. Josh Nichols will testify that he was  
asleep on the

17                                couch at about 2 a.m. that morning. He recalls being  
woken up

18                                by his father, Terry Nichols, who was coming in,  
carrying a

19                                television set. Mr. Josh Nichols will tell you this is  
the

20                                same set that Tim McVeigh had picked up two weeks  
earlier at

21                                the end of March in Las Vegas.

22                                Now, the evidence is going to show that the  
FBI took

23                                this television set and they conducted every test in  
the world

24                                on it. They looked for secret codes inside. They  
looked for

25                                secret bomb-making material. They looked for  
everything. All

without  
set, and  
1 they found was this is a normal working television set  
2 an antenna. But that's the story of the television  
3 you're going to hear it from separate witnesses.

no  
picking  
Nichols was  
"The Lion  
p.m., they  
the east,  
back to Las  
11 Vegas.  
4 As to the visit on Tuesday, the 18th, there is  
5 contact there on Monday, April 17, when Mr. McVeigh is  
6 the truck up. The evidence is going to be that Mr.  
7 home with his family that afternoon watching videos,  
8 King," with his son and his daughter; and then at 6  
9 left to go to Kansas City, which is several hours to  
10 to take Josh Nichols to the plane to catch his ride  
11 Vegas.

McVeigh  
a car.  
discussed  
well, I  
at Fort  
12 Mr. Nichols told the FBI that on Tuesday, Mr.  
13 had wanted to borrow his pickup because he didn't have  
14 His car was broken down in Oklahoma City. They had  
15 this over the telephone. Mr. Nichols told the FBI,  
16 told McVeigh that I was going to be at an auction over

17 Riley, which is real near Junction City, for those of  
you who  
18 aren't familiar with it. It's just outside Junction  
City.

19 Mr. Nichols told the FBI that he told  
McVeigh, I'm  
20 going to be at the auction on Tuesday morning. You can  
borrow  
21 the truck then, but you've got to pick me up about noon  
or so.

22 And Mr. Nichols told the FBI that he went over  
to this  
23 same McDonald's again Tuesday morning -- this is the  
18th, a  
24 day before the bombing -- and he picked up McVeigh at  
that  
25 McDonald's and that the two of them then drove to Fort  
Riley to

6471

1 the DRMO, Defense -- I'll get that information for you  
later.  
2 It's initials that stand for something about how they  
auction  
3 off all of the Army surplus goods. They have a huge  
facility  
4 there.

5 Mr. Nichols told the FBI that McVeigh dropped  
him off  
6 there early that morning after 7:30, after it took them  
time to

7 drive into the fort and go to the auction and that  
McVeigh was

8 to return shortly after noon to pick him up.

9 Mr. Nichols told the FBI that McVeigh was not  
there at

10 noon so that he, Terry Nichols, went to another part of  
the

11 auction where you have to enter into a building to look  
at the

12 items inside the building. And it's at this place  
where you

13 have to sign in. You don't have to sign in at this  
huge

14 fenced-in open lot where there are hundreds and  
hundreds of

15 exhibits to observe. You only have to sign in when you  
go

16 inside the building to look at the items inside the  
building

17 and to look -- and to do your bid, place your bid.

18 And you're going to see a video of this huge  
area of

19 items to inspect, and you're going to hear a number of

20 witnesses who will tell you that it takes hours to look  
at

21 these items in this huge fenced area and that you don't  
have to

22 sign in when you go to this outside area.

23 You're going to see documents that Mr. Nichols  
had --

24 that the FBI had obtained -- where he looked at the  
items

25 outside, circled them, and put bid prices on them, a  
number of

6472

1 items. He put bid prices on them.

2 You're going to see documents also that he  
then placed

3 a bid listing all these bid prices that day there at  
the DRMO

4 bid.

5 When he went inside the building, he had to  
sign in.

6 It was 12:50, according to the sign-in.

7 He then told the FBI that after spending about  
an hour

8 there, he went back outside and McVeigh showed up; and  
at this

9 time he, Terry Nichols, drove McVeigh back to that  
McDonald's

10 and let McVeigh out. And this was the last time he saw

11 McVeigh.

12 He told the FBI that when he let McVeigh out,  
McVeigh

13 had earlier told him that he had a room in Junction  
City. He

14 told him that he had bought this car real cheap that's  
broken

15 down in Oklahoma City, doesn't know if it's worth it to  
fix it.

16 He also told him that, Look, I've got some items in a  
storage  
17 shed in Herington. If I don't get down there and pick  
it up  
18 before I leave, will you pick those items up for me?

19 He also told Nichols that I've got some  
friends here  
20 that I may be able to borrow a car to head on to New  
York state  
21 to see my relatives.

22 He also told Nichols that he had been going  
around in  
23 Nichols' car looking for another vehicle but apparently  
had not  
24 bought one.

25 Mr. Nichols told the FBI all of this.

6473

1 Now, the Government's theory is going to be  
that  
2 Mr. Nichols was not at the auction that morning;  
instead, as  
3 the prosecutor told you, they have a witness who saw a  
Ryder  
4 truck and a pickup similar to Mr. Nichols' at Geary  
Lake.  
5 Their theory is that Mr. Nichols and Mr. McVeigh were  
building  
6 a bomb at Geary Lake that morning; and their theory is

based on

Monday, 7 the fact that if the truck was rented late afternoon on  
Wednesday, 8 the 17th, it shows up in Oklahoma City at 9 a.m. on  
their 9 then the bomb had to be constructed on Tuesday. That's  
10 deduction.

and they 11 So to corroborate this theory, they went out  
that runs 12 set up a roadblock at Geary Lake. There is a highway  
13 between Junction City and Herington, and they set up a  
and they 14 roadblock to stop people who pass that way every day  
vehicle 15 asked them: Do you recall seeing a Ryder truck and any  
16 at Geary Lake?

are a 17 Well, the evidence is going to show that there  
that spot 18 large number of citizens in central Kansas who pass  
kids to 19 every day. A lot of people in Herington take their  
them up 20 school in Junction City in the morning and they go pick  
City and a 21 in the afternoon. A lot of people work in Junction  
22 lot of people run errands, go to the doctor's, etc., in  
23 Junction City.

only 24 The evidence is going to show that the FBI was

25 able to come up with a couple of witnesses that  
corroborated

6474

1 their theory that saw a vehicle like Terry Nichols'  
there.

2 There are over 20 witnesses that the FBI is not going  
to

3 call -- that the Government is not going to call.  
We're going

4 to have to call those people in our case when we put on  
5 evidence.

6 There are over 20 people who saw a Ryder truck  
with

7 different cars and different individuals at Geary Lake  
during

8 that time period.

9 Nobody -- the Government hasn't found a  
witness that

10 saw Terry Nichols at Geary Lake. There is no witnesses  
that

11 saw Terry Nichols at Geary Lake, because he was at the  
auction

12 that morning. The documents will show that he was --  
the

13 bidding documents will show that, and the timing  
sequence will

14 show that, but that's the Government's theory.

15 Now, as to this interview that's being

conducted on  
evidence 16 Friday afternoon, the 21st, by the FBI in teams, the  
defender for 17 is going to show further that the federal public  
Phillips, 18 the State of Kansas, a person by the name of Dave  
Nichols 19 heard on the news that afternoon that the FBI had Terry  
heard on 20 in custody, interviewing him in Herington. He also  
saying 21 the news that Janet Reno was holding press conferences  
everyone 22 that they were going to seek the death penalty for  
23 arrested in connection with in case.  
the 24 Mr. Phillips will testify and tell you that as  
he called 25 federal public defender, it was his obligation -- and

6475

let them 1 the police station and tried to talk to the agents, to  
defender to 2 know that he was offering his services as a public  
Phillips 3 Terry Nichols. But the evidence will show that Mr.  
put on 4 was never able to get through. His calls were always

able to 5 hold or said that we'll call you back. He never was  
show that 6 talk and offer his services. And the evidence will  
talk to 7 the agents knew he was calling, yet they continued to  
advise him 8 Terry Nichols. They didn't advise him. They didn't  
ask 9 they had an arrest warrant for him. They continued to  
they 10 questions and get information and continued to tell him  
11 don't know why his name had been mentioned.

12 The evidence will show that at the very end in  
the 13 early morning hours of the next morning on the 22d that  
the FBI 14 decided to get aggressive with Mr. Nichols, so they  
went in and 15 very heavy-handedly accused him of being a participant  
in the 16 bombing. Mr. Nichols denied his involvement, and at  
that time 17 the Government served him with an arrest warrant and  
took him 18 into custody.

19 And, oh, yes, what about Marife Nichols, his  
wife and 20 child who were upstairs? She will testify that the FBI  
took 21 her and the young daughter who was breast-feeding --  
took them 22 to a motel in Abilene, Kansas; and then over the next

35 days,

23 they moved her from city to city and from motel to  
motel while

24 teams of agents and teams of lawyers out of the  
Department of

25 Justice, even a lady, Donna Bucella, specially  
designated out

6476

1 of Janet Reno's office, came to quiz her. 35 days,  
they

2 quizzed her. She asked her, "Shouldn't I have a  
lawyer?" They

3 told her, "As long as you tell the truth, you don't  
need a

4 lawyer."

5 They even took her to Oklahoma City in mid May  
and

6 told her, "We're going to put you in front of the grand  
jury."

7 When they got down there, they told her, "Well, we're  
going to

8 reset your appearance. We're going to call you later  
on in the

9 month."

10 So at that time, they took her up to Kansas  
City and

11 parked her in a motel while the agents went home to  
visit their

12 family.

13 She had no money. She had no vehicle, no way  
to leave  
14 the FBI custody. There she was with her infant  
daughter; and  
15 during this period, she finds out that she's pregnant  
with a  
16 second child that she and Terry are going to have,  
which has  
17 since been born.

18 So this is what happened to Marife Nichols,  
and you  
19 will hear from her about this.

20 Now, you will note during the course of this  
trial as  
21 to John Doe No. 2 that so many witnesses saw at the  
pertinent  
22 time -- John Doe No. 2 was with McVeigh on Monday  
afternoon  
23 when he picked up that truck. John Doe No. 2 was with  
McVeigh  
24 on Wednesday morning, when he parked it in Oklahoma  
City. You  
25 will see during the course of this trial that the FBI  
actively

6477

1 avoided running down any John Doe No. 2 lead if it  
contradicted  
2 their theory that it was just Mr. Nichols and Mr.  
McVeigh

3 involved. And because of that closed mind-set and  
because of  
4 what they're trying to do by fitting square pegs in  
round  
5 holes, we're going to show this through cross-  
examination and  
6 through the presentation of neutral, unbiased witnesses  
during  
7 the course of this trial.

8 Thank you for your attention.

9 MR. TIGAR: Your Honor, I have five minutes  
just to  
10 conclude. Shall I do it now before lunch?

11 THE COURT: Is anybody uncomfortable?

12 MR. TIGAR: Five minutes.

13 THE COURT: Go ahead.

14 MR. TIGAR: I promise.

15 Briefly now, Part 3, the so-called "science."  
I want  
16 to wait on this because I want you to hear it from the  
witness  
17 stand.

18 The FBI Laboratory personnel moved quickly to  
collect  
19 things, fingerprints, writing, soil samples, tools,  
bomb  
20 residue.

21 The fingerprint evidence, I've discussed.

That  
22 evidence corroborates that Mr. Nichols was what he said

he was,

23 a self-employed dealer in gun show items; and we'll  
show the  
24 other side as it comes in.

25 The residue evidence: There was no bomb  
material

6478

1 residue at any storage shed or area to which Terry  
Nichols had  
2 access. None. Terry Nichols had the same kinds of  
items in  
3 his storage shed that many other people in this case  
will be  
4 shown to have: Michael Fortier, Fortier's brother,  
Dave  
5 Paulsen, Kevin Nicholas and dozens of others.

6 Barrels: We're going to show the truth about  
the  
7 barrels. Finding HDPE, high-density polyethylene --  
that's  
8 plastic -- barrels in your house is about as remarkable  
as  
9 finding a baseball cap at a Rockies game.

10 Soil samples: We'll show you pictures of how  
the soil  
11 samples were collected at Geary State Park and show the  
FBI  
12 performed sloppily and with an accustomed lack of  
relevance.

13                    Tool marks: An FBI agent will come in here  
and try to  
14                    tell you that a drill bit from Terry Nichols' house was  
used to  
15                    drill a lock at a quarry where some explosives went  
missing.  
16                    Of course, the evidence will be that many people had  
access to  
17                    that particular drill bit. But more importantly, that  
drill  
18                    bit evidence -- and you'll hear it from this stand --  
is an  
19                    example of bad testing procedures, inadequate research,  
20                    incompetent work, some of which can be laid at the door  
of  
21                    Kansas law enforcement; but most of it will belong to  
the FBI,  
22                    and that evidence is contraindicated by other evidence  
about  
23                    the drill in question.  
24                    Finally, you're going to hear evidence about  
the crime  
25                    scene. The Government's imported expert all the way  
from

6479

1                    England will admit to you that there is no ironclad  
forensic  
2                    evidence that anybody (sic) that somebody could get  
from that

3 burglarized quarry was used in the bomb at the Murrah  
Building.  
4 Of course, on April 19, 20, and 21 it was a  
priority  
5 to care for the injured, recover the dead. The FBI had  
special  
6 teams there whose responsibility it was to collect the  
7 evidence, photograph it, label it, package it, and get  
it to  
8 the FBI Laboratory and that the responsibility of those  
people  
9 was to deal with it competently.  
10 The evidence will be that the Federal Bureau  
of  
11 Investigation failed at every single one of those  
tasks.  
12 I'm about done.  
13 For two months in 1994, Terry Nichols was Tim  
14 McVeigh's business associate; and he had befriended Tim  
15 McVeigh. Tim McVeigh did not treat his friends very  
well. You  
16 may ask how they even became acquaintances. Well, in  
1988,  
17 Lana Padilla -- after Terry had gone in the Army, he  
found that  
18 his wife had virtually abandoned their son, Josh. So  
he went  
19 back to Michigan, got Josh, rented a house in Kansas,  
where he  
20 could raise Josh himself while he was serving as a  
soldier. To

21 help pay the rent, he advertised in the paper for  
somebody to  
22 let one of the rooms. That's when Tim McVeigh showed  
up in  
23 answer to the ad. And when Mr. Nichols got out of the  
Army on  
24 his single-parent discharge, he went back to Michigan  
and cared  
25 for Josh and for Lana's son by a former marriage.

6480

1                   There he is. Terry Nichols living at 109  
South 2d  
2 Street in Kansas, presumed innocent, living in that  
house he  
3 just bought on a 15-year contract, printing business  
cards in  
4 his own name, receipts for the taxes he had paid,  
picks,  
5 shovels, ammo cans, nails, and arms for sure; yes, for  
things  
6 to sell at gun shows, in his shed.  
7                   Oh, and ammonium nitrate: Yes, he bought a  
bag of  
8 ammonium nitrate. And in his shed are hundreds of  
little  
9 plastic bottles with labels so he could repackage this  
10 fertilizer and sell it for about five or ten times what  
he paid  
11 for it. And you'll see the labels and the little plant

food

12 jars, and you'll see how he ground it up to put it in  
the 13 little jars.

14 He was building a life, not a bomb.

15 This trial, as you can see perhaps from the  
length of 16 these statements, is a long journey. It is a journey  
we will

17 take together. And over and over again, Judge Matsch  
will tell

18 us not to make up our minds till the journey is done,  
for we

19 all know at times at the close of day, when the sun's  
last rays

20 illuminate something that we just hadn't noticed  
before, you

21 may find the reasonable doubt in that last bit of  
evidence.

22 And when the journey is over, we'll stand before you  
and ask

23 you for a verdict of not guilty. For now and into the  
journey,

24 we bid you well.

25 THE COURT: Members of the jury, we all  
appreciate

6481

1 your cooperation in working on into what would normally  
be our

opening  
I  
these  
case  
repeat  
must wait  
constitute the  
this

2 noon lunch recess, but it is helpful to get all of the  
3 statements together at the same time and to assist you,  
4 think, in recognizing, as I have told you before, that  
5 statements are statements of what the lawyers in the  
6 expect the evidence to be. But, of course, again, I  
7 that the statements themselves are not evidence. You  
8 for the witnesses and the exhibits. That will  
9 evidence, and we will start that this afternoon after  
10 luncheon recess.

11 Also, you know, we will be working with you on  
12 scheduling and making special arrangements when  
13 Tomorrow is an election day in Colorado, and it is also  
14 where the communities -- and you come from different  
15 communities -- have special ballot issues; so what I  
16 and you can discuss this; this is something you can  
17 during the noontime, but, of course, the case you  
18 propose that we recess early tomorrow, like 4:00, so  
19 have time to get to your respective polling places,

knowing

We do 20 that there is a difference here before the polls close.

citizens to 21 not, of course, ask you to give up that right as

you let 22 vote in your elections. So that's what I suggest, and

23 us know if there is any difficulty with that.

2:25. 24 Now, we're going to recess at this time till

know, you 25 These noon recesses may seem long to you because, you

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are 1 want to get moving on the case and so do we; but there

Witnesses 2 things that have to be done during these recesses.

get them 3 don't just come up out of the floor here. We have to

forth; 4 to the courthouse, arrange for their presence, and so

there are 5 and that's why some of these times out seem long, but

6 things going on.

interrupt 7 The main thing is, of course, that we don't

stop-type 8 once we have a witness on here excepting for our rest-

9 recesses.

10                    Now, again, you know, you've heard a lot of  
11 explanation here from counsel about what they expect to  
happen  
12 in the course of this trial; but, of course, what  
actually  
13 happens could be different from what they say; and one  
of the  
14 things that will be going on, as I'm sure you recognize  
from my  
15 explanation to you last week, is that there will be  
16 disagreements among the lawyers in the case about what  
you can  
17 hear.

18                    You recall that I mentioned rules of evidence,  
and I  
19 did that individually with you during the jury  
selection  
20 process. And I repeat it now again for all of you so  
that you  
21 will recognize what happens here when we do have  
disagreements  
22 and when one lawyer will object to a question put by  
the  
23 opposing counsel and I'll be ruling on that. Please,  
again,  
24 remember that these are the professional  
responsibilities of  
25 the lawyers and that my rulings will control what you  
hear and

1 see as the evidence in the case. And you should not be  
2 speculating about the reasons for the objections or in  
the case  
3 of an objection that's sustained what would the answer  
have  
4 been, that kind of thing. Let me take care of the  
evidence.  
5 And please recognize that the lawyers have a job to do  
here in  
6 raising these objections.

7 So you're excused now till 2:25, and please  
don't  
8 discuss the case or anything about it. We'll start  
with our  
9 first witness when you're back in the courtroom.

10 You're excused for now.

11 (Jury out at 12:56 p.m.)

12 THE COURT: We will, of course, invoke the  
13 sequestration of witnesses ruling excepting to the  
extent that  
14 counsel have agreed on certain witnesses being present  
at  
15 certain times.

16 MR. TIGAR: Thank you, your Honor. Mr.  
Manspeaker did  
17 deliver the message. We had reached an agreement as to  
one  
18 witness.

19 THE COURT: All right. 2:25.

20 (Recess at 12:57 p.m.)

21 \* \* \* \* \*

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1 INDEX

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3 OPENING STATEMENTS

6359 4 By Mr. Mackey

6411 5 By Mr. Tigar

6451 6 By Mr. Woods

6477 7 By Mr. Tigar

8 \* \* \* \* \*

9 REPORTERS' CERTIFICATE

10 We certify that the foregoing is a correct transcript from

Dated 11 the record of proceedings in the above-entitled matter.

12 at Denver, Colorado, this 3d day of November, 1997.

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Carpenter

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Paul Zuckerman

Bonnie

Kara Spitler