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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 96-CR-68

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TERRY LYNN NICHOLS,

Defendant.

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REPORTER'S TRANSCRIPT
(Trial to Jury: Volume 67)

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Proceedings before the HONORABLE RICHARD P.
MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 8:45 a.m., on the 7th day of
November,
Denver,
1997, in Courtroom C-204, United States Courthouse,
Colorado.

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Transcription
Street,
629-9285

Proceeding Recorded by Mechanical Stenography,
Produced via Computer by Paul Zuckerman, 1929 Stout
P.O. Box 3563, Denver, Colorado, 80294, (303)

7466

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Colorado,

1 APPEARANCES
2 PATRICK RYAN, United States Attorney for the
3 District of Oklahoma, 210 West Park Avenue, Suite 400,
4 City, Oklahoma, 73102, appearing for the plaintiff.
5 LARRY MACKEY, BETH WILKINSON, GEOFFREY MEARNES,
6 ORENSTEIN, and AITAN GOELMAN, Special Attorneys to the
7 Attorney General, 1961 Stout Street, Suite 1200,
8 Colorado, 80294, appearing for the plaintiff.
9 MICHAEL TIGAR, RONALD WOODS, and JANE TIGAR,
10 at Law, 1120 Lincoln Street, Suite 1308, Denver,
11 80203, appearing for Defendant Nichols.

12 * * * * *

13

PROCEEDINGS

14

(In open court at 8:45 a.m.)

15

THE COURT: Be seated, please.

16

Good morning.

17

ALL: Good morning, your Honor.

18

THE COURT: Ready to proceed?

19

MR. MACKEY: Yes, your Honor.

20

THE COURT: Okay.

21

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

22

THE COURT: Members of the jury, good morning.

23

JURY: Good morning.

24

testimony from

THE COURT: You recall we were hearing

25

FBI Agent Jasnowski when we recessed. We'll resume her

7467

1

testimony now.

2

Please resume the stand under your oath.

3

(Mary Jasnowski was recalled to the stand.)

4

THE COURT: Mr. Mearns, you may proceed.

5

MR. MEARNS: Thank you, your Honor.

6

DIRECT EXAMINATION CONTINUED

7

BY MR. MEARNS:

8

Q. Agent Jasnowski, when we recessed yesterday

afternoon, you

9 had just finished showing us the diagram of the house
and the

10 garage/storage-room structure in the back; right?

11 A. That's correct.

12 Q. You also said that before you went in to diagram
the

13 interior of the house, you directed someone to take
photographs

14 of the exterior of the property; is that correct?

15 A. Yes, that's correct.

16 Q. And were you present when those photographs were
being

17 taken?

18 A. Yes, I was.

19 Q. What I'd like you to do is look into your folder
for

20 Government Exhibit 1778.

21 A. Yes.

22 Q. Do you recognize that?

23 A. Yes, I do.

24 Q. What are those?

25 A. These are the photographs taken that evening of the

7468

Mary Jasnowski - Direct

1 exterior of the premises at 109 South 2nd Street.

2 Q. And how many photographs are in that group exhibit?

3 A. There are 12.

4 Q. And do those photographs fairly and accurately
depict what

5 the outside of the house and the garage looked like on
6 April 22?

7 A. Yes, they do.

8 MR. MEARNS: Your Honor, we would offer the
group
9 exhibit, Government Exhibit 1778.

10 MR. TIGAR: Your Honor, we have no objection.
I don't

11 want to interfere with counsel's thing. He's got a lot
of

12 photographs that were taken. I've looked at the
witness list.

13 We consent to all of them. If he just wants to read
the

14 numbers, he can publish them.

15 THE COURT: All right. Let's do that. That
will save

16 time. This first group is 1778; is that right?

17 MR. MEARNS: Yes.

18 THE COURT: Consisting of 12 photographs.

19 MR. MEARNS: That's correct.

20 THE COURT: All right. They're received.

21 MR. MEARNS: We would offer 1767, which is a
group

22 exhibit of nine photographs.

23 MR. TIGAR: No objection.

24 THE COURT: Those are received.

six 25 MR. MEARNS: 1770, which is a group exhibit of

7469

Mary Jasnowski - Direct

1 photographs.

2 MR. TIGAR: No objection.

3 THE COURT: 1770, that's received.

eight 4 MR. MEARNS: 1771, which is a group exhibit of

5 photographs.

6 MR. TIGAR: No objection.

7 THE COURT: Received.

8 MR. TIGAR: May I remain seated --

9 THE COURT: Yes, you may.

look at 10 MR. TIGAR: -- while I'm saying this so I may

11 the list?

13 12 MR. MEARNS: 1772, which is a group exhibit of

13 photographs.

14 MR. TIGAR: No objection.

15 THE COURT: Received.

ten 16 MR. MEARNS: 1769, which is a group exhibit of

17 photographs.

18 MR. TIGAR: No objection.

19 THE COURT: Received.

20 MR. MEARNS: 1773, which is a group exhibit of
15

21 photographs.

22 MR. TIGAR: No objection.

23 THE COURT: They are received.

24 MR. MEARNS: 1774, which is a group exhibit
consisting

25 of . . .

7470

Mary Jasnowski - Direct

1 MR. TIGAR: 11.

2 MR. MEARNS: 11 photographs, thank you.

3 MR. TIGAR: No objection.

4 THE COURT: All right. Received.

5 MR. MEARNS: 1775, which is a group exhibit
consisting

6 of 13 photographs.

7 MR. TIGAR: No objection.

8 THE COURT: They are received.

9 MR. MEARNS: 1776, which is a group exhibit of
six

10 photographs.

11 MR. TIGAR: No objection.

12 THE COURT: They're received.

seven 13 MR. MEARNS: 1777, which is a group exhibit of
14 photographs.

15 MR. TIGAR: No objection.

16 THE COURT: They are received. All right.

would like 17 MR. MEARNS: With that, your Honor, what we
of 18 to do is just publish some of the photographs from each
19 those groups.

20 THE COURT: All right.

21 BY MR. MEARNS:

22 Q. Beginning with 1778, Photograph No. 1.

23 A. Yes.

24 Q. Describe for us what we see in that photograph,
please.

25 A. This is a view of the front entrance of the
residence at

7471

Mary Jasnowski - Direct

1 109 South 2nd Street. There's the front.

2 Q. And in the foreground, we see a yellow tape or a
ribbon.

3 What is that?

4 A. It's a police barrier to keep people who are not
authorized

5 to be on the premises away.

6 Q. And was that barrier or tape there when you arrived
on

7 April 22?

8 A. Yes, it was.

9 Q. Photograph No. 2, please. What is this, Agent
Jasnowski?

10 A. This is the side view from the driveway. This is
the door

11 that we entered through.

12 Q. That is the door on the left with the awning over
the top?

13 A. Yes.

14 Q. You did not go in and out of the front door off of
the

15 porch that evening?

16 A. We did, but our main entryway was through the door
off of

17 the driveway.

18 Q. Photograph No. 4, please. What is this?

19 A. I'm sorry. This is an entrance to the garage.
This is the

20 storage room here, entrance.

21 Q. And which direction are we looking at it, coming
from the

22 house, or coming from behind the property?

23 A. This is coming from the house, heading towards the
west.

24 Q. And that is a door that enters into the storage
room?

25 A. Yes. Of the garage.

7472

Mary Jasnowski - Direct

1 Q. Photograph No. 6, please. What is that?

2 A. This is the rear of the garage. You can see the
auto

3 garage door. This is looking at it from the alleyway.

4 Q. And is that the way in which you could get a car or
a

5 pickup truck, a vehicle into the garage is from the
rear?

6 A. That's correct.

7 Q. Photograph No. 8, please. What is that?

8 A. These are some garbage cans that were located to
the west

9 of the garage near the alleyway.

10 Q. And when you say "the west," that's towards the
back of the

11 house?

12 A. That's correct.

13 Q. Behind the garage?

14 A. Yes.

15 Q. Photograph No. 12, please. What is --

16 A. These are -- I'm sorry.

17 Q. What is that?

18 A. These are the front steps, the front door is right

here.

19 Q. And when you arrived on April 22, did you see
anything on

20 those steps?

21 A. Yes, there were small, white prills on those steps.

22 Q. When you entered the house, what was the first room
that

23 you photographed and sketched from the interior?

24 A. The first room that we photographed was the living
room,

25 from the interior.

7473

Mary Jasnowski - Direct

1767, 1 MR. MEARNS: And I'd like to proceed with

2 Photograph No. 1, please.

3 BY MR. MEARNS:

4 Q. What is that?

5 A. This is the living room looking towards the front
door.

6 Q. That's the front door that's off of the porch?

7 A. Right.

8 Q. Photograph No. 2, please.

9 A. This is standing towards the area of the front door
looking

10 towards the area where the driveway would be.

11 Q. So the front door would be -- the front of the

house would

12 be to your left?

13 A. Yes, the front of the house is here.

14 Q. And Photograph No. 5, please. What is that?

15 A. This is a dining area within the living room,
looking back

16 towards the direction of the kitchen, towards the west
of the

17 house.

18 Q. Was that the condition of that area of the house
when you

19 entered on April 22?

20 A. Yes, it is.

21 Q. What was the next room that was sketched and
photographed?

22 A. We did the master bedroom, or Bedroom 1 as we
described it.

23 MR. MEARNS: And if we could then have Exhibit
1770,

24 Photograph No. 1, please.

25 BY MR. MEARNS:

7474

Mary Jasnowski - Direct

1 Q. What is that?

2 A. This is looking in from the living room into the
master

3 bedroom.

4 Q. What is to your right there?

5 A. To the right would be the front door.

6 Q. So now your back is towards the driveway?

7 A. Right.

8 Q. And Photograph No. 2, please. What is that?

9 A. Again this is from the doorway -- from the living
room

10 looking into the master bedroom. It's a dresser there.

11 Q. What was the next room that was photographed?

12 A. The next room that was photographed was the second
bedroom,

13 the guest bedroom.

14 MR. MEARNS: If we could have Exhibit 1771,
Photograph

15 No. 1, please.

16 BY MR. MEARNS:

17 Q. What is that?

18 A. This is again looking from the living room into the
second

19 bedroom.

20 Q. Where is the -- reorient us, if you can, where the
second

21 bedroom in relation to the first bedroom?

22 A. It's just immediately to the west to the first
bedroom.

23 Adjacent, next to it.

24 Q. And that's towards the back of the house?

25 A. Yes.

Mary Jasnowski - Direct

1 Q. And Photograph No. 2, please.

2 A. This is the bed in the second bedroom.

3 Q. And was that the condition of the room when you
entered on

4 April 22?

5 A. Yes.

6 Q. What was the next room that you photographed?

7 A. There was laundry room leading off of the second
bedroom.

8 MR. MEARNS: 1772, please. Photograph No. 1.

9 THE WITNESS: Yes.

10 BY MR. MEARNS:

11 Q. What do we see in that photograph?

12 A. This is looking into the laundry-room area from the
second
13 bedroom.

14 Q. Photograph No. 2, please. What is that?

15 A. This is a curio cabinet that was located in the
laundry
16 room, looking into -- towards the bathroom.

17 Q. And is this laundry room -- is now towards the back
of the
18 house behind the second bedroom?

19 A. Yes, it is.

the 20 Q. And if you continue back, that's when you get into
21 bathroom on the first floor?
22 A. That is correct.
23 Q. What was the next room that was photographed?
24 A. The bathroom.
25 Q. And then did you proceed to photograph the kitchen?

7476

Mary Jasnowski - Direct

No. 1, 1 A. Yes, I did.
2 MR. MEARNS: If I could have 1769, Photograph
3 please.
4 BY MR. MEARNS:
5 Q. What is that?
6 A. This is the kitchen looking from the laundry room.
7 Q. Photograph No. 2, please.
8 A. This is a cabinet area within the kitchen. It's
towards 9 the rear door. Looking at it from the area of, say,
the 10 refrigerator.
11 Q. Photograph No. 6, please. What is that?
12 A. This is the sink. It's against the wall. Bathroom
is 13 directly behind the sink area.

14 Q. And Photograph No. 8, please.

15 A. Again, this is the kitchen. The refrigerator is to
the
16 left, and to the left of there is the door leading out
to the
17 storage area and to the driveway.

18 Q. Were those cabinets open when you arrived on April
-- when
19 you entered the house on April 22?

20 A. No, they were not.

21 Q. Who opened those cabinets for this photograph?

22 A. The photographer.

23 Q. There's food on the counter there, on the stove and
on the
24 counter. Was that food there when you entered on April
22?

25 A. Yes, it was.

7477

Mary Jasnowski - Direct

1 Q. What was the next room that you photographed?

2 A. We went into the storage or pantry closet off of
the
3 kitchen, leading towards the driveway.

4 MR. MEARNS: If I could have 1773, Photograph
No. 1,
5 please.

6 BY MR. MEARNS:

7 Q. What is that?

8 A. This is the pantry, storage area. There's shelving
and
9 there you can see the stairway leading down to the
driveway.

10 Q. That is just where you put that little X there?

11 A. Yes.

12 Q. Is this the first room that you enter when you come
in off
13 that second door off of the driveway?

14 A. Yes.

15 Q. Photograph No. 8, please. What is that?

16 A. These are some ammunition boxes, ammo boxes that we
were --
17 that are in that storage room. The kitchen is back
this way.

18 Q. And Photograph No. 12, please. What is that?

19 A. These are some boxes with papers and other things
that were
20 located within that storage room.

21 Q. And then you went down into the basement storage
area?

22 A. No, then we went into the furnace/basement area.

23 MR. MEARNS: If we could have Exhibit 1775,
please.

24 THE WITNESS: Right.

25 BY MR. MEARNS:

Mary Jasnowski - Direct

1 Q. What is --

2 A. This is the door off of the laundry room leading
down into
3 the furnace area.

4 Q. And I can't see the exhibit. Is that Photograph
No. 2?

5 A. That's No. 1.

6 Q. Could we have Photograph No. 2, please. What is
that?

7 A. These are the stairs leading down into the furnace
area.

8 Q. And then did you proceed into the basement storage
area to
9 photograph?

10 A. Yes, we did.

11 MR. MEARNS: Could I have 1774, Photo No. 1,
please.

12 THE WITNESS: These are the stairs leading
down into
13 the basement storage.

14 BY MR. MEARNS:

15 Q. What was located in that basement storage area?

16 A. There were all kinds of things that were in the
basement
17 storage area.

18 Q. What happened after this initial entry phase; that
is,

19 photographing and sketching? What did you do after
this phase

20 of the search was complete?

21 A. Well, once the chemical analyses were completed, we
decided

22 to have the search team enter; and I made the
assignments as to

23 who would start at what area, and the search began.

24 Q. And approximately what time did that search begin?

25 A. Approximately 7:00 p.m., I called everyone in.

7479

Mary Jasnowski – Direct

1 Q. And about how many agents were in the house
actually

2 searching the house?

3 A. Approximately 15.

4 Q. What did you do during that phase of the search?

5 A. During that phase, I basically made the
assignments,

6 assisted people in setting up, made sure that they had
adequate

7 supplies to use, answered any questions that arose.

8 Q. At any time during the execution of the search
warrant, did

9 you actually take custody of evidence?

10 A. Yes, I did.

11 Q. Explain that process, please.

12 A. When we seize evidence, the seizing agent will take
that

list the 13 item and package it; and in packaging it, they will
system that 14 file number, the date, the item number. There's a
And then I 15 we set up, and they would put their initials on it.
16 would accept custody from them, as the custodian of the
17 evidence, and I would cross initial that evidence.
initials on it 18 Q. By "cross initial," you mean you'd put your
19 as well?
20 A. Yes.
accumulate 21 Q. What happened with the evidence as it began to
22 during the search?
we would 23 A. Well, when it got to be a hindrance to our search,
vehicle 24 take it and -- take it outside and put it in an Army
evidence. 25 that had been provided to us for transport of the

7480

Mary Jasnowski - Direct

1 Q. Was that vehicle being guarded by anybody?
2 A. Yes, there were FBI personnel outside plus there
were --
-- Army 3 actually, the people who were driving it were two Army

4 personnel who were also there.

5 Q. Approximately how long did it take to complete the
search

6 of Mr. Nichols' house?

7 A. The house itself, I believe it was finished
approximately

8 1 a.m.

9 Q. At some point during the search of the house, did
you

10 participate in photographing and sketching of the
structures,

11 the garage, and the storage in the back?

12 A. Yes.

13 Q. About when did you do that?

14 A. I would say between 8 and 9.

15 Q. Did anyone assist you in that?

16 A. Well, the photographer was Eugene -- or Andrew
Grindstaff,

17 and he was assisted by Sonya Hernandez, who served as
his log

18 keeper, and I made the sketch while we did that.

19 MR. MEARNS: And, your Honor, we would offer,
pursuant

20 to the same procedure if it's acceptable to counsel,
the

21 photographs of those two structures, which there's a
group

22 exhibit of 1776 and 1777. 1776 consists of six
photographs,

23 1777 consists of seven.

24 MR. TIGAR: I thought 1776 was in.

25 MR. MEARNS: I may have listed them before.

7481

Mary Jasnowski - Direct

1 THE COURT: Yes, 1776 and 1777 were received
by 2 agreement.

3 MR. TIGAR: Well, then, we still consent.
Thank you, 4 your Honor.

5 MR. MEARNS: Could I have 1776, Photograph No.
1, 6 please.

7 BY MR. MEARNS:

8 Q. What do we see in this photograph?

9 A. This is the entrance into the storage room of the
garage, 10 from the house.

11 Q. So you're standing outside that storage area?

12 A. That's correct.

13 Q. And Photograph No. 2, please. What is that?

14 A. This is inside that storage room, and that's
against --

15 these are ammunition boxes that are against the wall,
the west 16 wall of that storage unit.

17 Q. And Photograph No. 6, please.

18 A. This is a --
19 Q. What is that?
20 A. This is a Michigan license plate that was found in
that
21 room on a crate there.
22 Q. Orient us to the photograph. Is it resting on the
crate,
23 or is it nailed to the crate?
24 A. Oh, no, it's resting on it. This is a side
picture.
25 Actually it should be turned for it to be the actual
way it

7482

Mary Jasnowski - Direct

1 was.
2 Q. And could you just for the record read what the
license
3 plate is?
4 A. It's Michigan, it's WX1460.
5 Q. On the witness stand, you have what is in evidence
as
6 Government Exhibit 83A and -- Government Exhibit 86.
7 A. 83 and 86?
8 Q. Yes. I'm sorry, 83, not 83A. 83.
9 A. Yes.
10 Q. Those are motel registration cards. Do you see
that?

11 A. Yes, I see that.

12 Q. Beginning with 83, could you read the name that's
listed

13 there and the license plate, the vehicle license plate.

14 A. It says, "Name: Terry Havens." "Car License:
WX1640."

15 "State: Michigan."

16 Q. And then with Exhibit 86, please.

17 A. "Name: Joe Havens." "License: WY" -- or
"WX1640."

18 "State: Michigan."

19 Q. Did you then proceed to photograph the garage?

20 A. Yes.

21 MR. MEARNS: And if we could have 1777,
Photograph

22 No. 1.

23 BY MR. MEARNS:

24 Q. Would you tell us what's in that photograph,
please.

25 A. This is the door from the storage area looking into
the

7483

Mary Jasnowski - Direct

1 auto part of the garage.

2 Q. And Photograph No. 4, please. What is that?

3 A. This is a crate that was located on the south wall
of that

4 auto garage.

5 Q. And what was found on top of that crate?

6 A. Well, that's a fuel meter on top of the crate. And
there's
7 other tools there as well.

8 Q. And Photograph No. 5, please.

9 A. That's the bathroom that was in the auto garage on
the
10 north wall.

11 Q. About how long did it take to photograph the garage
and the
12 storage area?

13 A. Approximately 20 to 30 minutes.

14 Q. After that process was completed, did you go back
to the
15 house to continue to assist in the search of the house?

16 A. Yes, I did.

17 Q. After that search was complete, did you assign
agents to
18 assist you in actually searching this garage and
storage area?

19 A. Yes, I did.

20 Q. And did you also supervise this search?

21 A. Yes, I did.

22 Q. About what time was the entire search of both the
house and
23 the garage -- what time was that completed?

24 A. Approximately 4 a.m.

25 Q. What did you do then?

7484

Mary Jasnowski - Direct

I
Public
our
leave for

1 A. Well, I instructed the photographer to make exit
2 photographs of the premises. When that was completed,
3 dismissed my team. I went and made -- to the Herington
4 Safety Building, leaving agents still in control of the
5 premises, where I made copies of the search warrant and
6 inventory, which I brought back to the residence to
7 Mr. and Mrs. Nichols.

You said

8 Q. Let me ask you a couple of questions about that.
9 you instructed someone to take exit photos?

10 A. Yes, I did.

11 Q. Was that Mr. Grindstaff?

12 A. Yes, I did.

13 Q. Were you present when those exit photos were taken?

14 A. Yes, I was.

15 Q. What was the purpose of taking those exit photos?

that to
They

16 A. Well, it's pretty standard procedure. We would do
17 indicate the condition of the premises as we found it.

18 could be compared with our entry photographs, in case
someone
19 filed a claim to say that something was taken or broken
or
20 whatever.

21 Q. And you said that, then, you made copies of
inventories?

22 A. Yes, I did.

23 Q. What are those inventories? What do they reflect?

24 A. The inventories reflect all the items we seized
pursuant to

25 the warrant.

7485

Mary Jasnowski - Direct

1 Q. And where did you take those inventories?

2 A. I took them to the Herington Public Safety
Building. It

3 was the nearest place that had a copying machine so I
could

4 leave a copy for the Nichols.

5 Q. Did you go back and leave a copy in the residence?

6 A. Yes, I did.

7 Q. What did you do with the actual evidence that had
been

8 accumulated and placed in the truck?

9 A. The evidence that -- we had loaded everything up
onto the

10 truck. It was driven -- an FBI agent accompanied the

military

11 people who were driving the vehicle to the Herington
police 12 station, and I observed it enter within the fire truck
entrance 13 of the police station as I was doing my copying. So I
saw it 14 there.

15 Q. Did there come a time after April -- well, I guess
we're 16 talking about 4:00 in the morning on April 23; right?

17 A. That's right.

18 Q. Did there come a time either later that same day or
the day 19 after when you with someone else photocopied all of the
20 documents and papers that were taken from Mr. Nichols'
21 residence?

22 A. Yes.

23 Q. Tell us about that, please.

24 A. Well, we were asked to photocopy any documentary
evidence 25 we had discovered for lead purposes, and I assigned one
of the

7486

Mary Jasnowski - Direct

1 agents to segregate from each item those items of
documents;

2 and later that day, when we had returned to the Fort

Riley

3 command post, that agent and I transported those
documents over

4 to the headquarters at Fort Riley, and we photocopied
those
5 items.

6 Q. Who was the agent that assisted you?

7 A. G. William Nellis.

8 Q. Did you photocopy every piece of paper and document
that

9 came from the house on April 22 and April 23?

10 A. With some exceptions.

11 Q. What were those exceptions?

12 A. There were -- with some of the coins that we
recovered,

13 there was a receipt, and I made the decision not to
photocopy

14 that because I did not want to tamper -- not tamper
with it,

15 but to contaminate it or something with fingerprints.

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

17 THE COURT: All right. Mr. Tigar.

18 CROSS-EXAMINATION

19 BY MR. TIGAR:

20 Q. Hello again, Agent -- Jas-now-ski?

21 A. Yes, that's correct.

22 Q. Am I pronouncing it correctly?

23 A. Yes.

were at 24 Q. Thank you. This is cross-examination. When you

Professor 25 Notre Dame law school, did you take a course from

7487

Mary Jasnowski - Cross

1 Seckinger?

2 A. Yes, I did.

3 Q. So you know what cross-examination is?

4 A. Yes, I do.

about 5 Q. Well, I want to start by asking you some questions

before. Had 6 how you all got there to the house, what you did

7 you -- were you aware that an S-I-O-C had been set up?

8 A. A SIOC?

9 Q. Yes.

our 10 A. There was one -- I was aware that there was one at

11 headquarters, yes.

12 Q. Yes, at FBI headquarters.

13 A. Yes.

with 14 Q. Now, when you got to Herington, were you in contact

15 the SIOC?

16 A. Yes, I was.

17 Q. What does SIOC stand for?

18 A. I'm not exactly certain, special investigation
operations,

19 something like that.

20 Q. Something like that?

21 A. Yes.

22 Q. Did you talk to the personnel of the government who
were at

23 the SIOC in Washington?

24 A. Some of them, yes, I did.

25 Q. Did you talk to Mr. Shapiro?

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Mary Jasnowski - Cross

1 A. No, I did not.

2 Q. Did you talk to lawyers that were there?

3 A. No, I did not.

4 Q. You were talking to other agents; right?

5 A. Right. People at the laboratory division.

6 Q. Okay. When you got to Herington -- I'm trying to
trace

7 your movements. First you went to the Fort Riley
command post;

8 is that right?

9 A. Yes.

10 Q. And then you were told to go to Herington?

11 A. The next day, yes.

to what 12 Q. The next day. And that day you had a briefing as
13 you were to do; correct?
14 A. That's correct.
15 Q. Who conducted the briefing?
16 A. Assistant Special Agent in Charge Dale Watson.
were 17 Q. And did you participate in briefing the agents who
18 there?
agents, 19 A. I briefed my team. I didn't brief the rest of the
20 no.
of the 21 Q. When you say "your team" as distinct from the rest
22 agents, was your team the one that was going to search
23 Mr. Nichols' house?
24 A. Yes, that's correct.
some 25 Q. Now, there was a time when you were asked to do

7489

Mary Jasnowski - Cross

1 plaster casts; correct?
2 A. That's correct.
3 Q. But that was called off; correct?
4 A. That's correct.
5 Q. When were you asked to do the plaster casts?

one. 6 A. Upon arriving at Herington, approximately noon or

7 Q. On the 22d?

8 A. Yes.

9 Q. And that was a Saturday?

10 A. Yes.

11 Q. Now, what was the weather like on the 22d?

12 A. It was cloudy and cold and windy.

13 Q. Had it been raining?

14 A. At that time I don't believe it had been. It
didn't begin

15 to rain until later.

16 Q. And when did it start to rain?

17 A. I would say about 3:00 the following morning.

18 Q. At 3 -- by 3:00 the following morning, do you know
whether

19 or not Agent Bodziak had arrived?

20 A. Yes, I was told that he had.

21 Q. Had he taken his casts by the time it started
raining?

22 A. I believe he had.

23 Q. But you're not sure, but you believe that?

24 A. I didn't witness him do that, no.

25 Q. I understand. Had it rained -- from what you could
see on

Mary Jasnowski - Cross

1 the ground around, had it rained the day before?

2 A. It's possible. I couldn't tell.

3 Q. Now, this briefing you had before you went in the
house,

4 did that briefing include consideration of the safety
of the

5 searching personnel?

6 A. Yes, it did.

7 Q. Because this was a bomb investigation?

8 A. Correct; that's correct.

9 Q. And you would be concerned to know whether or not
there

10 were things in the house that might injure your people.

11 A. That's right.

12 Q. Did you have a report from the agent -- from anyone
--

13 about a conversation that they had had with Mr. Nichols
on the

14 subject of the safety of the searching agents?

15 A. I don't recall. Whether they communicated what Mr.
Nichols

16 said. Or -- information was given. I didn't know what
the

17 source of that information was.

18 Q. Okay. Did you -- well, without getting into too
much

19 detail about this, were you told that somebody had said
that

in the 20 there just weren't any booby traps or things like that

21 house?

22 A. I don't recall someone saying that, no.

correct? 23 Q. Now, you've mentioned that you had a warrant;

24 A. Yes.

Crabtree? 25 Q. And that warrant had been obtained by Agent Scott

7491

Mary Jasnowski - Cross

1 A. Yes.

2 Q. And had been signed by a judge; right?

3 A. A magistrate, yes.

Herington 4 Q. Were you aware that Mr. Nichols had been in the

5 police station the day before?

was still 6 A. I believe I knew he was there because his vehicle

7 there.

to stay 8 Q. And were you aware that Mr. Nichols had been asked

9 with the government as a material witness?

10 A. I wasn't aware of that at the time.

11 Q. Okay. You knew he wasn't at home?

12 A. Yes, I knew he wasn't at home.

13 Q. Now, you mentioned towards the end of your direct

finished 14 examination that it is your practice when a search is
the 15 to have an inventory of what is taken that is left for
16 household?

17 A. That is correct.

was 18 Q. Now, there was no one at home during your search,
19 there?

20 A. No, there was not.

21 Q. Do you know where Mrs. Nichols was?

22 A. At the time I wasn't sure where she was, no.

23 Q. You just knew she wasn't at home?

24 A. Right.

Nichols 25 Q. Your information was that no one would be at the

7492

Mary Jasnowski - Cross

1 home.

2 A. That's correct.

safety of the 3 Q. Now, in addition to wanting to know about the

things 4 searching agents, you were -- you knew that one of the

5 you'd be looking for were guns and ammunition; correct?

6 A. Yes.

7 Q. You knew that -- did you know -- was it your
information
8 that Mr. Nichols was in the business of selling guns
and
9 ammunition?
10 A. No, I didn't know that.
11 Q. By the way, the ammunition cans that we saw so many
12 pictures of, they didn't have any ammunition in them,
did they?
13 A. In those specific pictures they didn't, but I
believe there
14 were ammo cans with --
15 Q. There were some ammo cans. I'm talking about the
big
16 stacks of ammo cans.
17 A. In the outside --
18 Q. In the outside shed.
19 A. No, there was no ammo in those cans.
20 Q. Those are military surplus ammo cans; correct?
21 A. If you say so. They look like ammo cans to me.
22 Q. Ammo cans. And you also saw picks there?
23 A. I'm sorry?
24 Q. Did you see picks, you know --
25 A. Yes.

1 Q. Picks. You saw shovels?
2 A. Yes.
3 Q. A lot of picks.
4 A. Yes.
5 Q. A lot of shovels.
6 A. Yes.
7 Q. A lot of saws.
8 A. Yes.
9 Q. Did you see nails?
10 A. Yes.
11 Q. A lot of nails, okay. Did you have a -- did
someone show
12 you a sketch plan of the house --
13 A. No.
14 Q. -- before you went in?
15 A. No, they did not.
16 Q. Have you, between that time and today, seen a
sketch plan
17 of the house prepared by Mr. Nichols?
18 A. I -- yes, I have. Well, not by him. I've seen the
one
19 that was prepared by . . . I'm not even certain who
prepared
20 it. I've seen another sketch other than the one that
I've
21 prepared -- or my team prepared.
22 Q. I'd like to show you what I have marked as
Defendant's

23 Exhibit 1627.

24 MR. TIGAR: May I approach, or perhaps Mrs.
Hasfjord.

25 THE COURT: Yes.

7494

Mary Jasnowski - Cross

1 MR. TIGAR: All right. I'm permitted to.

2 BY MR. TIGAR:

3 Q. Ask you if you have ever seen that before?

4 A. No, I have not.

5 Q. All right. So is it your testimony that no one
told you

6 prior to the time you went to Mr. Nichols' house that

7 Mr. Nichols had made a sketch of his house?

8 A. I don't recall them telling me that, no.

9 Q. Did anyone tell you that Mr. Nichols had marked
where his

10 guns and ammunition were in his house?

11 A. No.

12 Q. And when I say "no one," I mean that nobody on the
search

13 team said, Well, we're going to go look for these guns
and

14 Mr. Nichols told us where they are?

15 A. I believe upon entry, one of the ATF agents who had
been in

16 the protective sweep made a mention that they had seen

a gun in

17 the house, but that's the only mention of guns that I
recall.

18 Q. That's the only mention. So you've never seen this
19 document?

20 A. No, I have not.

21 Q. Did -- were you told that -- on the 21st that Mr.
Nichols

22 had signed a consent to search his house?

23 A. I believe I had heard that.

24 Q. So you knew -- and there is a standard FBI form, is
there

25 not --

7495

Mary Jasnowski - Cross

1 A. Yes, there is.

2 Q. -- for a consent to search? Had you seen that
document

3 that evening?

4 A. No, I did not.

5 Q. Prior to entering the house?

6 A. No.

7 Q. Have you seen it since then?

8 A. No, I have not.

9 Q. So it wouldn't do me any good to show one to you,
would it?

10 A. No, it wouldn't.

11 Q. Okay. Now, the 22d when you went in there was not
the last

12 time that the FBI was in the house, was it?

13 A. No, it's not.

14 Q. In fact -- well, you went in again -- did you
participate

15 in later searches of the house?

16 A. Yes, I did.

17 Q. Okay. And to your knowledge, when was the last
time that

18 the FBI was in there, in the house?

19 A. Well, from my team, the last time someone was in
there was,

20 I believe, the 24th, but I know that the Kansas City
division

21 went in again. I'm not certain when.

22 Q. They went in on a number of other occasions?

23 A. I don't know how many.

24 Q. Do you know an Agent Earl?

25 A. I've heard the name.

7496

Mary Jasnowski - Cross

1 Q. When you went into the house, you had a team of
people;

2 correct?

3 A. Yes, I did.

here,

4 Q. And that would -- if I can just read off the names

5 you had Steven Burmeister; correct?

6 A. Yes.

7 Q. Ronald Kelly?

8 A. Yes.

9 Q. Were you at any time with any evidence recovery

people at

10 the Geary Lake state fishing park?

11 A. No, we were not.

12 Q. Okay. All right. You had Andrew Grindstaff with

you;

13 correct?

14 A. Yes.

15 Q. The photographer.

16 Mr. Hupp?

17 A. Yes.

18 Q. From Washington. Yes?

19 A. Yes.

20 Q. Agent Williams?

21 A. Yes.

22 Q. Agent Nellis?

23 A. Yes.

24 Q. Agent Tucker?

25 A. Yes.

Mary Jasnowski – Cross

- 1 Q. Agent Thomas?
- 2 A. Yes. Well, she's not an agent.
- 3 Q. I'm sorry. Photographer Thomas?
- 4 A. Yes.
- 5 Q. Evidence Control Technician Hernandez?
- 6 A. Yes.
- 7 Q. Agent Tongate?
- 8 A. Yes.
- 9 Q. And that's the gentleman right here?
- 10 A. Yes, it is.
- 11 Q. Agent Meredith?
- 12 A. Yes.
- 13 Q. Agent West?
- 14 A. Yes.
- 15 Q. Agent Scott?
- 16 A. Yes?
- 17 Q. Agent Hillman?
- 18 A. Hillman, yes.
- 19 Q. Photographer Sandrige.
- 20 A. Yes.
- 21 Q. And yourself; correct?
- 22 A. Yes.
- 23 Q. Plus you had people from ATF; correct?

24 A. Yes, Mr. DeNardi.

25 Q. And you had someone from CID, Army CID?

7498

Mary Jasnowski - Cross

1 A. They were not in the search. He was on the
premises.

2 Q. That was Mr. Sonz-Agero?

3 A. Yes.

4 Q. And then you had some other Army personnel?

5 A. Right. And Mr. Hillman didn't participate in the
search,

6 either. He was just on the premises.

7 Q. And you were in charge?

8 A. Yes.

9 Q. Now, in order to take your evidence to FBI
Laboratory, you

10 had to have a conveyance; correct?

11 A. That's correct.

12 Q. Or to wherever were you were going to take it?

13 A. Yes.

14 Q. And that was provided by the Army?

15 A. Yes, it was.

16 Q. Now, before you started your search, did you
inspect the

17 Army vehicle that had been brought?

18 A. I looked at it, but I didn't inspect it in any way.

19 Q. Uh-huh. Had it been power-washed, swabbed down, or
20 cleaned?

21 A. I wasn't aware of it, if it had been.

22 Q. All right. So you have no knowledge of that?

23 A. No.

and the
right?
24 Q. Now, you mentioned in direct examination that you
25 other agents wore some kind of protective clothing;

7499

Mary Jasnowski - Cross

1 A. Yes.

2 Q. Now, is that locally called bunny suits?

3 A. People have called it that, yes.

protect
4 Q. People have -- all right. And that's designed to
5 the evidence; correct?

6 A. Right.

Peter
7 Q. It's called that because it makes you look like
8 Rabbit or something like that?

9 A. True, yes, it does.

also put
10 Q. All right. Now, when you got in the house, you
11 gloves on; correct?

12 A. Oh, absolutely, yes.

13 Q. And these gloves were standard-issue evidence-
recovery
14 gloves; right?

15 A. Well, they're just rubber gloves.

16 Q. Rubber gloves. Lined with talc?

17 A. Some of them were; some of them weren't.

18 Q. Did you make any distinction in the work you were
doing as
19 to which agents were to receive gloves lined with talc
and
20 which agents were?

21 A. No, I did not.

22 Q. Okay. Do you know what talc is made of?

23 A. No, I don't.

24 Q. In your search, were you directed to look for
papers that
25 concerned someone named Parker?

7500

Mary Jasnowski - Cross

1 A. I don't recall that name.

2 Q. Were you directed to look for someone named Kyle?

3 A. I don't recall that name.

4 Q. When you say you don't recall that name, did anyone
tell
5 you that Mr. Nichols said that he had rented storage
sheds in

had been 6 the names of Parker and Kyle during the time that he
at the 7 interviewed by the police officers or by the FBI agents
8 Herington station there?

9 A. No, I hadn't been told that.

pictures 10 Q. Okay. I want to review, if I can, some of the
11 that you looked at here.

12 It says on.

13 This is 1767, No. 6?

14 A. Yes.

box 15 Q. If we could look here. And if we zoom in, we see a
16 from Kinko's; correct?

17 A. Yes.

18 Q. And what is in the box?

19 A. Business cards, is what it says on the outside.

the end? 20 Q. And is there one of those business cards pasted on

21 A. Yes, it is.

22 Q. And whose name is there in big letters?

23 A. Terry Nichols.

to be 24 Q. Okay. And next to that is a bag that also appears
25 from Kinko's; correct?

Mary Jasnowski - Cross

- 1 A. To the right or to the left?
- 2 Q. To the left, it says -- and you can just see the 0
- 3 apostrophe S, and so on?
- 4 A. I can't see it.
- 5 Q. Let's zoom out a little more there.
- 6 A. Oh, I see it.
- 7 Q. Can you see that?
- 8 A. Yes. Yes.
- 9 Q. And you recognize that as some part of Kinko's
logo?
- 10 A. Yes.
- 11 Q. And that you say was in the dining room; is that
correct?
- 12 A. Yes.
- 13 Q. Did this appear to you to be just somebody's
business
- 14 papers?
- 15 A. Yes.
- 16 Q. Spread out there on the table?
- 17 A. Yes.
- 18 Q. Now, during the time that you were in the house,
did you
- 19 seize a book called Hunter?
- 20 A. I don't believe we did.
- 21 Q. And in fact, when you were being shown pictures,
you were

correct? 22 shown a picture that included a Quaker State box;

23 A. Yes.

24 Q. Do you remember that picture?

25 A. Yes.

7502

Mary Jasnowski - Cross

1 Q. That would be 1773, No. 12.

remember 2 I don't happen to have it here, but we all

3 it. It's the Quaker State box; right?

They've 4 Could you just hold that up for the jury.

everybody what 5 seen it with another witness, and just to remind

6 it is.

7 A. No. 12 isn't here. I have 11 --

I'll 8 Q. Well, maybe I've got the wrong note here. Then

9 apologize to you for that.

which 10 THE COURT: Mr. Mearns, can you help us as to

11 that is.

and put 12 MR. MEARNS: We could switch to the computer

13 it on.

14 MR. TIGAR: Oh, you could? Thank you. I

would

15 appreciate that.

16 Here it is.

17 BY MR. TIGAR:

18 Q. I thought it was No. 12.

19 A. Yes, now I see it.

20 Q. Now we see it on the screen.

21 A. Yes.

22 Q. Do you remember seeing that box on the 22d?

23 A. I don't remember on the 22d seeing it, but now I
see it,

24 yes.

25 Q. But at any rate, you didn't take -- you didn't get
any book

7503

Mary Jasnowski - Cross

1 called Hunter at any time during your search, did you?

2 A. No.

3 Q. And/or -- were you aware, if you saw that box on
the 22d,

4 even what was in there?

5 A. I -- no, I wasn't aware.

6 MR. TIGAR: Thank you very much.

7 BY MR. TIGAR:

8 Q. Now, when you looked through the house, did you see
books?

9 A. I don't recall if there were books -- you mean
hardbacks,

10 paperbacks? There were some.

11 Q. Well, in fact, in your evidence recovery process,
you

12 seized some books, didn't you?

13 A. I believe so, yes.

14 Q. Now, did other people than yourself also keep parts
of the

15 evidence recovery log?

16 A. Yes. I only kept the log to one area. Most of the
logs

17 were kept by the agents who were actually doing the
searching

18 in those rooms.

19 Q. Now, did you review the logs at a later time?

20 A. Yes, I did.

21 Q. So at least at that time you were familiar with
what was in

22 there; right?

23 A. Right.

24 Q. And there were -- you seized a number of
videotapes;

25 correct?

7504

Mary Jasnowski - Cross

1 A. Yes.

2 Q. One agent reported seizing something that that
agent called

3 antigovernment literature; right?

4 A. Yes.

5 Q. You remember that?

6 A. Yes, I remember seeing that.

7 Q. And that was radical stuff; right?

8 A. Yes.

9 Q. Did you read it?

10 A. No. I glanced at it when I photocopied it, but I
didn't

11 read it.

12 Q. You also seized a book called Homeopathic Primer;
correct?

13 A. It's possible.

14 Q. Yes. And what was Homeopathic Primer about?

15 A. Medicine, using natural methods, I would imagine.
I'm not

16 certain.

17 Q. Did you seize a book called Cancer Home Reborn?

18 A. It's possible.

19 Q. Okay.

20 A. It wasn't specifically listed, I don't think. Was
it?

21 Q. If I showed you, would that --

22 A. Yes, it would.

23 MR. TIGAR: May I approach, your Honor?

24 THE COURT: Yes.

25 BY MR. TIGAR:

7505

Mary Jasnowski - Cross

1 Q. I show you what is marked as page 4 of four of a
portion of
2 the evidence log kept by Agent Williams, and I ask you
if that
3 refreshes your recollection.

4 A. Yes, it does.

5 Q. Pardon me?

6 A. Yes, it does.

7 Q. You've seized a book called Cancer Home Reborn?

8 A. Yes.

9 Q. Now, in directing your agents at your briefing, did
you
10 tell them which books should be seized and which should
not?

11 A. Well, yes. Generally, yes, it was mentioned.

12 Q. And what general criteria did you give them about
what
13 books should be seized and which should not?

14 A. Well, we looked at -- I think it's paragraph 6 of
the
15 attachment. It basically referred to any writings that
would
16 lead us to associates or whatever that would relate to
the

17 bombing.
18 Q. And as you were looking through the house, did you
notice
19 that there were a number of books on different subjects
in the
20 house?
21 A. I didn't notice that, no.
22 Q. All right. So that if I were to -- well . . .
Would it
23 refresh your recollection if I mentioned the name Main
Line
24 Farming for Century 21?
25 A. No it wouldn't.

7506

Mary Jasnowski - Cross

1 Q. Would it refresh your recollection if I said
Gridlock in
2 Government?
3 A. I don't remember. I don't specifically recall
those books.
4 Q. Okay. So that it really -- and I don't want to
prolong
5 this. It wouldn't do me any good to read through all
these
6 book titles and ask you if that refreshes your
recollection.
7 A. Right, it would not.
8 Q. Because you just don't remember?

9 A. I don't recall.

10 Q. All right. Did you have a conversation with any of
the
11 agents about why they had -- on what basis they had
seized this
12 Cancer Home Reborn and the other book?

13 A. No, I never talked to them about that. During the
evening
14 when we were doing the search, they would ask me if --
on
15 occasion they would ask me if it was something that the
warrant
16 permitted; but generally, they had their discretion as
to what
17 they wanted to seize.

18 Q. They could seize whatever they wanted?

19 A. Well, within the confines of what the warrant said.

20 Q. I understand. And I'm not trying to suggest
otherwise.

21 A. Right.

22 Q. The people that were doing the seizing were
experienced
23 agents of the FBI; correct?

24 A. Yes, they were.

25 Q. Now, you mentioned that before you all went into
the house

others 1 and began your process, that Agent Burmeister and some

2 were in there; correct?

3 A. Well, they entered prior to our entry, yes.

observe them 4 Q. Okay. And did they take air samples? Did you

5 doing that?

6 A. I did not observe what they were doing, no.

samples, 7 Q. Okay. And did you observe them taking soil

8 scrapings?

9 A. Soil samples, within the house? I didn't --

house; but, 10 Q. No, there wouldn't be soil samples within the

what I'm 11 you know, on people's shoes and tires and -- you know

well, let 12 talking about. That is to say, when you go into a --

13 me not get ahead of myself.

experience, 14 When you go in to make a search, in your

bottoms 15 do forensic laboratory people take scrapings from the

16 of shoes and other places where dirt or soil might have
17 adhered?

18 A. I've never observed it, no. You mean of their own
19 clothing; is that what you're asking me?

an FBI 20 Q. No, no, no. I'm asking about in your experience as

Bureau at a 21 agent, do you know that forensic technicians of the
that are 22 crime scene take dirt samples from the shoes of a --
soil 23 found at a search scene in order to compare them with
24 samples that are taken from outside, some other place?
25 A. I would imagine that's so, yes.

7508

Mary Jasnowski - Cross

1 Q. Okay. And have you read about that?
2 A. Well, not extensively, no. Generally, yes.
3 Q. I'm just asking you -- and I'm not trying to test
you on 4 this. Did you observe anybody doing that?
5 A. No, I did not.
6 Q. Okay. Did you observe people dusting for
fingerprints? 7 A. I don't believe so, no.
8 Oh, well, I did not observe that, no.
9 Q. Okay. Now, I'm not saying it wasn't done; you
didn't 10 observe it, if it happened?
11 A. Right, I did not observe it.
12 Q. Now, let me put up here 1767, No. 2, if I may.
13 A. Yes.
14 Q. That television set was in the corner; correct?

15 A. Yes, it was.

16 Q. Now, and it has -- it has a VCR attached to it;
correct?

17 A. Yes, it does.

18 Q. It does not have an antenna, does it?

19 A. I guess not.

20 Q. Did you observe whether or not there was cable
service laid

21 on in the house?

22 A. I did not pay attention to that.

23 Q. Did you seize the television set on that day?

24 A. No. Not on that day.

25 Q. You're aware that it was later seized by the FBI;
is that

7509

Mary Jasnowski - Cross

1 correct?

2 A. Yes. Yes.

3 Q. Now, in some of these pictures that you showed us,
there

4 were a number of -- there were cardboard boxes --
correct --

5 especially in that second bedroom?

6 A. Yes.

7 Q. And did those -- did you look inside those?

8 A. I did not, but I know that people --

9 Q. Agents did?

10 A. Yes.

11 Q. Did it appear to you that there were things in it
that
12 looked like somebody had moved into the house recently?

13 A. Yes, it did.

14 Q. Okay. Now, you mentioned also in direct
examination that
15 as you approached the house, you saw some prill-like
things;
16 correct?

17 A. Right.

18 Q. Now, had anybody told you that Mr. Nichols had said
the
19 night before when he was being -- said that he did have
20 ammonium nitrate fertilizer in a small amount that he
had put
21 on his lawn?

22 A. I don't know when I heard that, but I became aware
of that
23 at some time. I don't know whether it was then or
later.

24 Q. During your search, did you seize some plastic
bottles in
25 the quart-type size, pint or quart-type size?

1 A. Yes, we did.

2 Q. And are those plastic bottles such as you might see
at a

3 supermarket where you're buying bulk products or --

4 A. Yes.

5 Q. -- things like that?

6 A. Yes. They looked professionally packaged.

7 Q. Okay. And did you see any plastic -- small plastic
bottles

8 with labels on them that said that it was fertilizer or
plant

9 food?

10 A. Yes.

11 Q. Okay. Small ones about like yea; correct?

12 A. Yes.

13 Q. Now, did you open up any of those bottles to see
what was

14 inside?

15 A. Not at that time, no.

16 Q. Later on, you did?

17 A. I did not, no.

18 Q. But you're aware that somebody did?

19 A. Yes.

20 Q. And did you know when you went into the house
whether or

21 not Mr. Nichols had said the evening before when he was
with

22 the FBI agent: "Look, I grind up ammonium nitrate in
small

23 amounts, and I put labels on it and I sell it"?

24 A. I did not receive that information.

25 Q. You did not receive that information?

7511

Mary Jasnowski - Cross

1 A. No.

2 Q. Before you went into the house, did you ever talk
to Agent

3 Foley?

4 A. No.

5 Q. Did you ever talk to Agent Jablonski?

6 A. I don't recall talking to him before I went into
the house.

7 Q. And did you ever, to your knowledge, talk to any of
the

8 agents who had spoken with Mr. Nichols the night
before?

9 A. I don't recall them telling me that they had, no.

10 Q. Okay. You might have, but --

11 A. Yes.

12 Q. -- certainly that wasn't something that they shared
with

13 you?

14 A. That's correct.

15 Q. Now, out there in that shed, you saw some 55-gallon
drums;

16 correct?
17 A. That's correct.
18 Q. Now, when you saw them, how many 55-gallon drums
were
19 there?
20 A. There were four.
21 Q. Did they have labels on them?
22 A. Yes, they did.
23 Q. And what did the labels say?
24 A. I believe they said --
25 Q. If you remember?

7512

Mary Jasnowski - Cross

1 A. -- Ster-Bac.
2 Q. Ster-Bak, S-T-E-R dash B-A-K?
3 A. B-A-C, I think.
4 Q. B-A-C? Whatever it was.
5 A. Yes.
6 Q. What is Ster-Bac, if you --
7 A. I have no idea. I imagine it's a company name or a
trade
8 name.
9 Q. Did the barrels contain Ster-Bac?
10 A. I don't know. What is Ster-Bac? No, they did not
--

that 11 Q. Well, would it refresh your recollection if I said

12 Ster-Bac is something used to clean dairy barns?

13 A. Well, definitely they did not contain Ster-Bac.

did 14 Q. Okay. For whatever purpose they were, they were --

15 they have -- being used for storage?

16 A. Yes, they were.

17 Q. Okay. And you found -- what color were they?

18 A. They were white with the blue rims.

19 Q. Okay.

evidence. Am I 20 MR. TIGAR: Now, I believe 1770A is in

21 correct?

22 THE COURTROOM DEPUTY: Yes.

23 THE COURT: 1777A?

24 MR. TIGAR: 1770A.

25 THE COURTROOM DEPUTY: No.

7513

Mary Jasnowski - Cross

error. 1 MR. TIGAR: I hope my notes are not -- not in

2 BY MR. TIGAR:

saw a -- 3 Q. Now, you mentioned that out in the shed there, you

4 you were shown a picture of something; and you
identified it as

5 a fuel meter; is that correct?

6 A. That's correct.

7 Q. Do you know a fuel meter is?

8 A. It measures fuel.

9 Q. And who brought that to you?

10 A. Who brought that to me?

11 Q. Yes.

12 A. No one brought it to me. I saw it in there.

13 Q. I understand. But at sometime, the FBI took
whatever that

14 was into custody; correct?

15 A. Yes, we did. In fact, I was there when we took it.

16 Q. When was that?

17 A. The next day.

18 Q. The next day. And what agent brought it to you?

19 A. No agent brought it to me. I assisted in the
retrieval of

20 it.

21 Q. You assisted in the retrieval.

22 A. Right.

23 Q. Now, that fuel meter was in pieces, wasn't it?

24 A. Yes.

25 Q. And when you said on direct examination that there
was a

Mary Jasnowski - Cross

1 fuel meter there, you didn't mean to suggest that it
was an
2 operable fuel meter, did you?

3 A. Well, I don't know whether -- no, if it's in
pieces,
4 obviously not.

5 Q. Right. And have you later conducted investigation
to
6 determine whether that thing even worked or not?

7 A. I don't even know. I imagine, yes.

8 Q. That the investigation was conducted?

9 A. I have no idea.

10 Q. Okay. But you don't know whether one was conducted
or what
11 the results of it were; is that correct?

12 A. That's correct. That's correct.

13 Q. And from -- based on your knowledge and experience
-- Were
14 you raised on a farm?

15 A. No, I wasn't. Small farming town but not a farm.

16 Q. Okay. So you've never used a fuel meter, have you?

17 A. No, I haven't.

18 Q. Except whatever they had when we get our gas --

19 A. Exactly.

20 Q. -- at the station.

21 Now, you said that after all of this material
was

22 assembled that it was put in the Army truck; correct?

23 A. That's correct.

FBI

24 Q. And the Army truck was driven by a soldier with an

25 agent escort?

7515

Mary Jasnowski - Cross

1 A. Two soldiers, FBI agent escort.

2 Q. In the truck?

3 A. Yes.

4 Q. 'Cause only one was doing the driving?

5 A. Right. Yes.

6 Q. 'Cause it's just a regular truck; right?

7 A. Right.

8 Q. Okay. And it went up to Fort Riley?

9 A. No; it went to the Herington Police Department.

10 Q. First it went there; and after that, what happened
to it?

11 A. It was taken to Fort Riley.

12 Q. Okay. And after it was taken -- after it left the
13 Herington police station, did you ever see the truck
again?

14 A. Yes, I did.

15 Q. All right. And where was that?

16 A. It was at the Fort Riley, at the command post area.

17 Q. Did you participate in unloading the truck?
18 A. I was there when they unloaded it. When it was
unloaded.
19 Q. And what happened to the material that was
collected?
20 A. It was placed into a storage area behind the
military
21 police headquarters at Fort Riley.
22 Q. Is that the last time you saw the evidence --
23 A. No.
24 Q. -- before coming to court today?
25 A. Oh, no. I've seen it numerous times since then.

7516

Mary Jasnowski - Cross

1 Q. You've reviewed it many times since then?
2 A. Yes.
3 Q. So you're aware that some of evidence was sent to
the FBI
4 Laboratory?
5 A. Yes. I was present when this evidence that was
sent to the
6 laboratory was loaded into the plane and sent to the
7 laboratory.
8 Q. Oh, I see. So there came a time when evidence was
loaded
9 into a aircraft?

10 A. Yes.

11 Q. Was that C-130?

12 A. No, I don't believe so. It was a smaller Bureau
aircraft.

13 Q. What happened to Mr. Nichols' truck?

14 A. I really don't know. The last time I saw it, it
was at the

15 command post at Fort Riley.

16 Q. So you don't know how that truck was taken to the
17 laboratory to be analyzed, or if it was?

18 A. No, I don't.

19 Q. When you were doing your briefing there on the 22d

--

20 A. On -- yes, okay.

21 Q. On the 22d. Do I have the date right?

22 A. I think so, yes.

23 Q. Okay. We're talking about the Saturday; correct?

24 A. Yes. Yes.

25 Q. 'Cause you only had one briefing?

7517

Mary Jasnowski - Cross

1 A. Right.

2 Q. And that was the one before you went into the
house?

3 A. Yes.

4 Q. Now, when you were doing the briefing, was your

objective

5 to do as thorough a search within the terms of the
warrant as

6 you possibly could?

7 A. Oh, yes.

8 Q. And you had, as you've described, a number of
agents to do

9 that; correct?

10 A. Yes. That's correct.

11 MR. TIGAR: And . . . I forgot the last
question I was

12 going to ask. It really must not have been very
important,

13 then.

14 I thank you very much.

15 THE COURT: Mr. Mearns, do you have any
follow-up?

16 MR. MEARNS: Very briefly, your Honor.

17 May I have just a moment?

18 THE COURT: Yes.

19 REDIRECT EXAMINATION

20 BY MR. MEARNS:

21 Q. Agent Jasnowski, as a lawyer for the FBI, you know
that in

22 order for the FBI or for any other law enforcement
person to

23 enter and search somebody's residence, they need legal

24 authority to do that, correct?

25 A. That's correct.

7518

Mary Jasnowski – Redirect

1 Q. And you understand that that legal authority can
either be 2 by consent or by a warrant signed by a magistrate or a
judge; 3 right?

4 A. That's correct.

5 Q. And in this instance, the FBI and the law
enforcement 6 agents decided to rely on the authority of a judge, as
opposed 7 to consent?

8 A. That's correct.

9 Q. Why was that?

10 A. I'm not exactly certain why they decided. I mean,
we had 11 consent, but they got a warrant as well.

12 Q. Were you present when Agent Earl found and seized
the 13 Hunter?

14 A. No, I was not.

15 Q. You indicated that it was possibly raining on April
21st or 16 April 22d before you arrived.

17 A. It's possible.

18 Q. Was it humid and damp that day?

19 A. It was humid, yes.
20 Q. Yet when you arrived on April 22, there were still
those
21 little white prills on the steps?
22 A. They were under the awning part of the porch, so,
yes.
23 Q. You were asked questions by Mr. Tigar about the
barrels
24 that you found in the garage?
25 A. Yes.

7519

Mary Jasnowski – Redirect

1 Q. They didn't contain any liquid or fluid; is that
correct?
2 A. No, they did not.
3 Q. What did you find inside the barrels?
4 A. I found all sorts of bolts, nuts, keys.
5 Q. What kind of keys?
6 A. I found some safe deposit keys.
7 MR. MEARNS: No further questions, your Honor.
8 THE COURT: Mr. Tigar.
9 MR. TIGAR: No, nothing further.
10 Thank you very much, Agent Jasnowski.
11 THE COURT: Is this witness excused?
12 MR. MEARNS: She will return later.

13 THE COURT: She will return.

14 You may step down now.

15 Next witness.

16 MR. MACKEY: We'll call Allen Radtke.

17 THE COURT: Mr. Radtke.

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

20 (Allen Radtke affirmed.)

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

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

24 THE WITNESS: Allen E. "Bud" Radtke. R-A-D-T-
K-E.

25 THE COURTROOM DEPUTY: Thank you.

7520

Mary Jasnowski - Redirect

1 THE COURT: Mr. Ryan.

2 MR. RYAN: Thank you.

3 DIRECT EXAMINATION

4 BY MR. RYAN:

5 Q. Your nickname is "Bud"?

6 A. Yes.

7 Q. Where do you live?

8 A. Marion, Kansas.

9 Q. You live on a farm?

10 A. I'm out in the country, yes.

11 Q. Are you married?

12 A. Yes.

13 Q. Children?

14 A. Three.

15 Q. And where did you grow up, Mr. Radtke?

16 A. North Dakota.

17 Q. And what do you for a living?

18 A. I'm a driller and a blaster for Martin Marietta
quarry.

19 Q. And what is a drill and blaster?

20 A. I drill holes in the rock and load explosive to
break the

21 rock down to be crushed into road stone and concrete
stone.

22 Q. Now, do you do this in a quarry?

23 A. Yes.

24 Q. Would you tell us what a quarry is?

25 A. It's an area where we uncover the rock. It's down
below

7521

Allen Radtke – Direct

1 the earth surface, the dirt; and we just strip off the
dirt and

2 have a formation of rock anywhere from nine to 20 feet
deep.

3 The location of the one I'm at right now is
just north

4 of Marion; and it's basically -- I just drill holes in
the rock

5 with a drilling machine and put the explosives in and
break it

6 up with the explosives to be crushed down.

7 Q. Do you -- have you worked at quarries for a long
time?

8 A. 14 years.

9 Q. And how long have you been a driller/blaster?

10 A. Going on 12.

11 Q. Now, how many people work there at the quarry?

12 A. Nine in our crew.

13 Q. I'm going to show you a map that's already in
evidence as

14 Exhibit 2045 and ask you to find the or locate the
quarry for

15 us. You've got a pen there on the desk. If you set it
on top

16 of the screen, it will make a mark.

17 A. On top here?

18 Q. No, underneath that top. Right on the screen.

19 A. Location of the quarry?

20 Q. Yes.

21 A. Right here.

22 Well, that's not right. In that -- it's a

little

23 farther south than that.

24 Q. All right. About how far is it from Marion?

25 A. Just about 2 miles.

7522

Allen Radtke - Direct

Hook

1 Q. And do you know where the Donahue Ranch is, the Hay

2 Ranch?

3 A. In that general area there.

4 Q. About how far is Donahue Ranch from the quarry?

5 A. About 15 miles.

we've

6 Q. Now, I would like to show you another exhibit which

you if

7 marked as Exhibit 117 for identification purposes, ask

8 you can identify this.

9 A. That's an aerial photo of the quarry.

at in

10 Q. Is it an accurate photograph of the quarry you work

11 Marion?

12 A. Yes.

117.

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

14 MR. TIGAR: No objection, your Honor.

15 THE COURT: 117 is received.

of the 16 MR. TIGAR: And similarly, no objection to any
17 photographs of that scene, the whole quarry scene,
whatever 18 that series is.

19 THE COURT: All right, if you could read those
in, 20 we'll put them in.

21 MR. RYAN: I will, your Honor, and Mr. Tigar
can 22 advise us if he objects as we go along.

23 THE COURT: Yes.

24 MR. RYAN: 117, 119.

25 MR. TIGAR: No objection.

7523

Allen Radtke - Direct

1 MR. RYAN: 118.

2 MR. TIGAR: No objection.

3 MR. RYAN: 120.

4 MR. TIGAR: No objection.

5 MR. RYAN: 121.

6 MR. TIGAR: No objection.

7 MR. RYAN: 128.

8 MR. TIGAR: No objection.

9 MR. RYAN: 122.

10 MR. TIGAR: No objection.

11 MR. RYAN: 131.

12 MR. TIGAR: No objection.

13 MR. RYAN: 123.

14 MR. TIGAR: No objection.

15 MR. RYAN: 124.

16 MR. TIGAR: No objection.

17 MR. RYAN: 130 -- excuse me, 141.

18 MR. TIGAR: I need to voir dire on that, your
Honor.

19 THE COURT: We'll hold up on that, then, until
we get
20 to it.

21 MR. RYAN: All right, your Honor.

22 135.

23 MR. TIGAR: No objection.

24 MR. RYAN: 1 -- I'm not sure, frankly, your
Honor,
25 whether I've said 134 or not.

7524

Allen Radtke - Direct

1 THE COURT: No, you didn't.

2 MR. TIGAR: Did not. No objection.

3 MR. RYAN: 159. That is actually for
identification

4 purposes only, not to be displayed to the jury with
this

5 witness.

There

6 MR. TIGAR: Right, your Honor. I understand.

deal it

7 will be a later witness that will have that one. We'll

8 with then.

9 THE COURT: Then you can ask about it.

10 MR. RYAN: 122.

11 MR. TIGAR: That's in.

12 MR. RYAN: 133.

13 MR. TIGAR: No objection.

14 MR. RYAN: 132.

15 MR. TIGAR: No objection.

16 MR. RYAN: 126.

17 MR. TIGAR: No objection.

18 MR. RYAN: 1840.

briefly, your

19 MR. TIGAR: I need to voir dire on that

20 Honor.

21 THE COURT: All right. We'll hold up on that.

22 MR. RYAN: All right.

117, 118,

23 THE COURT: So received without objection is

134,

24 119, 120, 121, 122, 123, 124, 126, 128, 131, 132, 133,

25 135.

Allen Radtke - Direct

1 MR. TIGAR: Yes, your Honor.

2 THE COURT: All right.

3 MR. RYAN: Thank you, your Honor.

4 BY MR. RYAN:

5 Q. All right. Mr. Radtke, the jury can now see the
exhibit
6 there and it's in front of your desk. Would you tell
us what
7 we're looking at in Exhibit 117.

8 A. It's mostly the stockpile area and our office and
scale
9 house, magazine storage.

10 Q. And what are we looking at on this closeup?

11 A. Stockpile area and our scale house, stockpile area
out
12 here.

13 Q. The house we see to the left is the --

14 A. Scale house and office area.

15 Q. When you say "stockpile," what are you talking
about?

16 A. The crushed rock.

17 Q. This is rock that you've already pulled out of the
ground,
18 it's been crushed and it's stacked up?

19 A. Yes.

20 Q. That's what we're looking at here?

21 A. Right, these piles here.
22 Q. What else do we see in this photograph?
23 A. It's a lot like the first one. It's the scale
house --
24 Q. I'm sorry. This is the same photograph. I just
had moved
25 it closer on you there.

7526

Allen Radtke - Direct

1 A. Yeah.
2 Q. This is still Exhibit 117.
3 A. All right. It's, like I said, the scale house --
4 Q. Let me direct your attention here a little bit.
You're
5 here today because you had a theft at your quarry in
late
6 September, early October of 1994. Is that correct?
7 A. Yes.
8 Q. All right. Now, you stored these explosives in
magazines;
9 is that correct?
10 A. Yes.
11 Q. Okay. Now, can you show us where the magazines
are?
12 A. Our cap and powder magazines --
13 Q. Does that help?

14 A. Yes. That's cap magazine and the powder magazine
-- is
15 right there.
16 Q. Would you circle the cap magazine, please, first.
17 A. That's it right there.
18 Q. And then the powder magazine is the big one behind
it?
19 A. Yes.
20 Q. And what do you keep in the cap magazine?
21 A. The blasting caps.
22 Q. And when you say "blasting caps," what are you
speaking of?
23 A. The electric and non-electric caps that we use in
the
24 blasting of the rock at the quarry.
25 Q. What about the powder magazine: What do you keep
there?

7527

Allen Radtke - Direct

1 A. It's Tovex -- is the name we use it, is what it's
called;
2 and it comes in stick form, 2-by-16, 3-by-16-inch.
It's a
3 blasting material.
4 Q. It's an explosive?
5 A. Explosive.
6 Q. And so you keep the Tovex in the powder magazine
and the

7 blasting caps in the cap magazine?

8 A. Yes.

9 Q. And what other blasting agents do you have at the
quarry?

10 A. The ANFO or ammonium nitrate/fuel oil mixture,
fertilizer.

11 It's kept in the trailer, separate magazine.

12 Q. Can you see that trailer in Exhibit 117?

13 A. Yes.

14 Q. And could you circle that for us?

15 A. Yes.

16 Q. Now, the ANFO that you keep there on the quarry:
Describe

17 how it's kept and how -- how you receive it and how
it's kept.

18 A. It's brought to us in a van-type trailer,
semitrailer.

19 It's in 50-pound bags.

20 Q. Now, the jury's heard a lot about ammonium nitrate;
but

21 this bag of fertilizer is more than just ammonium
nitrate; is

22 that true?

23 A. Yes. It's mixed with fuel oil and ready to use in
our --

24 in our blasting at the site.

25 Q. And you keep these pre -- these premixed bags in
the

Allen Radtke - Direct

1 trailer?

2 A. Yes.

3 Q. All right. Now, if you were going to be out at the
quarry

4 and you were going to break some stone loose in the
quarry,

5 would you describe for the jury what you would go --
how you

6 would go about that, how you would use those explosives
to

7 accomplish that.

8 A. Well, you put -- I use a blasting cap in, a stick
per hole;

9 and so many feet up is where I put the ANFO on top of
it, and I

10 load several of them like that. And that's about --
that's

11 about the basics of it.

12 Q. Then you ignite it somehow?

13 A. With the electric blasting machine. Electronic
blasting

14 machine.

15 Q. All right. Now, do you maintain a security system
there in

16 the quarry, or did you back in September of 1994?

17 A. Magazines are locked to AMSHEL requirements.

18 Q. What about the quarry? Is it locked?

19 A. Yes.

and 20 Q. Let me show you what's been admitted as Exhibit 119

21 have you describe for us what you're looking at.

22 A. That's the entrance gates to the quarry.

23 Q. And are these secured somehow?

24 A. With a padlock.

25 Q. And what hours are they secured?

7529

Allen Radtke - Direct

in the 1 A. Between 5 and 6:00 -- 5:00 in the evening till 6:00
2 morning, 6:30, thereabouts.

3 Q. And is there another way to get into the quarry
that avoids 4 having to go through this locked gate?

5 A. There is another entrance. We call it the back,
the back 6 door, more or less. It's just a trail across the
pasture.

7 Q. And is it possible for someone to come onto the
quarry at 8 night, to steal explosives without having to go through
this 9 gate?

10 THE COURT: You're speaking of a time
reference here?

11 MR. RYAN: I'm sorry, your Honor.

12 BY MR. RYAN:

13 Q. Of course in September of 1994?

14 A. Yes, it would be possible.

It's

15 Q. Let me show you what's been marked as Exhibit 118.

here

16 been admitted as Exhibit 118. And help us get oriented

17 just a bit with the quarry. Can we see the magazines?

18 A. No, not in the -- no, not on this picture.

19 Q. How about the ANFO trailer?

20 A. No.

21 Q. Can we see the quarry itself?

22 A. Yes.

23 Q. Would you circle the quarry.

to where

24 Now, where is the front gate in relationship

25 the quarry is?

7530

Allen Radtke - Direct

1 A. It's not in this picture.

2 Q. Where off the picture would it be, what direction?

3 Why don't you try that one again.

4 It's over there in the top left-hand corner --

5 A. Yes.

6 Q. Okay. If someone were familiar with the Marion

area, how

7 would they be able to get onto the quarry without
passing

8 through the locked gate?

9 A. There is a county road that leads up to a gate and
just a

10 trail, near the old building site, farmstead, across
the creek,

11 and another -- just a trail up along the property line.

12 Q. All right. Now, back in September, 1994, did there
develop

13 a problem there at the quarry that stopped operations?

14 A. Yes. We had a machine break down. I think it was
on --

15 probably on Wednesday, noon, Wednesday afternoon.

16 Q. Do you know what day of the month that was?

17 A. 28th of September.

18 Q. And what exactly happened with the machine?

19 A. A bearing went out.

20 Q. What did that do to the operation of the quarry?

21 A. We had to quit crushing for several days, waiting
on parts.

22 Q. And when you couldn't crush, are you using the
explosives

23 in the magazines and the ANFO trailer?

24 A. No.

25 Q. Can you tell us when during that week, last week of

Allen Radtke - Direct

1 September -- when the last time it was that you went to
the
2 explosives lockers or magazines, the cap or the powder
3 magazines?

4 A. Probably Wednesday evening, late Wednesday
afternoon.

5 Q. On the 28th of September?

6 A. On the 28th.

7 Q. And when was the next time that you went to either
of those
8 magazines or the ANFO trailer?

9 A. It would have been the following Monday.

10 Q. Which would have been October 3?

11 A. Yes.

12 Q. Now, tell us what you did on October 3 in
relationship to
13 these magazines and trailer.

14 A. I was told just before noon that they would have
the plant

15 ready for operation later in the afternoon, go ahead
and load

16 up a shot. I went to the ANFO trailer to get ANFO and
went on

17 to the cap magazine, went to unlock the door, and there
was no

18 padlock there. I went over to the powder magazine then
and

19 looked around into where the locks are, and there was

no locks

at that 20 there. And I went and told my plant manager about it

21 time.

about 22 Q. All right. Let's show the jury what we're talking

"cap 23 when we're using those terms, "powder magazine" and

Exhibit 121. 24 magazine." Tell us what we're looking at here in

25 A. That's the magazine where the powder was kept.

7532

Allen Radtke - Direct

1 Q. And Exhibit 123?

2 A. That's the cap magazine.

and you 3 Q. Okay. Now, when you went over to these magazines

4 noticed that the locks were missing, what did you do?

been 5 A. I went and informed my plant manager that we had

6 broken into.

plant 7 Q. Had you entered the magazines prior to getting the

8 manager?

9 A. No.

got the 10 Q. All right. Then what happened after you went and

11 plant manager?

12 A. We went up and quickly took a look at things and
called the

13 local sheriff to come out and investigate.

14 Q. Then what happened next?

15 A. Then we got their inventory sheets out and started
opening

16 magazines up and seeing what was missing.

17 Q. Did there come a time that morning when you went to
the

18 magazine and you had your plant manager with you to
inspect the

19 fact that the lock was not on the magazine?

20 A. Yes.

21 Q. And which one did you go to first, if you recall?

22 A. The cap magazine.

23 Q. And is this Exhibit 123 right here in front of us?

24 A. Yes.

25 Q. Now, where is the lock -- where would the lock be
that

7533

Allen Radtke - Direct

1 secures this magazine?

2 A. Inside that little square box.

3 Q. You just can't see it because it's up underneath
that?

4 A. Yes. You reach in from the bottom side to get to
the lock.

5 Q. Let me see if we can find a photograph that perhaps
6 demonstrates this. Exhibit 128. If you can orient the
jury on
7 where we're looking in this photograph.

8 A. Yes. The padlock -- that's the bottom side of that
square
9 box, which is -- that is what's mounted on the side of
the door
10 that we were just looking at.

11 Q. And the padlock is what we can see hanging down?

12 A. Right. Yes.

13 Q. So this bottom face of the padlock is facing the
ground?

14 A. Yes.

15 Q. All right. Let's go back, then, to our exhibit.

16 Now, before entering the cap magazine, did you
notice
17 anything on the ground?

18 A. There were some metal shavings around -- right
below where
19 the padlocks are.

20 Q. Did you notice that prior to going into or opening
the door
21 of the magazine?

22 A. Yes.

23 Q. Now, when you opened the door of the magazine, who
was
24 present? Just you and the manager?

25 A. Plant manager and myself, yeah.

7534

Allen Radtke - Direct

1 Q. What did you see?

2 A. A lot of missing caps. Several boxes missing out
of the
3 magazine.

4 Q. Let me show you Exhibit 124. And describe for us
what
5 we're looking at here in this photograph.

6 A. These are boxes that the electric caps are stored
in.

7 Q. And you said you kept -- let's just keep with the
electric
8 caps for a moment. Could you tell by the way that the
boxes
9 were arranged in the magazine whether there had been
anyone in
10 there --

11 A. Yes.

12 Q. -- since you were last there on the prior
Wednesday?

13 A. Yes.

14 Q. And tell us about that.

15 A. This is -- there were several boxes, larger
cardboard-type
16 boxes that I would store these smaller boxes in, and
they were
17 missing. And there was one large box basically in that

area

-- the 18 that had a non-electric-type cap in it, and they were

19 whole box was gone.

for a 20 Q. How many boxes -- sticking with the electric ones

stolen, 21 moment -- how many of the electric blasting caps were

22 if you know?

23 A. I don't remember the exact number.

24 Q. Can you approximate it for us?

25 A. Like 12, 1400.

7535

Allen Radtke - Direct

had been 1 Q. And how about the non-electric: How many of those

2 stolen?

3 A. Probably around 75.

caps that 4 Q. Now, what do you call the non-electric blasting

5 are used there at the quarry and that were stolen?

except 6 A. There the cap is basically the same as the electric

electricity to 7 instead of having wires coming out it for the

8 set it off, it's just a hollow tube with a powder --

primer, 9 glycerine-type powder inside of it that's set off by a

10 a different type of machine.

11 Q. Does it have a name, a brand name?

12 A. Primadet.

13 Q. And is there a certain foot length that you
purchase there

14 at the quarry that were stolen in this time frame that
we're

15 speaking of?

16 A. 60 footers. They were 60-foot long.

17 Q. And they come in different sizes, but the quarry
purchases

18 60 feet?

19 A. Yes.

20 Q. Do they come with varying time delays?

21 A. Yes, they do.

22 Q. And what time delay did you have there at the
quarry that

23 were stolen?

24 A. Those are No. 8's.

25 Q. Now, after you went to the cap machine, did you say
you

7536

Allen Radtke - Direct

1 went over to the powder machine next? I mean the
powder

2 magazine next?

3 A. Yes.

4 Q. Let me ask you if you can tell us what this
photograph

5 represents.

6 A. It's the inside of the powder magazine.

7 Q. Is that a photograph of the way the magazine looked
on the

8 morning that you and the manager opened the door on
October 3?

9 A. Yes.

10 Q. And can you tell us: Was there anything that
caught your

11 attention when you opened the door?

12 A. The open box.

13 THE COURT: This is 122 --

14 MR. RYAN: Yes, your Honor.

15 THE COURT: -- that you're showing?

16 BY MR. RYAN:

17 Q. And why was the fact that the box was opened of
importance

18 to you?

19 A. 'Cause I didn't leave it that way the last time I
was in

20 there.

21 Q. Could you tell whether any of these -- what do you
call

22 the -- what we're looking at inside the box.

23 A. That is a 3-by-16 Tovex stick.

24 Q. Could you tell whether any of these -- did you have

other

25 sizes besides 3-by-16?

7537

Allen Radtke - Direct

1 A. Yes. We had 2-by-16 in there.

sausage

2 Q. Could you tell whether or not any of these Tovex

3 explosives had been stolen?

4 A. Yes.

5 Q. And how many had been stolen?

6 A. Six cases of them.

a case?

7 Q. And about how many of these 2-by-16 sausages are in

8 A. 25.

about

9 Q. So it would be roughly -- if my math is accurate --

10 150 of these sausages had been taken?

11 A. Yes.

magazine and

12 Q. All right. Now, after you looked at the cap

quarry to

13 the powder magazine, did you go anywhere else on the

14 inspect to see if anything else had been taken?

15 A. No.

ANFO

16 Q. Did -- at any time that day did you go inspect the

17 trailer?

18 A. No.

19 Q. How about on the following day, on May the --
excuse me, on

20 October the 4th?

21 A. Yes.

22 Q. And tell us about your inspection of the ANFO
trailer.

23 A. It was discovered that the back doors -- which
there was

24 two sets of doors on that trailer.

25 MR. TIGAR: Excuse me, your Honor. It was
discovered.

7538

Allen Radtke - Direct

1 I'm sure the witness has personal knowledge. I would
like it

2 to be established before he answers.

3 BY MR. RYAN:

4 Q. Mr. Radtke, did you make this inspection, yourself?

5 A. No, I did not.

6 Q. The ANFO trailer?

7 A. No.

8 Q. Did you inspect the ANFO trailer at any time on
October 3

9 or October 4 to see if it had been broken into?

10 A. No.

11 Q. Did you at some point in time find a lock that had
been on
12 one of the trailers on the premises of the quarry?
13 A. Yes.
14 Q. And when did you find the lock?
15 A. On the 4th of October.
16 Q. And where did you find that lock?
17 A. It was on the back doors of the trailer.
18 Q. And did you personally observe that?
19 A. I wasn't the one that actually found it. I was
called when
20 it was found unlocked.
21 Q. Okay. And who found it unlocked?
22 A. Members of another crew that were moving into the
location.
23 Q. All right. And then they -- when they found that
the lock
24 was on the ground, they -- or unlocked, they came and
got you?
25 A. Yes.

7539

Allen Radtke - Direct

and
1 Q. And then tell us what you saw when you went there
2 observed the ANFO trailer.
3 A. The lock was in the open position, just hanging on
the

4 doors. I looked at the bottom side of it, saw that it
had been

5 drilled. I opened the doors. Nothing had been
tampered with

6 or removed from that particular magazine.

7 Q. Now, you say it had been drilled. What do you mean
by

8 that?

9 A. Like someone had taken an electric drill and a
drill bit

10 and drilled into the lock mechanism.

11 Q. Do you have an electric power source there at the
trailer?

12 A. No.

13 Q. And so how would they have used an electric drill
to drill

14 out the lock?

15 A. Portable generator, battery-operated.

16 Q. A battery-operated --

17 A. -- drill.

18 Q. -- drill?

19 A. Yes.

20 Q. Now, did you talk to Sheriff Davies from the Marion
County

21 sheriff's office on October 3 or 4?

22 A. Yes.

23 Q. And did you cooperate with the law enforcement
authorities

24 at that time?

25 A. Yes.

7540

Allen Radtke - Direct

1 Q. And what did you -- did you provide them the lock
that
2 you've just described for us?

3 A. Yes, I did.

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

5 THE COURT: Yes.

6 MR. RYAN: Your Honor, could I have Agent
Tongate
7 approach the witness with some demonstrative exhibits
that were
8 admitted?

9 THE COURT: Did you say have admitted? Are
these?

10 MR. RYAN: They are admitted, your Honor.
Let's make
11 sure there is no confusion here.

12 THE COURT: All right.

13 MR. RYAN: These are Exhibits 134, which is
the box
14 for blasting caps.

15 MR. TIGAR: Yes.

16 MR. RYAN: Exhibit 132, which is a box for
Tovex.

17 MR. TIGAR: I'm sorry, your Honor. That's the

--

18 MR. RYAN: 133, excuse me.

19 MR. TIGAR: Yeah, 133 is a box.

20 MR. RYAN: Yes, both of those not objected.

21 MR. TIGAR: Right.

22 THE COURT: Yes, you may have those taken to
the
23 witness.

24 BY MR. RYAN:

25 Q. Now, if you would, Mr. Radtke, would you take
Exhibit No.

7541

Allen Radtke - Direct

1 133, which is the large brown box there, take it out of
the
2 cellophane, plastic bag.

3 THE COURT: The agent can come and help him.

4 MR. RYAN: Yeah.

5 BY MR. RYAN:

6 Q. Now, Mr. Radtke, would you --

7 MR. RYAN: Mr. Tongate, if the Court doesn't
mind,
8 would you stay there?

9 THE COURT: That's fine.

10 BY MR. RYAN:

11 Q. Would you explain to the jury what we're looking at

there

12 with Exhibit 134 (sic).

13 A. This is a box top off from the 3-by-16 stick,
powder sticks

14 that we keep on the site. It's explosive.

15 Q. Now, this is for the 3-by-16 size; is that correct?

16 A. Yes.

17 Q. Now, is the box that carries the 2-by-16 sausages,
is it of

18 the identical box, coloration and markings?

19 A. Yes, it is.

20 Q. All right. Now, is there any indication on that
box that

21 it contains an explosive material?

22 A. The orange diamond.

23 Q. Would you hold that up so the jury can see it and
point it

24 out to them?

25 A. The orange diamond on the side. It's marked
"explosives,

7542

Allen Radtke - Direct

1 1.1D."

2 Q. Thank you. If you'll just hand that to Agent
Tongate.

3 Now, if you take the -- there's a small white
box

4 there we've marked as Exhibit 134. And could you --
hold it up

5 so the jury can see it and tell them what that is.

6 A. That's the cap box where the electric caps are kept
in.

7 Q. And does it identify what's inside the box on the
side?

8 A. It gives the delay, date code, and the lengths; and
9 "electronic detonators" is also on the end.

10 Q. Now, the explosives that were stolen at the quarry
sometime

11 between September 28 and October 3, were they taken in
boxes

12 that are similar, if not identical, to the boxes that
you've

13 shown the jury?

14 A. Yes, they were.

15 MR. RYAN: Now, if you would, Agent Tongate,
would you

16 hand Mr. Radtke Exhibit 126.

17 BY MR. RYAN:

18 Q. Now, would you hold that up so the jury can see it,
and

19 tell us what that is.

20 A. It's the padlock that we discovered on the trailer.

21 Q. Now, would you turn the padlock in a manner the
jury can

22 see it and describe what you were talking about when
you said

23 it had been drilled out.

smaller 24 A. In the lock mechanism, in the center, there's a
25 hole that's been drilled through it.

7543

Allen Radtke - Direct

serial 1 Q. Now, did you note the -- can you note for us the
2 number on that lock?

3 A. Yes.

4 Q. What is that number?

5 A. 10N354.

were you 6 Q. Now, sometime within the last couple of months,
you didn't 7 looking through your key ring and noticed a key that
8 realize you had?

9 A. Yes.

identical 10 Q. And did you have a key that corresponded to that
11 serial number of that lock?

12 A. Yes.

13 Q. And what conclusion did you draw from that?

-- the 14 A. That I had a key for the lock -- the missing lock
15 lock that we had found, the only lock we had found on
--

16 Q. And did you turn that over to the FBI?

17 A. Yes.

I'm
18 Q. Let me show you what's been marked as Exhibit 1840.
as
19 going to have Agent Tongate hand you what's been marked
20 Exhibit 126 (sic) and ask you if you can identify that
exhibit.

21 A. Yes.

22 Q. And what is that exhibit?

23 A. It's a key that matches the lock.

24 Q. And how do you know that's --

25 THE COURT: Excuse me, you said 126. I
thought we

7544

Allen Radtke - Direct

1 already did that.

2 MR. RYAN: Excuse me. 1840, the key.

3 THE COURT: It's 1840 you're looking at?

4 THE WITNESS: Yes.

5 THE COURT: All right. Thanks.

6 BY MR. RYAN:

7 Q. And how do you know that that is the key that goes
to the
8 lock?

9 A. It has a matching number on it and my initials.

10 Q. When did you initial the key?

like 11 A. A month and a half ago, I guess it was, something

12 that.

13 Q. At the time you turned it over to the FBI?

14 A. Yes.

admission 15 MR. RYAN: Your Honor, we would move for the

16 of Exhibit 1840.

question 17 MR. TIGAR: That's the one I wanted to ask a

18 about.

19 THE COURT: All right.

20 VOIR DIRE EXAMINATION

21 BY MR. TIGAR:

22 Q. Good morning, Mr. Radtke.

23 A. Good morning.

appointed to 24 Q. I'm Michael Tigar. I'm one of the lawyers

25 help Terry Nichols.

7545

Allen Radtke - Voir Dire

key a 1 You said you found -- you noticed you had that

2 couple of months ago; is that right?

3 A. Yes.

you have 4 Q. And when you do your job out there at the quarry,

5 a whole ring of keys; is that correct?

6 A. I do.

7 Q. And are these Master -- these are Master brand
padlocks you

8 were using at that time; correct?

9 A. Yes.

10 Q. And does -- is the issuance of those keys
restricted to

11 particular people?

12 A. Yes.

13 Q. And how are they restricted?

14 A. Just those that have a blasting permit.

15 Q. I see. And that would include you because it's
your job to

16 put the stuff down the hole and make the shot; right?

17 A. Right.

18 Q. Okay. So -- and that serial number, the key that
you have

19 there -- could I take a look at that, please.

20 THE COURT: You may approach, yes.

21 MR. TIGAR: Thank you.

22 I see. Okay. Thank you, sir.

23 BY MR. TIGAR:

24 Q. And that says "Master Lock Company" on it; right?

25 A. Right.

Allen Radtke - Voir Dire

1 Q. Could you see that on there?

2 A. Yes.

3 Q. So that's the key that's issued by the same company
that
4 made the lock; right?

5 A. Right.

6 Q. That is not a key made at some local hardware store
or
7 something like that; correct?

8 A. No.

9 MR. TIGAR: Oh. Thank you very much. We have
no
10 problem with that. We agree it should be admitted.

11 THE COURT: 1840 is received.

12 MR. RYAN: Your Honor, I'd like to verify that
Exhibit
13 126 had been admitted.

14 MR. TIGAR: Our records show that it is, your
Honor,
15 with our consent.

16 THE COURT: Yes, we're all in agreement on
that.

17 MR. RYAN: All right. Thank you.

18 Finally, I would ask for the admission of
Exhibit 132

19 for demonstrative purposes only, and Mr. --

20 THE COURT: It's been agreed to.

21 MR. RYAN: That had been agreed to?

22 THE COURT: Yes.

23 MR. TIGAR: Yes.

24 MR. RYAN: Would you please hand that to Mr.
Radtke.

25 DIRECT EXAMINATION CONTINUED

7547

Allen Radtke – Direct

1 BY MR. RYAN:

2 Q. Mr. Radtke, would you hold that up to where the
jury can

3 see it and explain to them what you're showing them.

4 A. This is a 2-by-16 Tovex stick, or I call it powder,
that we

5 use in the blasting at the quarry.

6 THE COURT: I think it has been agreed this is
inert.

7 MR. RYAN: It is, your Honor. I guess I
should have

8 mentioned that. I apologize to all.

9 THE WITNESS: It's perfectly harmless.

10 MR. RYAN: It's an inert explosive.

11 BY MR. RYAN:

12 Q. Now, if you would, Mr. Radtke, show us, if you can,
how the

13 blasting cap is attached to this explosive.

14 A. I just simply make a little hole or a small cut in
the tube
15 and just insert the cap inside of it and put a half
hitch
16 around it so that as you're going down the hole, it
won't slip,
17 the cap won't pull out and lose the stick down the
hole.

18 Q. Tell us again -- I think you explained it earlier,
but it
19 might be more helpful now that we have the explosive.
Once you
20 have the blasting cap attached to this Tovex sausage,
what do
21 you do with it in your drilling business, the blasting
22 business?

23 A. This goes down the hole with the cap attached to,
and then
24 I pour ANFO fertilizer on top of it and put rock
cuttings on
25 top of that to seal the hole, to hold the explosion
down

7548

Allen Radtke - Direct

1 inside.

2 Q. Now, let me finally show you . . .

3 MR. RYAN: I'm sorry, your Honor.

4 No. 141.

5 BY MR. RYAN:

6 Q. I'm going to show you what's been marked as --

7 THE COURT: This hasn't been received yet.

8 THE COURTROOM DEPUTY: Yes, it has.

9 MR. RYAN: 141.

10 THE COURTROOM DEPUTY: 141.

11 THE COURT: It has not been received.

12 BY MR. RYAN:

13 Q. I would just like for you to look at Exhibit 141
and ask

14 you if you can identify what's contained in that
exhibit.

15 A. Yes, I can.

16 Q. And is the prime -- is the item shown in that
exhibit

17 identical to the items stolen from your quarry sometime
between

18 September 28 and October 3, 1994?

19 A. Yes, it is.

20 MR. RYAN: The next exhibit is not in
evidence,

21 either, Exhibit 159.

22 BY MR. RYAN:

23 Q. Again, are the items that are in Exhibit 159 that
were also

24 in Exhibit 141 of the same brand name, length, and time
delay

25 as what was stolen from your quarry between September
28 and

Allen Radtke - Direct

1 October 3?

2 A. Yes, they are.

3 Q. Let's return to Exhibit 141 for a moment.

4 MR. RYAN: And I would ask the Court's
permission to

5 display this to the jury for demonstrative purposes
only.

6 THE COURT: Is there any objection to that?

7 MR. TIGAR: May I voir dire?

8 THE COURT: Yes, you mentioned you wanted to.

9 MR. TIGAR: Yes.

10 VOIR DIRE EXAMINATION

11 BY MR. TIGAR:

12 Q. Hello again, Mr. Radtke.

13 This that you're looking at is a commercial
product;

14 is that correct?

15 A. No.

16 Q. Oh, it's not a commercial -- when you say not a
commercial

17 product, it's something that you buy from a company
that makes

18 it; correct?

19 A. Yes, that --

20 Q. That's what I mean.

21 A. Okay.

that 22 Q. That is to say, it's manufactured by a company, and

23 company sells it to your corporation; correct?

24 A. Yes.

25 Q. And you've been a blaster for a long time?

7550

Allen Radtke – Voir Dire

1 A. Going on 12 years.

introduced? 2 Q. Yes, sir. And when was this product first

3 A. I have no knowledge of that.

4 Q. Okay. How long have you been using it?

5 A. Roughly two, maybe three years.

quarry; is 6 Q. Okay. And your use of it is exclusively in the

7 that correct?

8 A. Yes.

listed 9 Q. All right. But do you recognize the length that's

10 on here?

11 A. I do.

12 Q. Okay. And the number -- there's a No. 8 on there?

13 A. Yes.

14 Q. And you recognize that also; correct?

15 A. Yes, I do.

16 Q. And what is that called, the delay?

17 A. That's the delay on it, yes.

18 Q. And that's how you identify it, yes?

19 A. And the name on it, Primadet.

20 Q. Primadet, okay.

21 MR. TIGAR: I have no objection for
demonstrative

22 purposes, your Honor. I'll hold the rest of my
questions.

23 THE COURT: 141 is received for demonstrative
24 purposes.

25 MR. RYAN: Thank you, your Honor.

7551

Allen Radtke - Direct

1 DIRECT EXAMINATION CONTINUED

2 BY MR. RYAN:

3 Q. Mr. Radtke, I'd like for -- I think you've already
looked

4 at this very carefully, but can you tell us whether the

5 Primadet displayed in Exhibit 141 is identical in terms
of its

6 size, its length, and its time delay and its color as
the

7 Primadet that was stolen from your quarry between
September 28

8 and October 3, 1994?

9 A. Yes, it is.

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

11 THE COURT: All right. Mr. Tigar.

12 Will you be wanting these exhibits that the
agent has
13 up here?

14 MR. TIGAR: No, your Honor, I will not --
except for

15 the Master padlock. If Agent Tongate will oblige us by
leaving
16 the padlock up there, I would appreciate it.

17 THE COURT: Okay.

18 MR. TIGAR: Thank you, your Honor.

19 CROSS-EXAMINATION

20 BY MR. TIGAR:

21 Q. Good morning again, sir. This is my last chance.
This is
22 my last one.

23 You all operate -- is that Martin Marietta
that
24 operates that quarry?

25 A. Yes, it is.

7552

Allen Radtke - Cross

1 Q. And Martin Marietta does not own the land, do they?

2 A. No.

3 Q. They lease that from a landowner?

4 A. Yes.

5 Q. And that's a Mr. Hett?

6 A. Yes.

7 Q. Have you ever met Mr. Hett?

8 A. Yes, I have.

9 Q. And is that a standard situation for -- that is,
you have

10 a -- Martin Marietta has a lease with Mr. Hett?

11 A. Yes.

12 Q. And they pay him so much a ton?

13 A. I'm not sure about the dollars.

14 Q. You're not familiar with that operation?

15 A. No.

16 Q. Okay. Now, you mentioned that the -- there's a
gate at the

17 front; is that correct?

18 A. Yes, there is.

19 Q. And that gate is locked?

20 A. Yes.

21 Q. And kept locked except in the evening hours; right?

22 A. Right.

23 Q. Now, you also drew a line on a picture showing a
track or

24 trail back through there; correct?

25 A. Yes, I did.

7553

Allen Radtke - Cross

not the
Hett's

1 Q. Now, in September of 1994, do you know whether or
2 entire quarry area was fenced off from the rest of Mr.
3 land?

4 A. No.

5 Q. You don't know, or it wasn't?

6 A. It was not fenced.

lease

7 Q. It was not. Do you know of any provision in your
8 with Mr. Hett that has to do with fencing?

9 A. No, I don't.

correct?

10 Q. Now, your job is to -- you're a blaster; is that

11 A. Yes.

quarry

12 Q. Now, are there other blasters that work at that
13 site, or did in 1994?

14 A. No.

the

15 Q. And in addition to that, you mention someone who is
16 plant manager; correct?

17 A. Yes.

18 Q. How many employees are there total?

19 A. In that crew --

20 Q. Or were there --
21 A. With the plant manager and that crew, there's ten
people.
22 Q. Now, you talked here today about three different
kinds of
23 things, as I understand it. One is the blasting cap;
is that
24 correct?
25 A. Yes.

7554

Allen Radtke - Cross

1 Q. Now, Primadet is not a blasting cap, is it?
2 A. It's a blasting cap, yes.
3 Q. Well, but it is a -- it's -- we saw those pictures.
4 There's a lot of orange cord there; right?
5 A. Right.
6 Q. Now, that orange cord is not a blasting cap, is it?
7 A. No, it's a silver -- it's the long, silver piece
towards
8 the center of that coil.
9 Q. Okay. So that Primadet contains a blasting cap;
correct?
10 A. Correct.
11 Q. And the purpose of the long cord there is to get
the charge
12 to the cap; correct?

13 A. Right.

14 Q. Right?

15 A. Right.

60 feet 16 Q. And how do you -- once you ignite the piece that's
happening 17 away from the cap, how long is it before whatever's
18 hits -- gets to the cap?

19 A. 200 milliseconds.

right? 20 Q. Okay. So that's quicker than you and I can jump;

21 A. Lot quicker.

22 Q. Okay. So in order to make sure that it doesn't
happen any 23 quicker than you want, what do you do?

24 A. That's why the time delay is in that.

25 Q. I see.

7555

Allen Radtke - Cross

1 A. It's set -- it's manufactured that way.

2 Q. I see. So there is a delay there; right?

3 A. Right.

orange tubing 4 Q. Now, is another feature of Primadet that that
5 is waterproof?

6 A. Right.

7 Q. And thus it can be used in situations where there
might be
8 some water that the fire has to travel through before
it gets
9 to the cap?
10 A. Right.
11 Q. Now, the second kind of thing you talked about --
oh, you
12 also talked about blasting caps, electric and non-
electric.
13 That's -- they're different from the Primadet; right?
14 A. The Primadet is a non-electric cap.
15 Q. Okay. Okay. So that's what you're talking about
when you
16 talk about the non-electric caps; right?
17 A. Right.
18 Q. And you also said you had some electric caps that
went
19 missing; right?
20 A. Yes.
21 Q. And the next thing you talked about is that Tovex;
correct?
22 A. Correct.
23 Q. Now, Tovex is a brand name; correct?
24 A. Yes, it is.
25 Q. You buy that from somebody and it comes in and it's
all

Allen Radtke - Cross

1 received for; correct?

2 A. Yes.

3 Q. Now, the third thing you talked about was the ANFO;
4 correct?

5 A. Yes.

6 Q. Now, the ANFO trailer that you said had the lock
drilled on
7 it, that you did not discover until the 4th of October;
right?

8 A. Right.

9 Q. And that was -- that was the Tuesday?

10 A. Yes.

11 Q. Now, how is that ANFO stored in the trailer?

12 A. It's just stacked in -- it's in 50-pound bags that
are
13 stacked one on top of the other.

14 Q. Now, that is not fertilizer; correct?

15 A. It is fertilizer with fuel oil mix.

16 Q. But already mixed?

17 A. Already --

18 Q. That is, that's not something you would buy at a
19 farm-supply store; correct?

20 A. Correct.

21 Q. That is something that is packaged in 50-pound
bags,

22 premixed ammonium nitrate and fuel oil for people that

want to

23 make blasts; correct?

24 A. Correct.

25 Q. Okay. And is that manufactured by another -- again

a

7557

Allen Radtke - Cross

1 company that makes it and then delivers it to your
corporation

2 on your orders?

3 A. Yes.

4 Q. Now, you said that the -- there was no ANFO --
ammonium

5 nitrate/fuel oil -- mixture missing from your company;
correct?

6 A. Correct.

7 Q. Now, this theft was investigated, wasn't it, sir?

8 A. Yes.

9 Q. And it was first investigated by Sheriff Davies?

10 A. Yes.

11 Q. Did you speak to him on the 3d of October?

12 A. Yes.

13 Q. Did you speak to him again on the 4th of October?

14 A. Yes.

15 Q. When you spoke to him on the 3d of October, did he
take

16 some evidence into his custody?

17 A. He took a box top.

18 Q. Okay.

19 A. From the Tovex.

20 Q. All right. Is that all you can remember him
taking?

21 A. Yes. Well . . .

22 Q. I'm not trying to have a memory contest. Did he
take some

23 metal shavings?

24 A. Yes, he took some metal shavings.

25 Q. Okay. And those are the metal shavings that were
found

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Allen Radtke - Cross

1 where?

2 A. Around the cap magazine and the powder magazine.

3 Q. Okay. The cap magazine. Now, the cap magazine and
the

4 powder magazine are -- those are those little sheds
that we saw

5 pictures of; right?

6 A. Yes.

7 Q. Those appear to be on skids?

8 A. They are.

9 Q. Is that right?

10 A. They are.

11 Q. Why are they on skids?

12 A. So they can be moved and -- you can drag them
around or

13 they got lifting rings to be lifted up by a loader to
be lifted

14 and moved to another site.

15 Q. And since you've been working there, have you had
occasion

16 to move those things around the quarry on different
occasions?

17 A. In -- yes, we have.

18 Q. And of course every time you move them, according
to the

19 regulations you operate under, do you have to build
some kind

20 of berms around so that if something happens, that the
fire

21 gets contained?

22 A. Yes.

23 Q. And thus the pictures that we saw, that have those
-- looks

24 like gray rock berms up behind them, you know those
things,

25 those are what's required for safety purposes; correct?

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Allen Radtke - Cross

1 A. Yes, they are.

2 Q. And how high do those berms have to be?

3 A. It depends on the height of the building.

4 Q. Okay.

5 A. They have to come up to the eave of the buildings.

6 Q. All right. And by the eave, is that the roof peak
or where

7 the -- when you say the eave?

8 A. The bottom edge of the roof.

9 Q. This is a sloped roof like I'm illustrating, it has
to come

10 up to the bottom edge of the roof; right?

11 A. Yes.

12 Q. And to your knowledge, your company, throughout all
the

13 years you've worked there, you obey those safety
regulations,

14 and you build those berms; right?

15 A. Yes.

16 Q. Now, in addition, then, let's go back to our
discussion

17 with -- your discussion with Sheriff Davies there on
the 3d.

18 He took a Tovex box top, he took some metal shavings;
correct?

19 A. Correct.

20 Q. And can you remember him taking anything else?

21 A. No, I can't.

22 Q. All right. Now, the pictures that you showed us
earlier

that 23 that you identified, were those taken by Sheriff Davies
24 day or by someone else?
25 A. I don't remember who took the pictures.

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Allen Radtke - Cross

1 Q. Okay. But they do, of course, fairly and
accurately --

2 they accurately represent what you saw; right?

3 A. Yes.

4 Q. Now, again the next time you saw Sheriff Davies was
on the

5 4th; correct?

6 A. Yes.

7 Q. And he came out and looked at that drilled lock?

8 A. Yes.

9 Q. And that's the drilled lock you have in front of
you?

10 A. Yes.

11 Q. Now, in addition to the drilled lock, did he take
any metal

12 shavings that day?

13 A. No.

14 Q. When you got to the ANFO trailer, somebody told you
about

15 it and you went there, did you see any metal shavings
on the

16 ground?
17 A. Maybe just a few little pieces, but there wasn't
nothing
18 there to really speak of. I don't recall anything --
19 Q. You don't recall anything major, because of course
if
20 someone drilled it, the shavings would be pretty small;
right?
21 A. Yes, yes.
22 Q. But my question is did you see anybody take those
metal
23 shavings and, you know, scoop them up and do anything
with
24 them?
25 A. I don't recall any.

7561

Allen Radtke - Cross

1 Q. Okay. Now -- excuse me.
2 In addition to that, did -- were you -- did
you ever
3 have an investigator on the scene from the Bureau of
Tobacco,
4 Alcohol, and Firearms?
5 A. Later on that afternoon or the next day, there
might have
6 been someone out there.
7 Q. Okay.
8 A. Exact day, I don't remember.

9 Q. Now, you're familiar with these regulations; right?

10 A. Yes.

11 Q. And did you understand back then that if you have a
loss

12 like this, that there's some requirement that you
notify the

13 ATF, which is the agency of government that has the

14 jurisdiction over this?

15 A. Right.

16 Q. Okay. And do you remember talking to anyone from
the ATF?

17 A. On the telephone.

18 Q. Just on the telephone?

19 A. Yes.

20 Q. When was that, sir?

21 A. The afternoon of the 3d.

22 Q. Okay. And you don't remember -- do you remember
seeing

23 them out there, any people that were identified to you
as ATF

24 folks?

25 A. No.

7562

Allen Radtke - Cross

1 Q. Now, Sheriff Davies, did he ever come back, then,
to talk

2 to you after the 3d and the 4th?
3 A. I don't recall him, no. He may have -- I don't
remember
4 him, no.
5 Q. Okay. Well, it's been a while ago. I'm not trying
to,
6 again, get in a contest with you. Well, there did come
a time
7 when the FBI came out; correct?
8 A. Correct.
9 Q. And they showed you a picture of a blue pickup
truck?
10 A. Yes.
11 Q. And did they tell you whose pickup truck that was?
12 A. They asked me if I'd ever seen the truck. I said
no.
13 Q. Yeah. And what did you say when they asked you if
you'd
14 ever seen the truck?
15 A. I'd never seen the truck.
16 Q. You'd never seen that truck.
17 A. No.
18 Q. And you see Terry Nichols sitting over there;
right?
19 A. Yes.
20 Q. You ever see him before in your life?
21 A. No.
22 Q. And in fact, the FBI showed you a picture of Mr.
Nichols,

23 didn't they?

24 A. Yes.

25 Q. And they asked you if you'd ever seen him before,
and you

7563

Allen Radtke - Cross

1 said no?

2 A. That's correct.

3 Q. Now, in fact, before they showed you the picture,
had you

4 seen his picture in the paper?

5 A. No.

6 Q. You had not?

7 A. No.

8 Q. Now, the . . . if -- back in 1994, if I were to
call you up

9 on the phone and say, Mr. Radtke, I see you've got a
quarry

10 over there and it's -- it's -- how many acres does that
quarry

11 cover?

12 A. In the 350, 380 acres, something like that.

13 Q. If I were to call you up back there in 1994 and
say,

14 Mr. Radtke, from time to time I hear some noises over
there on

15 your quarry; would you tell me where your powder
magazine is?

16 If I called you up, you wouldn't tell me, would you?

17 A. No.

18 Q. And because that's not something that somebody
needs to
19 know, is it?

20 A. That's correct.

21 Q. Okay. Now, in your discussion with Sheriff Davies,
Sheriff
22 Davies -- almost forgot his name there -- did you have
a talk
23 with him about the people that you thought might have
done
24 this?

25 A. I don't recall anything right now. I may have; but
I

7564

Allen Radtke - Cross

1 can't -- I can't answer that yes or no.

2 Q. Okay. Were you interested in giving him
investigative
3 leads as much as you could?

4 A. As much as I could, yes.

5 Q. Understand. Now, were you present when the plant
manager
6 was talking to Sheriff Davies?

7 A. I don't recall -- I don't recall that right now,
either.

8 Q. All right. No problem. He'll be here.

9 Did you have some employees of the quarry that
had
10 been disciplined in some way shortly before this
episode
11 happened?

12 A. Yes, there was one.

13 Q. And who -- and without the name, what was that
person's
14 position?

15 A. Lead man.

16 Q. He was a lead man. Now, what does a lead man do?

17 A. Second in command, you might say.

18 Q. Second in command to the plant manager?

19 A. Yes. Yes.

20 Q. Had that employee been demoted and transferred?

21 A. That particular employee I just described had been
22 dismissed from the company.

23 Q. He had been fired.

24 A. Right.

25 Q. Okay.

7565

Allen Radtke - Cross

Honor. 1 MR. TIGAR: May I have just a moment, your

2 THE COURT: Yes.

3 BY MR. TIGAR:

4 Q. Was it hunting season?

5 A. At the time of the theft?

6 Q. September 30, yeah. September 30, it was doves,
wasn't it?

7 A. I believe so, yes.

8 Q. Does Mr. Hett let people on his land to hunt doves?

9 A. Not on the dove season, no.

10 Q. Not on the dove season. He does have hunters over
there,

11 doesn't he?

12 A. Yes.

13 Q. And in fact -- well, have you ever hunted across
Mr. Hett's

14 land?

15 A. No.

16 Q. Okay. But are you familiar with the fact that he
does let

17 people through there on his part for various seasons;
right?

18 A. Yes.

19 Q. And could you just help me out -- Are you a hunter?

20 A. Not really.

21 Q. Okay. Well, can you help me out by letting me know
what

22 the seasons were during that period of time? It was
doves

23 during the September period?

24 A. Dove season was the only bird season that would
have been
25 open at that time.

7566

Allen Radtke – Cross

1 Q. Okay. Then is there another -- is there a deer
season?

2 A. Well, the bow season is going on at that time. And
prairie
3 chicken season would have been open the following
weekend.

4 Q. Okay.

5 A. And then the quail and pheasant season, the
following
6 weekend after that.

7 Q. Okay. During the years that you've been working
there, did
8 you ever hear of people obviously engaged in hunting
over on
9 the adjacent land?

10 A. At times.

11 Q. Like the boom of a shotgun and the pellets
scattering on
12 tin roofs -- been anything like that?

13 A. No, they're usually far enough away from us, and
vice
14 versa.

15 Q. But you can hear the firearms?

16 A. No.

17 Q. You can't?

18 A. Not over the noise of the crushing plant, you don't
hear

19 nothing but that.

20 MR. TIGAR: I understand, sir. Thank you very
much.

21 I have nothing else.

22 THE COURT: Mr. Ryan, do you have anything
else?

23 MR. RYAN: Just a couple, your Honor.

24 REDIRECT EXAMINATION

25 BY MR. RYAN:

7567

Allen Radtke - Redirect

1 Q. Despite the precautions you make in building up the
found a
2 limestone around the magazines, somebody or somebodies

3 way to get in that quarry between September 28 and
October 3;

4 is that right?

5 A. Yes.

6 MR. TIGAR: Object to leading, your Honor.

7 THE COURT: Well --

8 MR. TIGAR: It's done.

9 THE COURT: Yeah, it's done.

10 BY MR. RYAN:

11 Q. Was that a fair statement?

12 A. Yes.

13 Q. There's might be a little confusion on this ANFO
trailer I

14 would like to clear up. Was there more than one way to
get

15 into the ANFO trailer?

16 A. Yes, there was.

17 Q. And the way that you tried initially after the
weekend, was

18 that doorway -- was the lock secure on it, or how would
you

19 describe it?

20 A. On the side door of the trailer, the one I always
use,

21 normally always use, it -- the lock -- there was
nothing wrong

22 with the lock. And I very seldom ever went to the rear
door.

23 Q. So did you go to that ANFO trailer and use it on
the 3d?

24 A. Yes, I did. On the side door.

25 Q. The side door?

7568

Allen Radtke - Redirect

1 A. Yes.

2 Q. And the lock was there, you put your key in, and

everything

3 worked as it should?

4 A. Right.

5 Q. And when was the first time that you had been
around on the

6 back side where this other door was?

7 A. I hadn't -- I never went to that until the 4th of
October.

8 Q. And that's when you discovered the back door was --
had the

9 lock that had been drilled?

10 A. Yes.

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

12 MR. TIGAR: I'm sorry, your Honor. That just
raised

13 another one.

14 THE COURT: All right.

15 RECROSS-EXAMINATION

16 BY MR. TIGAR:

17 Q. Mr. Radtke, I just want to make sure: There was
nothing

18 missing from the ANFO trailer; right?

19 A. Right.

20 Q. Okay. And you took real careful inventory and
you're sure

21 of that?

22 A. Yes.

23 MR. TIGAR: Okay, thank you very much.

24 THE COURT: Now may the witness be excused?

25 MR. RYAN: Yes, your Honor.

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1 THE COURT: Are we in agreement?

2 MR. TIGAR: Yes, your Honor.

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

4 We'll take our recess at this time, members of
the
5 jury. We'll be taking a 20-minute recess.

6 I remind you we'll be going till 1:00, so you
may
7 during this recess want to use -- I think we provided
some
8 snack material and that sort of thing. Just fortify
yourselves
9 for the next couple of hours after the recess, since
we'll go
10 forward with the testimony.

11 And of course, please, during this, as all
other
12 recesses, avoid discussion of the case or anything
about it
13 among yourselves and with all other persons and
continue to
14 recognize the need to withhold any opinions in your own
minds
15 until you've heard it all. So you're now excused, 20

minutes.

16 (Jury out at 10:44 a.m.)

17 THE COURT: We'll be in recess.

18 (Recess at 10:45 a.m.)

19 * * * * *

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Withdrawn		Exhibit	Offered	Received	Refused	Reserved
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