

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLORADO
3 Criminal Action No. 96-CR-68
4 UNITED STATES OF AMERICA,
5 Plaintiff,
6 vs.
7 TERRY LYNN NICHOLS,
8 Defendant.

ffffffffff
9

REPORTER'S TRANSCRIPT
10 (Trial to Jury: Volume 75)

11
ffffffffff
12 Proceedings before the HONORABLE RICHARD P.
MATSCH,
13 Judge, United States District Court for the District of
14 Colorado, commencing at 8:45 a.m., on the 14th day of
November,
15 1997, in Courtroom C-204, United States Courthouse,
Denver,

16 Colorado.

17

18

19

20

21

22

23

24 Proceeding Recorded by Mechanical Stenography,
Transcription
Street, 25 Produced via Computer by Paul Zuckerman, 1929 Stout
629-9285 25 P.O. Box 3563, Denver, Colorado, 80294, (303)

8589

1 APPEARANCES

2 PATRICK RYAN, United States Attorney for the
Western

3 District of Oklahoma, 210 West Park Avenue, Suite 400,
Oklahoma

4 City, Oklahoma, 73102, appearing for the plaintiff.

JAMIE 5 LARRY MACKEY, BETH WILKINSON, GEOFFREY MEARNS,

6 ORENSTEIN, andAITAN GOELMAN, Special Attorneys to the
U.S.

7 Attorney General, 1961 Stout Street, Suite 1200,
Denver.

8 Colorado, 80294, appearing for the plaintiff.

9 MICHAEL TIGAR, RONALD WOODS, and JANE TIGAR,
Attorneys

10 at Law, 1120 Lincoln Street, Suite 1308, Denver,
Colorado,

11 80203, appearing for Defendant Nichols.

12 * * * *

13 PROCEEDINGS

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

15 THE COURT: Be seated, please. Good morning.

16 Mr. Tigar?

17 MR. TIGAR: We have marked the transcripts of

18 CD-ROM portions that were played yesterday with exhibit

19 and would like some opportunity to read those into the

20 F at some point. If your Honor would like to do it at

21 the court day --

22 THE COURT: Yes.

23 MR. TIGAR: -- so we don't waste jury time.

24 THE COURT: Right. Bring in the jury.

25 (Jury in at 8:47 a.m.)

8590

Once we appreciate your being on time. Also, it's my understanding from a report from Mr. Manspeaker that none of you has any conflict or prior

6 commitment that would affect our proceeding on the
Friday after

7 Thanksgiving, so we will do so and hold court that day.
As I

8 understand it, one of you would like to do it on a
regular

9 Friday schedule. Maybe we can deal with that closer to
the

10 time when we see just where we are on the case at that
point.

11 But we will anticipate at least the Friday schedule of
8:45 or

12 8:30 till 1.

13 All right. You will recall that Mr. Hupp was

14 testifying when we recessed yesterday. We'll resume
with his

15 testimony now.

16 If you'll resume the stand under your oath.

17 (Louis Hupp was recalled to the stand.)

18 THE COURT: Mr. Mearns, you were inquiring.

19 MR. MEARNS: Thank you, your Honor.

20 And Mr. Tigar and I have agreed to mark Mr.
Hupp's

21 notebook as Government Exhibit 2102.

22 THE COURT: 2102.

23 MR. TIGAR: Yes, your Honor. That is agreed.

24 THE COURT: All right. And you're going to
put it in

25 evidence. Is that also --

We have 1 MR. MEARNS: I believe Mr. Tigard offered it.

2 no objection.

it does 3 MR. TIGAR: Yes, your Honor. We would because

4 contain these additional materials.

5 THE COURT: All right. 2102 is received.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. MEARNS:

8 Q. Good morning, Mr. Hupp.

9 A. Good morning.

you some 10 Q. When we recessed yesterday afternoon, I was asking

identified for 11 questions about Government Exhibit 158, and you

found 12 us shortly before we broke the 13 pages on which you

13 Mr. Nichols' latent fingerprint. Do you recall that?

14 A. Yes.

developed 15 Q. Okay. I think you also said that you in fact

16 latent fingerprints. Is that true?

17 A. That is correct.

18 Q. What -- and were you able to identify that 14th

19 fingerprint?

20 A. No.

21 Q. And what page was that on?

22 A. That was on page 54.

23 Q. In attempting to identify that fingerprint, did you
compare

24 it with the exemplars provided by Mr. McVeigh?

25 A. Yes, I did.

8592

Louis Hupp - Direct

1 Q. And were you able to make an identification?

2 A. No.

3 Q. Did you compare it with the exemplar provided by
Michael

4 Fortier?

5 A. Yes.

6 Q. And were you able to make an identification?

7 A. No.

8 Q. During the course of your examination of Government
Exhibit

9 158, the book, did you examine every page in that book?

10 A. Yes.

11 Q. And did you attempt to develop latent fingerprints
on every

12 single page?

13 A. Yes.

been
you

14 Q. I'd like you now, if you would, to turn to what has
15 admitted into evidence as Government Exhibit 1701. Did
16 examine this document?

17 A. Yes, I did.

18 Q. And did you develop any latent fingerprints on this
19 document?

20 A. Yes.

21 Q. How many did you develop?

value
particular

22 A. There were eight latent fingerprints which were of
23 for identification purposes developed on this
24 document.

25 Q. And did you identify any of those eight?

8593

Louis Hupp - Direct

1 A. Yes, I did.

2 Q. How many did you identify?

3 A. I identified two latent fingerprints with the
fingerprints

4 with the

5 one

4 of Mr. Terry Nichols. I identified three fingerprints
5 fingerprints of Mr. Timothy McVeigh. And I identified
one
6 fingerprint as a fingerprint of Marife Nichols.

7 Q. And the other two fingerprints, you were unable to
8 identify?

9 A. Yes.

10 Q. Turning then to Government Exhibit 484, which has
been

11 admitted into evidence. Did you examine this document?

12 A. Yes, I did.

13 Q. And were you able to develop any latent
fingerprints on

14 this document?

15 A. Yes, I was.

16 Q. How many?

17 A. Three latent fingerprints of value for
identification

18 purposes.

19 Q. And did you identify any of those?

20 A. Yes, I did.

21 Q. Who did you identify?

22 A. I identified all three fingerprints with Mr. Terry
Nichols.

23 Q. Turning now to Government Exhibit 495, which is in
24 evidence. Did you examine this document?

25 A. Yes, I did.

1 Q. Did you develop any fingerprints on it?

2 A. There was one fingerprint of value for
identification

3 purposes developed on this item.

4 Q. On Exhibit 495, there's one or two?

5 A. Excuse me. I -- on 495, there were two. You're
correct.

6 Q. Were you able to identify any of those two --
either of

7 those two?

8 A. Yes, I was.

9 Q. Who did you identify?

10 A. Both fingerprints were identified with Mr. Terry
Nichols.

11 Q. Turning then to Government Exhibit 498, which is in
evidence, which is another \$100 money order. Did you
examine

13 this document?

14 A. Yes, I did.

15 Q. Did you develop any latent fingerprints on this
document?

16 A. One latent fingerprint which was suitable for
identification purposes.

18 Q. Did you identify that latent fingerprint?

19 A. Yes, I did.

20 Q. Who did you identify?

21 A. There again identified with the fingerprint of
Terry

22 Nichols.

only
23 Q. Turning to Government Exhibit 57 -- 572, which has
Did
24 been marked for identification. It's not in evidence.
25 you -- did you examine that document?

8595

Louis Hupp - Direct

1 A. Yes, I did.
2 Q. And did you develop any fingerprints in that
document?
3 A. Yes, I did.
4 Q. How many did you develop?
5 A. I developed 20 latent fingerprints and two latent
palm
6 prints which were suitable for identification purposes.
7 Q. Did you identify any of those fingerprints or palm
prints?
8 A. Yes, I did.
9 Q. How many did you identify?
10 A. I identified 18 latent fingerprints and one palm
print with
11 Terry Nichols. And I identified two latent
fingerprints as
12 being fingerprints of Marife Nichols.
prints
13 Q. You said a moment ago that you developed two palm
14 and you identify one palm prints as Terry Nichols?
15 A. That is correct.

16 Q. Were you able to identify the other palm print?

17 A. No, I was not.

18 Q. And were the fingerprints and palm prints that you
just

19 spoke about -- were those spread out throughout that
document?

20 A. Yes.

21 Q. Turning to Government Exhibit 250, 250, which is in
22 evidence. Did you develop any latent fingerprints in
this

23 document?

24 A. Yes, I did.

25 Q. How many did you develop?

8596

Louis Hupp - Direct

1 A. I identified -- developed 11 latent fingerprints
and four

2 latent palm prints which were of value for
identification

3 purposes.

4 Q. And did you identify any of those fingerprints or
palm

5 prints?

6 A. Yes, I did.

7 Q. How many did you identify?

8 A. I identified seven latent fingerprints as belonging
to

9 Terry Nichols, and I identified four fingerprints and
three

10 latent palm prints as belonging to Marife Nichols.

11 Q. You stated a moment ago that you developed four,
but only

12 identified three?

13 A. That is correct.

14 Q. So there was one palm print that was not -- you
were not

15 able to identify?

16 A. Yes.

17 Q. Turning to Government Exhibit 113, which is in
evidence.

18 Do you recognize this document?

19 A. Yes, I do.

20 Q. And what is it?

21 A. This is a -- it's a rental agreement for the Boots
22 U-Store-It agreement for Unit 37, which was located in
Council

23 Grove.

24 Q. Did you develop any latent fingerprints on this
document?

25 A. Yes, I did.

8597

Louis Hupp - Direct

1 Q. How many did you develop?

2 A. Two.

3 Q. And did you identify those two?

4 A. Yes, I did.

5 Q. Whose did you identify the fingerprints to be?

6 A. Both fingerprints were identified with Terry
Nichols'

7 fingerprints.

8 Q. Turning to Government Exhibit 88, which is in
evidence. Do

9 you recognize this document?

10 A. Yes, I do.

11 Q. What is this?

12 A. This -- again is a storage agreement for Herington,
Kansas,

13 dated 9-22-94, and it was in the name of Shawn Rivers.

14 Q. Did you examine this document?

15 A. Yes, I did.

16 Q. Did you develop any fingerprints on this document?

17 A. Yes.

18 Q. How many did you develop?

19 A. There were nine latent fingerprints which were
suitable for

20 identification purposes on this document.

21 Q. How many of those nine did you identify?

22 A. Eight.

23 Q. And whose did you identify those fingerprints --
those

24 eight fingerprints to be?

25 A. All eight fingerprints belonged to Timothy McVeigh.

8598

Louis Hupp - Direct

1 Q. And there was one unidentified fingerprint?

2 A. That is correct.

3 Q. Turning to Government Exhibit 1717, which is in
evidence.

4 Did you examine this telephone/address book?

5 A. Yes, I did.

6 Q. Did you develop any latent fingerprints in this
address

7 book?

8 A. Yes, I did.

9 Q. How many did you develop?

10 A. 38 latent fingerprints and 10 latent palm prints
which were

11 of value for identification purposes.

12 Q. And how many did you identify?

13 A. I identified 31 latent fingerprints and eight
latent palm

14 prints as belonging to Terry Nichols. And I identified
seven

15 latent fingerprints and two latent palm prints as
belonging to

16 Marife Nichols.

17 Q. And were those -- all of those fingerprints and
palm prints

18 spread throughout this telephone/address book?

19 A. Yes.

20 Q. Turning to Government Exhibit 1716, which is in
evidence.

21 Did you examine this notebook?

22 A. Yes, I did.

23 Q. And did you develop any latent fingerprints in this
24 notebook?

25 A. Yes.

8599

Louis Hupp - Direct

1 Q. How many did you develop?

2 A. I developed 12 latent fingerprints which were of
value for

3 identification purposes.

4 Q. Were you able to identify any of those 12?

5 A. Yes. I identified all 12.

6 Q. Whose did you identify them to be?

7 A. I identified three of the latent fingerprints as
belonging

8 to Terry Nichols, and I identified nine of the
fingerprints to

9 belong to Marife Nichols.

10 Q. Let me show you what has been marked for
identification,

11 which is not yet in evidence, Government Exhibit 142.

Did you

12 examine this document?

13 A. Yes, I did.

14 Q. And did you develop any latent fingerprints on this
15 document?

16 A. Yes.

17 Q. How many did you develop?

18 A. Two latent fingerprints which were of value for
19 identification purposes.

20 Q. Did you identify either of those two?

21 A. I identified one of the two.

22 Q. Who did you identify it to be?

23 A. One of the fingerprints belonged to Terry Nichols.

24 Q. And the -- the remainder was unidentified?

25 A. That is correct.

8600

Honor. 1 MR. MEARNS: I have no further questions, your

2 THE COURT: Cross-examination?

3 CROSS-EXAMINATION

4 BY MR. TIGAR:

5 Q. Hello again, Mr. Hupp.

6 A. Good morning.

7 Q. You've told us about some fingerprints that you
could not

8 identify; correct?

9 A. Yes, sir.

10 Q. And when you say that a fingerprint is one you
could not

11 identify, you're referring to a latent fingerprint of
value

12 that you could not compare to the known fingerprints of
a

13 person; correct?

14 prints A. Well, one that I could not identify with the known

15 that were supplied to me, yes.

16 supplied to Q. Now, when you say the known prints that were

17 you, who supplied you with the known prints?

18 mainly A. The various offices within the FBI submitted names,

19 out of Oklahoma City and Kansas City.

20 develop, Q. So your job is to compare fingerprints that you

21 by the latent fingerprints, with those that are given to you

22 right? people who are directing the examination; is that

23 A. Or the investigation, yes, sir.

24 supplied by Q. Now, in addition to the known prints that are

25 maintain a the people directing the investigation, does the FBI

Louis Hupp - Cross

1 file of the fingerprints of people?

2 A. Yes, we do.

3 Q. How many people's fingerprints do you have in your
file?

4 A. Right now, our criminal database is somewhere in
the

5 neighborhood of about 35 million.

6 Q. Now, that doesn't mean that you have 35 million
criminals

7 on file then, does it, sir?

8 A. 35 million would be our database of criminal files,
yes.

9 Q. But the -- that doesn't mean -- a lot of the people
whose

10 fingerprints are in there are not considered to be
criminals;

11 is that right?

12 A. Well, there are additional files in addition to the

13 35 million, yes, sir.

14 Q. Okay. Oh, well, then, total, all the 35 million
that you

15 have there in the criminal part, how many fingerprints
do you

16 have?

17 A. In the criminal would be 35 million. Overall would
be

18 somewhere in the neighborhood of about 55 million.

19 Q. So the FBI has on file the fingerprints of 55
million

20 Americans; correct?

21 A. Or about that, yes, sir.

22 Q. Now, in addition to having on file 55 million

23 fingerprints -- let me ask, are those 55 million
fingerprints

24 available for comparison if somebody wanted to do it?

25 A. That's correct, yes.

8602

Louis Hupp - Cross

1 Q. Have you developed a computer program that would
permit you

2 to make a start on identifying fingerprints so you
didn't have

3 to start with the manual looking from one to the other?

4 A. Yes, we do.

5 Q. And did you use that computer program in this case?

6 A. No, we did not.

7 Q. Would you tell the jury, please, what the computer
program

8 would permit you to do with these unknown or
unidentified

9 fingerprints.

10 A. It would enable us to take certain latent prints
which meet

those 11 certain criteria and we could encode those and search
 12 against the database of 35 million people.

Are those 13 Q. Now, the -- you say that meets certain criteria.
 14 criteria the points-of-comparison criteria that you
discussed 15 with the jury yesterday?

most 16 A. No. It's much more than that.

 17 Q. What are the criteria?

 18 A. Well, the criteria -- we would have to have a basic
 19 description of the individual involved. We would in
be. By 20 instances need to know which finger position it would
 21 that, I mean would it be the right index, left index,
or thumb; 22 and it must be a print which is classifiable. So it's
 23 pretty much along the lines of an inked fingerprint.

to a 24 Q. I see. When you say "classifiable," do you refer
 25 certain number of points of comparison?

8603

Louis Hupp - Cross

1 A. No, sir.

you would 2 Q. Now, you told us yesterday that you have never --

3 not identify a print with less than seven points, you
said?

4 A. As of this point in time, I never have.

5 Q. Now, in fact, the FBI prefers to have 12 points; is
that

6 right?

7 A. No, sir.

8 Q. Well, when less than 12 points are used in making
an

9 identification, it must be discussed with the
specialist unit

10 chief and receive approval before being reported as an
11 identification; is that correct?

12 A. That is merely an administrative rule. However,
we're not

13 required to have a 12-point in order to effect an
14 identification.

15 Q. My question, sir, is do you -- do you have a -- a
practice

16 that if you use less than 12 points, you have to
discuss it

17 with the specialist unit chief?

18 A. Yes, it's an administrative rule, yes.

19 Q. And do you follow your administrative rules when
you're

20 doing a job?

21 A. Yes, I do.

22 Q. Now, in addition to fingerprints that you did not
identify

23 in this case, did you find finger smudges that were not

24 suitable for identification at all?

25 A. Certainly.

8604

Louis Hupp - Cross

62, the 1 Q. Now, do you remember looking at Government Exhibit

2 co-op receipt?

3 A. Yes.

4 Q. If you could -- and that was a case in which you
found two

5 latent fingerprints; correct?

sir. 6 A. That is suitable for identification purposes, yes,

7 Q. Right. And you made notes about that -- and if I
can put

evidence 8 up what has been -- a page of what's been offered in

9 as Government's Exhibit 2012? Is that correct?

10 MR. MEARN: 2102.

11 MR. TIGAR: 2102. Excuse me. 2102.

12 BY MR. TIGAR:

13 Q. This is a page from that 2102; is that correct?

14 A. That is correct, yes.

for your 15 Q. And these are notes that you made in preparation

16 testimony; is that right?

17 A. That is correct, yes.

18 Q. And looking at this Exhibit No. 62, you simply
describe it

19 by its number; correct?

20 A. That is correct.

21 Q. Then you say Mid-Kansas Co-op receipt, No. 95504.
That --

22 that further describes the exhibit; right?

23 A. That is correct.

24 Q. The date. Then it says Q641?

25 A. Yes.

8605

Louis Hupp - Cross

1 Q. And the Q number is one that's assigned in your
laboratory;

2 correct?

3 A. That is correct.

4 Q. Now, then you say two latent fingerprints
developed; right?

5 A. That is correct.

6 Q. Two latent fingerprints identified as fingerprints
of

7 Timothy McVeigh and no latents remained unidentified;
right?

8 A. That is correct.

9 Q. Now, when you say "a latent," you are referring to
10 something that is of value for identification purposes;

11 correct?

12 A. Yes.

13 Q. I'm going to place up here another page, and my
copy is not

14 as good as yours, but could you follow along on your
copy of

15 the actual receipt. You've got a photo of it up there,
don't

16 you, sir?

17 A. I have the same thing you have, yes.

18 Q. Okay. Now, what I have is a copy, so it may not be
as

19 good. But for our purposes -- and when the jury sees
this,

20 they'll see a red mark where I'm describing here;
correct?

21 A. Yes.

22 Q. This --

23 A. Well, actually, I have the same thing that you
have. I

24 have a copy just like yours.

25 Q. Oh, you've got a copy, also?

8606

Louis Hupp - Cross

1 A. That's correct.

2 Q. But in the original exhibit, it'll be red and it'll
say,

3 "No. 2, Timothy McVeigh"; correct?

4 A. That is correct.

5 Q. Because that's your practice in the laboratory is
to make

6 the red mark and then write in the name of who you
identified

7 it as; right?

8 A. Yes.

9 Q. Now, is it -- isn't it the case that these prints
of value

10 that you developed were on the back side of the
receipt, the

11 side without any writing or printing?

12 A. Yes, sir.

13 Q. And the marks that we see here, the circular mark,
makes it

14 appear that something at sometime has been wrapped or
held in

15 that piece of paper; is that correct?

16 A. Yes, sir.

17 Q. And did -- was it any part of your investigation to
18 determine what it was that was wrapped or held in that?

19 A. Actually, when I received it in the lab -- or when
it was

20 received in the lab, the items that were in there were
-- were

21 wrapped -- still wrapped in the item itself.

22 Q. Oh, so you know of your own personal knowledge they
were

23 coins; right?

24 A. Yes. Yes.
25 Q. And did it -- was it a situation in which somebody
had put

8607

Louis Hupp - Cross

and over 1 the coins on the printed side and then folded it over
again to make a package around the coins?
3 A. Yes.
4 Q. And how many coins were there?
5 A. Two.
6 Q. Were they about the size of 50-cent pieces?
7 A. Yes. Yes.
8 Q. So that that's the mark that we're seeing here;
correct?
9 A. Yes.
10 Q. And you say that you got two prints of value. One
is this
I'm 11 one that I'm -- whoops. I'm not yet because I -- that
pointing to right here; correct?
13 A. Yes, sir.
14 Q. And then the other one is right here where my other
finger
15 is; correct?
16 A. That is correct.

17 Q. Now, those are the same finger of the hand of Mr.
McVeigh;

18 right?

19 A. Yes.

20 Q. And did it -- is this finding here consistent with
that

21 print having been put on there in the process of making
the

22 first or second fold over the coins?

23 A. I would have no idea.

24 Q. Well, you unfolded the coins; correct?

25 A. Yes.

8608

Louis Hupp - Cross

1 Q. And if we could use -- and this is -- these -- are
these

2 the holes in the top of the receipt?

3 A. Yes, sir.

4 Q. So we see the receipt completely unfolded here, and
this is

5 down on the side; right?

6 A. Yes.

7 Q. Now, when you first got this item -- all right --
it looked

8 like a little package in which something had been
folded up;

9 correct?

10 A. Yes.

I'm
11 Q. About the size of the 1-1/2-by-1-1/2 piece of paper

12 holding up?

13 A. Something similar to that, as memory serves me.

14 Q. Okay. Now -- when you got it, would this
fingerprint over

were
15 here have been visible if somehow, latent fingerprints

16 apparent?

come up
17 A. I don't remember anything being visible. It didn't

18 until such time as it was processed.

let's
19 Q. I understand. But what I want you to do, sir, is

-- if
20 imagine, if you would, that if we touched this document

Suppose he
21 Mr. McVeigh touched it, that it would leave a mark.

Okay? Would
22 had ink on his fingers at the time he touched it.

that and
23 you do that with me? All right. Now, if he had done

at the
24 left a mark, would that mark have been visible to you

25 time that you saw the package in the laboratory?

8609

Louis Hupp - Cross

1 A. I couldn't say with any certainty, sir.

which --

2 Q. You don't -- you don't know as you sit there today

3 which side it was on?

wrapped,

4 A. I don't know which -- as to how the package was

remember.

5 which was under and which was in. That, I don't

This

6 Q. All right. Well, let's take it a step further.

visible;

7 thumbprint that I'm pointing to here would have been

8 correct?

exactly how

9 A. It's possible. There again, I don't remember

my part.

10 the package was wrapped, so it would be speculation on

Do you

11 Q. Let's see if we can take it a step further, sir.

See

12 see this mark here that does not have a circle on it?

13 right there in the middle?

14 A. In the center, yes.

fingerprint of

15 Q. In the center. Now, that is not a latent

16 value, is it?

17 A. No, it is not.

18 Q. Mr. McVeigh is one of the higher primates; correct?

19 A. Yes, he is.

That is,

20 Q. And that means he has an opposed thumb? Right?

21 his thumb and his finger come together like I'm showing
you;

22 correct?

23 A. That's correct.

24 Q. Are these two marks consistent with Mr. McVeigh
having

25 handled this document or this piece of paper closed up
with the

8610

Louis Hupp - Cross

1 nonprinted side showing with his thumb and his finger?
Is it

2 consistent with that?

3 A. Sir, I couldn't say that.

4 Q. Is this smudge consistent with a thumb?

5 A. I would read that to be a smudge, and I wouldn't
speculate

6 whether it was a thumb or another finger. I just don't
know.

7 Q. Is it consistent -- is what you see here consistent
with

8 somebody holding this like this? That's my question.

9 A. I just -- I just don't know.

10 Q. Now, you say that you don't remember how the
package was

11 wrapped when it got to your laboratory; is that right?

12 A. That's correct.

13 Q. Did you make any notes as to how the package was

wrapped in

14 your laboratory?

15 A. No.

16 Q. Is it ever of significance to you to be able to
reconstruct

17 for a jury where the fingerprints are on an item of
evidence

18 that arrives in your laboratory?

19 A. We place them on the paper. That was of the
interest at

20 that point in time. At this time when this was
received, we

21 really had no idea what this was.

22 Q. My question, sir, is is it ever of significance to
you in

23 your work as a fingerprint examiner with decades of
experience

24 to know where the fingerprints are on an item that's
submitted

25 to the laboratory?

8611

Louis Hupp - Cross

1 A. In this instance, I know they are on the reverse
side.

2 Other than that --

3 THE COURT: Please answer the question.

4 THE WITNESS: Yes, it could be.

5 BY MR. TIGAR:

it's 6 Q. For example, sir, if a firearm is submitted to you,

it are 7 important to know whether the fingerprints you find on

holding 8 consistent with someone having grabbed the barrel or

9 onto the -- the butt end?

10 A. Yes.

Primadet 11 Q. Now, sir, you told us that you also looked at a

12 sleeve. Do you recall that?

13 A. Yes, I do.

that you 14 Q. And with respect to the Primadet sleeve, you said

Nichols'. Do 15 identified only one fingerprint and that was Mr.

16 you recall that?

17 A. Yes, sir.

there in 18 Q. Now, do you have your Primadet sleeve photograph

19 front of you?

20 A. Yes, I do.

the 21 Q. Let me place up this portion of 2102 that reflects

that's 22 Primadet sleeve. And what we see here that's marked,

correct? 23 the area where you say Mr. Nichols' fingerprint is;

24 A. Yes.

25 Q. And would you look very carefully, please, down

here in the

8612

Louis Hupp - Cross

and I 1 right. I'm going to zoom in on this, and it's not --

would you 2 recognize it's not the best copy in the world, but

3 look on your copy the place where I'm pointing?

4 A. Yes.

5 Q. All right. And do you see ridge detail there?

6 A. Yes, I do.

7 Q. And is that ridge detail consistent with that
having been

8 handled by a human being?

9 A. It would be ridge detail of some sort, yes, sir.

10 Q. Now, did you make an effort to identify what
portion of the

11 human hand is reflected by that ridge detail?

12 A. It was examined and determined to be of no value
for

13 identification purposes and was not compared any
further.

14 Q. Now, when you say "it was examined," did you
examine it?

15 A. Yes.

16 Q. And looking at it now, can you see -- can you see
the

17 ridges over by the word "adequate"?

18 A. Yes.

19 Q. Okay. And when you examined the original, what did
you

20 examine it with? DF0?

21 A. This was developed by ninhydrin, but it had been
processed

22 with DF0, yes.

23 Q. All right. Now, the DF0 processing is
nondestructive;

24 correct?

25 A. No. It will destruct.

8613

Louis Hupp - Cross

1 Q. Well, is it -- it doesn't destroy the latents?

2 A. No. No. No.

3 Q. That's what I meant. Doesn't destroy the latents,
and the

4 DF0 is just a chemical that you put on. DF0 is an
abbreviation

5 for some name; correct?

6 A. That is correct.

7 Q. And then by using a fluorescent-type light, it
shows up,

8 what, yellowish?

9 A. Yellowish green, yes.

10 Q. Now, the ninhydrin is actually a chemical that you
have to

11 spray on or soak; correct?

12 A. That's correct.

13 Q. And do you use alcohol or water for this particular

14 examination?

15 A. This particular examination, acetone was the --

16 Q. As --

17 A. -- was the agent.

18 Q. Dissolved in acetone. But you determined that
there was

19 nothing of value there; correct?

20 A. That is correct.

21 Q. Now, you told us that you made an examination of
all of the

22 pages of the book Hunter; is that right?

23 A. Yes.

24 Q. And you found how many fingerprints?

25 A. 14.

8614

Louis Hupp - Cross

1 Q. 14. Now, if -- you also examined a book that is --
that is

2 not in evidence, but you examined a book called Armed
and

3 Dangerous; correct?

4 A. Yes, I did.

5 Q. And for -- just to give us an idea, how many
fingerprints

6 did you develop out of the book Armed and Dangerous,
latents,

7 of value?

8 A. I don't recall.

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

10 THE COURT: Yes.

11 BY MR. TIGAR:

12 Q. I'm going to show you now some notes and ask you,
is that

13 your handwriting, sir?

14 A. That is handwriting of somebody in my section, yes.

15 Q. And have you -- did you review that?

16 A. Yes, I did.

17 Q. All right. Does looking at this refresh -- refresh
your

18 recollection as to how many latent prints of value were
19 developed in the book Armed and Dangerous?

20 A. Yes, it does.

21 Q. How many is that?

22 A. 149 latent fingerprints and four latent palm
prints.

23 Q. Now, during the course of your examination, did you
have an

24 Happened to occasion to look at an article entitled, "Whatever
Happened to

25 Liberty Day"?

Louis Hupp - Cross

1 A. Yes, I did.

2 Q. And is that Government Exhibit 1717?

3 A. No.

4 Q. I'm sorry. Is that Government 1703? We can shorten this.

5 Let me just show you this and see if it refreshes your
6 recollection, sir. I couldn't find my copy for the moment.

7 A. Okay.

8 Q. Does that refresh your recollection?

9 A. Yes.

10 Q. Now, when you examined this article, did you know where it

11 had come from?

12 A. No, not precisely. I may have known the location as to the

13 field office, but other than that, no.

14 Q. So you didn't know whose home it was in; correct?

15 A. No.

16 Q. Now, do you recall that you developed one fingerprint of

17 Timothy McVeigh on this exhibit?

18 A. I really don't recall on that particular document.

19 Q. All right. So you don't recall how many, if any, unidentified fingerprints there were on that?

21 A. No, I just don't recall, sir.
lease in
22 Q. Now, do you recall earlier today talking about a
23 the name of Shawn Rivers?
24 A. Yes.
25 Q. And that, you did develop some fingerprints of Mr.
McVeigh;

8616

Louis Hupp - Cross

1 is that correct?
2 A. Yes.
also
3 Q. In addition to the fingerprints of Mr. McVeigh, you
4 said that there were -- there was one fingerprint not
5 identified; correct?
6 A. That is correct, yes.
7 Q. And why is it that you did not take steps beyond
the names
8 that were submitted to you to try to identify that
fingerprint?
9 A. I was not requested to do so at that time.
10 Q. Well, were you ever requested to do it?
asked
11 A. No. Well, let me correct that. Initially, we were
and then
12 to do it, and then it was put off until a later time,
13 it was determined at a later time it was not necessary.

time 14 Q. Let me take that one step at a time. There came a

whose 15 when you were furnished with certain names of people

16 fingerprints you were supposed to look for; correct?

17 A. That is correct.

18 Q. And those names included Mr. Nichols, Mr. McVeigh,

19 Mr. Fortier, Mrs. Nichols, and some other people;
correct?

20 A. Yes.

doing 21 Q. And you were doing these manual visual -- you were

22 comparisons manually of those fingerprints; correct?

23 A. That is correct, yes.

24 Q. You were not using your computer?

25 A. That is correct.

8617

Louis Hupp - Cross

to 1 Q. Now, the list of people whose fingerprints you were

2 compare changed from time to time; is that correct?

3 A. Yes, it did.

telling you 4 Q. And those changes were made by your superiors

5 whose fingerprints you should try to find; correct?

6 A. That is correct.

more

7 Q. Now, then you say that you talked about using a

8 complete list; correct?

9 A. No. We were -- at one time, there was some
discussion as

would be

10 to do computer searches, and it was decided that it

11 best to do those at a later time.

whether or

12 Q. All right. Now, when was this discussion as to

13 not you ought to do computer searches?

It was

14 A. It was early on. I don't remember the exact date.

15 early on in the investigation.

16 Q. Did you participate in those discussions?

17 A. Yes, I did.

18 Q. Did you preside over those discussions?

19 A. No, I did not.

computer

20 Q. Who was in charge of determining whether or not

unidentified

21 searches would be used to try to identify these

22 fingerprints?

Oklahoma City.

23 A. The request was made by the command post in

through my

24 Discussions were made as to the feasibility of it

put it

25 department, and it was determined that it was better to

Louis Hupp - Cross

1 off and do it at a later time.

2 Q. All right. And when was the determination made
that it was

3 better to put it off and do it at a later time?

4 A. There again, it was early in the investigation.
Probably

5 somewhere in August or so of 1995.

6 Q. Now, I'm going to show you, sir, what I've marked
as

7 Defendant's Exhibit E61 and ask you if that is a
document from

8 your laboratory.

9 A. Yes, it is.

10 Q. And when was that created, sir?

11 A. The notes on here are June 20, 1996.

Honor. 12 MR. TIGAR: All right. We offer it, your

please? 13 MR. MEARNS: May I have just one moment,

14 THE COURT: Yes.

15 MR. TIGAR: E61.

16 MR. MEARNS: No objection.

17 THE COURT: E61 received.

18 BY MR. TIGAR:

19 Q. Now, is that your handwriting?

20 A. Yes, it is.

up page 21 Q. And do you write on there that -- well, let me put

furnished are 22 2. You say that "Pertinent latent prints being

between 23 being held in abeyance per discussion in October 1995

Tell 24 . . ." and then there's some Government acronyms there.

 25 us what this means, this note here.

8619

Louis Hupp - Cross

the 1 A. This means that I had -- I had had discussions with

City as 2 investigating officers in the command post in Oklahoma

was 3 to the feasibility of doing computer searches and it

later 4 determined at that time that it best be put off until a

 5 time.

computer 6 Q. Now, did there come a time when the feasibility of

 7 searches was discussed again?

 8 A. Yes, it did (sic).

they 9 Q. Now, these computer searches, they are not -- are

 10 real, real expensive?

the long 11 A. They are very time-consuming. Very expensive in

12 run, yes.

13 Q. And when was it that the idea of doing these
computer

14 searches came up again?

15 A. It would be very late in the investigation.
Towards the

16 end of it when most of the evidence had been completed.

17 Discussions were again brought up about the feasibility
of

18 doing computer searches, and it was decided by the
command post

19 here in Denver that those searches would not be
necessary.

20 Q. Now, when was it decided that they would not be
necessary?

21 A. I don't remember the exact date. It was towards
the very

22 end of the investigation as far as when I was receiving
evidence.

24 Q. All right. Now, at the time that decision was
made, you

25 had a large number of unidentified latents; correct?

8620

Louis Hupp - Cross

1 A. That is correct.

2 Q. The Dreamland Motel in Junction City had been
3 fingerprinted, had it not?

4 A. Yes, it had.

the
5 Q. And everything in the Dreamland Motel -- that is,

somebody
6 Bible, the bed, the wall, the lamp, anything that

by
7 might have touched -- had been subjected to examination

8 field examiners; correct?

9 A. That is correct.

or Motel
10 Q. In addition to that, sir, the Great Western Hotel

11 had been searched; correct?

12 A. That is correct.

13 Q. The Ryder truck agency had been searched?

14 A. Yes, sir.

correct?
15 Q. A yellow Mercury Marquis had been searched;

16 A. Yes.

correct?
17 Q. An Easy Go convenience store had been searched;

18 A. Yes.

unidentified
19 Q. And in each of these locations, there were

a
20 latent prints that would be suitable for comparison if

21 comparison had been ordered; correct?

I'm sure
22 A. I don't remember if all of them were suitable, but

23 there were some in each -- some of the locations, yes.

24 Q. Well, sir, isn't it a fact that by July the 9th,

1996, you

25 had 1,034 unidentified fingers, 87 unidentified palms
and 17

8621

Louis Hupp - Cross

1 unidentified impressions?

2 A. That could be correct. It would be -- sounds
familiar.

3 Q. Pardon me?

4 A. That sounds close. I don't know the exact totals
right off

5 the top of my head, sir.

6 Q. All right. Now, so that we understand, a
fingerprint is

7 the print of a finger; correct?

8 A. Yes.

9 Q. A palm print is the print of a palm?

10 A. Yes.

11 Q. What's an impression?

12 A. An impression is a -- an area that we could not
determine

13 whether it is, in fact, part of a fingerprint or part
of a palm

14 print.

15 Q. Now, is it the case that impressions are most often
the --

16 they might be a fingerprint or they might be these
ridged areas

17 that are just under the fingers that when they touch
something

18 can sometimes look like a finger?

19 A. They could be any portion of the palm. There's
several

20 areas of which -- certainly, those would come into
play, but

21 there are other areas, also.

22 Q. So -- and it could also be, although less likely,
this --

23 what would be called the heel of the hand; right?

24 A. That is correct, yes.

25 Q. So if these numbers are approximately right, you
had more

8622

Louis Hupp - Cross

I've 1 than 1,000 unidentified prints from these areas that

2 mentioned; correct?

3 A. Those and other areas, also. That's not just
limited to

4 those, yes.

5 Q. I understand.

6 A. Yes.

7 Q. But each of the areas in which you have these
unidentified

8 prints were ones in which the investigators had
determined that

9 there were -- that these were worth searching? That
is,

10 investigators had been there and done the examination;
right?

11 A. Yes.

12 Q. Now, among the prints you had for comparison in
addition to

Karen 13 the ones we mentioned, by the way, were Roger Moore and

14 Anderson; correct?

15 A. Yes, it was.

would be 16 Q. Sir, if a computer search had been ordered, what

17 the objective of doing the computer search?

prints. 18 A. It would be to identify any additional latent

19 Q. And what would be the purpose of that?

latent 20 A. It would just be to identify any unidentified

21 prints.

example, 22 Q. Right. For example, sir, if -- let us take, for

23 the Dreamland Motel. You know where that is; right?

24 A. Yes, sir.

25 Q. It's in Junction City, Kansas?

1 A. Yes.

2 Q. And you're aware from the investigation that there
was some

3 evidence that Mr. McVeigh stayed there; correct?

4 A. Yes.

5 Q. Were you aware of any evidence in your
investigation that

6 someone else had been in Mr. McVeigh's room?

7 A. Yes.

8 Q. The investigators had told you that; right?

9 A. Yes.

10 Q. And is it the case that the -- that if there was
somebody

11 else along with Mr. McVeigh in his room, that that
person has

12 never been identified, to your knowledge?

13 A. To my knowledge, yes.

14 Q. How many latent -- unidentified latent prints did
you have

15 from Room 25 of the Dreamland Motel?

16 A. There again, I don't recall.

17 Q. Was it more than a dozen?

18 A. I have no real recollection, sir. It would be
speculation.

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

20 THE COURT: Yes.

21 BY MR. TIGAR:

22 Q. Sir -- sir, I'm going to show you, just to refresh
your

23 recollection, a stack of photographs; and I'll ask you
to look

24 at those and -- just leaf through them. E104, I'm
showing

25 you -- if that refreshes your recollection as to the

8624

Louis Hupp - Cross

were 1 approximate number of unidentified latent prints that
 2 obtained by the FBI from Room 25 of the Dreamland
Motel.

3 A. Yes, sir.

4 Q. All right. And with your recollection thus refreshed, sir,

5 would you tell the jury about how many unidentified
latent

6 prints there were in Room 25 of the Dreamland Motel?

7 A. It will take a minute, but I'll count them. Also

8 approximately 21 latent fingerprints, four latent palm prints

9 and one latent impression.

10 Q. Now, who decided not to use -- well, first of all, you only

11 compared those against the names that had been given you;

12 correct?

13 A. Yes, sir.

14 Q. Who decided not to make a computer search to see if
there

15 would be a match within the some 35 million cards or
16 fingerprint sets that you had on file?

17 A. That decision was made by the investigators in the
command

18 post.

19 Q. So you -- you didn't have any role in that; is that
20 correct?

21 A. No, sir.

22 Q. I'm going to show you now what I've marked as
Defense

23 Exhibit E126; and I ask you, sir, if that is a report
-- I'll

24 take back 104, if I may. Thank you, sir. If that is a
report

25 from your laboratory.

8625

Louis Hupp - Cross

1 A. Yes, it is.

2 Q. And what's the approximate date of that, sir?

3 A. The notes were initiated about 4-28 or 4-29-95.

4 MR. TIGAR: And we offer it.

5 MR. MEARN: May I have a moment, your Honor?

6 THE COURT: Yes.

7 MR. MEARN: No objection, your Honor.

8 THE COURT: E126 received.

9 BY MR. TIGAR:

10 Q. Now, this document -- let me put it up here. This
is a --

11 the format of a -- a lab report; is that correct?

12 A. It's a format of our handwritten notes.

13 Q. Okay. And the -- it indicates who copies are to be
sent

14 to; correct?

15 A. That is correct, yes.

16 Q. It says two copies are to go to SIOC, Room 5045,
attention

17 Dave Williams; right?

18 A. That is correct.

19 Q. Was Mr. Williams, David Williams, involved in
making the

20 decision as to whose names would be used to compare the
21 latents?

22 A. Mr. David Williams, in this instance, was the
supervisor in

23 headquarters who was coordinating the examination from
the

24 headquarters point. If he was in on the decision as to
who was

25 to be compared, I don't know. That would have been
between

1 Mr. Williams and the command post here in Denver or in
Oklahoma

2 City.

3 Q. From whom did you receive the direction as to which
4 individuals you should compare with?

5 A. The command post in either Oklahoma City, the
Kansas City

6 office, or subsequently the command post here in
Denver.

7 Q. You didn't -- those weren't routed to you through
8 Mr. Williams at this time?

9 A. No.

10 Q. Now, this particular report relates to this Easy Go
11 convenience store in Newkirk, Oklahoma; right?

12 A. Yes.

13 Q. Now, do you know what the purpose was of -- of
having taken

14 store in the latent fingerprints in -- from that convenience

15 Newkirk, Oklahoma?

16 A. No, sir.

17 those Q. Now, you found that the latent prints did not match

Michael 18 of Timothy McVeigh, Terry Nichols, James Nichols,

19 Fortier, Jeffrey Martin, and Steve Colbern; correct?

20 A. That is correct.

21 Colbern." Q. And it says, "There are no palm prints here for

22 What does that mean?
23 A. That means that we did a review of our file and
found no
24 palm prints on file which would belong to Mr. Colbern.
25 Q. I see. But you did have his fingerprints; correct?

8627

Louis Hupp - Cross

1 A. That is correct, yes.
2 Q. And then it says, "No automated searches are being
3 conducted at this time pending comparisons of all
suspects in
4 this case"; correct?
5 A. That is correct, yes.
6 Q. Now, was it your understanding that Mr. Colbern was
a
7 suspect in the case?
8 A. Not necessarily. He had just been named for
comparison
9 purposes.
10 Q. Okay. And again, you don't know why that was done;
11 correct?
12 A. That is correct, yes.
13 Q. Now, you say that -- here -- is this your lab
report, by
14 the way? Did you create this originally?
15 A. The lab report, no. This was created by another

examiner

16 who was assisting me in the examinations.

17 Q. But you were working side by side; correct?

18 A. Yes, sir.

19 Q. And that was Mr. Shiflett?

20 A. Yes, sir.

21 Q. All right. And that's why his name is on the front
here;

22 correct?

23 A. That's exactly.

24 Q. But for purposes of testimony and preparation in
this case,

25 you are thoroughly familiar with all of the files and

8628

Louis Hupp - Cross

1 fingerprint work done in this case?

2 A. That is correct, yes, sir.

3 Q. So that when it says here that "No automated
searches are

4 being conducted at this time pending comparisons of all

5 suspects," what that -- did somebody say to you that it
was the

6 FBI's intention, after you got through the existing
pool of

7 suspects, to go out and do some more comparisons?

8 A. No. This was -- this was more or less a standard
paragraph

a 9 which we used, and it was brought up and it's placed in

all 10 report. We have a simple code for it. It is placed on

for 11 reports like this to clearly state that we're waiting

compared. 12 either -- elimination of prints or something to be

there came 13 Q. All right. But it is your testimony, sir, that

we 14 a time when somebody said don't compare anybody else's

15 fingerprints with these more than 1,000 unknown latents

16 have; right?

17 A. That is correct, yes.

naming 18 Q. And when that direction was given, compared -- the

comparisons 19 of individuals -- of particular individuals to make

20 with stopped; correct?

it was 21 A. Well, we still had a list of people to compare, but

22 necessary. determined that computer searches would not be

further, your 23 MR. TIGAR: All right. I have nothing

24 Honor.

25 THE COURT: Any redirect?

Louis Hupp - Cross

1 MR. MEARNS: Very brief, your Honor.

2 REDIRECT EXAMINATION

3 BY MR. MEARNS:

4 Q. Mr. Hupp, how many -- how many different people
were in the

5 group that you compared latent fingerprints that you
developed?

6 A. It varied. It went from -- off and on, 16 to as
high as

7 21, but I think the final group was about 20 -- or 17
people

8 that we ultimately compared.

9 Q. And with respect to these thousand or so
unidentified

10 latent fingerprints -- tell us the process that it
takes to do

11 a computer comparison for just one unidentified latent
30- to 12 fingerprint; that is, when you compare it against the

13 50-some-odd million that you have.

14 A. The process would be initially, I would submit the
latent

the 15 prints with proper documentation as to the description,

I would 16 possible location, which can only be limited to state.

the 17 list any possible fingers that I felt it might be and

and any 18 possible classification it would be. Then I would --

It would 19 descriptors that I might have. I would submit that.
computer 20 be encoded into the computer, and they would ask the
as well 21 to generate a tape of people who meet -- or who fit the
22 descriptive data, the fingerprint pattern, the finger,
the 23 as the descriptive data. That would be removed from
would go 24 computer and a separate tape would be copied. Then we
25 in and encode the latent and mark the points of
identity or the

8630

Louis Hupp - Redirect

to go 1 points of comparison. We would again ask the computer
files, and 2 back and recompare with that and then list us a set of
3 suspects. Then these would be sent to our technical
then we 4 they would have to be pulled and we pulled the top 20
5 candidates. That was just a general cutoff rule. And
time. 6 would sit and manually compare those prints at that

7 Q. So how long does that process take for one
fingerprint?

8 A. For one fingerprint, generally it would take three
to four

9 days.

10 Q. And with respect to unidentified fingerprints that
were in

11 public places that Mr. Tigar asked you about, like
hotel rooms

12 or convenience stores, are you able to tell when a
fingerprint

13 is left in a location like that?

14 A. No, sir.

15 Q. Is it possible for a latent fingerprint to remain
in a

16 location like that for months, if not years?

17 A. Yes.

18 MR. MEARNS: No further questions, your Honor.

19 MR. TIGAR: Briefly, your Honor.

20 THE COURT: Mr. Tigar.

21 RECROSS-EXAMINATION

22 BY MR. TIGAR:

23 Q. When you say that this takes three or four days,
are --

24 this computer search, are you able to do several
25 simultaneously?

8631

Louis Hupp - Recross

1 A. We have a cutoff. I believe at the time there was
a cutoff

2 number that could be submitted per night, and so there

was a

3 cutoff. And I think it was -- could have been
somewhere as

4 high as 50 separate sheets could have went in per
night.

5 Q. So -- so 50 a night times three or four days,
that's 200

6 days -- right -- to do 1,000?

7 A. Something like that, yes.

8 Q. Is this the biggest case in the FBI's history?

9 A. It would be one of the biggest.

10 Q. And you know that a lot's at stake; right?

11 A. Yes.

12 Q. Are you telling us that it just cost too much to do
a

13 computer search that you had the capability to do?

14 MR. MEARNS: Objection.

15 THE COURT: Sustained. He didn't make the
decision.

16 BY MR. TIGAR:

17 Q. I understand. Did anyone tell you that it cost too
much?

18 MR. MEARNS: Objection.

19 THE COURT: Sustained.

20 BY MR. TIGAR:

21 Q. Do you know on what basis the decision was made not
to make

22 the computer search, of your own knowledge, sir?

23 MR. MEARNS: Objection.

24 THE COURT: Do you?
25 THE WITNESS: No. No.

8632

Louis Hupp - Recross

1 BY MR. TIGAR:
2 Q. Is this kind of computer search something that I
could do
3 on the Internet?
4 A. No, sir.
5 Q. I'd have to be in the FBI headquarters to be able
to do it;
6 correct?
7 A. That is correct, yes.
8 MR. TIGAR: Nothing further, your Honor.
9 MR. MEARN: We intend to re-call Mr. Hupp.
10 THE COURT: All right. You may step down, and
I'm
11 sure you'll be advised when you're back.
12 THE WITNESS: Thank you.
13 THE COURT: Next, please.
14 MR. MACKEY: Yes, your Honor. We call David
Darlak.
15 THE COURT: You'll be sworn, please, by the
clerk.
16 (David Darlak affirmed.)
17 THE COURTROOM DEPUTY: Would you have a seat,

please.

your 18 Would you state your full name for the record and spell

19 last name.

20 THE WITNESS: David Allen Darlak, D-a-r-l-a-k.

21 THE COURTROOM DEPUTY: Thank you.

22 THE COURT: All right, Mr. Mearns.

23 MR. MEARNS: Thank you.

24 DIRECT EXAMINATION

25 BY MR. MEARNS:

8633

David Darlak - Direct

1 Q. Mr. Darlak, how old are you?

2 A. 29 years old.

3 Q. Where do you live right now?

4 A. Niagara Falls, New York.

5 Q. How long have you lived in Niagara Falls?

except
6 A. I've lived in that area pretty much my whole life

7 when I was in the military.

8 Q. Where do you work right now?

9 A. I own a sign shop in Wheatfield, New York.

10 Q. Where is Wheatfield in relation to Niagara Falls?

11 A. It's a suburb of Niagara Falls.

12 Q. Describe what kind of a business that is, your sign

shop.

13 A. I pretty much make any kind of sign. Small kinds
of signs

14 that -- that are out there.

15 Q. And how long have you been in the business of making signs?

16 A. Since I graduated high school.

17 Q. How long have you owned your own -- your own sign shop?

18 A. About a year and a half.

19 Q. Prior to when you owned your own sign shop, where did you

20 work?

21 A. I worked at a company called Rosewood Signs in Tonawanda,

22 New York, a company called NAS Quick Sign in Buffalo,
New York,

23 and then I was in the military.

24 Q. Tell us when you worked at Rosewood Signs.

25 A. From '86 to '88 and from '92 until '95.

8634

David Darlak - Direct

1 Q. And you also said you worked at a store called NAS

2 Sign?

3 A. Correct.

4 Q. When did you work there?

- 5 A. End of '96 -- end of '95 to beginning of '96.
- 6 Q. And then from there, that's when you started your
own shop?
- 7 A. Yes.
- 8 Q. You indicated a moment ago that you were also in
the
- 9 military at one point?
- 10 A. Yes, I was.
- 11 Q. What branch of the service?
- 12 A. The Army.
- 13 Q. And when were you in the Army?
- 14 A. From the end of '88 until April '92.
- 15 Q. Where did you go to high school?
- 16 A. Star Point Central.
- 17 Q. Where is that school located?
- 18 A. Lockport, New York.
- 19 Q. Where is Lockport in relation to Niagara Falls?
- 20 A. It's about 10, 15 minutes away.
- 21 Q. When did you graduate from high school?
- 22 A. 1986.
- 23 Q. When you were in high school, did you know a man
named Tim
- 24 Q. McVeigh?
- 25 A. Yes, I did.

David Darlak - Direct

1 Q. When did you meet Mr. McVeigh?

2 A. In -- when I just started going to high school in
ninth

3 grade.

4 Q. And while you were in high school with Mr. McVeigh,
did you

5 and he become friends?

6 A. Yes, we did.

7 Q. Approximately when did you become friends with Mr.
McVeigh?

8 A. Approximately 1985.

9 Q. Did Mr. McVeigh graduate the same year -- in 1986
-- with

10 you?

11 A. Yes, he did.

12 Q. Graduated from the same high school?

13 A. Yes, he did.

14 Q. And then in 1986, you began first began working at
Rosewood

15 Signs?

16 A. Yes.

17 Q. How often did you see Mr. McVeigh during that
period of

18 time?

19 A. Once a week on average, maybe a couple times a
month.

20 Q. Do you have any brothers or sisters?

21 A. Yes, I do.

22 Q. How many brothers do you have?
23 A. Three brothers.
24 Q. And what are their names?
25 A. Michael, Eugene, and Christopher.

8636

David Darlak - Direct

1 Q. During this period of time in 1986 to 1988, did Mr.
McVeigh
2 get to know your family?
3 A. Yes, he did.
4 Q. And did he get to know your brothers?
5 A. Yes, he did.
6 Q. Does your brother Michael have any involvement in
car racing?
7 A. He used to, yes.
8 Q. When you say "he used to," what do you mean?
9 A. He -- right now, he's not doing it, but he used to
for a long time.
10 Q. Approximately when was he involved in car racing?
11 A. Probably from '80 to '90.
12 Q. What kind of a -- what kind of car racing was your
brother involved in?

his

16 A. It was called dirt modified. He was -- a couple of
friends had a car and they used to work on it.

deal

18 Q. In 1988, did you enter into any kind of a business
with Mr. McVeigh?

20 A. Yes, I did.

21 Q. Describe that for us.

southern

22 A. We purchased some land in -- south of us in the
tier of New York.

the

24 Q. And how much did you pay, the total? How much was
the total purchase price?

8637

David Darlak - Direct

the same

1 A. Around \$7,000.

2 Q. When did you enlist in the Army?

3 A. November '88.

4 Q. And what was Mr. McVeigh doing at that time?

5 A. He was in the military at the time.

6 Q. So you -- the two of you were in the military at
time.

7 A. Yes.

of you

8 Q. Did you maintain any contact with him while the two

10 were in the military?

11 A. Yes, I did.

12 Q. How did you remain in contact with Mr. McVeigh?

13 A. Letters.

14 Q. And how long did you serve in the military?

15 A. From '88 until '92.

16 Q. What did you do when you were released from the
military in

17 '92?

18 A. I moved back into my parents' house.

19 Q. And where was that?

20 A. That was in Wheatfield, New York.

21 Q. Do you know where Mr. McVeigh was living at that
time in

22 '92?

23 A. Yes, I do. He was living with his father in
Pendleton,

24 New York.

25 Q. Where is Pendleton in relation to Wheatfield?

8638

David Darlak - Direct

1 A. It's bordering. Bordering county.

2 Q. Did you ever see Mr. McVeigh at this time?

3 A. Yes, I did.

4 Q. When did you -- how often did you see Mr. McVeigh

at that

5 time in 1992?

6 A. Couple times a month.

7 Q. And did you remain friends, resume your friendship?

8 A. Yes.

9 Q. When was the last time that you -- that you saw Mr.
McVeigh

10 in terms of when -- after you were released from the
military?

11 A. Somewhere in the fall of '92.

12 Q. After the last time you saw him in the fall of '92,
did you

13 ever receive a telephone call from him?

14 A. Yes, I did.

15 Q. When was that?

16 A. Sometime in the fall of '94.

17 Q. Did you receive one call or more than one call in
the fall

18 of '94?

19 A. More than one call.

20 Q. Where -- where did you receive the first call?

21 A. At my place of employment, Rosewood Signs.

22 Q. And do you recall what the telephone number of
Rosewood

23 Signs was in the fall of 1994?

24 A. Yes, I do. It was (716) 692-1435.

25 Q. When was the last time that you had seen or spoken
to

David Darlak - Direct

1 Mr. McVeigh prior to receiving that call?

2 A. Fall of '92.

3 Q. What did Mr. McVeigh say?

4 A. We just talked about what we were doing at the
time, and

5 some then he had asked me if I had known where he could get
racing fuel.

7 Q. What did you say when he asked you that question?

8 A. I said I had no idea.

9 Q. Did you ask him any questions?

10 A. I asked him what he wanted it for, and he told me
he was at

11 work and he had to go.

12 Q. How long was this conversation with Mr. McVeigh?

13 A. A few minutes.

14 Q. During that conversation, did you tell him that if
he

15 you were wanted to speak to you again, he should call you where

16 living?

17 A. Yes.

18 Q. Did you give him the phone number where you were
living at

19 that time?

20 A. Yes, I did.
21 Q. Where were you living at that time?
22 A. At my sister's house.
23 Q. What is your -- was your sister married?
24 A. Yes.
25 Q. And what is her married name?

8640

David Darlak - Direct

1 A. Silvernail.
2 Q. And do you recall what your -- what the home phone
number
3 was at that time?
4 A. Yes, I do.
5 Q. What was the home phone number at that time?
6 A. (716) 692-5002.
7 Q. When you received that call from Mr. McVeigh, did
you ever
8 know him to be involved in car racing?
9 A. No, I did not.
10 Q. Had you ever known him at that point to ever be
interested
11 in purchasing car-racing fuel?
12 A. No, I did not.
13 Q. Did you ever get another phone call from Mr.
McVeigh after

14 that?

15 A. Yes.

16 Q. When was that?

17 A. A few days later at my sister's house.

18 Q. Tell us about that.

19 A. It was a message.

20 Q. Message on an answering machine?

21 A. Yes.

22 Q. Did you listen to that message?

23 A. Yes.

24 Q. What was the message?

25 A. He said, "Forget about the racing fuel."

8641

David Darlak - Direct

1 Q. And did you have -- ever have any further
conversation with

2 him about that subject again?

3 A. No, I did not.

like to 4 MR. MEARNS: Your Honor, at this time, I'd

as 5 show -- have the witness look at what has been received

5. 6 Government Exhibit 1888. Specifically page 4 and page

another 7 THE COURT: All right. This is part of

8 exhibit?

9 MR. MEARNS: Yes. This is page 4 of
Government

10 Exhibit 1888.

11 BY MR. MEARNS:

12 Q. And if we could focus down in at the last entry on
the

13 bottom of the page there. Over in the far right-hand
column,

14 Mr. Darlak, do you recognize the telephone number
there?

15 A. Yes, I do.

16 Q. And is that the telephone number of Rosewood Signs
in the

17 fall of 1994?

18 A. Yes, it was.

19 Q. Do you see just to the left of it -- left of it, it
20 indicates Terry Nichols?

21 A. Yes.

22 Q. Did you know a Terry Nichols in the fall of '94?

23 A. No.

24 Q. Now, if we could turn to the next page on page 5.
If we

25 could focus on the second entry from the top. Is that
also

1 again the telephone number for Rosewood Signs?

2 A. Yes.

3 Q. Finally, if we could focus at the bottom of that
same page,

4 page 5. Is that Franklin Silvernail -- is that your
sister's

5 husband's name?

6 A. Yes.

7 Q. And was that the telephone number at that residence
in the

8 fall of 1994?

9 A. Yes, it was.

10 MR. MEARNS: No further questions, your Honor.

11 THE COURT: 1888 is a demonstrative exhibit
that's a

12 part of the larger Exhibit 553?

13 MR. MEARNS: 553.

14 THE COURT: Mr. Woods.

15 MR. WOODS: Yes, your Honor.

16 CROSS-EXAMINATION

17 BY MR. WOODS:

18 Q. Good morning, Mr. Darlak.

19 A. Good morning.

20 Q. My name is Ron Woods. I'm one of the lawyers
appointed by

21 the Court in Oklahoma City to help out Terry Nichols in
this

22 case.

23 You and I have never met personally; is that
correct?

24 A. That's correct.

25 Q. We had a telephone conversation two nights ago; is
that

8643

David Darlak - Cross

1 correct?

2 A. Yes.

3 Q. And you called and asked if we could ask all the
questions

4 of you so you don't have to come back; is that correct?

5 A. Yes.

6 Q. Okay. You've been here a number of times to meet
with the

7 prosecutors, have you not?

8 A. Yes.

9 Q. How many times have you met with the prosecutors
concerning

10 your testimony in this case?

11 A. In this case right here?

12 Q. Well, concerning this investigation. How many
times have

13 you met with the prosecutors to go over your testimony?

14 A. This year, I came to Denver -- this will be my
fifth time.

15 Twice for testifying in the last case and then this
one. Two

16 other times just to talk about it.

17 Q. Okay. Did you make trips before this year of '97?

18 A. Not with the prosecution. I was being interviewed
by the

19 FBI numerous times.

20 Q. Was it here in Denver or --

21 A. No. At -- at --

22 Q. At your place?

23 A. Yes.

24 Q. Okay. Now, you do not know Terry Nichols; is that
correct?

25 A. No, I don't.

8644

David Darlak - Cross

1 Q. You've never seen him?

2 A. No.

3 Q. But you do know Timothy McVeigh?

4 A. Yes.

5 Q. You all were friends in high school and maintained
that

6 friendship up until '92; is that correct?

7 A. Correct.

8 Q. Now, in '92, when Mr. McVeigh returned to New York
-- he

9 got out of the Army when; do you recall?

- 10 A. I believe it was '91. The end of '91.
- 11 Q. Okay. December 31 of '91 sound accurate to you as
to when
- 12 he was discharged?
- 13 A. That sounds reasonable, yes.
- 14 Q. And then you saw him during the year '92; is that
correct?
- 15 A. Correct.
- 16 Q. Had he changed from what you had noticed about Mr.
McVeigh
- 17 before he went in the Army?
- 18 A. Yes.
- 19 Q. In what way?
- 20 A. He was different. He was more militant.
- 21 Q. All right. During '92, did he give you a book to
read?
- 22 A. Yes, he did.
- 23 Q. What book was that?
- 24 A. Turner Diaries.
- 25 Q. Did you read it?

8645

David Darlak - Cross

- 1 A. No, I did not.
- 2 Q. What happened to the book?
- 3 A. It sat around my house for a couple months, and
then he

4 asked me for it back.

5 Q. Did he say what he was going to do with it?

6 A. He said he had somebody else he would like to give
it to.

7 Q. Now, the two of you bought some property about 50
miles

8 south of where you were in New York back in '88; is
that

9 correct?

10 A. Correct.

11 Q. And you paid 7,000 for it?

12 A. Somewhere around there, yeah.

13 Q. Did you all share the purchase price, making the
payments?

14 A. Yes.

15 Q. 50-50?

16 A. Yes.

17 Q. Okay. And then when did you sell it?

18 A. '92. Somewhere in '92. Beginning of '92.

19 Q. All right. And how much did you sell it for?

20 A. Somewhere around \$9,000.

21 Q. Okay. Do you recall who you sold it to?

22 A. No, I don't.

23 Q. Okay. Just somebody that -- you put it on the
market and

24 somebody bought it?

25 A. Realtors sold it. I never met them.

David Darlak - Cross

1 Q. Okay. And did you get your share of the sales
proceeds?

2 A. Yes.

3 Q. Now, during the course of the investigation, when
the FBI

4 was talking to you, did they show you all the documents
5 concerning the sale -- the purchase and the sale of the
6 property?

7 A. I had the documents. They asked me to get them
from the --

8 Q. Okay.

9 A. -- lawyer, yes.

10 Q. Now, what about the documents concerning a refund
of the

11 property tax? Did you have those?

12 A. No. They showed me that sometime -- I think it was
the

13 beginning of this year.

14 Q. Okay. Had you seen those before?

15 A. No, I had not.

16 Q. Do you know why the FBI was showing those to you?
Did they

17 tell you?

18 A. Yes. I found out after they showed it to me.

19 Q. What did they tell you?

20 A. Well, there was a signature on the back that was my name,

21 but I didn't sign it.

22 Q. Okay. On the back of what?

23 A. This cancelled check.

24 Q. And was this check a refund of the property tax?

25 A. A portion of it, I believe, yes.

8647

David Darlak - Cross

1 Q. All right. Was there more than one check?

2 A. I think there was two.

3 Q. Okay. And both checks had an indication that you,
David

4 Darlak, had signed the check to endorse it?

5 A. Yes. It was my signature -- it was a signature,
but it was

6 not mine.

7 Q. And you told the FBI that that was not your
signature?

8 A. Correct.

9 Q. Did you recognize the handwriting?

10 A. Yes, I did.

11 Q. And whose handwriting was it?

12 A. It was Tim's.

13 Q. Okay. Did the FBI show you records as to what
happened to

14 the checks? Were they deposited, cashed or what?

15 A. They didn't show me that.

16 Q. Okay. Did you ever receive any of the proceeds
from

17 that -- those two checks?

18 A. No, I didn't. But Tim dealt with the taxes; so if
there

19 was any money that was owed, it was -- he kept track of
that.

20 So I didn't really concern with it.

21 Q. Okay. But it wasn't your signature on the back; is
that

22 correct?

23 A. No, it was not.

24 Q. Okay. Now, what did you use the property for when
you

25 bought it in '88?

8648

David Darlak - Cross

1 A. Originally, we just bought it just for something to
do, and

2 then we went down there a handful of times before we
went in

3 the military, shooting guns and just kind of walking
around and

4 stuff.

5 Q. Was there ever a time when there was discussion
about

6 building a bomb shelter on it?

7 A. Tim wanted to put one on there, yes.

8 Q. Did he say why?

9 A. Not really. Just that he -- that's what he wanted
to do.

10 Q. Well, what did you understand why a bomb shelter
was to be

11 built or wanted to be built there?

12 A. In case there ever came a need for it, Tim felt he
had to

13 have one.

14 Q. What was going to be the need of a bomb shelter in
New

15 York, western New York?

16 A. Getting bombed on.

17 Q. By whom?

18 A. By anybody, I would assume.

19 Q. Was there ever a discussion as to who the suspected
enemy

20 would be?

21 A. Not really.

22 Q. Now, you say that Mr. McVeigh changed when he came
back

23 from the military in '92 when you kept up your
association with

24 him.

25 A. Yes.

David Darlak - Cross

expand on 1 Q. And you say he became more militant. Can you

2 that a little bit.

on his 3 A. I guess his views were just more concentrated on --

4 fears, I guess.

5 Q. Fears of what?

that he 6 A. Of things that could happen to the American society

7 didn't like.

left, or 8 Q. Okay. Was he more to the right, or more to the

time? 9 how would you explain his political beliefs at that

was 10 A. I don't know what you mean by left or right, but he

11 not --

12 Q. Conservative, or radical left?

13 A. Radical.

14 Q. Okay. So a radical conservative?

15 A. Radical radical.

off your 16 Q. Okay. Now, did there come a time that you broke

17 friendship and relationship with him?

18 A. Yes.

19 Q. And when was that?

20 A. '92. He just disappeared. Never heard from him

again.

21 Well, until he called me a couple years later.

22 Q. Was there anything that happened before he left
where you

23 began to sort of disassociate with him?

24 A. He was just caught up in his own thing and I was in
mine,

25 and we were just kind of seeing less and less of each
other

8650

David Darlak - Cross

1 until one day I heard he was just gone.

2 Q. You didn't share the same beliefs; is that correct?

3 A. Correct.

4 Q. During the year of '92 when you were in contact
with him,

5 did you go to any gun shows with Mr. McVeigh?

6 A. Yes, I did.

7 Q. And where were the gun shows held?

8 A. I went to one in Hamburg, New York.

9 Q. And would you tell the jury where Hamburg is.

10 A. Hamburg is probably about 20, 30 miles south of
where we

11 live.

12 Q. And you lived in Pendleton and Lockport, in that
area,

13 Wheat Ridge (sic)?

14 A. Yes.

15 Q. And those are also suburbs of --

16 A. Buffalo.

17 Q. Buffalo. Okay. How big is Hamburg?

18 A. I would have to say probably a town of like 50,000
or so,

19 maybe.

20 Q. Okay. And approximately when did you go to the gun
show in

21 '92? Do you have a recollection?

22 A. I have -- I don't know.

23 Q. Okay. Was Mr. McVeigh registered at the gun show
and had a

24 booth there?

25 A. Yes, he did.

8651

David Darlak - Cross

1 Q. And were you there just to accompany him, or did
you have a

2 booth, also?

3 A. No, I was there to help him watch his table.

4 Q. Okay. What was he selling at his table?

5 A. Military paraphernalia, just like gear, whether it
was

6 sleeping bags, anything that you could find in a --
military

7 duffel bag.

8 Q. All right. Did he have any weapons for sale?

9 A. No.

10 Q. All right. Was there a time on the property that
you

11 bought that Mr. McVeigh set off any explosives?

12 A. He had set off some simulators. They are little
plastic

13 devices used to -- in the military to simulate.

14 Q. Simulate what? Explosives?

15 A. Explosives.

16 Q. As part of your training?

17 A. Yes.

18 Q. Okay. And can you give the jury an idea of how big
an

19 explosion that might --

20 A. They were just like whistles and pops and lights
and stuff.

21 There were no explosives.

22 Q. Now, at the gun show, did you see other people
selling Army

23 surplus?

24 A. Yes.

25 Q. And did you see people selling weapons?

1 A. Yes.

2 Q. And can you give the jury just an idea of what type
of

3 items you saw at the gun show in '92 that were
available for

4 sale?

5 A. Oh, anything from hunting up to military
paraphernalia.

6 Q. Okay. Did you see any literature for sale?

7 A. Yes.

8 Q. And can you describe for the jury what type of
literature

9 you saw available at the gun show?

10 A. Not really. I didn't really look into it. I just
know

11 there was some there.

12 Q. You didn't go around reading each one?

13 A. As a matter of fact, Tim had some military manuals
for

14 sale, too.

15 Q. Military manuals?

16 A. Yeah.

17 Q. Do you recall what the subjects were?

18 A. No.

19 Q. Okay. When I say "literature," I'm not just
limiting it to

20 military manuals. Did you see other types of
literature?

21 A. Nothing that I could remember, but there was --
there was

22 definitely literature for sale there.
23 Q. Can you give an idea about how many booths were set
up at
24 the one gun show you went to?
25 A. It was pretty big. I would have to say probably
somewhere

8653

David Darlak - Cross

1 around 50 to 75 booths.
2 Q. Okay. Is that the only gun show that you went to
with
3 Mr. McVeigh?
4 A. That year, yes. Before we went in the military, we
went to
5 a couple smaller ones.
6 Q. Okay. Now, the prosecutors showed you a document
that's in
7 evidence relating to the first phone call you received
from
8 Mr. McVeigh. I'm going to put that back up on the ELMO
here.
9 And if you would, refer to the bottom of that page. It
was on
10 a Wednesday, September the 28th. And Rosewood Signs
was where
11 you were working; is that correct?
12 A. Correct.
13 Q. And that call was made during the workday? Of

course, you

14 were at work; is that correct?

15 A. Yeah.

the 16 Q. And this record shows that it was made at 1:51 in

Kansas is 17 afternoon, Central Daylight Time. Are you aware that

18 in the Central Daylight Time?

19 A. Yes.

20 Q. You were at work; is that correct?

21 A. Yes.

Nichols' 22 Q. And you -- the call reflects it came from the

know who 23 house on Wednesday, September the 28th; but you don't

24 Terry Nichols is; is that correct?

25 A. No, I don't know him.

8654

David Darlak - Cross

1 Q. And Mr. McVeigh told you that he was at work?

2 A. Yes. He told me he was at work in Arizona.

3 statement -- Q. All right. So that obviously was an incorrect

4 A. Correct.

5 Q. -- based on these records?

6 A. Correct.

7 Q. Okay. But it is during the workday when people
that have

8 an 8-to-5 job are at work; is that correct?

9 A. I'm sorry. I didn't understand.

10 Q. It is during the workday?

11 A. Yeah. Yeah.

other 12 Q. All right. Thank you. And I want to show the

married 13 record. Silvernail is your twin sister; that's her

14 name?

15 A. Correct. Correct.

that 16 Q. And this is on Saturday, approximately 4:44; is

17 correct?

18 A. Yes.

before that. 19 Q. Okay. Now, you'll notice several calls right

20 Do you know Michael Fortier?

but I 21 A. No, I do not. I know him now from the newspaper,

22 didn't know him then.

Arizona? 23 Q. Okay. Did Mr. McVeigh tell you where he worked in

that. 24 A. A True Value hardware store, or something like

is to a 25 Q. All right. And you see the first call on that day

David Darlak - Cross

1 True Value hardware store?

2 A. Yes. I see that.

3 Q. And then the second call is to Michael Fortier?

4 A. Yes.

5 Q. And the third call is to Brooklyn Delicatessen.

Did you

shows? 6 ever meet a Greg Pfaff through Mr. McVeigh at the gun

7 A. No.

8 Q. Do you know a Greg Pfaff?

9 A. No, I do not.

10 Q. And it's spelled P-F-A-F-F.

11 A. No.

phone

12 Q. Okay. And then the Franklin Silvernail was the

13 number where you were living with your married sister?

14 A. Correct.

message there

15 Q. And you testified to the jury you received a
machine?

16 definitely from Mr. McVeigh on a telephone answering

17 A. Correct.

fuel"?

18 Q. And he said, "Disregard the request for racing

19 A. Correct.

20 answering

MR. WOODS: Okay. Thank you very much for

21 the questions.

22 THE COURT: Anything further of this witness?

23 MR. MEARNS: No questions.

24 THE COURT: He's now excused?

25 MR. MEARNS: Yes, your Honor.

8656

1 MR. WOODS: Yes, your Honor.

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

3 Next, please.

4 defense MR. MACKEY: Your Honor, I've consulted with
counsel. We'd like to call Joanne Thomas one final
time.

5 Thomas. If 6 THE COURT: All right. All right. Ms.

7 the you'll please come in and again resume the stand under
earlier taken oath.

8

9 THE WITNESS: Okay.

10 THE COURT: Mr. Orenstein.

11 MR. ORENSTEIN: Thank you, Judge.

12 (Joanne Thomas was recalled to the stand.)

13 DIRECT EXAMINATION

14 BY MR. ORENSTEIN:

15 Q. Ms. Thomas, we've got to stop meeting like this.

16 A. Yes.

17 Q. You've previously told us about some things that
you

18 recovered at Mr. Nichols' home on a search pursuant to
a search

19 warrant that was executed April 22d to 23d, 1995 in
Herington,

20 Kansas; is that correct?

21 A. That's correct.

22 Q. Following your work in that search, did you also
23 participate in executing a search warrant later on
April 23d at

24 a storage shed, Unit No. 2 in Herington, Kansas?

25 A. Yes, I did.

8657

Joanne Thomas - Direct

1 Q. And did -- As a result of participating in that
search, did

2 you go inside that storage locker, Unit No. 2, and look
at it

3 and see what was inside?

4 A. I was there when they opened it.

5 Q. And was there anything inside?

6 A. No. It was empty.

7 Q. Now, did you notice anything about the appearance
of that

8 storage unit when you saw inside of it?

9 A. Yes. My duty that day was to maintain the photo
log of the

10 photographer, and so I was writing down what we
observed when

11 they opened it. There were rings on the floor. There
was a

12 stain on the floor. The unit had particle board walls
and

13 exposed beams.

14 Q. And have you since looked at a photograph showing
that

15 condition of the inside of the storage shed?

16 A. Yes, I have.

17 MR. ORENSTEIN: If I could ask Agent Tongate
to

18 assist, there's a large photograph against the wall.
If I may

19 have it displayed to the witness.

20 THE COURT: Yes.

21 BY MR. ORENSTEIN:

22 Q. Ms. Thomas, with Agent Tongate's assistance, I'm
showing

23 you Exhibit 2054, which is a large photograph. Do you
24 recognize it?

25 A. Yes, I do.

Joanne Thomas - Direct

1 Q. And what is it?

2 A. It's a -- interior shot of the storage shed.

3 Q. And does it fairly and accurately depict the way
that

4 storage shed looked when you saw it on April 23d, 1995?

5 A. Yes, it does.

6 Q. Including those stains and those rings and the
particle

7 board that you described?

8 A. Yes, sir.

9 MR. ORENSTEIN: We offer Exhibit 2054, your
Honor.

10 MR. TIGAR: No objection, your Honor.

11 THE COURT: Received. May be shown now.

12 BY MR. ORENSTEIN:

13 Q. With Agent Tongate's assistance, can you just point
out --

14 could Agent Tongate, if you could stand back so Ms. Thomas

15 point.

16 rings Perhaps you could stand up. Just describe the

17 that you were describing before.

18 there and A. I'm talking about the rings here and partial ring

19 floor in the there. And then this is the stain that was on the

20 back of the unit.

your 21 MR. ORENSTEIN: For the jury's convenience,
front of 22 Honor, may I have Agent Tongate just walk the photo in
nothing 23 the jury box?
24 THE COURT: Yes.
25 MR. ORENSTEIN: Thank you, your Honor. I have

8659

Joanne Thomas - Direct

1 further of Ms. Thomas on direct.
2 THE COURT: Mr. Tigar.
3 CROSS-EXAMINATION
4 BY MR. TIGAR:
5 Q. Hello again.
6 A. Hi.
shed: That 7 Q. The search warrant that you had for the storage
Shawn 8 described a shed that had been rented in the name of
9 Rivers; is that correct?
10 A. I didn't see the search warrant, sir.
11 Q. You did not?
12 A. No.
had 13 Q. Okay. Did you know whether or not the storage unit
14 been rented in the name of Shawn Rivers?

15 A. No, I did not.

Rivers 16 Q. And then next question is did you know who Shawn
have 17 was?

18 A. No, I did not.

19 Q. Okay. Now, were you the -- how many agents did you
number. 20 out there looking in when you opened the door?

21 A. There were numerous agents. I can't tell you exact

22 Q. Have -- was Agent Bodziak there?

23 A. The name does not sound familiar to me.

24 Q. He's the tire-track man. Does that refresh your
25 recollection?

8660

Joanne Thomas - Cross

1 A. I don't believe I ever met the gentleman.

2 Q. Okay. And had tire-track photographs and
impressions been

3 taken at that time before you went in?

4 A. Yes.

you 5 Q. And how did you know that that had been done before
6 went in?

did mark 7 A. I was in that storage shed the day before, and we

tire 8 not in the storage shed but outside -- we did mark the

because they 9 treads and we did take soil samples. And we quit

plaster 10 said somebody was coming from headquarters to do the

 11 casts.

them 12 Q. But when you did those the day before, did you mark

going to 13 off with the stakes, and so on, so that nobody was

 14 trample on them?

 15 A. That's right.

saw: Are 16 Q. When you went in the shed -- that picture that we

 17 there rings on the floor there?

 18 A. Appear to be rings on the floor.

rust 19 Q. Now, as you look at those, do those appear to be

 20 rings?

something had 21 A. Well, actually, they were kind of black, like

 22 been shifted on it.

 23 Q. Now --

 24 A. Maybe a little rust.

would 25 Q. All right. Now, did the rings look like rings that

Joanne Thomas - Cross

it -- 1 be left by leaving a metal barrel that has a lip around

2 in there?

metal. 3 A. At least the rings were -- appeared to be made by

rings you 4 Q. All right. And they looked different from the

that 5 would expect to have been left by plastic barrels; is

6 correct, or do you know?

7 A. I don't know.

scene so 8 Q. You don't know. Did you make sure to secure the

9 that residue tests could be performed on it?

10 A. That was not my function. All I did was take the
11 photograph log.

were in 12 Q. Did you -- did you observe the other agents who

were 13 charge, taking care to make sure that whatever residues

14 there could be preserved and collected, if necessary?

15 A. Yes.

16 Q. Were they wearing booties?

17 A. I don't recall.

18 Q. Were they wearing gloves?

19 A. I don't recall.

suits, 20 Q. Were they wearing, you know, those -- those white

21 the cover-up suits that -- that are sometimes worn at
crime

22 scenes?

23 A. Yes, I'm aware of those.

24 Q. Right. And you saw -- did you see Mr. Burmeister
and his

25 crew wearing those at Mr. Nichols' house earlier?

8662

Joanne Thomas - Cross

1 A. Yes.

2 Q. All right. Were any agents wearing those white
suits?

3 A. Not to my recollection.

4 further. MR. TIGAR: Thank you very much. Nothing

The 5 MR. ORENSTEIN: Nothing further, your Honor.

6 witness is excused.

7 THE COURT: Agreed to excuse her?

8 MR. TIGAR: Yes, your Honor.

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

10 THE WITNESS: Thank you.

11 THE COURT: Next, please.

12 MR. MACKEY: We would call Kantall Patel.

13 THE COURT: Come in, please.

14 (Kantall Patel affirmed.)

15 THE COURTROOM DEPUTY: Have a seat, please.
Would you

16 give us your full name and spell your last name.

17 THE WITNESS: Kantall Patel. Last name is
Patel,

18 P-A-T-E-L.

19 THE COURTROOM DEPUTY: Thank you.

20 THE COURT: If you'll keep your voice up just
a

21 little, it'll help us to hear you.

22 Mr. Mearns.

23 DIRECT EXAMINATION

24 BY MR. MEARNS:

25 Q. Mr. Patel, where do you live?

8663

Kantall Patel - Direct

1 A. Pauls Valley.

2 Q. You have to speak loudly so everyone can hear you.

3 A. Pauls Valley, Oklahoma.

4 Q. How long have you lived in Pauls Valley, Oklahoma?

5 A. 15 years.

6 Q. And where were you born?

7 A. In India.

8 Q. And when did you come to the United States?

9 A. 1977, January 1.

10 Q. Where do you work?
11 A. Amish Inn Motel.
12 Q. Again, keep your voice up, please.
13 A. Amish Inn Motel.
14 Q. Where is the Amish Inn Motel?
15 A. In Pauls Valley.
16 Q. And what is your position there?
17 A. Manager.
18 Q. How long have you been the manager at that motel?
19 A. Last 15 years.
in
20 Q. I want you to look inside that folder that you have
you'll find
for
back.
21 front of you. And you'll find in a plastic case --
22 a document that's been marked as Government Exhibit 142
23 identification. You'll see the number there on the
24 Is that No. 142?
25 A. Uh-huh.

8664

Kantall Patel - Direct

1 Q. Turn it over to the front. Do you recognize that?
2 A. Yes, sir.
3 Q. And what is that?

4 A. A registration card.

5 Q. Is that a registration card from your motel?

6 A. Yes, sir.

7 Q. And how do you recognize it?

8 A. It's in my handwriting.

9 Q. And did you keep that -- did you maintain that
record? The

10 business records?

11 A. Yes, sir.

12 Q. In the business records of your motel?

13 A. Yes, sir.

14 MR. MEARNS: Your Honor, we would offer
Government

15 Exhibit 142.

16 MR. WOODS: No objection.

17 THE COURT: Received. 142.

18 MR. MEARNS: With the Court's permission, I'd
like to

19 publish.

20 THE COURT: Yes.

21 BY MR. MEARNS:

22 Q. And Mr. Patel, you see in the lower right-hand
corner that

23 the date is October 20, 1994. Did you write that?

24 A. Yes, sir.

25 Q. And did you check the box where it says, "days
occupied"

Kantall Patel - Direct

1 and there's a "Thursday" checked there?

2 A. Yes, sir.

3 Q. And up in the upper right-hand corner, it says,
"Room 107."

4 Did you write that entry?

5 A. Yes, sir.

6 Q. With respect to the other information, the name and

7 address, the name Joe Kyle and the address that's
written there

8 and the signature: Who wrote that?

9 A. The customer wrote it down.

10 Q. And was this a registration card that you
registered this

11 guest at the motel?

12 A. Yes, sir.

13 Q. And did you observe the customer fill out the
information

14 and write it?

15 A. Yes, sir.

16 MR. MEARNS: Your Honor, at this time, there's
a

17 stipulation with respect to the name and address and
the

18 signature that it is the handwriting of Mr. Terry
Nichols.

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

stipulation.

20 THE COURT: All right. We accept that
agreement as

21 fact.

22 BY MR. MEARNS:

23 Q. In the middle there, Mr. Patel, it says the number
in the

24 party -- the number of guests. Do you see that there?

25 A. Yes, sir.

8666

Kantall Patel - Direct

1 Q. And it says No. 1 -- it says "1"?

2 A. Yes, sir.

3 Q. Is that your handwriting there?

4 A. No.

5 Q. Whose handwriting is that?

6 A. It is the customer.

7 Q. Does the number of guests affect the rate that you
charge?

8 A. One person.

9 Q. But if it -- if it's two guests, does the rate --
does the

10 room rate go up?

11 A. Yes, sir.

12 Q. Is it possible for a guest to come in and register
and get

13 more people in the room than they register on the card?

14 A. Yes, sir.

15 Q. Have you ever had a problem with that?

16 A. Yes.

17 Q. Where is Pauls Valley in relation to Oklahoma City,

18 Oklahoma?

19 A. South of Oklahoma City. 60 miles.

20 Q. And where is Pauls Valley in relation to Dallas,
Texas?

21 A. It would be south of Pauls Valley.

a large
22 Q. Prior to coming to court today, have you looked at
map of some of those locations?

23 A. Yes, sir.

24 Agent
25 MR. MEARNS: With the Court's permission, may

8667

Kantall Patel - Direct

1 Tongate display Government Exhibit 2049?

2 THE COURT: All right.

3 BY MR. MEARNS:

4 Q. Mr. Patel, if you would look at that. Do you
recognize

5 that thing -- that large chart that the agent is
holding?

6 A. Yes, sir.

are

7 Q. And is that an accurate map of the locations that

8 depicted there?

9 A. Yes, sir.

10 MR. MEARNS: Your Honor, we would offer 2049.

11 MR. WOODS: No objection, your Honor.

be

12 THE COURT: All right. 2049 is received, may

13 displayed.

14 MR. MEARNS: Thank you, your Honor.

15 BY MR. MEARNS:

and do

16 Q. Okay. Mr. Patel, if you could turn towards the map

and do

17 you -- can you point out where Pauls Valley is.

18 A. Yes. Right here.

map?

19 Q. And can you point out where Oklahoma City is on the

20 A. Right here.

21 Q. And if you'd show us where Dallas, Texas is.

22 A. Right here.

Amish

23 Q. Is there an interstate highway that runs near the

24 Inn?

25 A. I-35.

1 Q. And is that the interstate highway that connects
Oklahoma

2 City to Dallas, Texas?

3 A. Yes, sir.

4 Q. About how far away is your motel from that
interstate

5 highway?

6 A. About a half a mile.

7 MR. MEARNS: No further questions, your Honor.

8 THE COURT: Mr. Woods?

9 MR. WOODS: Yes, your Honor.

10 CROSS-EXAMINATION

11 BY MR. WOODS:

12 Q. Mr. Patel, do you recall when the person came in to
your

13 motel to sign the registration card?

14 A. Yes, sir.

15 Q. What time was it?

16 A. Well, I don't remember the time.

17 Q. Was it in the morning, afternoon?

18 A. I have no guess.

19 Q. Pardon me?

20 A. Probably afternoon.

21 Q. Okay. And were they heading north, or heading
south? And

22 heading north when I say "they," was the person who registered

23 or heading south?

24 A. I don't know that.

25 Q. And do you recall who the person was at all?

8669

Kantall Patel - Cross

1 A. What?

2 Q. Do you recall who the person was that signed?

3 A. Yeah.

4 Q. Who?

5 A. I don't know how to read it. I could tell by name.

6 Q. Pardon me?

7 A. I don't know how to read.

8 Q. Okay. You're the record custodian. That's your
record; is

9 that correct?

10 A. Yes, sir.

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

12 MR. MEARNS: May I -- just one other question.

13 THE COURT: Yes.

14 MR. MEARNS: May I just display page 8 of
Government

15 Exhibit 1888.

16 REDIRECT EXAMINATION

17 BY MR. MEARNS:

18 Q. If you would look on the -- on the computer screen

that you

19 have in front of you, the entry down there at the
bottom. Is

20 that your telephone number at the motel, (405)
238-7545?

21 A. Yes, sir.

22 MR. MEARNS: Thank you, your Honor.

23 THE COURT: Any questions?

24 MR. WOODS: No, your Honor.

25 THE COURT: All right. I take it Mr. Patel
may be

8670

1 excused.

2 MR. MEARNS: Yes, your Honor. Thank you.

3 THE COURT: Agreed?

4 MR. TIGAR: Yes, your Honor.

5 MR. WOODS: Yes, your Honor.

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

7 Next, please.

8 Florence MR. MACKEY: Your Honor, we would call

9 Rogers.

10 (Florence Rogers affirmed.)

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

12 Would you state your full name for the record
and

13 spell your last name.

14 THE WITNESS: Florence E. Rogers. R-o-g-e-r-s.

15 THE COURTROOM DEPUTY: Thank you.

16 DIRECT EXAMINATION

17 BY MR. MEARNS:

18 Q. Where do you live, Ms. Rogers?

19 A. I live in southwest Oklahoma City.

20 Q. How long have you lived in Oklahoma City?

21 A. Probably 40 years.

22 Q. And are you working, or are you retired?

23 A. I retired the first day of July this year.

24 0. July 1 of 1997?

25 A. '97.

8671

Florence Rogers – Direct

1 Q. Where did you work before you retired?

2 A. I worked at Federal Employees Credit Union.

3 Q. How long had you worked at that Federal Employees Credit

4 Union?

5 A. 26 years.

6 Q. And what was your title or position when you

retired?

7 A. Chief executive officer.

8 Q. How long had you been chief executive officer?

9 A. 26 years.

when you 10 Q. How long had the credit union been in operation

11 retired?

12 A. About 35 years.

Credit 13 Q. Would you tell us what is the Federal Employees

14 Union.

members 15 A. It's a nonprofit financial institution owned by the

accounts, 16 that offers financial services such as checking

17 savings accounts, credit cards, loans, IRA accounts.

agency? 18 Q. So it's a private organization; it's not a federal

have in 20 Q. And how many members of the credit union did it

21 July of 1997 when you retired?

22 A. We had 15,700 members.

to its 23 Q. What kind of services did the credit union provide

24 members?

25 A. Loans, all -- mortgage loans, auto loans, checking

Florence Rogers - Direct

1 financial accounts, savings. About anything that -- that a
2 institution would offer.

3 Oklahoma Q. How many people did the credit union employ in

4 City when you retired in July?
5 A. I think we had about 43 employees when I retired.

6 union Q. In April of 1995, how many employees did the credit
7 have?

8 A. We had 33.

9 Q. In April of 1995, where was the credit union office
10 located?

11 Federal A. We were on the third floor of the Alfred P. Murrah
12 Building.

13 Q. Downtown Oklahoma City?

14 A. Yes.

15 April 19, Q. I want to direct your attention now to Wednesday,

16 1995. Were you working that day?

17 A. Yes, I was.

18 Q. What time did you get to work that day?

19 A. Around 8:00.

20 Q. What did you do after you got to work that morning?

21 A. I began getting prepared for a meeting that I had

planned

22 to -- excuse me -- have with my staff, seven of my
staff

23 members. I had scheduled a meeting a couple weeks
ahead of

24 that day. We were going to be doing assignments on
some items

25 that the state banking department had requested for
their audit

8673

Florence Rogers - Direct

1 that was to begin the next week.

2 Q. What time was the meeting supposed to begin?

3 A. We were going to start just as soon after 8 as we
could

4 arrange to get everybody together.

5 Q. And what time did the meeting start that morning?

6 A. It was about 8:35 before we actually began the
meeting.

7 Q. Where were you planning to hold the meeting that
morning?

8 A. We were going to hold it in the board -- in our
boardroom

9 on the north side of the Murrah Building.

10 Q. And when you say "the north side," that's the side
with the

11 windows?

12 A. Yes.

13 Q. Where -- where, in fact, did you hold the meeting?

14 A. We ended up holding it in my office on the south
side of

15 working that the Murrah Building due to a printer that wasn't
working that

16 one of morning. I couldn't print out the agenda. So I told
one of

17 my office the vice presidents just to get everybody together in
my office

18 and we would hold it there.

19 Q. I'd like you to look at what has been introduced in

20 evidence as Government Exhibit 952, the third floor.

And

21 located in that's the floor there where the credit union was
located in

22 April of '95?

23 A. Yes, it is.

24 space that Q. And could you just draw a big circle around the
space that

25 the credit union occupied then.

8674

Florence Rogers - Direct

1 A. Yes. We occupied the -- the green area.

2 Q. Okay. Now, if you would click your pen and show us
where

3 the boardroom was that you had intended to have the
meeting.

4 A. We had intended to have it here.

5 Q. Okay. If you would put an X where your office was located,

6 where you, in fact, held the meeting.

7 A. Here. That's -- that's where my desk was. Right there.

8 So that's the room where we held the meeting.

9 Q. About how large was the room?

10 A. It was about 15 by 20.

11 Q. And how many employees attended the meeting that morning?

12 A. There were seven and myself, and then my secretary was

13 adjacent in her office.

14 Q. That's that smaller room located just to the north side

15 of --

16 A. Yes. Uh-huh. Here.

17 Q. Tell us the names of the other people who were present at

18 the meeting.

19 A. Claudette Meek, Kathy Finley, Vicky -- Victoria Texter,

20 Jamie Genzer, Sonja Stroud (sic), Jill Randolph, Valerie

21 Koelsch.

22 Q. So those were the seven people that were in the meeting

23 with you?

24 A. Yes.

25 Q. Tell us what happened shortly after 9:00.

Florence Rogers - Direct

agenda 1 A. I had just turned around from reading a -- the next

screen on the 2 item that we were going to cover from my computer

back; 3 credenza that was behind my desk, and I kind of leaned

suddenly, I 4 and one of the ladies present began to talk. And

tornado- 5 was thrown from my chair on to the floor in kind of a

up 6 like rush. And all the -- the building literally blew

in the 7 before my eyes, taking all the staff members that were

top of 8 room with me down below with six floors from above on

9 them.

10 Q. What did you see when you looked out back where
your office

11 was?

12 A. There was just space. I could not see -- there was
no

13 floor left. My desk had disappeared. I could see
through the

14 building and see the sky.

15 Q. Were any of the women that were in the meeting with
you

16 still in the room with you?

17 A. No. They all disappeared.

18 Q. What about the window behind you? Behind your
desk? I'm

19 sorry. Behind your credenza.

20 A. That had been blown out.

21 Q. What did you do next?

began

22 A. I knocked the dust and debris off of myself and

weren't

23 yelling out the window that was no longer there. There

could

24 any rescue units at the site at that time, although I

wasn't long

25 hear them on the way. And I began yelling. And it

8676

Florence Rogers - Direct

1 before a couple of the GSA employees appeared in the
stairwell

2 window outside my office. The building took on a U
shape at

3 that point. And they asked me if I thought I could
climb out

4 on the ledge outside the window. And I told them I
thought I

5 could. And I did that. And by raising my body forward
as --

6 as far as I could and reaching up, they were able to
reach my

me down 7 wrists and pull me up into the stairwell window, walk

the 8 the stairs and out on to the plaza on the south side of

9 building.

Building 10 Q. What time did you leave the area around the Murrah

11 that morning?

members for 12 A. I walked the streets trying to find my staff

on the 13 quite a while. I ended up on a bus and I rode around

stopped, 14 bus for a good 45 minutes or an hour; and then when it

medical 15 I got off. I didn't feel like I needed immediate

in the 16 attention. So it was -- it was noon, and I was still

17 area.

around 18 Q. So when did you leave the area? You left the area

19 noon?

work to 20 A. Yes. I was finally able to find a phone that would

21 call my family and let them know that I was alive.

22 Q. And then your son came and picked you up?

23 A. Yes, he did.

the Murrah 24 Q. Prior to noon, did you ever go into the front of

25 Building?

Florence Rogers - Direct

1 A. No, I didn't.

2 Q. Were the seven women who were with you in that
meeting --

3 were they killed in the explosion?

4 A. Yes, they were.

5 Q. In addition to those seven women, were any other
employees

6 of the credit union killed in the explosion?

7 A. Yes. I lost 18 staff members.

8 Q. 18 total?

9 A. Yes.

10 Agent MR. MEARNS: With the Court's permission,

11 Tongate, I'd like to display Government Exhibit 1092.

12 THE COURT: All right.

13 1092 MR. MEARNS: Your Honor, Government Exhibit

14 consists of two separate charts.

15 being THE COURT: All right. I take it this is

16 received pursuant to your earlier understanding.

17 MR. TIGAR: Yes, your Honor.

18 THE COURT: All right.

19 BY MR. MEARNS:

20 Q. Ms. Rogers, beginning in the upper left-hand

corner, I'd

21 like you just to identify the women who are pictured on
that

22 chart and tell us their positions with the credit union
and how

23 long they had been employed.

24 A. Kimberly Ruth Burgess was my administrative
assistant, and

25 she had worked for me for a year and a half.

8678

Florence Rogers - Direct

1 Katherine Finley was my vice president of
operations

2 of 21 years.

3 Jamie Lee Genzer was a management trainee who
had been

4 with us for two-and-a-half years.

5 Linda Coleen Housley was a loan officer, and
she had

6 been with us a year and a half.

7 Robin Ann Huff was a loan officer, and she had
been

8 with me for six years.

9 Christi Yolanda Jenkins was a teller, and she
had been

10 with me for ten years.

11 Valerie Jo Koelsch was my marketing director
who

12 worked for me for ten-and-a-half years.

13 Catherine Mary Leinen was my collection
officer who

14 had worked for me for twelve years.

15 Tresia Jo Mathes-Horton was a teller who had
worked

16 for me for seven months.

17 MR. MEARNS: Agent Tongate, if you would show
the

18 second chart.

19 BY MR. MEARNS:

20 Q. And if you would again, just starting in the upper
left,

21 identify these nine women. Tell us their positions and
how

22 long they were employed by the credit union.

23 A. Claudette Meek was my vice president in the lending

24 department, and she had worked for me for 13 years.

25 Frankie Ann Merrell was a teller who had
worked for me

8679

Florence Rogers - Direct

1 for three-and-a-half years.

2 Jill Diane Randolph was my CPA and accountant,
who had

3 worked for me a year and a half.

4 Claudine Ritter was one of my collection
officers and

5 had worked for me for eight years.

6 Christine Nicole Rosas was a loan receptionist
and had

7 worked for me for eight days.

8 Sonja Lynn Sanders was my head cashier who had
worked

9 for me for five years.

10 Karen Denise Shepherd was a loan officer who
had

11 worked for me six years.

12 Victoria Jeanette Texter was in charge of our
VISA

13 department, and she had worked for me 13 years.

14 Virginia Mae Thompson was a receptionist,
also; and

15 she had worked for me for four months.

16 MR. MEARNS: Thank you, Agent Tongate.

17 BY MR. MEARNS:

18 Q. Ms. Rogers, prior to coming to court this morning,
did you

19 put the names of those 18 women on a floor plan, the
third-

20 floor floor plan of the Murrah Building, indicating
where their

21 work stations were?

22 A. Yes, sir.

23 MR. MEARNS: Your Honor, we don't intend to
display it

24 at this point, but we would offer 952C.

your

25

MR. TIGAR: Subject to our earlier discussion,

Murrah

8680

Florence Rogers - Direct

1 Honor.

2 THE COURT: Yes. It's received.

3 BY MR. MEARN:

4 Q. Did the credit union ever resume operations in the

Federal

5 Building?

6 A. No.

7 Q. Where did the credit union resume operations?

8 A. We opened up 48 hours after the bombing in a teller

Federal
Murrah

9 training facility that was loaned to us by Tinker

City.

10 Credit Union, about 8 miles from downtown Oklahoma
prior to

11 Q. How many of the employees who were working for you
prior to

12 April 19, 1995, continued to work for you after that
explosion?

13 A. Initially, there was only about seven of us that
were able

14 to start with our rebuilding efforts.

15 Q. That is seven of the original 33?

16 A. Yes.

17 Q. How were you able to resume operation with those
limited

18 number of employees?

19 A. It was difficult. We had a lot of volunteers, some
of them

20 from even out of state that were on the same computer
system we

21 were on; and they flew those young people in to help
us.

22 And -- and as I said, we resumed business in 48 hours.

23 Q. When did you resume normal operations of the credit
union?

24 A. We were at the temporary location for 42 days. And
then we

25 moved into leased space where the offices are still
located in

8681

Florence Rogers - Direct

1 Bethany, Oklahoma.

Honor. 2 MR. MEARNS: I have no further questions, your

3 THE COURT: Mr. Tigar.

4 CROSS-EXAMINATION

5 BY MR. TIGAR:

6 Q. Good morning, Ms. Rogers.

7 A. Good morning, Mr. Tigar.

8 Q. My name is Michael Tigar. I'm one of the lawyers
appointed

9 to help out Terry Nichols.

10 I wanted to ask you first, if I may, a few
questions

11 about the credit union --

12 A. Okay.

13 Q. -- and then about some of the things that you saw
that day

14 when you were riding around during those morning hours.

any 15 First, credit unions can exist or be set up by

people? 16 affinity group; is that right? Any related group of

17 A. Yes, that have a common bond.

union 18 Q. Right. And how long have you worked in the credit

19 industry?

20 A. 35 years.

employee- 21 Q. 35 years. Have you always been with a federal-

22 type credit union, or were you with some others?

as a 23 A. I was with a Capitol Credit Union for several years

Federal 24 vice president, and then I was hired as the CEO at

25 Employees in 1971.

8682

Florence Rogers - Cross

also 1 Q. Now, are you familiar with the fact that there are

because
2 credit unions for farmers' organizations and community
3 organizations, as well as for people who are associated

4 they all work for the same person?

the
5 A. Yes. I know a lot of credit union people across

6 country.

folks meet
7 Q. And you've been to conventions where all these

8 together and talk about their common problems; right?

9 A. Yes.

country --
10 Q. Seen people from all walks of life all over the

11 A. Absolutely, yes.

employees,
12 Q. -- correct? I mean, farmers, ranchers, federal

members,
13 people who are members of other organizations, union

14 and so on; right?

15 A. Yes.

said
16 Q. Now, to turn to what you were seeing that day, you

where --
17 that you got on a -- on a bus; is that right? And

day --
18 where did you -- where did the bus route take you that

19 A. They were --

20 Q. -- if you remember.

from
21 A. Vaguely. They were -- people were -- had scattered

this bus 22 the building in kind of all different directions. And
around 23 was a kind of a -- a medical bus, and they were going
Murrah 24 different street corners, several blocks around the
injured 25 Building site, seeing -- seeing if they could find

8683

Florence Rogers - Cross

was a 1 people that perhaps needed to go to a hospital. So it

2 medical bus of some kind.

there was 3 Q. And -- and as you rode around the downtown area,

right? 4 just dirt and debris and shattered glass everywhere;

5 A. Absolutely.

order 6 Q. And did that have to be cleared off, some of it, in

that? 7 for the rescue people to get through? Did you observe

8 A. I have no idea. I did not observe that.

that 9 Q. Okay. But you just -- you just saw that it was --

Building; 10 this scene was not just confined to the Murrah

11 correct?

12 A. No. It wasn't.

13 Q. But there was -- and that the area that you rode around,

14 -- you could -- you could see signs that this had been a -- a very

15 large event, indeed; is that right?

16 A. Yes. A lot of chaos going on everywhere. Buildings being

17 evacuated. Injured running, pretty rampant.

18 Q. Did you -- after you left that day and -- and your family

next 19 knew that you were all right and went home, when's the

20 time that you went back to that Murrah Building area?

21 U.S. A. It was almost two weeks later, I met one of the

22 building in marshals and my son down there to go underneath the

23 that time. the parking garage where my car had remained during

24 Q. So --

25 A. It was almost two weeks later.

8684

1 MR. TIGAR: Not till two weeks later.

2 really Thank you for answering my questions. I

3 appreciate it.

4 I have nothing further, your Honor.

5 THE COURT: Anything else?

6 MR. MEARNS: No questions. She may be
excused.

8 it?

9 MR. TIGAR: Yes, your Honor.

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

just 11 We'll take our midsession break, here. Not

12 midmorning. It's midsession today, since we're going to 1:00.

13 And so remember that, of course. And if you wish to fortify

14 yourselves a bit with some snack or fruit or whatever during

15 this time, of course, you may do so. So -- and of course, you

16 will follow the cautions regularly given at all recesses: open

17 minds and closed mouths concerning the case.

18 And you're excused now. 20 minutes.

19 (Jury out at 10:41 a.m.)

20 THE COURT: Okay. 11:02.

21 (Recess at 10:42 a.m.)

22 * * * *

23

24

25

1	INDEX
2	Item
3	WITNESSES
4	Louis Hupp
5	Direct Examination Continued by Mr. Mearns
8591	
6	Cross-examination by Mr. Tigar
8600	
7	Redirect Examination by Mr. Mearns
8629	
8	Recross-examination by Mr. Tigar
8630	
9	David Darlak
8632	
10	Direct Examination by Mr. Mearns
8642	
11	Cross-examination by Mr. Woods
8656	
12	Joanne Thomas
8659	
13	Direct Examination by Mr. Orenstein
8659	
14	Cross-examination by Mr. Tigar
8662	
15	Kantall Patel
16	Direct Examination by Mr. Mearns

	17	Cross-examination by Mr. Woods
8668		
	18	Redirect Examination by Mr. Mearns
8669		
	19	Florence Rogers
	20	Direct Examination by Mr. Mearns
8670		
	21	Cross-examination by Mr. Tigard
8681		

22 PLAINTIFF'S EXHIBITS

	23	Exhibit	Offered	Received	Refused	Reserved
Withdrawn						
	24	142	8664	8664		
	25	952C	8679	8680		

8686

	1	PLAINTIFF'S EXHIBITS (continued)				
Withdrawn	2	Exhibit	Offered	Received	Refused	Reserved
	3	2049	8667	8667		
	4	2054	8658	8658		
	5	2102	8591	8591		
	6	DEFENDANT'S EXHIBITS				
Withdrawn	7	Exhibit	Offered	Received	Refused	Reserved
	8	E126	8625	8625		
	9	E61	8618	8618		

10

* * * * *

11

REPORTER'S CERTIFICATE

12 I certify that the foregoing is a correct
transcript from

13 the record of proceedings in the above-entitled matter.
Dated

14 at Denver, Colorado, this 14th day of November, 1997.

15

16

Bonnie

Carpenter

17

18

19

20

21

22

23

24

25