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10194

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12 \* \* \* \* \*

13

PROCEEDINGS

14

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

15

THE COURT: Be seated, please.

16

Good morning. Counsel wish to approach?

17

(At the bench:)

18

(Bench Conference 88B1 is not herein transcribed by  
court

19

order. It is transcribed as a separate sealed  
transcript.)

20

21

22

23

24

25

10205

1

(In open court:)

2

(Jury in at 8:55 a.m.)

3

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

4

strange sound that you hear, which has been called, I'm  
told,

5

"pink sound" -- I don't know what happened to white  
sound --

6

but that was on because I had a discussion with the

lawyers

7 here at the bench before we started this morning, and  
that's

8 why we held you right there at the threshold before  
coming in.

9 So it was a bit of a delay, and we apologize for that.  
But as

10 I have told you before, sometimes we have these little  
meetings

11 ahead of time, and it gives me an opportunity to give  
certain

12 rulings and guidance to counsel so that we can proceed  
without

13 interruption and without the necessity, as sometimes  
happens in

14 trials, of asking the jury to step out and then come  
back in.

15 We try to take care of those matters ahead of time so  
that it

16 can proceed then without interruption, and I believe we  
have

17 done so.

18 You'll recall that when we recessed early  
Friday

19 afternoon, we were hearing testimony from FBI Agent  
Scott

20 Crabtree, who is being examined by Mr. Goelman; and  
we'll

21 continue with that testimony this morning.

22 Mr. Crabtree, if you'll resume the stand under  
the

23 oath taken last Friday.

24 (Scott Crabtree was recalled to the stand.)

25 THE COURT: Mr. Goelman, you may proceed.

10206

1 MR. GOELMAN: Thank you, your Honor.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. GOELMAN:

4 Q. Agent Crabtree, at any time during the interview of  
Terry  
5 Nichols on April 21, 1995, did you tell him what the  
FBI  
6 intended to do with any information that he provided?

7 A. Yes, we did.

8 Q. When was that?

9 A. During the first interview session that I was  
involved in.

10 Q. Please describe what you said to Mr. Nichols as far  
as that  
11 subject is concerned.

12 A. That we were basically there to get any information  
that he

13 could offer us on any contact he might have had with  
Tim

14 McVeigh and that anything that he would tell us, that  
we would  
15 be going out, trying to verify at a later date.

16 Q. And at what point did you say that to Mr. Nichols?  
What

that? 17 was the subject that was being discussed when you said

McVeigh 18 A. At that particular time, the meeting between Mr.

being at 19 and Mr. Nichols on the 18th and the discussion of him

20 DRMO.

provide any 21 Q. In response to that question, did the defendant

22 further information to you?

23 A. Yes, sir, he did.

24 Q. What did he say?

come back 25 A. At the time that he had expected Tim McVeigh to

10207

Scott Crabtree - Direct

to 1 and pick him up, that he did not appear; that he went

some time 2 another building, one that he had to sign into; spent

sometime 3 there; and after he put in a bid, came outside; and

4 after that, Tim McVeigh returned and picked him up.

FBI could 5 Q. Before you asked him to provide information that

verify 6 verify -- before you told him that you'd go out and

anytime 7 information, had he told you about that sign-in sheet

8 before that?

9 A. No, he hadn't.

10 Q. And on April 21, 1995, Agent Crabtree, had you ever  
been to

11 Fort Riley?

12 A. I had been to the Fort Riley --

13 Q. Had you ever been to DRM0 at Fort Riley?

14 A. No, sir.

15 Q. Did you know anything about the layout of the DRM0?

16 A. No, sir.

17 Q. Did you know anything about the procedures  
followed?

18 A. No, sir.

19 Q. At what point of the interview did Mr. Nichols  
first tell

20 you about his activities on Tuesday morning, April 18?

21 A. It would have been during the first interview  
session that

22 I was involved in, but it would have been before 6:10,  
6:10

23 break.

24 Q. And at that point, did he tell you how he and Mr.  
McVeigh

25 had supposedly parted ways on Tuesday morning?

10208

Scott Crabtree - Direct

1 A. Yes, sir, he did.

2 Q. What did he say?

3 A. That after Mr. McVeigh had picked him up, that they  
had  
4 returned back to McDonald's in Junction City; that they  
had  
5 gotten out of the vehicle and that was it, and that he  
hadn't  
6 seen him since.

7 Q. Did Mr. Nichols indicate that Mr. McVeigh said  
anything  
8 memorable when he got out of the vehicle at McDonald's?

9 A. Not on that occasion.

10 Q. Do you remember the words that Mr. Nichols used to  
describe  
11 his parting of ways with Mr. McVeigh?

12 A. He said Mr. McVeigh got out of the vehicle, and  
that was  
13 it. And that he hadn't seen him since.

14 Q. And at that time, did Mr. Nichols tell you that Mr.  
McVeigh  
15 had supposedly asked him to do something at that time?

16 A. No, sir.

17 Q. When was your and Agent Smith's final break?

18 A. It would have been from, I believe, 10:20 to 10:50  
that  
19 evening.

20 Q. And did you spend that time talking with other  
agents?

21 A. Yes, we did.

22 Q. Do you remember what the first question was that  
you asked  
23 Mr. Nichols when you came back from that final break?  
24 A. Yes, sir, I do.  
25 Q. And who asked that question?

10209

Scott Crabtree - Direct

1 A. I did.  
2 Q. Do you remember the exact words that you used?  
3 A. Yes, sir.  
4 Q. What were they?  
5 A. I asked him to tell us about any storage lockers  
that he  
6 has had or had had under his care, custody, or control.  
7 Q. And did you tell Mr. Nichols what it was that led  
you to  
8 ask him about any storage lockers under his care,  
custody, or  
9 control?  
10 A. No, sir.  
11 Q. After you asked Mr. Nichols this question about  
storage  
12 lockers, did he later again tell you about his parting  
from  
13 Mr. McVeigh three days earlier, on Tuesday the 18th?  
14 A. Yes, sir, he did.

15 Q. And what did he tell you about the way that he and  
16 Mr. McVeigh had parted company on this telling?  
17 A. That upon getting out of the vehicle, Mr. McVeigh  
had  
18 requested Mr. Nichols to pick up some belongings for  
him if he  
19 was not able to pick them up himself.  
20 Q. Did Mr. Nichols indicate where he was supposed to  
pick up  
21 these belongings?  
22 A. A storage locker in Herington.  
23 Q. And did he provide you specific information about  
that  
24 storage locker?  
25 A. Yes, sir. He described where it was located.

10210

Scott Crabtree – Direct

1 Q. Did Mr. Nichols tell you whether or not he actually  
had  
2 gone and picked up items from the storage locker?  
3 A. Yes, sir, he said he had on the previous day.  
4 Q. On April 20?  
5 A. Yes, sir.  
6 Q. And did he tell how he had known on April 20 that  
7 Mr. McVeigh would not be able to pick them up by  
himself?  
8 A. No, sir.

with the 9 Q. As a native of Herington, Kansas, are you familiar  
10 location of the storage locker that Mr. Nichols  
described to  
11 you?

12 A. Yes, sir.

13 Q. I'm going to show you what's already been  
introduced into  
14 evidence as Government Exhibit 92. By the way, Agent  
Crabtree,

15 how many traffic lights are there in Herington?

16 A. I believe one just at Broadway and Walnut. Center  
of town.

17 Q. Can you look down at your screen and tell me if you  
see the  
18 location of the storage shed that Mr. Nichols described  
to you  
19 when you asked him for sheds under his care, custody,  
and  
20 control?

21 A. Yes, sir, I do.

22 Q. Would you circle that with your light pen.

23 Agent Crabtree, what's the larger road that  
appears in  
24 the background of that picture? Actually, kind of in  
the  
25 middle of that picture.

Scott Crabtree – Direct

1 A. That's U.S. 77.

2 Q. Can you just draw a line on that, please.

3 U.S. 77 Can you approximate about how far it is from

4 to that particular storage shed.

5 A. Maybe 100, 150 yards.

6 had Q. When Mr. Nichols told you that he and Mr. McVeigh

7 driven back from Oklahoma City on Easter Sunday, did he tell

8 you what route they took back to Kansas?

9 A. Yes, sir. They had come up U.S. 77.

10 called him Q. And according to Mr. Nichols, when Mr. McVeigh

11 ask him at at 6 a.m. on Tuesday, April 18, what did Mr. McVeigh

12 that time?

13 because A. He called to see if he could use Mr. Nichols' truck

14 things. he wanted to look at a few vehicles and pick up a few

15 conversation Q. Did Mr. Nichols indicate whether there was any

16 to about Mr. McVeigh picking up a few things on his way up

17 Junction City?

18 A. No, sir.

19 McVeigh Q. And how long, according to Mr. Nichols, did Mr.

20 have his truck for on the morning of April 18?

21 A. Approximately six hours.

22 Q. According to Mr. Nichols, did Mr. McVeigh ever  
provide an

23 explanation as to why he hadn't used the truck during  
those six

24 hours to go pick up a few things at the locker?

25 A. No, sir.

10212

Scott Crabtree - Direct

1 Q. Agent Crabtree, on April 21, did Terry Nichols tell  
you at

2 any time before 11 p.m. that Tim McVeigh asked him to  
pick up

3 items at the storage locker?

4 A. No, sir.

5 Q. When he told you about cleaning out that storage  
locker,

6 Agent Crabtree, did he tell you what name it was under?

7 A. No, sir.

8 Q. At any point in the time that you spent with Terry  
Nichols

9 on April 21st and April 22d, did he mention the name  
"Shawn

10 Rivers" to you?

11 A. Yes, sir, he did.

12 Q. And when was that?

13 A. That would have been on the following day on  
Saturday,  
14 while we were at the courthouse in Wichita, awaiting  
for his  
15 initial appearance.

16 Q. After you'd asked him the night before about  
storage  
17 lockers under his care, custody, and control?

18 A. Yes, sir.

19 Q. Did you ever ask Mr. Nichols why he didn't pick up  
or drop  
20 off Mr. McVeigh where he was staying instead of at the  
21 McDonald's in Junction City?

22 A. Yes, sir. We discussed it numerous times.

23 Q. About how many times did you discuss this?

24 A. Roughly every time that we went over the story that  
he was  
25 picked up or dropped off at the McDonald's.

10213

Scott Crabtree - Direct

1 Q. And when you asked Mr. Nichols this question, did  
he ever  
2 tell you that he knew precisely where Mr. McVeigh was  
staying?

3 A. Not precisely, no.

4 Q. Did he ever tell you whether he knew anything about  
where  
5 Mr. McVeigh was staying in Junction City?

told 6 A. Yes, sir. Originally, he had said that McVeigh had

7 him he had a room in Junction City.

8 Q. A room?

9 A. Yes, sir.

10 Q. What did he say on the same topic later in the  
interview?

11 A. When we discussed it again later, I was trying to  
get more

12 information as to where that might be, it was Tim  
McVeigh said

13 that he had a friend where he could stay and perhaps  
get a

14 vehicle to continue on his travels.

15 Q. Leaving aside whether it was a friend or a room,  
was

16 Mr. Nichols consistent on the more basic question of  
whether or

17 not he knew where Tim McVeigh was staying in Junction  
City?

18 A. Yes, he was.

19 Q. And what was his consistent answer?

20 A. That he did not know.

21 Q. As well as talking to other agents during the last  
break,

22 did you also receive some documents between 10:20 and  
10:50 in

23 the evening?

24 A. Yes, sir, we did.

25 Q. What were those documents?

10214

Scott Crabtree - Direct

1 A. Those were some letters that had been received from  
2 Mr. Nichols' former wife by the office in Las Vegas.

3 Q. And did you read those letters during your break?

4 A. Yes, sir.

5 Q. I want to show you what's already been received in  
evidence  
6 as Government Exhibit 1857.

7 Do you remember the first time that you read  
this  
8 letter, Agent Crabtree?

9 A. It would have been during the break from 10:20 to  
10:50  
10 that evening.

11 Q. And when you first read it, do you remember what  
you  
12 noticed about this letter?

13 A. Yes, sir.

14 Q. What was it?

15 A. The comments that Mr. Nichols had addressed to Mr.  
McVeigh  
16 regarding "go for it" and "as far as heat, none that I  
know  
17 of."

18 Q. And did you take these letters back into the  
interview with

19 you?

20 A. Yes, sir, we did.

21 Q. What did you do with them?

22 A. At the end of the interview, we showed them to Mr. Nichols.

23 Q. Who gave the letters to Mr. Nichols?

24 A. I did.

25 Q. And did you say anything to him when you gave him the

10215

Scott Crabtree - Direct

1 letters?

2 A. Yes, sir, I did.

3 Q. What did you say?

4 A. I asked him to review the letters because we had some

5 questions we'd like to ask him about them.

6 Q. And what did Mr. Nichols do when you told him that and you

7 handed him the letters?

8 A. He took the letters and seemed to read -- he looked at each

9 page. I assumed he read every page.

10 Q. How long did he take to read them?

11 A. Three or four minutes, maybe.

12 Q. And what happened at that point?

13 A. Then we proceeded to ask him questions again.  
14 Q. Did Mr. Nichols provide you an explanation about  
the  
15 letters?  
16 A. Yes, we asked him what -- what he wrote the letters  
for,  
17 and he advised us that he was -- he had gone to the  
18 Philippines, and that this was in place of a will.  
19 Q. Did Mr. Nichols tell you what he had done with the  
letters  
20 when he went to the Philippines?  
21 A. Yes, sir. He had left them with his former wife  
and she  
22 was to deliver them and/or follow the instructions for  
her if  
23 he did not return from the Philippines the following  
January.  
24 Q. So according to Mr. Nichols, what was supposed to  
happen  
25 with these letters if he actually did return from the

10216

Scott Crabtree - Direct

1 Philippines safely?  
2 A. He would get them unopened, undelivered, etc.  
3 Q. Did Mr. Nichols explain to you why he thought his  
life was  
4 in danger?

5 A. He just said the Philippines weren't a safe place.

6 Q. And did you have any response to that?

7 A. Yes, sir. I asked him based on that, if he had  
written

8 such letters every time that he had gone to the  
Philippines.

9 Q. And what was his response?

10 A. No, that he hadn't.

11 Q. Did he tell you whether he had written these type  
of

12 letters on any of the other trips that he made to the  
13 Philippines?

14 A. No, sir. This was the only occasion.

15 Q. After he told you that he hadn't written letters on  
any

16 other trip to the Philippines, did you ask him anything  
17 further?

18 A. Yes, sir, we did.

19 Q. What did you ask him?

20 A. We asked him to tell us what the comments "go for  
it" and

21 "as far as heat, none that I know of" meant.

22 Q. And what was his response?

23 A. He didn't have one.

24 Q. Who asked this question?

25 A. I did.

Scott Crabtree - Direct

1 Q. And how loud did you ask the question?

2 A. The same tone of voice we used the whole evening.

3 Q. Had Mr. Nichols shown any signs of having  
difficulty

4 hearing your questions up to that point?

5 A. No, sir.

6 Q. And how long did Mr. Nichols sit there after you  
asked him

7 to explain ". . . heat, none that I know of" and "go  
for it"?

8 A. Maybe 20 or 30 seconds. Something like that.

9 Q. What happened after there was no response from Mr.  
Nichols

10 for that period of time?

11 A. I asked him another question, and then Steve and I  
got up

12 and left the interview, left the room.

13 MR. GOELMAN: Thank you, Agent Crabtree.

14 I have nothing further, your Honor.

15 THE COURT: Mr. Woods.

16 MR. WOODS: Thank you, your Honor.

17 CROSS-EXAMINATION

18 BY MR. WOODS:

19 Q. Good morning, Agent Crabtree.

20 A. Good morning, sir.

21 Q. My name is Ron Woods. I'm one of the lawyers

appointed to

22 represent Terry Nichols.

23 A. Yes, sir.

24 Q. You and I have never met, never talked, have we?

25 A. No, sir.

10218

Scott Crabtree - Cross

for 13

1 Q. At the time of this event, you had been in the FBI  
2 years?

Something in

3 A. A little less than that. 12 1/2, I think.  
4 that neighborhood.

5 Q. Joined in '82; is that correct?

6 A. Yes, sir.

7 Q. This is in '95?

8 A. Yes, sir.

--

9 Q. You were born and raised, grew up in Herington, Tex  
10 Herington, Kansas?

11 A. Yes, sir.

Where is

12 Q. Okay. And then went to William Jewell College.  
13 that?

Kind of on

14 A. It's in Liberty. It's a suburb of Kansas City.

15 the northeast section of Kansas City.

16 Q. Then you went into the FBI a few months after your  
17 graduation; is that correct?

18 A. Yes, sir.

19 Q. Did you go in as an accountant?

20 A. That was the program area that I was under when I  
got  
21 selected, yes, sir.

22 Q. When did the FBI drop that requirement that the  
agents had  
23 to be lawyers or accountants?

24 A. I'm not sure, sir, if they have ever had that  
requirement.

25 I knew at one time, it seemed to be the predominant  
professions

10219

Scott Crabtree - Cross

1 that they drew from. But I'm not sure that there was  
ever a  
2 time when it had to be one or the other.

3 Q. Did they drop that in '72 after John Edgar Hoover  
died?

4 A. Gosh, sir. I don't know. I was in high school. I  
don't  
5 know what happened then.

6 Q. At any rate, you got in because you were an  
accountant  
7 right out of college; is that correct?

8 A. Yes, sir. There was -- yes.

9 Q. You went to a few big offices and then ended up by  
yourself

10 in Salina, Kansas?

11 A. Yes, sir.

12 Q. Just a one-man office and that's you; right?

13 A. Yes, sir.

14 Q. And that's 50 miles from your home, Herington?

15 A. Yes, sir.

16 Q. And that's part of the area you cover under your  
17 responsibilities, Herington; is that correct?

18 A. That's correct, sir.

19 Q. You know the people there, you know the law  
enforcement

20 officials there?

21 A. Yes, sir.

22 Q. Because you deal with them?

23 A. That's part of my liaison responsibilities, being  
the RA,

24 is to meet with the locals.

25 Q. You knew the chief of police, Barry Thacker?

10220

Scott Crabtree - Cross

1 A. He wasn't chief at the time, but yes, sir, I knew  
him.

2 Q. He was?

3 A. He was not chief at the time. Dale Kuhn was in  
charge of

4 the department at the time.

5 Q. Well, you had a director of the department of  
public

6 safety, which was Dale Kuhn; correct?

7 A. Correct.

8 Q. And Barry Thacker was designated chief of police,  
wasn't

9 he?

10 A. I'm not sure exactly what his title was. I knew he  
would

11 answered to Dale Kuhn, and Dale was the person that I  
something to

12 direct communications to if I was going to write

13 the department.

14 Q. And how big is Herington? What's the population?

15 A. Probably a little less than 3,000 people.

16 Q. Is that pretty much a stand -- a population that  
existed

17 when you grew up there, or did it change in any  
dramatic

18 fashion?

19 A. No, sir. I believe it had been around 3,000 from  
the time

20 I was born and raised there until -- even till today.

21 Q. All right. Now, your jurisdiction also covered  
Junction

22 City; is that correct?

23 A. No, sir.

24 Q. You didn't cover Junction City out of Salina?

25 A. No, sir.

10221

Scott Crabtree - Cross

1 Q. Was there a resident agent in Junction City?

2 A. No, sir.

3 Q. Okay. When you received word -- well, first, you  
told the

4 jury on Friday that you were selected to do the  
interview

5 because you had the most knowledge about the case; is  
that

6 correct?

7 A. In Kansas; that's correct, sir.

8 Q. And you had been working on this case for two days,  
had you

9 not? Didn't you start working on it on the 19th?

10 A. Yes, sir. The afternoon of the 19th; that's  
correct.

11 Q. Okay. And did you go to Junction City on the  
afternoon of

12 the 19th?

13 A. Yes, sir.

14 Q. Now, is that within your jurisdiction or did  
somebody else

15 cover that area?

Topeka 16 A. Junction City is typically covered out of the  
17 resident agency, sir.  
City to 18 Q. Okay. But you received the call to go to Junction  
19 conduct an investigation; is that correct?  
20 A. Yes, sir.  
21 Q. And from where was that call received?  
22 A. The Miami division.  
that 23 Q. All right. And where did you go when you received  
24 call?  
in 25 A. They directed me to go to Elliott's Body Shop there

10222

Scott Crabtree – Cross

1 Junction City on the southwest corner of town.  
make a 2 Q. Okay. Before you went to that location, did you  
3 phone call to the location?  
4 A. Yes, sir, I did.  
5 Q. What did you instruct the people to do that you  
talked to 6 on the telephone?  
7 MR. GOELMAN: Objection. Scope, your Honor.  
8 THE COURT: Sustained.

9 BY MR. WOODS:

10 Q. You've advised the jury that you had the most  
knowledge

11 about the case; is that correct?

12 A. Yes, sir.

13 Q. In Kansas?

14 A. Yes, sir. At that time, yes.

15 Q. And how did you obtain that knowledge about the  
case in two

16 days?

17 A. Working on leads connected to the case, sir.

18 Q. All right. And was one of those leads to go to  
Junction

19 City to Eldon Elliott's Body Shop?

20 A. Yes, sir.

21 Q. Before going there, did you instruct the  
individuals to do

22 anything concerning documents at that location?

23 MR. GOELMAN: Objection.

24 THE COURT: Sustained.

25 BY MR. WOODS:

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Scott Crabtree - Cross

1 Q. Okay. Did you eventually go to the location?

2 A. Yes, sir.

3 Q. What time did you get to Eldon Elliott's Body Shop

in

4 Junction City on Wednesday, April the 19th?

5 MR. GOELMAN: Objection, your Honor.

6 THE COURT: Well, he said he knew more about  
the case.

7 I assume this is questioning about what he knew about  
the case.

8 MR. WOODS: Yes, your Honor.

9 THE COURT: Is that right?

10 MR. WOODS: Yes.

11 THE COURT: Overruled.

12 BY MR. WOODS:

13 Q. What time did you get to the body -- Eldon  
Elliott's body

14 shop?

15 A. Approximately 4:30, sir.

16 Q. All right. And did you take possession of any  
documents?

17 A. Yes, sir.

18 Q. All right. And what did you do with those  
documents?

19 A. I delivered them to agents that had flown up from  
20 headquarters later that evening so they could be  
returned to

21 the fingerprint section at headquarters to be checked  
for

22 fingerprints.

23 Q. All right. Now, did you meet with any individuals  
at Eldon

24 Elliott's body shop?

25 A. Yes, sir, I did.

10224

Scott Crabtree - Cross

1 Q. Did you meet with them separately?

2 A. Yes, sir.

3 Q. And what was the reason why you were meeting with  
them

4 separately?

5 A. So I would get just their story and they wouldn't  
hear one

6 another talk.

7 Q. And was that so that they wouldn't influence each  
other's

8 recollection?

9 A. Yes, sir.

10 Q. How many individuals did you meet with at Eldon  
Elliott's

11 body shop?

12 A. Three, sir.

13 Q. Who were they?

14 A. Eldon Elliott himself, Vickie Beemer, and Tom  
Kessinger.

15 Q. All right. And you interviewed each of those  
individuals

16 separately?

17 A. Yes, sir.

Eldon 18 Q. Did you determine when the truck had been rented at  
19 Elliott's?  
20 A. Yes, sir.  
21 Q. What date?  
22 A. It was on the 17th, two days prior.  
19th; is 23 Q. So the event was recent to your interview on the  
24 that correct?  
25 A. Yes, sir. Two days.

10225

Scott Crabtree - Cross

what did 1 Q. Okay. After interviewing the individuals, did --  
2 you do next in connection with the investigation?  
3 A. Besides seeing that the documents were forwarded to  
4 headquarters, coordinated bringing in a sketch artist  
so that 5 possible sketches could be made of the person that  
rented the 6 vehicle.  
7 Q. And that was your recommendation, was it not?  
8 A. Yes, sir.  
9 Q. And you made that request through what? The chain  
of 10 command that existed from Junction City to Kansas City  
to

11 Washington?

12 A. That's correct, sir.

13 Q. And what was your recommendation?

14 A. That there appeared to be enough information from  
the

15 witnesses that I'd spoken to at that occasion that we  
could

16 prepare a sketch; and initially, we had anticipated  
taking the

17 individuals to Topeka and having maybe a police artist  
or a

18 sketch artist there work on it, and then my office  
advised me

19 that they would have somebody flown out from  
headquarters to do

20 it.

21 Q. All right. When you say "sketch," are you  
referring to one

22 sketch or two?

23 A. Two, sir.

24 Q. Okay. What time did the sketch artist arrive from  
the FBI

25 headquarters in Washington?

10226

Scott Crabtree - Cross

1 A. He got to the command post at Fort Riley, which is  
where we

2 were operating at that time, maybe 4:00 the next

morning on

3 the -- Thursday, the 20th.

4 Q. Okay. 4:00, and were you there at the time, sir?

5 A. Yes, sir.

6 Q. And did you have the three witnesses present?

7 A. They came in shortly thereafter. I called them  
when I knew

8 about what time he was going to arrive and asked them  
to come

9 in.

10 Q. What time did they arrive, approximately?

11 A. I think Tom Kessinger got there first, and it was  
not too

12 long after the sketch artist arrived; and then Ms.  
Beemer and

13 Mr. Elliott would have arrived maybe a half an hour or  
so after

14 that. Maybe around 5:00.

15 Q. Okay. Now, did you set (sic) in on the interview  
that the

16 sketch artist would have with each individual?

17 A. No, sir, I did not.

18 Q. Did you notice whether or not the sketch artist met  
with

19 each individual separately?

20 A. Yes, he did.

21 Q. And you physically observed that?

22 A. Yes, sir.

23 Q. Okay. How long did that process take where the

sketch

24 artist met with each of those three individuals  
separately?

25 A. It probably took approximately two hours to meet  
with all

10227

Scott Crabtree – Cross

1 three of them, I believe, before the sketches were  
completed.

2 Q. Okay. And did you see the end product of the  
artist from

3 Washington?

4 A. Yes, sir, I did.

5 Q. Two sketches?

6 A. Yes, sir.

7 Q. Now, what's his name for the record?

8 A. Ray Rozycki.

9 Q. Okay. And approximately, then, what time was it  
that those

10 sketches were available?

11 A. I would guess 6:30 to 7.

12 Q. Okay. And what did you then do in connection with  
the

13 investigation?

14 A. We had to get the sketches disseminated back to our

15 headquarters. And I worked on the interviews that had  
already

16 been conducted. I worked on the paperwork for that.  
And then  
17 trying to kind of coordinate what our next response  
there would  
18 be as far as showing the sketch, setting up interview  
teams  
19 there for Junction City to go out and show sketches to  
identify  
20 if anybody knew who they were.  
21 Q. Okay. Do you know personally whether or not the  
sketches  
22 were then taken by agents and gone around the Junction  
City  
23 area to exhibit to motels, restaurants, gas stations,  
etc.?  
24 A. Yes, sir. They were.  
25 Q. Did you take part in that?

10228

Scott Crabtree - Cross

1 A. No, sir, I directed the teams and drew up the court  
--  
2 cordons that they were going to follow and to make sure  
we  
3 didn't have any overlap or any areas that weren't, you  
know,  
4 talked to or whatever. But then I stayed back at the  
command  
5 post.  
6 Q. All right. During the day on April the 20th, did  
you

7 learn, based upon your presence at command post, that  
the name

8 "Timothy McVeigh" came into the investigation?

9 A. Yes, sir.

10 Q. And what did you learn was the reason why his name  
was then

11 involved in the investigation?

12 A. That sketch of John Doe No. 1 was shown to the  
proprietor

13 at the Dreamland Hotel in Grandview Plaza and that she  
had been

14 able to identify him as Tim McVeigh, and then the  
information

15 regarding his signing in there and being seen with the  
Ryder

16 truck and a yellow vehicle and things of that nature  
were also

17 developed at the same time.

18 Q. And was an address obtained from the registration  
receipt?

19 A. Yes, sir.

20 Q. And do you recall what state the address was?

21 A. It was for Michigan, for Decker, Michigan, sir.

22 Q. Decker, Michigan?

23 A. Yes, sir.

24 Q. Okay. And did you interview that proprietor of the  
25 Dreamland Motel, Ms. McGown, on that day, the 20th of  
April?

Scott Crabtree - Cross

1 A. No, sir, I did not go out and do the contacts.  
That would  
2 have been Mark Bouton, and I'm not sure who we had  
teamed him  
3 up with.

4 Q. All right. Now, what time on the 20th -- April the  
20th --  
5 did you first hear Terry Nichols' name, if you did?

6 A. Did not hear his name on the 20th. It would have  
been  
7 sometime after midnight on the 21st. Later that  
evening, early  
8 the next morning.

9 Q. And you're working pretty much around the clock  
there in  
10 the command post in Junction City?

11 A. Yeah. At that point, the other people were  
covering the  
12 leads and I was kind of directing the activity, so I  
would have  
13 been in the command post, yes, sir.

14 Q. And was the command post in communication with the  
Kansas  
15 City office?

16 A. Yes, sir.

17 Q. And was that by an open telephone line?

18 A. Yes, sir. I believe by Thursday, the 20th, we had  
both the

Wichita, 19 supervisor for the Kansas RAs, who normally offices in  
City 20 and the assistant special agent in charge of the Kansas  
site 21 division who handled the Kansas RAs -- were by then on  
22 there at the command post.

23 Q. In Junction City?

24 A. Yes, sir.

25 Q. And that's Joe Bross, B-R-O-S-S?

10230

Scott Crabtree - Cross

1 A. No, sir.

2 Q. Soon to be ASAC?

3 A. Yes, sir. He was the ASAC that was on site there.

4 Q. And who else was there on site in Junction City  
5 supervisory-wise?

6 A. Mike Pulice, who has since retired.

7 Q. All right. And were you also in communication with  
8 Washington, D.C.?

9 A. The command post would have been, yes, sir.

10 Q. Okay. And were you -- when you say "the command  
post,"

11 were you ever in communication with Washington in  
Kansas City?

12 A. At some point during the first few days, I had some

by the 13 contacts with the SIOC unit back at headquarters. But  
a 14 time the supervisors and ASAC are on site, it's more of  
would 15 chain-of-command situation where, you know, information  
information off 16 be reported to them and they would report that  
17 from there.

18 Q. All right. What is SIOC in Washington?

where 19 A. It's a -- like a strategic-operation-type center  
like the 20 information on major cases like this or -- say perhaps  
lot of 21 TWA bombing case or something like that where there's a  
everybody is 22 offices involved would then try to coordinate all the  
23 information from all the offices to make sure that  
24 up to speed.

located and 25 Q. Is that where the high officials of the FBI are

10231

Scott Crabtree - Cross

1 they are in communication with the field office?  
would 2 A. I do not know if, say, for instance, the director  
would have 3 have actually been down in the SIOC center or if he

4 been in his -- his own suite or whatever. I'm not sure  
exactly  
5 how that would work. But that office communicated  
directly  
6 with him back at headquarters.

7 Q. And were you in communication with the Detroit,  
Michigan,  
8 office on that evening, April the 20th, and the early  
morning  
9 hours of the 21st?

10 A. Yes, sir.

11 Q. What time did you learn Terry Nichols' name?

12 A. It was sometime after midnight, perhaps 1:00 in the  
morning  
13 when I got a call back from the Detroit office based on  
a  
14 request that I had made of them a couple hours earlier.

15 Q. All right. And what did you learn about Terry  
Nichols at  
16 that time?

17 A. Well, the address that Mr. McVeigh had given at the  
18 Dreamland came back to a James Nichols and that that  
was a farm  
19 owned by him and that James had a brother Terry and  
that --  
20 and -- or that Tim McVeigh had been known to spend time  
at that  
21 address and that there was reports of explosive devices  
or  
22 bombs or whatever being set off in the past at that  
location.

23 And that's basically it.

24 Q. And do you know if that information came from James  
25 Nichols' ex-wife?

10232

Scott Crabtree - Cross

1 A. No, sir. The information I got came from the  
contact I had

2 at the Detroit office, and that's basically the  
information

3 that came to me is that we had a -- we had a good  
address for a

4 Tim McVeigh.

5 Q. And do you know how your contact in Detroit got the  
6 information there in Decker concerning Terry Nichols,  
James

7 Nichols, and McVeigh having visited that farm?

8 A. On that occasion, I believe it was just through a  
contact

9 or a call from the Detroit office to the -- I believe  
the

10 sheriff's office in the county where Decker is at.  
Through

11 contact with someone there.

12 Q. All right. Were you aware that the FBI went out  
and

13 interviewed that deputy sheriff in Sanilac County that  
covered

14 Decker, Michigan?

15 A. Yes, sir, later.

16 Q. And in that interview, were you aware that Kelly  
17 Langenburg, the former wife of James Nichols, was  
present?

18 A. I do not know who they interviewed -- I mean, I  
don't know  
19 who was present at the time that interview was  
conducted.

20 Q. All right. And when you say "explosives," what  
type of  
21 explosives are you referring to?

22 A. At the time, they said -- on very early Friday  
morning is  
23 that there had been, you know, little explosions or  
bomb-type  
24 activity at the location, but nothing as to what kind  
of bomb  
25 or what kind of bombs or anything.

10233

Scott Crabtree - Cross

1 Q. A little explosion like a pop bottle bomb?

2 A. No, sir. Just as opposed to a building -- the  
explosion  
3 that brought down the Murrah Building in context from  
that to  
4 the smaller explosion.

5 Q. And this is a farm out in the country; is that  
correct?

6 A. Yes, sir.

7 Q. Okay. Now, what time did you leave Junction City  
to go to

8 Herington?

9 A. Probably sometime around 3:30 Friday afternoon.  
The next

10 afternoon.

11 Q. All right. Now, during that morning, Friday  
morning, the

12 21st, did you learn information as to Terry Nichols'  
address in

13 Herington?

14 A. It was either that morning or early that afternoon.  
I

15 think it might have been sometime around maybe 1 or 2  
that

16 afternoon.

17 Q. Okay. And were you in contact with the Las Vegas  
office

18 there in the command post?

19 A. The command post was. I had not been, but the  
command post

20 was, yes.

21 Q. And did you learn that through the interview of the  
former

22 wife of Terry Nichols; that you then had the address in  
23 Herington, Kansas, of Terry Nichols?

24 A. Well, we had it that way, and I also had received  
it via

25 another way at the same time.

10234

Scott Crabtree – Cross

1 Q. You received it from Georgia Rucker, didn't you?

2 A. Yes, sir.

3 Q. And Georgia Rucker is the realtor in Herington that  
sold

4 Terry Nichols his house, arranged the sale, wasn't she?

5 A. Yes, sir.

6 Q. Okay. She heard the name on the news, the  
television and

7 radio, didn't she?

8 A. Yes, sir.

9 Q. And she called you because you all are friends?

10 A. She's a friend of the family, yes, sir.

11 Q. Okay. She's in Herington; is that correct?

12 A. Yes, sir.

13 Q. Did you all go to school together?

14 A. No, sir. She's older than I am. Her husband is a  
friend

15 of one of my uncles.

16 Q. All right. But she knew you personally?

17 A. Yes. We've met before.

18 Q. And she called you and said what concerning what  
she heard

19 over the news about Terry Lynn Nichols?

20 A. That she knew Mr. Nichols and advised that he had

boughten

21 (sic) a house there in Herington, and she gave me the  
address

22 for the house.

23 Q. All right. What time did you get that information?

24 A. Sometime around 2:30.

25 Q. Okay. And do you recall what time Terry Nichols'  
name

10235

Scott Crabtree - Cross

1 started being broadcast over the news media?

2 A. During those first few days, I didn't watch the  
news or

3 didn't hear the news; but when Georgia had called me,  
she said

4 that she had heard it on a radio broadcast or something  
a few

5 minutes earlier. So I mean, that's the first  
inclination I had

6 that his name would have been mentioned in the press.

7 Q. And that was at 2:30 --

8 A. Sometime --

9 Q. -- Kansas time?

10 A. Sometime before 2:30. I mean, she had -- it took  
her a few

11 minutes to find me because I wasn't in Salina, so she  
had to

12 initially call the Kansas City office and get my beeper

number

13 and she beeped me, and I called her back.

sold

14 Q. Okay. And did you know Mr. Seek, Ken Seek that had

15 the house to Mr. Nichols?

16 A. No, sir.

weren't

17 Q. Okay. You were familiar with that neighborhood,

18 you?

19 A. South 2nd?

20 Q. Yes, sir.

21 A. Yes, sir. At one time I lived in a house  
approximately two

22 blocks from there when I was younger.

in your

23 Q. Okay. When you got the address, you could picture

24 mind exactly where it was, couldn't you?

25 A. Yes, sir.

10236

Scott Crabtree - Cross

left the

1 Q. Okay. Now, again, what time was it then that you

2 command post in Junction City to go to Herington?

minutes.

3 A. I think it was about 3:30, give or take a few

people in

4 Q. Now, were you aware that other people -- other

5 the FBI, that is -- were en route to Herington or  
already in

6 Herington at that time as of 2:30?

7 A. Yes, sir. I believe so.

8 Q. Okay. Who was in Herington, to your knowledge?

9 A. Steve Smith, who had been at the command post and  
had been

10 working with me the last couple of days. And I knew we  
were

11 trying to get some surveillance agents down there, but  
I don't

12 know at what time they arrived or anything in  
Herington.

13 Q. Steve Smith had been working with you in the  
command post

14 in Junction City?

15 A. Yes, sir.

16 Q. And what time did he depart and go to Herington,  
Kansas?

17 A. I don't know, sir. But the Friday afternoon, we  
had quite

18 a few agents there at the command post. I -- I had  
kind of

19 lost track of the individual happenings of the  
different agents

20 and things.

21 Q. Sure. He left before you did, though; is that  
correct?

22 A. Yes, sir. Yes, sir.

23 Q. And he was in Herington?

24 A. Yes, sir.

25 Q. And you were aware that a surveillance team was  
there or

10237

Scott Crabtree - Cross

1 en route?

2 A. I believe so, yes, sir.

3 Q. And is that called a Special Operations Group?

4 A. Yes, sir.

5 Q. And what did that include? What was part of the  
6 surveillance operation?

7 A. It's a squad of typically eight or ten agents that  
have

8 vehicles that are -- that are trained, and that's  
basically

9 their job is to -- to do surveillances to find people  
and watch

10 people, for substantive investigations that are going  
on.

11 Q. Was there an airplane involved?

12 A. I believe so, but I -- I'm not positive.

13 Q. And you have FBI airplanes in the Kansas City  
office, do

14 you not?

15 A. Yes.

16 Q. Assigned to the office?

17 A. I believe so, sir.

18 Q. Are they multiengine or single engine?

19 A. I've never had the occasion to have to ask for air  
20 surveillance, so I -- I really don't know.

21 Q. Okay.

22 A. I imagine we have the availability to -- if we  
don't have

23 the proper aircraft, to -- to rent it or lease it or  
whatever;

24 and our pilots are trained to fly just about  
everything.

25 Q. And your office is Kansas City and you're a  
resident agent

10238

Scott Crabtree - Cross

1 in Salina; is that correct?

2 A. Yes, sir.

3 Q. And you know Steve Smith, who is a resident agent  
in

4 Topeka?

5 A. Yes, sir.

6 Q. And you knew John Foley?

7 A. Yes.

8 Q. And was Foley in Kansas City? Was that his  
assignment?

9 A. Yes. I believe he was assigned to the Kansas City  
office,

10 itself.

11 Q. And what about Dan Jablonski?

12 A. He was Wichita. A Wichita resident agent, sir.

13 Q. So you knew all of these people, you'd worked with  
them

14 before?

15 A. I had met them before. Unfortunately, being in a  
16 one-person office, you don't really work with many  
other people

17 unless -- it's a very rare occasion that you have a  
chance to

18 work with them. As far as, you know -- I knew Dan from  
just

19 going to Wichita and going to the United States  
Attorney's

20 office and seeing him.

21 Steve, this is really the first time I had a  
chance to

22 work with him was during this particular event. I  
mean, I had

23 met him at firearms and our fitness tests and things of  
that

24 nature, but this was our first real chance to work  
together.

25 Q. Okay. Now, you advised the jury that there was a

10239

Scott Crabtree - Cross

1 surveillance team en route or there. Do you know what  
time

2 they got there?

3 A. I believe I heard it was like 3:00, 2:45, something  
to that  
4 time effect. I know that Steve had told me he met with  
Jack  
5 Foley sometime around that time, and I think Foley was  
part of  
6 the surveillance team, if I'm not mistaken.  
7 Q. Were -- could you -- within the command post, you  
had a  
8 radio there; is that correct?  
9 A. There were radios and telephones and --  
10 Q. And they were in communication with the agents in  
Herington  
11 and en route; is that correct?  
12 A. Yes, sir. There would have been people there  
talking to  
13 them.  
14 Q. And you were aware that a S.W.A.T. team had been  
dispatched  
15 out of Kansas City, were you not?  
16 A. No, sir. I don't -- at the time, I didn't know  
that if  
17 that's, in fact, true. Now, I'm not sure.  
18 Q. You're telling the jury you weren't aware that  
there was a  
19 S.W.A.T. team dispatched out of Kansas City?  
20 A. By that time, we had all the management on site.  
My direct  
21 knowledge of everything that was going on coordinating  
the

the 22 investigation was much more focused now. I knew about  
23 Special Operations Group going down there, but I do not  
24 specifically recall at that time hearing that there was  
a 25 S.W.A.T. team en route.

10240

Scott Crabtree - Cross

1 Q. When you say the command staff was on site, are you  
2 speaking of David Tubbs, the special agent in charge?  
Had he

3 arrived at the command post in Junction City?

4 A. Yes, sir. I believe he had arrived by that time.

5 Q. What time?

6 A. I believe sometime around midday. Maybe noon,  
1:00.

7 Q. Certainly before you left the command post?

8 A. Yes, sir.

9 Q. And you were not aware that he had dispatched a  
S.W.A.T.

10 team out of Kansas City to Herington, Kansas?

11 A. At that time, no, sir.

12 Q. What time did you become aware of it?

13 A. I said I've only heard since that comments about  
there  
14 being a S.W.A.T. team. I don't know for a fact that  
there was

it. 15 a S.W.A.T. team. I've just heard conversations about

FBI? 16 Q. What is a S.W.A.T. team, to your knowledge, in the

has that 17 A. It's just a special tactical team that each office

perimeter 18 we used to make arrests or, you know, provide a

need it. 19 around an operation or something like that that might

20 Q. And you left Junction City at 3:30, was it again?

21 A. Yes, sir. About that time.

22 Q. You had your radio on?

23 A. Yes, sir.

receive 24 Q. So you were in communication, you could hear and

25 orders from the command post; is that correct?

10241

Scott Crabtree - Cross

cellular 1 A. Well, when we talked the command post, we use a

2 phone, but . . .

with 3 Q. And you could talk -- did you have a cellular phone

4 you as you were driving down to Herington?

had a 5 A. Yes, sir. We were in Dan Jablonski's car, and he

with 6 cellular phone and we -- we had contact on the way down

7 command post via the cellular phone. I cannot recall  
8 specifically if he had a Bureau radio in his car or  
not. It is  
9 a -- it's a Task Force car, and I'm not sure that they  
would  
10 put a radio in that kind of a car. I just don't know.  
11 Q. Well, all Bureau cars have radios in them, don't  
they?  
12 A. I don't think our undercover cars do. We wouldn't  
want to  
13 put a drug dealer or something in an undercover car and  
have  
14 him see a Bureau radio in it.  
15 Q. Were you in an undercover car?  
16 A. It was a Task Force car, and I think it was used  
from time  
17 to time for that purpose. It was a Lexus, I believe,  
or  
18 something so . . .  
19 Q. And you're stating there was no radio in that?  
20 A. Not that I recall, sir.  
21 Q. But you had a cellular phone; is that correct?  
22 A. Yes, sir, we did. Yes, sir, we did.  
23 Q. Where did you go when you arrived at Herington?  
24 A. To the Department of Public Safety office there on  
South  
25 Broadway.

## Scott Crabtree - Cross

1 Q. And you knew where that was?

2 A. Yes, sir.

3 Q. You had been there before?

4 A. Yes, sir.

5 Q. What did you see outside when you arrived at the location?

6 A. There was a number of vehicles there from people that had

7 already been in Herington.

8 Q. A number of FBI vehicles?

9 A. Yes, sir.

10 Q. How many?

11 A. Six, eight. I -- there was cars there. I'm not sure. I

12 mean, the police office had vehicles there, also. I --

13 Q. You can recognize FBI cars, can't you?

14 A. Usually. They typically look the same.

15 Q. How many -- how many did you see when you arrived there?

16 A. My guess would be six to eight. I don't know that when I

17 pulled up I was, you know, looking to count the number of

18 Bureau cars there.

19 Q. It takes about 30 minutes to drive from Junction City to

20 Herington?

were  
base, so

21 A. It would have taken a little longer, because we  
22 actually at Fort Riley when we left. We were on the  
23 it wouldn't have been quite as fast if it had been from  
24 Junction City down there.  
25 Q. What time did you arrive?

10243

Scott Crabtree - Cross

lot?  
the  
meant  
station,  
have any  
Nichols'

1 A. Probably sometime after 4. Shortly after 4.  
2 Q. Did you notice Mr. Nichols' pickup in the parking  
3 A. Like I said, I wasn't really paying attention to  
4 vehicles that were outside. That vehicle would have  
5 nothing to me prior to walking into the -- the police  
6 so I -- I might have looked right at it. I just don't  
7 specific recollection of saying, Okay, there's Terry  
8 vehicle.  
9 Q. You certainly became acquainted with it the next  
10 day after, didn't you?  
11 A. Well, I saw it later that evening when it had been  
pulled

12 into the garage. That's -- you know. At that time,  
yes, sir.

13 Q. Do you recall seeing it when you drove up a short  
time

14 after 4 p.m.?

15 A. Not specifically, sir. Like I said, I was not  
attuned to

16 what vehicles were setting (sic) in the parking lot at  
the

17 department there.

18 Q. Do you know whether or not there -- Mr. Nichols'  
car in the

19 parking lot had been impounded; that is, taken into  
custody by

20 the FBI and entry and access to the automobile  
restricted?

21 MR. GOELMAN: Objection to time, your Honor.

22 THE COURT: Yes.

23 BY MR. WOODS:

24 Q. Shortly after 4 p.m. when you arrived, do you know  
whether

25 or not the FBI had taken into custody Mr. Nichols'  
vehicle?

10244

Scott Crabtree - Cross

1 A. No, sir.

2 Q. You don't know that?

3 A. No, sir.

the two 4 Q. Okay. Now, you and Mr. Jablonski are together and  
5 of you go into the police station; is that correct?  
6 A. That's correct, sir.

you 7 Q. Who is present in the police station upstairs when  
8 arrive?  
9 A. The supervisor by the name of Tom Price was there  
and a few 10 of his people on his Special Operations Squad that had  
been 11 around.  
12 Q. And who was that?  
13 A. I believe Agent Gillispie was there. Sheila Dobson  
might 14 have been there. I -- I don't know all these people by  
face at 15 the time. Like I said, I hadn't had a chance to work  
with them 16 very much. So when I walked in, I saw a lot of faces  
that I 17 just didn't recognize that I come to know later through  
contact 18 the rest of the evening.  
19 Q. Okay. And when you walked in, did you learn that  
no arrest 20 warrant had been obtained as of that time?  
21 A. I -- I knew that, sir, yes.  
22 Q. All right. How did you know that?  
23 A. Well, nobody told me one had been. We weren't told  
until

warrant 24 much later in the evening that there was an arrest  
25 issued.

10245

Scott Crabtree - Cross

obtain an 1 Q. And were you aware that the process had begun to  
2 arrest warrant as of that time?

3 A. No, sir.

Price on 4 Q. You did not have any discussion with Supervisor  
5 the scene or the other agents as to the presence or  
6 lack of an arrest warrant?

7 A. No, sir. Mostly how the situation had gotten to  
8 the point where it was, because I was going to go down and join  
9 the interview.

10 Q. And when you began an interview, is it something  
11 you need to know, whether or not an arrest warrant has been  
12 obtained of that individual?

13 A. I would want to know, sir, I think, yes.

14 Q. And what inquiry did you make to determine that?

15 A. I didn't ask. I didn't ask if it had been.

is in 16 Q. It didn't come to your curiosity about why the FBI  
had been 17 Herington, Kansas, en masse and whether or not there  
18 an arrest warrant --

19 THE COURT: He answered that he didn't ask.

20 MR. WOODS: Yes, your Honor.

21 THE COURT: All right.

22 BY MR. WOODS:

masse? 23 Q. Were you aware that the FBI was in Herington en  
Honor. 24 MR. GOELMAN: Objection to "en masse," your

25 THE COURT: Sustained.

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Scott Crabtree - Cross

1 BY MR. WOODS:

FBI 2 Q. Okay. Were you aware that there were a number of  
3 people in Herington, Kansas, at that time?

number 4 A. Yes, sir. As I've already stated, Mr. Smith and a  
5 of people from the Special Operations Squad were in  
Herington.

6 Q. Okay. And what time, then, did you go downstairs  
to begin 7 your part of the interview?

8 A. Approximately 4:12, sir.

9 Q. What happened when you went downstairs?  
10 A. We went into the room, introduced ourselves to Mr.  
Nichols,  
11 and then set down, discussed going over the notes with  
12 Mr. Nichols to bring me up to speed as to what had been  
said  
13 and proceeded from there.  
14 Q. Okay. Now, you -- you told the prosecutor Friday  
afternoon  
15 that you were familiar with the FBI policy on recording  
16 interviews of witnesses. Is that correct?  
17 A. Yes, sir.  
18 Q. And you said that you had read that policy?  
19 A. Yes, sir.  
20 Q. Okay. How recent had you read it?  
21 A. I'm not sure exactly. It had probably been a  
while. I --  
22 I don't tape interviews, so it's not something that I  
would --  
23 would have been something I was dealing with on a  
regular  
24 basis.  
25 Q. Well, did you advise the jury on Friday as to what  
the

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Scott Crabtree - Cross

1 policy is?

2 A. Yes, sir.

3 Q. In detail?

4 A. Yes, sir.

5 Q. Do you recall the questions, "Do you know if the  
FBI has a  
6 policy with regard to the tape-recording of witness  
interviews?

7 "Answer: Yes, they do.

8 "Question: How long has that policy been in  
effect?"

9 MR. GOELMAN: Objection.

10 THE COURT: Yes. What's your purpose in  
asking him to  
11 review testimony?

12 MR. WOODS: The policy as he stated it, and I  
want to  
13 offer into evidence the one-paragraph policy which is  
not --

14 THE COURT: Well, ask him about that, rather  
than his  
15 prior testimony.

16 MR. WOODS: All right. Yes, your Honor.  
Thank you.

17 May I approach the witness?

18 THE COURT: Yes.

19 BY MR. WOODS:

20 Q. Mr. Crabtree, I'll show you Defense Exhibit 1656,  
which has  
21 been provided to us by the Government. If you would  
review

22 that one-paragraph policy.

23 A. Okay, sir.

24 Q. Does that refresh your memory as to what the policy  
is?

25 A. Yes, sir.

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Scott Crabtree - Cross

Friday 1 Q. Was that the policy you were testifying about on  
2 afternoon?

3 A. Yes, sir. This is the Bureau policy since before I  
came in  
4 the Bureau.

5 MR. WOODS: Your Honor, may it please the  
Court, the  
6 Government (sic) would offer into evidence this one-  
paragraph  
7 policy on the FBI policy of recording suspects,  
subjects and  
8 witnesses.

9 MR. GOELMAN: No objection, although the  
Government is  
10 not offering it, your Honor.

11 THE COURT: Well, it's a defense witness. I  
12 understand that. I mean, defense exhibit. D1656 is  
received.

13 BY MR. WOODS:

14 Q. Your Honor, may I publish?

15 THE COURT: Yes, you may.

16 BY MR. WOODS:

17 Q. Now, Mr. Crabtree, you mentioned only to the jury  
the

18 interview of witnesses. This policy covers interview  
of

19 subjects and suspects -- is that correct -- along with

20 witnesses?

21 A. Yes, sir.

22 Q. Would you tell the jury in the Bureau terminology  
what the

23 difference between a witness, subject, and suspect is.

24 A. Witness would be someone you're contacting for  
information

25 about a particular event. A suspect is somebody that  
might

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Scott Crabtree - Cross

1 have more than just knowledge, might have some  
connection to a

2 particular event, although nothing definite to link  
them to a

3 particular act that we're investigating. Subject would  
be the

4 person that is actually the subject of the  
investigation that

5 we believe might have actually broken the law, whatever  
the law

6 is that is the subject of that particular  
investigation.

7 MR. WOODS: All right. Now, I'm not sure that  
the

8 jury can read this. Your Honor, I would ask that Mr.  
Crabtree

9 read the document.

10 THE COURT: Well, you read it.

11 MR. WOODS: Thank you, your Honor.

12 THE COURT: It's an exhibit. You can read it.

13 BY MR. WOODS:

14 Q. This comes from section 7, confessions and  
interrogation;

15 is that correct?

16 A. Yes, sir.

17 Q. This is out of the FBI manual?

18 A. The legal handbook, yes.

19 Q. "Tape-recording of interviews. Use of tape  
recorders for

20 the purpose of recording the statements of witnesses,  
suspects,

21 and subjects is permissible on a limited, highly  
selective

22 basis and only when authorized by the SAC." Is that  
special

23 agent in charge?

24 A. Yes, sir. That's what the SAC is.

25 Q. "To ensure the voluntariness of statement  
electronically

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Scott Crabtree - Cross

1 recorded, the following conditions are to be adhered  
to.  
2 No. 1, the recording equipment must be in plain view of  
the  
3 interviewee. No. 2, consent of the interviewee to the  
4 recording must be obtained and clearly indicated on the  
tape.  
5 (3) the questioning must be carefully prepared so that  
the tone  
6 of voice and wording of the questions do not intimidate  
or  
7 coerce. No. 4, recording tapes must not be edited or  
altered,  
8 and the originals must be sealed and stored in such a  
manner as  
9 to ensure the chain of custody. See the SAC  
memorandum" such  
10 and such "dated 7-29-75."

11 Is that correct?

12 A. Yes, sir.

13 Q. Now, did you make inquiry of David Tubbs, the  
special agent  
14 in charge, as to whether or not you should tape-record  
this  
15 interview?

16 A. No, sir, I did not.

17 Q. Did Agent Tubbs instruct you to not record the

interview?

18 A. No, sir.

19 Q. Do you have any reason to believe that Mr. Nichols  
would

20 not give his consent to a tape-recorded interview,  
since he was

21 there voluntarily to answer questions and ask  
questions?

22 MR. GOELMAN: Objection.

23 THE COURT: Overruled.

24 THE WITNESS: I had no specific information at  
that

25 time to indicate one way or the other.

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Scott Crabtree - Cross

1 BY MR. WOODS:

2 Q. At any rate, it's true that you did not record the  
3 interview; is that correct?

4 A. We did not tape it. That's true, sir.

5 Q. When you went down to the interview room, it was  
Agent

6 Smith and Agent Foley that were conducting the  
interview; is

7 that correct?

8 A. Yes, sir.

9 Q. And you told the jury that they read the notes to  
you and

10 Jablonski to bring you up to date?

were his  
11 A. Yes, sir. Agent Smith went over the notes. They  
12 notes.

13 Q. All right. And Mr. Nichols at that time made some  
14 additions, corrections; is that correct?

but --  
15 A. I believe he might have made an addition or two,  
16 nothing remarkable enough that I even remember what it  
was.

17 Q. And you didn't remember what it was?

18 A. No, sir.

this  
19 Q. Okay. What have you used to refresh your memory of  
20 interview that took place two-and-a-half years ago?

21 A. The FD 302, the summary of the interview, and the  
22 typewritten version of Agent Smith's notes, and just  
another --

help  
23 other items and documents that we had at the time would

when we  
24 put me in the frame of mind that I had that occasion

25 were doing the interview.

10252

Scott Crabtree - Cross

made  
1 Q. So Agent Smith's notes are the only thing that was

2 contemporaneous with the interview; is that correct?

3 A. Yes, sir.

4 Q. And you've reviewed those?

5 A. Yes, sir.

6 Q. All right.

7 THE COURT: Well, excuse me. I -- there are  
two notes

8 here. One is the typed version. One is the  
handwritten.

9 THE WITNESS: The typed version.

10 THE COURT: I think you said the typed  
version.

11 THE WITNESS: Yes, sir. I cannot read Mr.  
Smith's

12 notes tough -- handwritten notes enough to be able to  
rely on

13 those.

14 BY MR. WOODS:

15 Q. Did you check with the handwritten notes and the  
16 typewritten notes to see if they were accurate?

17 A. No, sir, I did not.

18 Q. You just read the typewritten notes?

19 A. Yes, sir.

20 Q. All right. And that's the only contemporaneous  
memorandum

21 we have of the interview; is that correct?

22 A. Yes, sir. Well, the notes are, yes.

23 Q. And you're aware that Mr. Smith took notes before  
you got

24 there at 4:12?

25 A. That is correct, sir.

10253

Scott Crabtree - Cross

1 Q. Approximately how long had he -- had he interviewed  
2 Mr. Nichols?

3 A. I believe they had been there for maybe almost an  
hour at  
4 that point.

5 Q. And he read you notes that -- relating to what had  
been  
6 said during that period of time?

7 A. Yes, sir.

8 Q. Now, how long did that take, the reading of the  
notes?

9 A. Maybe 10 minutes or so, sir.

10 Q. All right. What happened at that point?

11 A. Then we began carrying forward from there.

12 Q. And when you say "we," were all four of you there  
13 interviewing Mr. Nichols?

14 A. For a little while, yes, sir.

15 Q. Who was doing the questioning?

16 A. Primarily at that point, I began doing the  
questioning.

17 Q. And who was taking the notes?

18 A. Agent Smith.

Jablonski 19 Q. And when you say "primarily," were the other two,

20 and Foley, asking questions, also?

or 21 A. Throughout the interview, whether it be Agent Smith

sole 22 them, there could have been other people. I wasn't the

classified maybe 23 person asking questions. I would probably be

24 as the primary questioner.

questions as 25 Q. So you had three people asking Mr. Nichols

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Scott Crabtree - Cross

1 they thought of them?

Foley and 2 A. At that point, the primary matters that Agents

willingness to 3 Jablonski questioned Mr. Nichols about was his

4 execute the consent to search form.

knowledge of 5 Q. So while you're asking him questions about his

questions 6 Mr. McVeigh, when he last saw him, they are asking

7 about signing a consent form?

started 8 A. Well, we began that discussion. That discussion

9 and ended before we got back then into the interview.

10 Q. Well, how long did Foley and Jablonski stay in the  
11 interview?

12 A. After we completed our review of notes, it probably  
took 5  
there a  
13 or 10 minutes to do the consent. They were probably  
14 total of maybe 40 minutes or so for the review of  
notes, doing  
15 the consent and a little bit of the questioning.

16 Q. A little bit of the questioning?

17 A. Yes, sir.

18 Q. But that will be reflected in Agent Smith's notes;  
is that  
19 correct?

20 A. Yes, sir. It should show.

21 Q. He was keeping contemporaneous notes of what was  
being said  
22 during that interview; is that correct?

23 A. Yes, sir.

24 Q. Now, you mentioned to the jury Friday that Mr.  
Nichols was

25 doing something unusual, in that he was taking time  
after a

10255

Scott Crabtree - Cross

1 question and he was -- what did you say? He was  
closing his

2 eyes and thinking for a little while?

3 A. Yes, sir.

4 Q. And you told him to stop that?

5 A. Yes, sir.

6 Q. Here's a person who -- did he advise you that he  
had heard

7 his name on television in connection with this bombing?

8 A. He advised us he had heard his name in the press,  
yes, sir.

9 Q. Did he advise you he had heard the press conference  
of the

10 Attorney General saying she was going to seek the death  
penalty

11 on everybody involved in this case?

12 A. He saw the press conference. I don't know if we  
talked

13 about if he mentioned the death penalty or not. I  
don't recall

14 him saying that.

15 Q. And if he wants to take a moment before answering  
the

16 question, you found that unusual and you instructed him  
to stop

17 it?

18 A. A moment wouldn't have bothered me, sir. When  
we're

19 discussing things that had happened within the two or  
three

20 days previously and it was taking 20 to 30 seconds to  
come up

21 with a fairly straightforward response, that seemed to  
be

22 excessive, yes, sir.

23 Q. Were you in some rush?

24 A. No, sir. I just wanted him to tell us the truth,  
and I  
25 didn't see where having to take that long was an  
indicator that

10256

Scott Crabtree - Cross

1 that's what he was doing.

2 Q. Were you aware that an arrest warrant was going to  
be  
3 executed that night?

4 A. No, sir.

5 Q. Are you telling this jury that you had no reason to  
be  
6 rushing this interview, trying to get as much  
information as  
7 you could in as short a period of time as you could?

8 A. There was no particular reason to rush this  
interview.

9 Everything up until that point had been at a very fast  
pace.

10 We were hoping Mr. Nichols would be able to give us  
some lead

11 information that would track us to Mr. McVeigh or Un.  
Sub. 2 or

12 whoever.

13 Q. You knew where Mr. McVeigh was at that time. He

was in FBI

14 custody.

15 A. Yes, sir. I did.

16 Q. And your questioning to start off the interview was  
what

17 Mr. Nichols knew about Mr. McVeigh, wasn't it? All of  
his

18 contacts with Mr. McVeigh?

19 A. Yes, sir.

20 Q. And that's reflected in the notes?

21 A. Yes, sir.

22 Q. And the progress of this interview will be  
reflected in

23 those notes, the subject matters that you discussed; is  
that

24 correct?

25 A. That's correct.

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Scott Crabtree - Cross

Nichols 1 Q. Now, you told the prosecutor this morning that Mr.

2 didn't mention storage sheds until you came back in  
with the

3 letters after that last break at 10:50; is that  
correct?

4 A. That is correct.

5 Q. Well, in the letters, it mentions the storage sheds  
that he

6 had in Las Vegas, didn't it?

7 A. Yes, sir. And that's where the --

8 Q. He fairly told you, readily told you that he had  
storage

9 lockers in Las Vegas, didn't he?

10 A. Yes, sir. After we questioned him about the  
storage sheds,

11 yes, sir.

12 Q. That's the first time you questioned him about  
storage

13 sheds, wasn't it?

14 A. Yes, sir.

15 Q. So the fact that he didn't mention it early in the  
16 interview -- there's certainly nothing incriminating  
about

17 that, is there?

18 A. Only to the point that he didn't tell us about a  
19 conversation regarding moving some of Mr. McVeigh's  
belongings

20 from the storage shed. I thought that was kind of odd  
that he

21 didn't mention that earlier when we asked him to  
discuss all

22 contacts and discussions with Mr. McVeigh. I thought  
--

23 Q. He told you that --

24 THE COURT: Let him finish his answer.

25 MR. WOODS: Yes, your Honor.

Scott Crabtree - Cross

1 BY MR. WOODS:

Junction

2 Q. He told that you he dropped Mr. McVeigh off in

3 City on Tuesday afternoon; is that correct?

4 A. Yes, sir.

then

5 Q. And then when the storage shed subject came up, he

6 volunteered to you that, oh, yes, Mr. McVeigh asked me,

me to

7 concerning storage sheds I have access to -- he asked

the exact

8 clear out the storage shed in Herington. He gave you

didn't he,

9 address and the exact location of that storage shed,

10 sir?

11 A. After I asked him, yes, sir, he did.

he?

12 Q. He didn't deceive you as to the location of it, did

13 A. No, sir.

14 Q. Told you exactly which one it was?

15 A. Yes, sir.

Council

16 Q. And he also told you that he had storage sheds at

17 Grove, didn't he?

18 A. Yes, sir.

19 Q. And he gave you the names of Parker and Kyle,

didn't he?

20 A. The following afternoon, sir, yes, he did.

21 Q. Now, these comments that you made to the prosecutor  
about

22 the questions of the "go for it" and the "heat": Those  
would

23 be reflected in the notes -- is that correct -- because  
you put

24 such importance on those two statements in the letters  
that you

25 showed to Mr. Nichols?

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Scott Crabtree - Cross

1 A. The questions that I asked will not be in the  
notes. It's

2 not typical for an agent to record his questions in his  
own

3 notes.

4 Q. So the notes are not going to reflect anything  
about "go

5 for it" or "heat" because you didn't -- Mr. Smith  
didn't put

6 anything down about the questions?

7 A. He didn't list my questions; and then, of course,  
we didn't

8 get a response so there wouldn't be anything there,  
either.

9 Q. Sometimes he does list the questions -- Mr. Smith  
does --

10 doesn't he?  
11 A. I believe there was a couple of times that he did,  
yes,  
12 sir.  
13 Q. But you didn't think this was important enough to  
put --  
14 Mr. Smith didn't put them in the notes; is that  
correct?  
15 A. Mr. Smith was taking the notes. I don't know what  
he wrote  
16 down at that time, sir.  
17 Q. Okay.  
18 A. Certainly wouldn't have been till after.  
19 Q. So everything you learned about the storage lockers  
at  
20 Herington and Council Grove came from Mr. Nichols -- is  
that  
21 correct -- during the course of that interview?  
22 A. No, sir. Actually, the letter to Mr. McVeigh from  
23 Mr. Nichols discusses the Council Grove storage  
lockers. The  
24 information regarding the Herington locker came up as a  
result  
25 of Mr. Nichols' telling us about removing Mr. McVeigh's

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Scott Crabtree - Cross

1 belongings.  
2 Q. That he voluntarily mentioned it; is that correct?

You

3 didn't know anything about the Herington locker until  
he told

4 you about it?

5 A. No, sir. Not at that time, we didn't know.

6 Q. Okay. Would you agree with me, Agent Crabtree,  
that it

7 sure would be easier for this jury if you'd have  
recorded that

8 conversation, those nine hours you were there?

9 A. Yes, sir. If we had considered him possibly a  
subject at

10 the time, there's a good chance we would have recorded  
it. But

11 he was just a witness; and I'd interviewed numerous  
witnesses

12 up to that point on this case, and I hadn't recorded  
any of

13 those interviews then, so --

14 Q. How many occasions in interviewing witnesses does  
the FBI

15 send out S.W.A.T. teams and Special Operations Groups?

16 A. I don't know, sir. It's a big organization. I  
don't know

17 how often.

18 Q. You certainly have never been on an operation where  
you

19 went to interview a witness and they sent out a  
S.W.A.T. team

20 and a Special Operations Group, have you?

21 A. No, sir.

22 Q. All right. You also interviewed Mr. Nichols the  
following  
23 day when you took him from the jail in Abilene down to  
Wichita,  
24 didn't you?  
25 A. That's correct, sir.

10261

Scott Crabtree - Cross

1 Q. And Mr. Smith was doing the driving?  
2 A. Yes, sir. He was.  
3 Q. So you took the notes?  
4 A. No, sir. We didn't take notes.  
5 Q. Well, you -- may I approach the witness, your  
Honor?

6 THE COURT: Yes.

7 BY MR. WOODS:

8 Q. Let me show you what has been provided to us by --  
the  
9 Government's represented as those are your notes of the  
10 interview of the 22d. Is that in error?  
11 A. Those are notes that I took once we arrived in  
Wichita at  
12 the courthouse after our transportation of Mr. Nichols  
to the  
13 court was complete. We had no intention of  
interviewing  
14 Mr. Nichols during that trip. I didn't have a notebook

or

15 anyone to take notes during the trip. These, as I  
said, were

16 just kind of a recollection I had once I got to Wichita  
as to

17 what he had discussed during the trip down there to at  
that

18 point.

19 Q. How long did it take to drive from Abilene to  
Wichita?

20 A. Approximately an hour and a half.

21 Q. And you stated that you had no intention of  
interviewing

22 Mr. Nichols during that trip?

23 A. That's correct.

24 Q. Did you receive those instructions from the U.S.  
Attorney?

25 A. No, sir.

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Scott Crabtree - Cross

1 Q. Did you receive them from the U.S. Attorney's  
office?

2 A. No, sir.

3 Q. Were you aware that Mr. Nichols was going to be  
provided an

4 attorney once he arrived in court there in Wichita?

5 A. Yes, sir. I advised him of that fact when we were  
leaving

6 the Dickinson County detention facility.

7 Q. And your purpose was you weren't going to ask any  
8 questions? You'd asked all the questions you needed to  
the  
9 evening before; is that correct?

10 A. We'd asked questions to the point where we thought  
we  
11 should have got a particular answer to the letters. We  
didn't  
12 get it. At that point, I didn't see much reason for  
going on  
13 if we weren't going to discuss, you know, what I  
thought was  
14 clearly something that he should have answered.

15 Q. Well, you stopped your interview at 12:11; is that  
correct?

16 A. I believe that's the time, sir, yes.

17 Q. And then he was continued to be interviewed by  
Jablonski  
18 and Foley, didn't he?

19 A. I believe they went in and talked to him for a few  
minutes,  
20 sir, yes.

21 Q. And then arrested him?

22 A. Yes, sir.

23 Q. On the material witness arrest warrant; is that  
correct?

24 A. Yes, sir.

25 Q. And when did you first learn during that evening  
that the

Scott Crabtree - Cross

1 warrant had finally been obtained out of Oklahoma City?

2 A. During the break from 10:20 to 10:50.

3 Q. And when you say "break," are you referring to your  
break?

4 A. Just a break we took from interviewing Mr. Nichols.

5 Q. Well, Mr. Nichols would continue to be interviewed  
by

6 Jablonski and Foley when you and Smith would go  
upstairs,

7 wouldn't he?

8 A. I think during the first break, Mr. Nichols began  
talking

9 to Agents Foley and Jablonski. During the second time  
that we

10 had separated from him, he drew a sketch of his house

11 indicating where we might find firearms and ammunition.  
I

12 don't think there was any discussion during the third  
break.

13 It was a break only in the sense that we broke apart  
from him.

14 We were going upstairs to get more information, to tell  
people

15 what we had found, and to see if there was information  
that we

16 needed to have to go down and complete the interview.

17 Q. So the break was a break away from him, but he

continued to

18 be interviewed by Jablonski and Foley; is that correct?

19 A. I don't think I can term it as being interviewed,  
sir. My

20 understanding is he voluntarily started talking to them  
during

21 the second break. Our intention was that statements  
and

22 questions would come from Agent Smith and myself after  
the

23 point that I arrived so we would have one statement  
made to the

24 two of us, so we wouldn't have situations where there  
would be

25 multiple statements to multiple agents.

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Scott Crabtree – Cross

1 Q. And after that first break when you went back to  
resume

2 your interview with Mr. Nichols, Mr. Jablonski read  
from his

3 notes to relate the contents of the interview he had  
had with

4 Mr. Nichols, did he not?

5 A. Yes, sir. We went over the notes to the discussion  
of what

6 Mr. Nichols had told him during that break; that's  
correct.

7 Q. So the break is a break away, not a time to rest;  
is that

8 correct?

9 A. I don't know if Mr. Nichols wanted to not talk or  
decided

10 to talk. I don't know what -- I don't know how that  
whole

11 particular situation transpired. I wasn't there, sir.

12 Q. And then the second break, you come back and he's  
drawing a

13 diagram of his house. Is that your testimony?

14 A. He had during that break. I think he was done by  
the time

15 we got back, sir.

16 Q. And did you see the diagram?

17 A. Yes, sir.

18 Q. Was it a floor plan of the various rooms and garage  
of his

19 house?

20 A. Yes, sir.

21 Q. Did he point out the location of the weapons and  
the

22 ammunition in his house?

23 A. Yes, sir. There was a key on it that showed where  
24 different things would be found.

25 Q. Okay. Now, you didn't take part in the search the

1 following day; is that correct?

2 A. No, sir.

3 Q. What did you do with that diagram that Mr. Nichols  
drew so

4 that the agents would know where the guns and weapons  
were?

5 A. That had been something that had been produced  
during the

6 break by Agents Foley and Jablonski. They would have  
kept that

7 document, and I could not tell you what either of those  
agents

8 would have done with that particular document after we  
left

9 Herington.

10 Q. Do you know whether or not they participated in the  
search?

11 A. I don't know if they did or not, sir.

12 Q. Now, those notes that you have in front of you:  
Are they

13 an accurate reflection of what you wrote down as soon  
as you

14 got to Wichita to make a note of the conversation you'd  
had

15 with Terry Nichols en route?

16 A. Those -- this is the summary of what I recall  
during the

17 conversation that he'd had with us on the way down  
there, yes.

18 Q. Will you read that short three or four lines into  
the

19 record of your notes.

Counting 20 A. Okay. "Asked about being gone Tuesday, the 18th.  
mailing 21 the same. Manhattan. Kinko's business cards and  
this 22 labels. Then went --" and I cannot read my writing on  
Vehicle 23 particular next word here. "Got insurance. Pickup.  
24 inspection. Home just after 5."  
April the 25 Q. So you were going over the details of Tuesday,

10266

Scott Crabtree - Cross

1 18th, with him; is that correct?  
2 A. Yes, sir. He recounted those details to us again.  
3 Q. But you can't read something in your notes?  
4 A. There is a particular word here that I cannot make  
out what  
5 it is.  
6 Q. Didn't record that conversation, either; is that  
correct?  
7 A. No, sir.  
8 MR. WOODS: Thank you, your Honor. No further  
9 questions.  
10 THE COURT: All right. Do you have any  
redirect?  
11 MR. GOELMAN: Yes, your Honor.

12

REDIRECT EXAMINATION

13 BY MR. GOELMAN:

14 Q. Agent Crabtree, defense counsel asked you some  
questions  
15 about the FBI taping policy.

16 A. Yes, sir.

17 Q. And you actually read that into the record. Does  
that --  
18 is that a policy that applies to subjects as well as to  
19 witnesses?

20 A. Yes, sir.

21 Q. And what was Mr. Nichols when you walked into that  
22 interview at 4:12?

23 A. Hopefully, a witness to help us find more  
information on

24 Tim McVeigh.

25 Q. When you walked into that interview, did you have  
any

10267

Scott Crabtree - Redirect

1 specific reason to suspect that he might have been  
involved in  
2 the bombing?

3 A. No, sir.

4 Q. You did talk to Mr. Woods about some of the other  
5 interviews you did?

6 A. Yes, sir, we did.

7 Q. Of other witnesses?

8 A. Yes, sir.

9 Q. On this case?

10 A. Yes, sir.

11 Q. Did you tape any of them?

12 A. No, sir.

13 Q. You told the jury on Friday, I believe, that you've  
never  
right?

14 been in an FBI interview that has been taped; is that  
15 A. That's correct.

16 Q. Have you ever sat in on interviews done by other  
law  
17 enforcement agencies?

18 A. Yes, sir.

19 Q. Which ones?

20 A. Kansas Bureau of Investigation, police departments,  
Salina  
21 and Hays, and other departments since I've been in.

22 Q. About how many interviews have you been in with the  
Kansas  
23 Bureau of Investigation, for example?

24 A. Maybe 30 to 40 or so. Mostly regarding bank  
robberies or

25 things of that nature. More violent-crime-type cases.

Scott Crabtree – Redirect

1 Q. Were any of those taped?

2 A. No, sir.

3 Q. Have you ever been in an interview of a witness  
that was  
4 taped?

5 A. No, sir.

6 Q. And is it your understanding that this policy that  
you read  
7 into the record applies to undercover investigations,  
as well?

8 A. No, sir. It does not.

9 Q. Mr. Woods asked you some questions about your  
knowledge of  
10 the investigation before you walked into that interview  
on  
11 April 21; is that right?

12 A. Yes, sir.

13 Q. And you were talking about information that the FBI  
had  
14 learned from Ms. McGown, manager of the Dreamland  
Motel; is  
15 that right?

16 A. Yes, sir.

17 Q. What information did Ms. McGown provide about Mr.  
McVeigh's  
18 stay at the Dreamland?

19 A. That he had been there at the Dreamland from the  
14th of

of the 20 April through the 18th of April; that he had, for part  
him with 21 time, a yellow Mercury-type vehicle. And she also saw  
address of the 22 a Ryder truck during that stay. That he gave an  
of it. 23 Nichols farm in Michigan. That's the sum and substance  
Dreamland if 24 Q. Did you learn from different sources at the  
the 14th 25 that yellow Mercury had been parked at the motel from

10269

Scott Crabtree - Redirect

1 to 18th?  
2 A. Yes, sir.  
motel? 3 Q. And had it been parked that entire time at the  
4 A. No, sir. Not the entire time.  
longer 5 Q. Did you -- did they provide a date at which they no  
6 saw the Mercury at the motel?  
7 A. After Sunday, sir.  
8 Q. Easter Sunday?  
9 A. Yes, sir.  
saw Tim 10 Q. And did they tell you when the last time that they  
11 McVeigh at the Dreamland?

12 A. It would have been the 18th, sir.

13 Q. The -- what time on the 18th?

14 A. That, I'm not sure, sir. I can't recall at this  
point.

15 Q. Did they tell you whether or not they ever saw Mr.  
McVeigh  
16 in the company of anyone else?

17 MR. WOODS: Can we get a date and time that  
this day  
18 telling is going on.

19 THE COURT: Yes. You should have it. Before  
the  
20 interview, I assume you're talking about.

21 MR. GOELMAN: Yes, your Honor.

22 BY MR. GOELMAN:

23 Q. Do you know if -- if Ms. McGown was asked if Mr.  
McVeigh  
24 checked in alone or not?

25 A. I don't specifically recall that, sir.

10270

Scott Crabtree - Redirect

1 Q. Turning back to your investigation at Elliott's  
Body

2 Shop --

3 A. Yes, sir.

4 Q. -- you determined that there -- the investigation  
5 determined that that's where the bomb truck had been

rented?

6 A. Yes, sir.

7 Q. Did you have -- did you have any knowledge when you  
went

8 into that interview about the specific phone call that  
was made

9 to initiate the rental of that truck?

10 A. Prior to going into the interview?

11 Q. Yes, sir.

12 A. No, sir.

13 Q. Did you know -- did Ms. Beemer when you -- when you  
14 interviewed her tell you about any call that she had  
taken?

15 A. Yes, sir. She advised that she had received a call  
on

16 Friday from someone that wanted to rent a truck  
primarily based

17 on poundage of what was to be transported, as opposed  
to the

18 number of rooms of goods that had to be transported.

19 Q. Friday: That would be April 14th?

20 A. Yes.

21 Q. Mr. Woods asked you some questions about the  
S.W.A.T. team

22 being dispatched. Do you know what time the S.W.A.T.  
team

23 arrived in Herington?

24 A. No, sir.

25 Q. Did you ever see the S.W.A.T. team in Herington?

10271

Scott Crabtree - Redirect

1 A. No, sir.

2 Q. Did you hear that the S.W.A.T. team was later  
called off?

3 A. No, sir. I just heard vaguely that the -- comments  
about

4 the S.W.A.T. team being involved. I know nothing  
specifically

5 about it. I was in the interview, and I really didn't  
know

6 what was going on outside the interview during that  
evening.

7 Q. Knowing, as you did, on the 21st about Mr.  
McVeigh's stay

8 at the Dreamland from April 14 to April 18, did that  
affect at

9 all the questions that you asked Mr. Nichols in the  
course of

10 that interview?

11 A. Certainly.

12 Q. And how -- how did it affect that?

13 A. We wanted to know if there had been any contact  
between the

14 two of them based on the information from the Detroit  
office

15 that both McVeigh had been associated with that address  
which

16 was owned by Terry's brother; that we expected there  
might be

were, in 17 some contact between these two individuals if they  
18 fact, that close to one another. In that proximity,  
anyway. 19 Q. And at any time during April 21st or 22d, 1995, did  
20 Mr. Nichols admit to you that he knew that Tim McVeigh  
stayed 21 at the Dreamland?  
22 A. No, sir.  
23 Q. Mr. Woods asked you if you had any reason to  
suspect that 24 if you had a tape recorder and it was taping the  
interview that 25 Mr. Nichols would refuse to talk to you; is that right?

10272

Scott Crabtree - Redirect

1 A. Yes, sir.  
2 Q. And you said that you had no information one way or  
3 another?  
4 A. I had no specific information, no, sir.  
5 Q. Did you learn during the course of the interview  
that 6 Mr. Nichols had declined to sign a form because the  
word 7 "interrogation" reminded him of the Nazis?  
8 A. Yes, sir.  
9 Q. How many people were present in the interview --

how many

10 FBI agents spoke to Mr. Nichols at one time with the  
exception

11 of the half-hour period when you and Agent Jablonski  
first

12 arrived?

13 A. It would have just been Agent Smith and myself.  
Primarily

14 me doing the questioning, Steve asking questions if,  
you know,

15 maybe something pertained to what he was trying to put  
into the

16 notes.

17 Q. And you had other FBI agents in the Herington  
Department of

18 Public Safety at the time; is that right?

19 A. Yes, sir, we did.

20 Q. Why did you use only two agents to speak to Mr.  
Nichols?

21 A. That is -- traditionally, when we do an interview,  
we use

22 two agents. No really reason to have more than that.  
It may

23 feel coercive or something to the person being  
interviewed if

24 there was a great number of agents present.

25 Q. When you went in -- when you returned to the  
interview

Scott Crabtree – Redirect

1 after your last break at 10:50 --

2 A. Yes, sir.

3 Q. -- you have letters with you that the FBI had  
received from

4 Las Vegas; is that right?

5 A. Yes, sir.

6 Q. Did you immediately show Mr. Nichols those letters?

7 A. Immediately, no, sir.

8 Q. Do you ask your questions about any storage lockers  
under

9 his care, custody, or control before or after you  
showed him

10 those letters?

11 A. That was the first subject matter that we discussed  
upon

12 returning to the interview.

13 Q. And did Mr. Nichols ask you what your source was  
for asking

14 about storage lockers?

15 A. No, sir.

16 Q. When he provided you with storage lockers, he  
provided you

17 with information about three of them; is that right?

18 A. That is correct, sir.

19 Q. And you said on cross-examination that he told you  
about a

20 storage shed in Council Grove; is that right?

21 A. Yes, sir.

you? 22 Q. How many storage sheds in Council Grove did he tell

23 A. One, sir.

shed in 24 Q. Did he ever tell you that he had another storage

25 the very same -- in the very same business?

10274

Scott Crabtree - Redirect

1 A. No, sir.

provided you 2 Q. And you indicated that on the 22d, Mr. Nichols

3 with two names -- is that right -- that he had used?

4 A. That he himself had used, yes, sir.

5 Q. And those names were "Jim Kyle" and "Ken Parker"?

6 A. Yes, sir.

Bridges"? 7 Q. Did he ever provide you with the name "Daryl

8 A. No, sir.

Havens"? 9 Q. Did he ever provide you with the name "Terry

10 A. No, sir.

11 Q. Or "Joe Havens"?

12 A. No, sir.

Nichols 13 Q. You talked about the trip that you took with Mr.

the main 14 from Abilene to Wichita; is that right? The day after

15 part of the interview?

16 A. Yes, sir, we did.

17 Q. And had you and Agent Smith discussed what you were  
going  
up?

18 to do during this trip before you picked Mr. Nichols

19 A. Yes, sir, we did.

20 Q. Can you describe that discussion for us?

21 A. Just that we would not ask any questions. We would  
just  
him for  
22 pick him up and transport him to Wichita and deliver  
23 his initial appearance, and that would be it.

24 Q. And what was the reason for that?

25 A. Again, we had given Mr. Nichols ample opportunity,  
I think,

10275

Scott Crabtree – Redirect

1 the night before to explain to us all his contacts and  
2 communications with Mr. McVeigh. And we don't believe  
that he  
3 did, especially in relationship to the last letter we  
showed  
4 him. At that point, there was really no further (sic)  
in going  
5 with the questions if we can't get responses to the  
questions  
6 we've already asked.

7 Q. And you indicated that despite this, Mr. Nichols  
himself  
8 started talking to you down when you were on that -- on  
that  
9 trip down to Wichita?

10 A. Yes, sir.

11 Q. What did he start talking about?

12 A. The first thing he started talking about was he  
inquired of  
13 us whether they had -- we'd conducted the search of his  
home or  
14 not.

15 Q. During the course of the interviews on the 21st and  
22d,  
16 did Mr. Nichols ever express a particular concern about  
what  
17 agents would find when they searched his house?

18 A. Yes, he did.

19 Q. And did he express any concern about confusion they  
might  
20 have?

21 A. Yes, sir, he did.

22 Q. What did he say?

23 A. He was hopeful that anybody that would be doing the  
search  
24 of his residence wouldn't mistake household items,  
later  
25 clarified as cleaning solvents -- mistake those in  
connection

Scott Crabtree - Redirect

1 with bomb-making materials.

2 Q. What do you mean, "later clarified as cleaning  
solvents"?

3 A. After he made that statement, "household items," I  
think

4 that begged a further question on my part. So I  
followed up

5 with what kind of item are we talking about.  
"Household items"

6 is a pretty broad category to -- to make that statement  
in

7 regards to.

8 Q. Did he ever explain why he thought agents might be  
likely

9 to confuse cleaning solvents with bomb-making  
materials?

10 A. No, sir. Just that he hoped that it didn't happen  
or

11 wouldn't happen.

12 MR. GOELMAN: Court's indulgence.

13 THE COURT: Yes.

14 MR. GOELMAN: I have nothing further.

15 THE COURT: Any recross?

16 MR. WOODS: Just a couple, your Honor.

17 THE COURT: All right.

18 RECROSS-EXAMINATION

19 BY MR. WOODS:  
20 Q. Now, you just advised the prosecutor when you went  
back in  
21 after that last break you didn't show the letters  
concerning  
22 the storage locker instructions. You just started  
asking  
23 questions about the storage locker; is that correct?  
24 A. That's correct, sir.  
25 Q. And Mr. Nichols told you about the one he had in  
Vegas; is

10277

Scott Crabtree - Recross

1 that correct?  
2 A. Yes, sir, he did.  
3 Q. In fact, there were two in Vegas, weren't there?  
4 A. He described one in Vegas; but, yes, sir.  
5 Q. And he had two. One was a locker and one was --  
one for  
6 his car. Did you understand that?  
7 A. Yes, sir.  
8 Q. And he told you he had one in Council Grove. He  
said,  
9 "I've got at this -- at this storage shed in Council  
Grove,"  
10 did he not?  
11 A. Yes, sir. We discussed that storage shed and what  
effects

12 he had kept there.

13 Q. And storage shed can include more than one locker,  
can't

14 it?

15 A. That wouldn't have been my understanding at the  
time if it

16 had been separate lockers. I would --

17 Q. Did you ask him specifically what he meant by  
"storage

18 shed"?

19 A. No, sir, I did not.

20 Q. Now, you went in (sic) with the prosecutor about  
what

21 Ms. Beemer told you during the course of your  
interview. Did

22 she advise you that there were two people when the  
vehicle was

23 rented on April the 17th, that afternoon at 4:15?

24 A. On the first interview of her, she believed there  
was a

25 second person and was extremely vague about any details  
about

10278

Scott Crabtree - Recross

1 that person.

2 Q. And Mr. Kessinger, did he advise you that there  
were two

3 people?

4 A. Yes, sir, he did.

two  
5 Q. And Mr. Elliott, did he advise you that there were  
6 people?

7 A. No, sir. He said there was one person.

two,  
8 Q. And in the following day, told you that there were  
9 didn't he?

10 A. Yes, sir, he did.

from  
11 Q. Did Mr. Nichols fit that description that you had  
12 those three individuals?

13 A. No, sir.

believe  
involved.  
correct?  
14 Q. Now, you told the prosecutor you had no reason to  
15 when you went to interview Mr. Nichols that he was  
16 He was being interviewed merely as a witness; is that

17 A. Yes, sir.

sent out  
witness"?  
18 Q. But you've never been in a situation where the FBI  
19 an S.O.G. and a S.W.A.T. team to, quote, "interview a

20 A. No, sir.

21 MR. WOODS: No further questions, your Honor.

22 THE COURT: All right.

23 REDIRECT EXAMINATION

24 BY MR. GOELMAN:

about 25 Q. Agent Crabtree, Mr. Woods asked you some questions

10279

Scott Crabtree – Redirect

told you 1 the Council Grove storage locker and what Mr. Nichols  
2 about it.

3 A. Yes, sir.

Nichols 4 Q. Again, what was your question that you asked Mr.  
5 when you came in after your last break at 10:50?

6 A. I asked him to describe any storage lockers or  
7 facilities  
8 under his care, custody, or control.

as time 9 Q. And did you limit that question in any way as far  
10 that you  
11 goes? Did you say, "I only want the storage lockers  
12 have now"?

13 A. No, sir.

Nichols 14 Q. Do you have any reason to know whether or not Mr.  
15 understood you to be asking only about storage lockers  
16 that he  
17 had --

18 THE COURT: Improper question.

19 BY MR. GOELMAN:

17 Q. What was Mr. Nichols' response?

18 A. He described three different lockers, two of which  
by his  
19 own statement had been closed out and he no longer had.

20 Q. Which of those two lockers had been closed out?

21 A. The one in Las Vegas and the one in Council Grove.

22 Q. What information did he tell you about the one he  
already  
23 closed out in Council Grove?

24 A. We discussed it being household effects and details  
as to  
25 the fact that things in -- you know, his belongings had  
been in

10280

Scott Crabtree - Redirect

1 there that were now in his house.

2 Q. Did he tell you an approximate time that he had  
closed out  
3 that storage shed?

4 A. I believe March, sir.

5 Q. And did he at any point indicate that he still had  
another  
6 shed in the very same business?

7 A. No, sir.

8 MR. GOELMAN: Nothing further.

9 MR. WOODS: Just one question, your Honor.

10 THE COURT: All right.

REXCROSS-EXAMINATION

11

12 BY MR. WOODS:

Nichols

13 Q. Mr. Crabtree, you're aware, are you not, that Mr.

14 moved into his house in Herington in March of '95?

15 A. Yes, sir.

is that

16 Q. Okay. And he closed out his Council Grove locker;

17 correct?

18 A. Yes, sir.

19 MR. WOODS: All right. Thank you.

back?

20 THE COURT: All right. Is he going to be

21 MR. WOODS: We would --

22 MR. GOELMAN: Not for us, your Honor.

free to

23 MR. WOODS: We would ask he be on call. He's

24 go but be on call.

your

25 THE COURT: Okay. Well, you can return to

10281

1 office, but be available in case you're called back.

2 THE WITNESS: Yes, sir.

you're still

3 THE COURT: And of course, consider that

4 a witness under subpoena. You're excused for now.

5 THE WITNESS: Thank you, sir.

6 THE COURT: We're going to take the morning  
recess at

7 this time, members of the jury. I just -- you know,  
I'm going

8 to instruct you about the law in detail at the end of  
the case,

9 as I already explained. But it occurs to me that you  
might be

10 a little confused because you -- about the hearsay  
rule, which

11 is something that confuses all of us from time to time.  
But

12 you heard me sustain objections along the way to  
statements

13 made by other than the witness on the stand and  
statements that

14 the witness heard other people say, and I sustained  
those

15 objections all along; and now with this witness, there  
have

16 been quite a few questions by both sides, lawyers for  
both

17 sides, about what somebody told him.

18 And those statements were admitted here, and  
there

19 weren't any objections to them because the questioning  
was

20 about what the witness knew; that is, what Agent  
Crabtree knew

21 at the time that he was talking with Mr. Nichols.

22  
therefore, not

23  
he heard

24  
that's

25  
admitted

So these statements have been received,

for the truth of what was told to him, but simply what

and therefore what was in his mind at the time. Now,

not subject to the hearsay rule because these are not

10282

1 for the truth of the matter stated to him.

2  
consider

I'll explain more about how the jury may

3 statements made by the defendant himself in the final

4 instructions in the case. They are in yet a different

5 category.

6  
going to

But I just wanted to -- you know, we're not

7  
occurred

give you a lecture about the hearsay rule here, but it

8  
that

to me that you may be somewhat confused about why is it

9  
made by

sometimes these statements are admitted, statements

10  
sometimes

other declarants than the person on the stand, and

11  
for what

they are not. So, again, the limited purpose here is

12 Mr. Crabtree knew, you know, whether it's true or not.

13                   Now, please do not discuss anything about the  
case or  
14 anything connected with it during the time of this  
recess,  
15 remembering that you've got to wait until you hear it  
all  
16 including the final instructions that I'll give you  
about the  
17 law at the end of the trial before you can even, in  
your own  
18 minds, consider the significance or lack thereof of any  
of the  
19 evidence. And continue to therefore avoid discussion  
and  
20 anything outside of our evidence.

21                   You're excused now. 20 minutes.

22                   (Jury out at 10:22.)

23                   THE COURT: All right. We'll be in recess.

24                   (Recess at 10:23 a.m.)

25                   (Reconvened at 10:44 a.m.)

10283

1                   THE COURT: Please be seated.

2                   (Jury in at 10:44 a.m.)

3                   THE COURT: All right. Next witness, please.

4                   MR. MACKEY: Thank you, your Honor. The  
United States

5 would call Deputy U.S. Marshal Daryl Ingermanson.

right 6 THE COURTROOM DEPUTY: Would you raise your  
7 hand, please.

8 (Daryl Ingermanson affirmed.)

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

10 Would you state your full name for the record  
and  
11 spell your last name.

12 THE WITNESS: Daryl Ingermanson,  
13 I-N-G-E-R-M-A-N-S-O-N.

14 THE COURTROOM DEPUTY: Thank you.

15 THE COURT: Ms. Wilkinson.

16 MS. WILKINSON: Thank you, your Honor.

17 DIRECT EXAMINATION

18 BY MS. WILKINSON:

19 Q. Sir, we just heard you're a deputy marshal. Is  
that right?

20 A. Yes.

21 Q. Where are you a deputy marshal?

22 A. In Wichita, Kansas.

23 Q. How long have you been in Wichita?

24 A. I've been stationed in Wichita since approximately  
February

25 of 1988.

Daryl Ingermanson – Direct

1 Q. Could you just tell us briefly what your duties and  
2 responsibilities are as a deputy marshal.

3 A. As deputy marshal, we're responsible for processing  
any  
4 federal prisoners that come into the federal system  
that are  
5 arrested. We take care of the witness-protection  
program,  
6 federal warrants. We execute federal warrants and  
produce  
7 prisoners in court and transport.

8 Q. Let's focus, if we could, on how you process  
someone who  
9 comes into federal custody. What do you when you  
receive  
10 someone into federal custody?

11 A. When a person is received into federal custody, the  
12 individual is brought into our cell block, and then  
they're  
13 processed. They're taken -- it's a personal history,  
what we  
14 call a personal history. It's often performed at the  
U.S.  
15 Marshal's Service. Their fingerprints and photo is  
taken.

16 Q. The personal history, is that something that you  
use with  
17 every federal prisoner?

18 A. Yes, it is.

1995? 19 Q. Now, were you assigned in Wichita back in April of

20 A. Yes, I was.

21 Q. Were you at work on April 22, 1995?

22 A. Yes, I was.

to you 23 Q. Did there come a time when Mr. Nichols was brought

24 as a federal prisoner?

25 A. Yes.

10285

Daryl Ingermanson - Direct

Nichols? 1 Q. Did you take personal history information from Mr.

2 A. Yes, I did.

questions? 3 Q. Did he cooperate with you and answer all of your

4 A. Yes, he did.

your 5 Q. Do you recall asking him, or is there a section on

6 form where you asked him about the use of other names?

7 A. Yes.

form? 8 Q. What is that section entitled on your marshal's

blanks 9 A. The form states "aliases" and then gives different

10 to fill in any other aliases that they have ever used.

you ask 11 Q. When you spoke with Mr. Nichols on April 22, did

12 phraseology?

him about aliases, or did you use some other

13 people when

A. When I asked Mr. Nichols -- I usually ask all

14 name"

I'm processing them if they've ever used "any other

15 rather than use the word "alias."

16 used?

Q. Did Mr. Nichols give you other names that he had

17 A. Yes, he did.

18 Q. Do you recall what names he gave you?

19 A. Can I refer to the processing sheet?

20 that

Q. Sure. If I showed you your processing sheet, would

21 refresh your recollection?

22 A. Yes, it would.

23 Q. Take a look at your screen.

24 A. Okay.

25 Q. Do you see that?

10286

Daryl Ingermanson - Direct

1 A. Yes.

2 you that

Q. Did you write down the names that Mr. Nichols gave

3 day?

4 A. Yes, I did.

5 Q. What names did he give you?

6 A. He give me the name of "Joe Rivers" and "Ted  
Parker."

7 Q. And were those the only two names that he gave you?

8 A. Yes. Other than his own name.

9 Q. He never made any reference to the name "Havens"?

10 A. No, he did not.

11 Q. Did he ever mention the name "Bridges"?

12 A. No, he did not.

13 MS. WILKINSON: We have no other questions,  
your

14 Honor.

15 THE COURT: Mr. Woods?

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

17 CROSS-EXAMINATION

18 BY MR. WOODS:

19 Q. Good morning, sir.

20 A. Good morning.

21 Q. My name is Ron Woods. I'm one of the lawyers that  
was

22 appointed by the district judge in Oklahoma City to  
help Terry

23 Nichols in this case.

24 You and I have never met. Is that correct?

25 A. That's correct.

Daryl Ingermanson - Cross

1 Q. Now, Mr. Nichols was brought to you as a material  
witness.

2 Is that correct?

3 A. That is correct.

4 Q. How many material witnesses have you processed in  
Wichita?

5 A. In Wichita, I've not processed any.

6 Q. How long have you been in Wichita?

7 A. I've been in Wichita since 1988.

8 Q. This was the first and only one that you have seen  
in

9 Wichita?

10 A. In Wichita, yes.

11 Q. Material witness warrant?

12 And on your form -- have you reviewed that  
form before

13 you came in this morning?

14 A. Not this morning.

15 Q. When did you last review it?

16 A. I looked at it last week.

17 Q. Under a topic called "locales" you have "remarks"  
-- is

18 that correct -- on your form that you fill out as  
you're

19 booking the person in?

20 A. Yes. There is --

21 Q. And what does "restraints" mean?

22 A. I wrote that down. Just an indication that Mr.  
Nichols had  
23 been brought into the -- in restraints.  
24 Q. What restraints was he in?  
25 A. He was in a waist chain and handcuffs.

10288

Daryl Ingermanson - Cross

1 Q. As a material witness?  
2 A. Yes.  
3 Q. He told you about his army background. Is that  
correct?  
4 A. Yes, I believe he indicated that he had.  
5 Q. And you recall what years he was in?  
6 A. No, I do not recall. I'd have to refer back to my  
book --  
7 or personal history.  
8 MR. WOODS: Let me see if I can find an extra  
copy.  
9 MS. WILKINSON: Here, Mr. Woods.  
10 THE COURT: We have one here, I think. The  
Government  
11 has one you can use.  
12 MR. WOODS: Thank you, your Honor. I have an  
extra  
13 copy.  
14 THE COURT: Okay.

15 BY MR. WOODS:

16 Q. If you would look at that, Deputy Marshal, and see  
if that  
17 refreshes your memory. Is that the form that you  
filled out  
18 for Mr. Nichols?

19 A. Yes, it appears to be the same.

20 Q. All right. Now, can you refresh your memory as to  
what he  
21 told you about his Army service?

22 A. He stated here branch of service was the Army. He  
stated  
23 that his dates that he was in the military was 5 of '88  
to 5 of  
24 '89. He indicated that he had a type of discharge --  
he  
25 indicated it was honorable. Rank at discharge he told  
me was

10289

Daryl Ingermanson - Cross

1 an E3.

2 In "remarks," he stated that he was released  
out of  
3 the Army for family hardship and custody of son.

4 Q. All right. And did he list his relatives for you?

5 A. Yes, he did.

6 Q. And what relatives were you asking about?

7 A. Father, mother, any -- any other relatives such as

sisters,

8 brothers, wives. Any relatives --

9 Q. And he listed all those for you, did he not?

10 A. Yes. He listed his father and mother, brother.

11 Q. Who did he describe as his father?

12 A. He said his father was Robert Nichols.

13 Q. And where was his address?

14 A. 7776 Brown City, Imlay City, Michigan.

15 Q. And his mother?

16 A. His mother was -- he stated was Joyce Wilt, 1400  
Grossbeck,

17 Lapeer, Michigan.

18 Q. And going -- your next page: That is the addendum  
that you

19 filled out going through his relatives?

20 A. Yes.

21 Q. Who did he list as a brother?

22 A. He listed -- this is kind of cut off here. It's, I  
23 believe, Leslie Allen Nichols. It's -- the sheet here  
is cut

24 off, or the print on the sheet.

25 MS. WILKINSON: Your Honor, we have no  
objection to

10290

Daryl Ingermanson - Cross

1 admitting Government's Exhibit 1922. It's clear that

the

2 witness is reading from it, which I don't think is  
appropriate.

3 MR. WOODS: We would offer it into evidence.

4 THE COURT: And it's 1922?

5 MS. WILKINSON: Yes, sir, it is.

6 THE COURT: 1922 is received.

7 BY MR. WOODS:

8 Q. He listed one brother, Leslie Alan Nichols?

9 A. Yes.

10 Q. What address did he list?

11 A. He just said Barnes Lake, Michigan.

12 Q. And did he list another brother?

13 A. Yes. James Douglas Nichols.

14 Q. What was his address?

15 A. 3616 North Van Dyke in Decker, Michigan.

16 Q. Did he list a sister?

17 A. Yes.

18 Q. And what was her name and address?

19 A. Suzanne Marie McDonnell of Holly, Michigan.

20 Q. And brother-in-law?

21 A. Brother-in-law was Joe McDonnell, also of Holly,  
Michigan.

22 Q. Did he list a son?

23 A. Yes.

24 Q. And what was the name and address of the son?

Nordic 25 A. It's a Joshua Isaac Nichols. Address is 7160

10291

Daryl Ingermanson - Cross

1 Lights, Las Vegas, Nevada.

2 Q. And date of birth?

3 A. Date of birth is 8-11 of '82.

4 Q. I'm sorry. I didn't hear.

5 A. 8-11 of '82.

6 Q. Did he list that as a stepson, or a son?

7 A. He just told me "son."

8 Q. Did he list a daughter?

9 A. Yes.

10 Q. What was her name?

11 A. Nicole Lynn Nichols.

12 Q. Address?

13 A. 109 South 2nd Street in Herington, Kansas.

14 Q. And what was her date of birth?

15 A. Her date of birth is 8-1 of '93.

16 Q. Did he list an ex-wife?

17 A. Yes, he did.

18 Q. And what was her name and address?

Nordic 19 A. Her name is Lana Padilla. And address is 7160

20 Lights, Las Vegas, Nevada.

21 Q. Did he list his current wife?

22 A. Yes, he did.

23 Q. And what was her name and address?

South  
24 A. Her name is Marife Torres Nichols. Address was 109  
25 2nd, Herington, Kansas.

10292

Daryl Ingermanson - Cross

1 Q. And can you read that date of birth on the bottom?

2 A. Date of birth would be 6-11 of '71.

down  
3 Q. All right. This is all information that you take

Is  
4 regarding the prisoner that's coming into your custody.

5 that correct?

6 A. That is correct.

7 Q. Did Mr. Nichols list what his occupation was?

8 A. Yes, he did.

9 Q. And what was it?

selling  
10 A. He advised that he was self-employed, buying and

11 military surplus.

your form  
12 Q. All right. Did he list -- there is a question on

that  
13 where you want to know the description of vehicle. Is

14 correct?  
15 A. Yes.  
16 Q. What description of vehicle did Mr. Nichols give  
you?  
17 A. He said he had a 1984 -- I've written down GMP, but  
it  
18 was -- clearly must have been a mistake in my writing  
as a GMC  
19 pickup. It's a Sierra, blue in color. The license  
plate, he  
20 wasn't sure of the three letter characters that we have  
on our  
21 tag system; and he gave me a 501 as the three numbers.  
Kansas  
22 registration, registered in 1996.  
23 Q. Did he advise you that he had just gotten the  
license plate  
24 and didn't know the number in complete form?  
25 A. I don't recall if that was asked or not.

10293

Daryl Ingermanson - Cross

1 Q. And you put down on your form as to information  
concerning  
2 the arrest who the agency is that arrests the  
individual; is  
3 that correct?  
4 A. That is correct.  
5 Q. And who did you list as the arresting agency?

6 A. FBI.

7 Q. And what was the location of the arrest?

8 A. I wrote down "Herington, Kansas," in there.

9 Q. All right. And the arrest date?

10 A. 4-21 of '95.

11 Q. And what day are you filling out this form? When  
did you first receive Mr. Nichols as a prisoner?

13 A. 4-22.

14 Q. What time of day was it that you were filling out  
this form?

16 A. The time would have been approximately -- he  
arrived at the courthouse at approximately 3:30 in the afternoon, so  
it would have been very shortly after that.

19 Q. Okay. Is that the extent of the conversation that  
you had with Mr. Nichols?

21 A. Yes, it is.

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

24 THE COURT: Ms. Wilkinson?

25 MS. WILKINSON: Thank you, your Honor.

like to 1 Your Honor, now that this is in evidence, I'd  
2 show portions to the jury as I ask questions.

3 THE COURT: You may.

4 MS. WILKINSON: Thank you.

5 REDIRECT EXAMINATION

6 BY MS. WILKINSON:

asked 7 Q. Mr. Ingermanson, I focused on a section where you  
your 8 Mr. Nichols about his relatives. Do you see that on  
9 screen?

10 A. Yes, I do.

that 11 Q. This is his father listed here, Robert Nichols; is  
12 right?

13 A. Yes.

date. 14 Q. Over here in the birth date, you don't list a birth

15 Why is that?

did not 16 A. It would have been because Mr. Nichols was not --  
17 give me a date of birth.

18 Q. Okay. Did he give you the age of his father there?

birth, I 19 A. Yes. I usually -- if they don't have a date of

and 20 usually ask approximately what age the individuals are,

21 Mr. Nichols said between 65 and 67 years old.  
22 Q. And below you have his mother's name, and also you  
have no  
23 birth date. Why is that?  
24 A. That is correct. It would be for the same reason  
that he  
25 was -- was not sure of what the -- their date of birth  
was.

10295

Daryl Ingermanson - Redirect

1 Q. Okay. And up at the top of where it says "father's  
name  
2 and phone number," there is a question mark. Why did  
you write  
3 that question mark?  
4 A. It would have been the fact -- I usually -- if  
they're  
5 unsure of information they're giving me, I usually  
place a  
6 question mark on the form to -- where we know that it's  
--  
7 they've indicated to us that they're unsure of what the  
number  
8 is.  
9 Q. Okay. Now, let's look at the section that you said  
was  
10 called "aliases." Is this the form -- the names that  
you wrote  
11 down that Mr. Nichols gave you?

12 A. Yes, it is.

13 Q. You have space there, I take it, for additional  
names; is

14 that right?

15 A. Yes, there is.

16 Q. Now, finally, you also asked about family members  
and you

17 asked about associates. Is that right?

18 A. Yes.

19 Q. And here is a section -- did Mr. Nichols give you  
this name

20 for an associate, Kevin Nicholas?

21 A. Yes, he did.

22 Q. When you asked him about associates, did Mr.  
Nichols ever

23 mention the name Timothy McVeigh?

24 A. No, not to my recollection. Never did.

25 Q. And I just have one final question. If you could  
take a

10296

Daryl Ingermanson - Redirect

1 look at the page where you wrote out the names of Mr.  
Nichols'

2 family members. Do you see that? You said you wrote  
an

3 additional page.

4 A. Yes.

Nichols. 5 Q. And at the bottom there, you listed Mrs. Marife  
6 Is that right?  
7 A. That is correct.  
8 Q. That date of birth: Can you read to the jury what  
it says?  
9 Let me see if I can focus on it one second.  
6-11 of 10 A. The date of birth that I have written down here is  
11 '71.  
12 Q. Do you know whether or not that is the correct  
birth date  
13 for Mrs. Marife Nichols?  
14 A. I have no idea.  
15 Q. You just wrote down what he told you?  
16 A. Yes.  
Honor. 17 MS. WILKINSON: No further questions, your  
18 THE COURT: Mr. Woods?  
19 MR. WOODS: No further questions, your Honor.  
20 THE COURT: Is this witness to be excused,  
then?  
21 MS. WILKINSON: Yes, he is, your Honor.  
22 THE COURT: Agreed?  
23 MR. WOODS: Yes, your Honor.  
24 THE COURT: You may step down. You're  
excused.  
25 Next, please.

10297

Hagerman.

1 MR. MACKEY: Yes. We'll call Richard

right

2 THE COURTROOM DEPUTY: Would you raise your

3 hand, please.

4 (Richard Hagerman affirmed.)

please.

5 THE COURTROOM DEPUTY: Would you have a seat,

and

6 Would you state your full name for the record

7 spell your last name.

N.

8 THE WITNESS: Richard Hagerman, H-A-G-E-R-M-A-

9 THE COURT: Mr. Mackey?

10 MR. MACKEY: Thank you, your Honor.

11 DIRECT EXAMINATION

12 BY MR. MACKEY:

13 Q. Mr. Hagerman, good morning.

14 A. Good morning.

15 Q. Where do you reside?

16 A. Herington, Kansas.

17 Q. How long have you lived there?

18 A. About 5 1/2 years, 6 years, somewhere in there.

19 Q. Are you married?

20 A. No. I have a fianc e that I live with, but I'm not  
21 married.

22 Q. Are you currently employed?

23 A. Yes. I work for Penny Packer Construction out of  
24 Herington.

you  
25 Q. And at any point in your career, Mr. Hagerman, have

10298

Richard Hagerman - Direct

1 worked for the Dickinson County sheriff's office?

2 A. I resigned the 27th of October.

3 Q. This past year?

4 A. This past year, of this year.

County?  
5 Q. How many total years did you work for Dickinson

6 A. 7 years and 10 days.

Dickinson  
7 Q. Were you working then in April of 1995 for

8 County?

9 A. Yes, I was.

10 Q. What was your position?

11 A. Corrections officer.

carry  
12 Q. And generally speaking, what kind of duties did you

13 out?

14 A. Book in and book out of prisoners and the health

and

15 welfare of the prisoners.

16 Q. Do you remember what shift you were working on  
Saturday,

17 April 22, 1995?

18 A. 11 to 7. 11 p.m. to 7 a.m.

19 Q. Let me direct your attention now, Mr. Hagerman, to  
the

20 early morning hours of that day, Saturday, April 22.  
Were you

21 present when the FBI brought into the Dickinson County  
facility

22 Mr. Terry Lynn Nichols?

23 A. Yes, I was.

24 Q. And did you personally participate in the  
processing of

25 Mr. Nichols?

10299

Richard Hagerman - Direct

1 A. Yes, I did.

2 Q. That is, the intake?

3 A. That is the intake.

4 Q. Would you describe to the jury what it is that you  
did in

5 the course of processing Mr. Nichols that day?

6 A. I typed up what we call the IMF or the booking  
sheet, and I

7 took Mr. Nichols' property, placed it in a property  
envelope,  
8 put my initials on that. And my understanding was that  
was to  
9 go to the marshals. I therefore sealed that. I handed  
that to  
10 my supervisor, which in return supposedly handed that  
off to  
11 the marshals.

12 Q. All right.

13 A. And that was the last I've seen of the envelope.

14 Q. You were present there when the personal property  
then on  
15 the person of Mr. Nichols was turned over to you and  
other  
16 jailers?

17 A. Correct.

18 Q. Do you recall what items Mr. Nichols had on his  
person when  
19 you took them into your possession?

20 A. There was a wallet, a knife, a watch, and a few  
other items

21 I'm not sure of.

22 Q. Were those immediately handled by you and placed  
into a  
23 property envelope?

24 A. Yes, it was.

25 Q. Take a look on the stand, Mr. Hagerman, for a  
single

10300

Richard Hagerman - Direct

1 exhibit. It should be a folder; and inside do you  
recognize  
2 Government's Exhibit 1852A?  
3 A. Yes.  
4 Q. Have you seen that before?  
5 A. Yes.  
6 Q. What is that?  
7 A. That is what they call "personal property  
envelope."  
8 Normally what we do is we take the property from the  
individual  
9 and then we put it in a filing cabinet; but my  
understanding  
10 was when we got the word that Mr. Nichols was coming to  
the  
11 sheriff's department, the word was we were to take his  
12 property, seal it, and immediately hand it over to the  
United  
13 States Marshal's Service.  
14 Q. You understood that he was in federal custody and  
not  
15 Dickinson County?  
16 A. Correct.  
17 Q. All right. Now, let's talk a little bit more about  
the  
18 envelope itself. Is Government's Exhibit 1852A the  
envelope in

19 which you placed the personal possessions taken from  
20 Mr. Nichols Saturday morning?

21 A. Okay. At the name --

22 Q. That is the envelope?

23 A. Yes, sir, it is.

24 Q. Now, let me direct your attention to the writing  
that's on

25 the envelope. Do you recognize any of the handwriting  
on the

10301

Richard Hagerman - Direct

1 face of Government's Exhibit 1852A?

2 A. Yes, I do.

3 Q. As whose?

4 A. As Mr. Terry Nichols'.

5 Q. And do you see your handwriting as well?

6 A. My handwriting is there, yes, sir.

7 Q. What kind of entries did you make on the face of  
that

8 envelope as you put the items of property into it?

9 A. I put the name, "Nichols," the date that he was  
arrested,

10 the property description, "money." And down there  
where it

11 says "the signature of inmate," I put down that he  
refused.

12 Q. Why do you write the word "refused" on the bottom

where the

13 prisoner is to sign?

14 A. Mr. Nichols would not say anything when he was  
booked into

15 the jail, or he would not sign any documents.

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

17 Government's Exhibit 1852A.

18 MR. WOODS: May I examine the document, your  
Honor?

19 THE COURT: Yes, sure.

20 MR. WOODS: Thank you.

21 May I take the witness on short voir dire,  
your Honor?

22 THE COURT: Yes.

23 VOIR DIRE EXAMINATION

24 BY MR. WOODS:

25 Q. Mr. Hagerman, did you tell the jury that there is  
writing

10302

Richard Hagerman - Voir Dire

1 on there of Mr. Nichols'?

2 A. No, sir. The writing on there is the name Mr.  
Nichols that

3 I put on there. That's his property when he came in  
our

4 facility. At nowhere is there -- he did not sign that,  
or

5 nowhere is his writing on this document.

6 Q. What did you say: You recognize Terry Nichols,  
then,

7 rather than recognize his writing?

8 A. No, what I'm saying is I wrote this stuff on there.

9 Q. Yes, sir.

10 A. And I stated what was on the envelope as being

11 Mr. Nichols'.

12 MR. WOODS: All right. I understand.

13 No objection, your Honor.

14 THE COURT: All right. It's 1852A?

15 MR. MACKEY: Yes, your Honor.

16 THE COURT: Received.

17 DIRECT EXAMINATION CONTINUED

18 BY MR. MACKEY:

19 Q. Mr. Hagerman, take a look at the front of the  
envelope. Do

20 you see where you wrote down the word "wallet"?

21 A. Yes, sir.

22 Q. Do you recall taking a wallet from Mr. Nichols and  
placing

23 it in that envelope?

24 A. Correct.

25 Q. On Saturday morning?

1 A. Correct.

2 Q. All right. After you placed the items inside that  
3 envelope, what did you do with the envelope itself and  
4 specifically on the back of it?

5 A. After I -- after I took Mr. Nichols' property and  
placed it  
6 in his envelope, there is a metal tab. I closed the  
tab, I  
7 wrote my initials on there, I licked the envelope down  
there  
8 and placed the metal tab down there, placed tape on  
that to  
9 seal it, handed it to my supervisor, which was -- which  
in  
10 return was supposed to hand it over to the United  
States  
11 Marshal's Service.

12 Q. I understand. Do you see on the reverse side of  
that  
13 envelope what you recognize to be your initials?

14 A. Those are my initials, yes.

15 MR. MACKEY: Mr. Hagerman, thanks.

16 Thank you, your Honor.

17 THE COURT: Any questions, Mr. Woods?

18 MR. WOODS: Yes, your Honor.

19 THE COURT: Okay.

20 CROSS-EXAMINATION

21 BY MR. WOODS:

lawyers 22 Q. Mr. Hagerman, my name is Ron Woods. I'm one of the  
23 that was appointed to represent Terry Nichols in this  
case.  
24 You and I have never met or talked. Is that correct?  
25 A. That's correct.

10304

Richard Hagerman - Cross

was 1 Q. Did you fill out a booking sheet when Mr. Nichols  
2 brought in to you?  
3 A. Yes, sir.  
4 Q. And do you have that with you?  
5 A. No, sir, I do not.  
6 Q. Do you know where that is?  
7 A. The original booking sheet?  
8 Q. Yes, sir.  
it 9 A. No, I have no clue where that's at. I would assume  
10 would still be at the sheriff's department.  
11 Q. The FBI didn't get that from you?  
12 A. Not that I'm aware of, sir.  
sheet when 13 Q. What all information do you put on your booking  
14 you receive a prisoner?  
15 A. Normally, all of our information we receive is from

what

16 the prisoner gives us.

17 Q. What do you ask him?

18 A. We ask him his name, his address, date of birth,  
height and

19 weight, next of kin, health questions, and that sort of  
stuff.

20 Q. And did you fill one out with Mr. Nichols?

21 A. We attempted to fill one out on Mr. Nichols, yes,  
sir.

22 Q. And what happened?

23 A. When we got there, what we do is we -- what we call  
a "soft

24 copy." You just write out the stuff, and then you take  
what

25 you call -- a hard copy is you type that up. At no  
time would

10305

Richard Hagerman - Cross

1 Mr. Nichols answer any of our questions.

2 Q. So you asked questions and he didn't answer you.

3 A. That is correct.

4 Q. Is that your position?

5 A. We were told to ask the questions three times and  
if we

6 didn't get an answer, move on to the next question.

7 Q. What time of morning is this when Mr. Nichols is  
brought to

8 your custody?

9 A. Sometime after midnight.

10 Q. Can you be a little more specific?

11 A. Not without looking at my book-in sheet.

12 Q. Do you have that with you?

13 A. No, sir, I do not.

14 Q. You worked from 11 p.m. to 7 a.m. Is that correct?

15 A. That is correct, sir.

16 Q. So it would have been the evening of April 21 and  
the early  
17 morning hours of April 22?

18 A. Correct, sir.

19 Q. Do you recall whether or not it was near the end of  
your  
20 shift?

21 A. No, it was in the beginning of our shift.

22 Q. And how was Mr. Nichols dressed?

23 A. I don't recall how he was dressed.

24 Q. Who was with Mr. Nichols?

25 A. The FBI and the United States Marshal's Service.

10306

Richard Hagerman - Cross

1 Q. Okay.

2 A. Along with our -- along with our Dickinson County  
Sheriff's

3 Department personnel.

Nichols? 4 Q. How many people from the FBI were there with Mr.

5 A. I do not know, sir.

6 Q. More than two?

7 A. I couldn't tell you, sir.

Service? 8 Q. And how many people were there from the Marshal's

Marshal's 9 A. To my knowledge, there was only two from the

10 Service.

11 Q. Now, were they based in Abilene?

12 A. No, sir. They were the two marshals that sat  
there. They

13 were assigned to sit with Mr. Nichols and watch him.

city are 14 Q. Okay. Now, you mentioned Dickinson County. What

15 we in here?

16 A. Abilene, Kansas.

Kansas? 17 Q. All right. And the jail is there in Abilene,

18 A. Yes, sir.

assigned to sit 19 Q. So you had two marshals, you say, that were

20 with him?

21 A. Yes, sir.

22 Q. Do you know where they came from?

23 A. No, sir, I don't know where they were from.

24 Q. And how many FBI agents were there?

25 A. I do not know how many were FBI agents, sir.

10307

Richard Hagerman - Cross

1 Q. And how many people from your sheriff's office were  
there?

2 A. Just about all of them.

3 Q. How many is that?

4 A. There are 15 people assigned to the sheriff's  
department,

5 and I'm not sure how many reserve officers there; and  
there was

6 a few reserve officers there that night, also.

7 Q. Just everybody crowded around looking at Mr.  
Nichols?

8 MR. MACKEY: Objection.

9 THE COURT: Overruled.

10 BY MR. WOODS:

11 Q. When you say they were all there, what were they  
doing?

12 A. I don't know what they were all doing there. They

13 weren't -- I don't mean they were all inside the jail.  
I'm

14 just saying in what we call our booking office and our  
jail

15 area.

16 Q. They were all in the booking office and jail area?

17 A. No, sir.

18 Q. How many people from law enforcement were in the  
booking

19 area/jail area?

20 A. The only ones from law enforcement that was in our  
jail

21 area was three of us.

22 Q. And that's who?

23 A. I'm sorry. There was five of us.

24 Q. Okay. That's you?

25 A. That's myself, my partner, my supervisor, the  
sheriff, and

10308

Richard Hagerman - Cross

1 I do believe it was one reserve member.

2 Q. So there were five from the sheriff's office, two  
from the

3 marshal's office?

4 A. No, sir. The two from the marshal's office stood  
outside

5 the door.

6 Q. And where is the door in relation to where you're  
asking

7 questions of Mr. Nichols?

8 A. I'm here and the door is right here. It's --

9 Q. Right by --

10 A. It's just one small room, yes, sir.

agents 11 Q. So they're standing at the door. Why were the FBI

12 standing?

they had 13 A. I do not know if the FBI was actually there, or if

14 left.

15 Q. Were they there initially?

16 A. They were there initially, yes, sir.

17 Q. Mr. Nichols was dressed how?

18 A. I do not recall, sir, how he was dressed.

19 Q. What kind of restraints did he have on?

20 A. I don't know if he had restraints on at that time.

21 Q. Can you recall?

office 22 A. I was in the office. I don't know. I was in the

23 getting ready to do this paperwork. I don't know.

handed to 24 Q. All right. And at a point in time, a wallet was

25 you?

10309

Richard Hagerman - Cross

my 1 A. He was brought into the office. They made him --

empty his 2 supervisor and my partner made him empty his pockets,

placed 3 pockets on the table; and I retrieved that property and

4 it in this envelope.

5 Q. Who had the wallet?

6 A. I believe Mr. Nichols had his wallet.

7 Q. How did he get the wallet if you don't know if he  
was  
8 restrained?

9 A. When he came in the office, he was not restrained.  
I don't  
10 know if he was restrained when he come -- into the jail  
area.

11 Q. Any restraints that were on him had been taken off  
before  
12 he was placed in front of you?

13 A. Yes, sir.

14 Q. And your purpose is to fill out the booking  
information?

15 A. Yes, sir.

16 Q. And to take the property?

17 A. Yes, sir.

18 Q. And who handed you the wallet?

19 A. My supervisor and my partner made him empty his  
pockets on

20 the table, and then my partner handed me the property  
and I put

21 it in the envelope.

22 Q. Now, are you saying that Mr. Nichols was one who  
handed you

23 the wallet?

24 A. No, sir, I am not saying that. I am saying they

had

25 Mr. Nichols empty his pockets out, place it on the  
table. My

10310

Richard Hagerman - Cross

1 partner gave me the property. I placed it in the  
envelope.

2 Q. All right. And you had instructions to give it to  
your

3 partner, who was going to give it to the Marshal's  
Service?

4 A. Sir, I was instructed when he first came in there  
that the

5 property would be taken, sealed up, and handed to the  
United

6 States Marshal's Service.

7 Q. And did you see that?

8 A. When I took the property, sealed it up, I handed it  
to my

9 supervisor. There was no U.S. marshals in the room.

10 In return, my supervisor was going to give  
that to the

11 United States Marshal's Service.

12 Q. And where was it the last time you saw it, the  
envelope

13 with the wallet in it?

14 A. The last time I saw it with the wallet in there is  
when I

15 handed it to my supervisor.

16 Q. Did you see it handed to the marshal?

17 A. No, sir, I did not.

18 Q. What was the hour the last time you saw it?

19 A. I do not know, sir, the hour.

20 Q. After this booking procedure is completed, what did  
you

21 then do with Mr. Nichols, if anything?

22 A. After we dressed Mr. Nichols up and we were done  
with our

23 paperwork, we put Mr. Nichols in what we call the  
"weight

24 room." We took all the weights out, and that was the  
cell that

25 we put him in; and two of the United States marshals  
sat down

10311

Richard Hagerman - Cross

1 with him, and they observed him all night in the room.

2 Q. The weight room being W-E-I-G-H-T, rather than W-A-  
I-T?

3 A. Correct, sir.

4 Q. You used one of the cells as a gymnasium or  
something?

5 A. We tried to keep Mr. Nichols separated from the  
rest of the

6 inmates in our facility; and the only secure place that  
we had

7 was our weight room, so we took all the weights out and

put

8 Mr. Nichols in there.

9 Q. Was there a bed to lay on?

10 A. I don't recall if at that time -- if we had a bed  
in there

11 or not.

12 Q. All right. What time was it that you put him in  
there?

13 A. Sir, I have no idea what time it was we put him in  
there.

14 Q. Sometime during your shift before 7 -- between 11  
that

15 night and 7 the next morning?

16 A. It had to be before 2:00, sir.

17 Q. All right. And this is a room that the marshals  
can look

18 into to observe Mr. Nichols; is that what you're  
telling the

19 jury?

20 A. Yes, sir.

21 Q. And did you go off duty then at 7 a.m. the -- that  
morning?

22 A. Yes, sir, I did.

23 Q. And where was Mr. Nichols, to your recollection?

24 A. Mr. Nichols was still in what we call the "weight  
room"

25 when I left at 7:00.

Richard Hagerman - Cross

for him 1 Q. And you don't know if there was anything in there  
2 to rest on?

there. I 3 A. I don't -- I don't recall if there was a bunk in  
gave him 4 don't know if we gave him a chair. I don't know if we  
5 a mattress. I can't recall that, what we actually give  
him.

removed from 6 Q. And do you know what time Mr. Nichols was then  
7 the Dickinson County Jail there in Abilene?

8 A. I do not, sir.

night? 9 Q. Did you work the next day, come on 11 p.m. that

I was 10 A. I don't know if I -- if I came back in there or if  
11 off, sir.

placed 12 Q. Did you see Mr. Nichols after that day when he was  
13 in the weight room?

14 A. No, sir, I never seen him again.

15 MR. WOODS: All right. Thank you.

16 No further questions, your Honor.

17 THE COURT: Mr. Mackey?

18 REDIRECT EXAMINATION

19 BY MR. MACKEY:

20 Q. Mr. Hagerman, do you recall having seen any reports

sleeping 21 reflecting entries of records that Mr. Nichols was  
County? 22 during a portion of the time that he was at Dickinson  
call. 23 A. Yes. We kept a 15-minute check on him, what we  
time, he 24 Q. You've seen records that show that some period of  
25 was sleeping?

10313

Richard Hagerman – Redirect

1 A. I have not seen that since we filled that out.  
2 Q. When you handed the envelope to your supervisor on  
that  
3 Saturday morning, was the wallet that Mr. Nichols had  
taken off  
4 of his person inside and sealed?

5 A. Yes, it was, sir.

6 MR. MACKEY: I have nothing else, your Honor.

7 MR. WOODS: Just one question.

8 THE COURT: All right.

9 MR. WOODS: One area.

10 RE CROSS-EXAMINATION

11 BY MR. WOODS:

kept by 12 Q. Now, the prosecutor mentioned to you a log that was  
13 your department.

and do 14 A. Yes. Me and my partner was required to keep a log

15 15-minute checks.

the room 16 Q. Now, was a marshal there, the two marshals outside

17 watching him also?

18 A. Yes, sir, there was.

19 Q. Now, what kind of log were you keeping?

to show 20 A. It's what we call a jail report. I don't have one

"suicide 21 you. It's a jail report, and it's also what we call a

if they 22 watch" or "special watches" that we put on people. And

23 are to be watched, we put 15-minute checks on them.

being in 24 We are also instructed that with Mr. Nichols'

with the 25 there along with the two marshals: Do not interfere

10314

Richard Hagerman - Recross

we 1 two marshals; let them do their thing. So basically,

2 just -- we check on him every now and then.

the room 3 Q. "Let the marshals do their thing": Were they in

4 with Mr. Nichols?

5 A. There is no room, sir. It's just an open area.

You have a

6 cell right here, and the two marshals had chairs that  
they sat

7 right there outside the bars.

8 Q. Outside the bars?

9 A. Yes, sir.

10 Q. And that was "doing their thing"?

11 A. I'm sorry, sir?

12 Q. You were instructed to let the marshals do their  
thing?

13 A. Yes, sir.

14 Q. What was "their thing"?

15 A. They just sat there and watched him.

16 Q. Did they keep a log, also, to your knowledge?

17 A. I do not know if they had a log or not, sir.

18 Q. But you kept a log every 15 minutes to see if Mr.  
Nichols

19 was what?

20 A. When we do our 15-minute checks, it's supposed to  
be for a

21 suicide watch. I don't recall if that we did them 15  
minutes,

22 or if we did them by the hour. One of the two.

23 Q. What did you observe Mr. Nichols do?

24 A. I couldn't tell you without looking at the  
documents, sir.

25 MR. WOODS: Thank you. No further questions,  
your

10315

1 Honor.

2 MR. MACKEY: Nothing else.

3 THE COURT: Are you excusing this witness,  
then?

4 MR. MACKEY: Yes, your Honor.

5 THE COURT: Agreed?

6 MR. WOODS: Yes, your Honor.

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

8 Next, please.

9 MR. MACKEY: Call Special Agent Dan Jablonski.

10 THE COURT: All right.

11 THE COURTROOM DEPUTY: Would you raise your  
right

12 hand, please.

13 (Daniel Jablonski affirmed.)

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

15 Would you state your full name for the record  
and

16 spell your last name.

17 THE WITNESS: My name is Daniel L. Jablonski,

18 J-A-B-L-O-N-S-K-I.

19 THE COURTROOM DEPUTY: Thank you.

20 THE COURT: Mr. Mackey.

21

DIRECT EXAMINATION

22 BY MR. MACKEY:

23 Q. Agent Jablonski, for whom do you work?

24 A. I'm a special agent with the FBI.

25 Q. And how long have you worked for the FBI?

10316

Daniel Jablonski - Direct

1 A. I've worked for the FBI for 26 years.

2 Q. Where are you currently assigned?

3 A. Wichita, Kansas.

4 Q. And how long in that city?

5 A. I've been there since June of 1985.

6 Q. Agent Jablonski, did you assist other FBI agents in  
the  
7 course of an investigation of the bombing in Oklahoma  
City?

8 A. I did.

9 Q. For purposes of your testimony today, Agent  
Jablonski, I  
10 want to direct your attention to Saturday evening,  
April 22,  
11 1995. And on that date and time, did you have occasion  
to take  
12 into your possession certain personal property of Mr.  
Terry  
13 Lynn Nichols?

14 A. I did.

15 Q. Where were you on Saturday evening at 7 p.m.?

16 A. I was at the Herington Public Safety building.

17 Q. Could you describe to the jury what took place at  
that time

18 relative to the personal property?

19 A. At 7 p.m., Steve Smith and Scott Crabtree drove up  
in a

20 vehicle, and I met them outside the building. At that  
point in

21 time, Steve Smith handed me an envelope.

22 Q. Do you recall what that envelope looked like or any  
23 information that was on it?

24 A. Yes. It was an 8-by-11 approximately sized. It  
was from

25 the Dickinson County Law Enforcement Center.

10317

Daniel Jablonski - Direct

1 Q. Take a look at the materials in front of you, Agent

2 Jablonski. You should see an exhibit marked 1852A.

3 A. I do. I do have it.

4 Q. Do you recognize that?

5 A. Yes, I do.

6 Q. As what?

7 A. This is an 8-by-11 envelope. It says, "Dickinson  
County

8 Law Enforcement, Personal Property." I recognize the  
9 handwriting. I did initial this, and I did place the  
date of  
10 April 22, 1995. I also placed this evidence tape on  
this  
11 envelope.  
12 Q. The initials that you're referring to: Read those  
into the  
13 record, please.  
14 A. The initials are DLJ, and the date is 4-22-95.  
15 Q. Did you date and initial it when you initially took  
receipt  
16 from Agent Smith?  
17 A. I did.  
18 Q. Did you open the property envelope?  
19 A. I did.  
20 Q. Tell the jury what you found inside.  
21 A. Of course, written on the outside of the envelope  
under  
22 "property description" are the items that were  
contained --  
23 supposedly contained in the envelope. It was my job to  
24 determine that was so.  
25 I did open the envelope and then proceeded to

10318

Daniel Jablonski - Direct

1 inventory the contents of the envelope.

2 Q. And do you recall from recollection, Agent  
Jablonski, what  
3 items you found in the personal property envelope from  
4 Dickinson County?  
5 A. Yeah. I'm pretty close. I found one men's watch,  
one  
6 wedding ring, one pocketknife, one container of lip  
balm, a  
7 handkerchief, one black comb, one man's wallet, and  
there were  
8 various items contained there in the wallet.  
9 Q. What did you do with the property when you removed  
it from  
10 that envelope?  
11 A. The -- I inventoried it, as I said, and I made a  
record of  
12 what was in there. I then proceeded to look at the  
items in  
13 the wallet; and what I did is that I Xeroxed those  
items -- I  
14 should first say that I initialed and dated those items  
that I  
15 found in the wallet except for some miscellaneous  
business  
16 cards. The majority of the items I did initial and  
date.  
17 Q. When you say you dated and initialed, do you mean  
on the  
18 item itself you're removing from the wallet?  
19 A. Yes. Each item itself, I would initial and date.  
20 Then I went to the Xerox machine and I Xeroxed

those

21 to be working copies, to prepare my report.

22 Q. Do you recall finding inside the wallet as you  
examined its

23 contents a Kansas driver's license?

24 A. I did.

25 Q. And describe that.

10319

Daniel Jablonski - Direct

1 A. It was a Kansas driver's license of Terry Lynn  
Nichols, and

2 he had signed it. I once again -- once I took it out  
of the

3 billfold, I initialed it and dated it.

4 Q. Do you recall also finding in the wallet a Wal-Mart  
5 receipt?

6 A. I do recall finding that, yes.

7 Q. Did you date and initial it as you removed it from  
the

8 wallet in the manner you described?

9 A. I did. I initialed it and dated it on the back  
side.

10 Q. And did you at that time on Saturday evening make a  
copy of

11 the Wal-Mart receipt that you had dated and initialed?

12 A. Yes. I made a copy. I made a number of copies  
because I

read 13 magnified it -- enlarged it, I should say, in order to

14 details on it.

had 15 Q. What did you do with the original property that you

had done 16 removed from the Dickinson County property after you

17 the inventory and dated and initialed the items?

I took 18 A. I put all the property back in this envelope. Then

I 19 another envelope and I prepared an evidence sticker and

20 filled that out, and then I turned it in as evidence.

Agent 21 Q. Take a look, please, at the materials before you,

22 Jablonski, for Government's Exhibit 1852. 1852.

23 A. I have it.

that, 24 Q. Take a look and tell the jury if you recognize

25 please.

10320

Daniel Jablonski - Direct

envelope 1 A. Yes. This is the envelope in which I placed this

2 into. The evidence sticker has my handwriting --

hasn't been 3 THE COURT: Please don't display it. It

4 received.

5 THE WITNESS: Excuse me.

6 BY MR. MACKEY:

7 Q. Agent Jablonski, is Exhibit 1852 the envelope in  
which you  
8 put the Dickinson County envelope and its contents on  
Saturday,  
9 November 22?

10 A. Yes, it is.

11 MR. MACKEY: Your Honor, the Government moves  
the  
12 admission of 1852.

13 MR. WOODS: Your Honor, may I take the witness  
on  
14 short voir dire?

15 THE COURT: Yes, you may.

16 VOIR DIRE EXAMINATION

17 BY MR. WOODS:

18 Q. Agent Jablonski, my name is Ron Woods. I'm one of  
the  
19 lawyers that was appointed by the district judge in  
Oklahoma  
20 City to represent Terry Nichols.

21 You and I have never met, never talked. Is  
that  
22 correct?

23 A. That is correct.

24 Q. You told the jury that you got the envelope on  
Saturday  
25 evening at 7 p.m. Is that correct?

10321

Daniel Jablonski - Voir Dire

1 A. That is correct.

2 Q. Where were you?

3 A. The Herington Public Safety building.

in

4 Q. Now, this is after the interview that you took part

morning

5 which had taken place the previous evening and early

6 hours. Is that correct?

7 A. That is correct.

jail

8 Q. And Mr. Nichols had been taken away and taken to

9 somewhere?

10 A. Yes. I took him to jail.

11 Q. You're the one who took him to Abilene, aren't you?

12 A. Yes.

13 Q. And what time did you leave Abilene then?

14 A. After we put him in jail.

15 Q. After you booked Mr. Nichols into jail?

16 A. I actually spent the night there.

somebody

17 Q. So you're now back in Herington at 7 p.m. and

18 hands you this envelope with the wallet in it?

19 A. That is correct.

20 Q. And do you know where they got the wallet, the

envelope?

21 A. Yes, sir. Yes, I do.

22 Q. Where?

23 A. Actually, Steve Smith told me that the property was  
taken

24 to Wichita with Terry Nichols and that the marshals  
would not

25 accept it there and therefore he was bringing it back.

10322

Daniel Jablonski - Voir Dire

1 Q. You saw the items being given to the sheriff's  
office,

2 then, in Abilene. Is that correct?

3 A. I saw Mr. -- I saw the property being taken from

4 Mr. Nichols and placed in this envelope at the jail.

5 Q. Yes, sir. When you took Mr. Nichols into the  
Abilene jail,

6 was he restrained?

7 A. He had handcuffs on, yes.

8 Q. What else?

9 MR. MACKEY: Judge, may I object to this as  
beyond the

10 scope of voir dire?

11 THE COURT: Yes. This is not proper voir dire  
of the

12 exhibit.

13 MR. WOODS: Yes, your Honor. I was just

trying to

14 follow the path of the exhibit from the jail.

15 THE COURT: Well, this question doesn't follow  
the

16 path.

17 MR. WOODS: Well, I admit that it doesn't seem  
to; but

18 as to how the wallet got into the custody of the  
jailer,

19 whether or not he's restrained is relevant.

20 THE COURT: You can ask him what he saw.

21 MR. WOODS: Yes, your Honor.

22 BY MR. WOODS:

23 Q. You took Mr. Nichols into jail restrained with  
handcuffs.

24 Is that correct?

25 A. That is correct.

10323

Daniel Jablonski - Voir Dire

1 Q. Did he have a waist chain also?

2 A. No.

3 Q. Just ordinary pair of handcuffs?

4 A. That is correct.

5 Q. Front, or back?

6 A. Back.

7 Q. So he was restrained in the back like this?

8 A. That is correct.

9 Q. And you go to the booking office; is that correct?

10 A. Yes. We took him upstairs to the second floor, I believe,  
11 and where there are a number of deputy -- sheriff's  
people  
12 there.

13 Q. What did you observe the booking process to consist  
of?

14 A. Handcuffs were taken off. At that point, Mr. Nichols was  
15 asked to stand up against the wall and to put his hands  
on the  
16 wall. At that point in time, the deputies patted him  
down and  
17 removed items from him.

18 Q. So the deputies removed the items from his possession. Is  
19 that correct?

20 A. Yes.

21 Q. The wallet and his pocket contents?

22 A. That is what I recall, yes.

23 Q. All right. And what did you see the deputies then  
do with  
24 the items?

25 A. They placed them in an envelope.

Daniel Jablonski - Voir Dire

envelope 1 Q. All right. And do you know what happened to that

2 from that period of time until you saw Steve Smith in

3 Herington, Texas -- Herington, Kansas, with it?

It 4 A. No. The envelope remained at the jail when I left.

somewhere. 5 was -- it was being -- going to be placed in a safe

6 That's all I know.

7 Q. Why did you not take possession of it at that time?

subject at 8 A. Because he was not a -- Terry Nichols was not a

9 that point in time, and there was no reason to take his  
10 property.

you? 11 Q. You had arrested him on a federal warrant, hadn't

12 A. I had, yes.

the 13 Q. But you left the property there in the custody of

14 Dickinson County jailer?

in 15 A. Well, I never take the property. When I place them

in the 16 jail, I don't normally take that property. It remains

17 custody of the jail until such point in time that legal  
18 proceedings go forth.

of the 19 Q. And the last time you saw it, it was in the custody

20 Dickinson County jailers. Is that correct?

21 A. That is correct.  
22 Q. When you next saw it, Steve Smith handed it to you  
in  
23 Herington?  
24 A. That is correct.  
25 Q. And he said he had taken it all the way over to  
Wichita?

10325

Daniel Jablonski - Voir Dire

1 A. That's right. It went with Mr. Nichols.  
2 MR. WOODS: Your Honor, I would object to the  
entry of  
3 that item. The chain of custody doesn't seem to be  
proved up.

4 THE COURT: Well, we don't have the condition  
of the  
5 envelope at the time he received it.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. MACKEY:  
8 Q. Agent Jablonski, do you recall what condition the  
Dickinson  
9 County property envelope was when Agent Smith turned it  
over to  
10 you at 7 p.m. on Saturday?

11 A. Yes. It was sealed. It was taped shut when I  
received it.

12 Q. And after you had done the inventory and the  
processing

13 you've described, did you seal it shut again?

14 A. I did.

15 Q. And on Exhibit 1852A, do you see any tape?

16 A. Yes, I do.

17 Q. And what tape is that?

18 A. This is FBI evidence tape.

19 Q. And who put that on there?

20 A. I did.

21 Q. And after doing so, what did you do again with the

22 Dickinson County property envelope?

23 A. I put it in a second envelope and sealed that.

24 Q. And is that second envelope the exhibit you've  
identified

25 as 1852?

10326

Daniel Jablonski - Direct

1 A. Yes, it is.

2 Q. And did you seal -- excuse me. Did you prepare the  
3 handwriting label or the handwritten label that's on  
the front

4 of 1852?

5 A. I did.

6 MR. MACKEY: Your Honor, I would renew the  
motion to

7 admit Government's Exhibit 1852.

8 MR. WOODS: Still object to the chain of  
custody from  
9 the Dickinson County sheriff's office to Agent  
Jablonski.  
10 THE COURT: 1852 is his envelope.  
11 MR. WOODS: Pardon me?  
12 THE COURT: I understand 1852 that's being  
offered is  
13 the envelope that this witness sealed and that 1852A  
has been  
14 received.  
15 MR. WOODS: 1852A being the envelope --  
16 THE COURT: Dickinson County envelope. So I  
don't  
17 understand the objection.  
18 MR. WOODS: Was received through Agent Smith,  
you  
19 mean, your Honor?  
20 THE COURT: No.  
21 MR. WOODS: I haven't --  
22 THE COURT: Well, maybe I'm wrong. Did you  
offer  
23 1852?  
24 MR. MACKEY: 1852A was admitted through the  
previous  
25 witness, Mr. Hagerman.

Daniel Jablonski – Direct

1 THE COURT: The former deputy sheriff.

2 MR. WOODS: I understand, but that didn't  
prove the  
3 chain of custody to Mr. Jablonski, your Honor. His  
envelope  
4 contains the contents of 1852.

5 THE COURT: I haven't heard the contents yet.  
There  
6 are two envelopes.

7 MR. WOODS: Yes, your Honor.

8 THE COURT: This envelope is clearly  
admissible  
9 through the testimony of this witness. The objection  
is  
10 overruled.

11 1852 is received.

12 MR. WOODS: Is that just the envelope, or the  
13 contents, also, your Honor?

14 THE COURT: The envelope was what was offered.

15 MR. MACKEY: That's the only thing that that  
exhibit  
16 consists of.

17 THE COURT: All right.

18 BY MR. MACKEY:

19 Q. Mr. Jablonski -- or Agent Jablonski, take a look  
now at  
20 Government's Exhibit 1901.

21 A. I have 1901.

22 Q. Do you recognize it?

23 A. I do.

24 Q. As what?

Lynn  
25 A. This is a Kansas driver's license issued to Terry

10328

Daniel Jablonski - Direct

1 Nichols.

Exhibit  
2 Q. Let me ask you: How do you recognize Government's

3 1901?

I did  
4 A. I recognize it because I've previously seen it and

back of  
5 place my initials, DLJ, and the date of 4-22-95 on the

6 it.

1901?  
7 Q. And when did you first see Government's Exhibit

8 A. I saw this just shortly after 7 p.m. on the 22d.

Exhibit  
9 Q. And after you dated and initialed Government's

that  
10 1901, the Kansas driver's license, what did you do with

11 item?

then I  
12 A. Once again, I Xeroxed it to make copies of it, and

back into  
13 placed it back in the wallet; and I placed the wallet

14 1852A, and then that was placed into 1852.

15 Q. And 1852 then was sealed after you did so?

16 A. That is correct.

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

18 Government's Exhibit 1901.

19 MR. WOODS: 1901 is the contents --

20 THE COURT: 1901 is the driver's license that  
he found

21 in it, yes.

22 MR. WOODS: It's in the contents, and we  
object to the

23 chain of custody.

24 THE COURT: Overruled. 1901 received.

25 BY MR. MACKEY:

10329

Daniel Jablonski - Direct

1 Q. Agent Jablonski, let's turn now to Government's  
Exhibits

2 265 and 265B. Would you take a look at those together.

3 A. I have 265 and 265B.

4 Q. And tell the Judge and jury, please, Agent  
Jablonski, what

5 each of those exhibits are.

6 A. Okay. 265 is the Wal-Mart -- Wal-Mart receipt that  
was

7 found in Terry Nichols' billfold and that I did

inventory.

8 Q. And how do you recognize Exhibit 265?

9 A. I recognize it in two ways. First of all, my  
initials,

10 again, DLJ, are on this, and the date of 4-22-95 is on  
it.

11 The second way that I recognize this is from  
the pink

12 Wal-Mart sticker which overlaps the top of the receipt  
itself.

13 Q. Do you recall that feature to the exhibit or to the  
receipt

14 when you first saw it in the wallet?

15 A. That's correct.

16 Q. What is Exhibit 265B, then.

17 A. 265B is the enlarged Xerox copy of that Wal-Mart  
receipt.

18 Q. And who made that?

19 A. I did.

20 Q. And when did you make it?

21 A. I made it on the evening of April 22, 1995.

22 Q. Does Exhibit 265B reflect your initials and date?

23 A. Yes, it does.

24 Q. What did you do with Government's Exhibit 265, the  
original

25 Wal-Mart receipt, after inventorying it in the fashion  
you've

1 described?

2 A. No. 265 -- after I again inventoried the contents  
of the  
3 wallet, I initialed each of them. I did initial this  
receipt,  
4 and then I placed it back into the wallet. Then I  
placed the  
5 wallet back into the Dickinson County personal property  
6 envelope, which I then placed into my FBI envelope.

7 Q. Did you treat it, then, in the same manner you've  
described  
8 as to the Kansas driver's license?

9 A. I did.

10 MR. MACKEY: Your Honor, I'd move to admit  
both  
11 Exhibits 265 and 265B.

12 MR. WOODS: Same objection as to the chain of  
custody  
13 from the Dickinson County sheriff's office, your Honor.

14 THE COURT: That objection is overruled.

15 Is 265B simply demonstrative?

16 MR. MACKEY: Can I ask a question?

17 THE COURT: Well, what are you offering it  
for?

18 MR. MACKEY: Because it's a copy made at the  
time he

19 first found it; and since then the 265 has been treated  
for

offered 20 fingerprints, the information is less legible. So it's

reflect -- 21 not for demonstrative purposes but to be able to

22 THE COURT: It's illegible.

23 MR. MACKEY: Yes.

24 THE COURT: Both are received.

25 BY MR. MACKEY:

10331

Daniel Jablonski - Direct

the 1 Q. Agent Jablonski, is that a fair characterization of

2 difference between 265 and 265B?

on 265; 3 A. Yes. It's very difficult to read the information

4 and the copy, you can read the information.

to 5 MR. MACKEY: Your Honor, at this time I'd like

6 publish 265B, the front.

7 THE COURT: You may.

8 BY MR. MACKEY:

you 9 Q. Agent Jablonski, let's zoom in, if we can, and ask

Mart 10 whether you see a city anywhere on the face of the Wal-

11 receipt now shown to the jury?

12 A. Yes, I do.

13 Q. Can you circle what city you see there?  
14 A. Yes, I can.  
15 Q. And read to the jury what's shown.  
16 A. Arkansas City, Kansas.  
17 Q. Having lived in Kansas for a number of years, can  
you tell  
18 the jury where Arkansas City is?  
19 A. Yes. It's on Highway 77. It is the first city  
that you  
20 would come to if you were traveling from Oklahoma into  
Kansas.  
21 Q. Let's zoom in at the bottom of the front of 265B.  
And do  
22 you see a date of transaction that was recorded on that  
receipt  
23 at the bottom of 265B?  
24 A. Yes, I do.  
25 Q. Circle that, please.

10332

Daniel Jablonski - Direct

1 For the record, what date is shown on that  
receipt?  
2 A. 4-13-95.  
3 Q. And right next to that, do you see a time of  
transaction?  
4 A. I do.  
5 Q. Would you circle that, please.



Daniel Jablonski - Direct

1 A. Yes, they were.

2 Q. What appears immediately before the initials?

3 A. Immediately above the initials is a pink sticker.

4 Q. Now, this is in black and white. From the  
original, can

5 you tell what color the sticker is?

6 A. On the original, sticker is colored pink.

7 Q. All right. And have you examined both sides of the  
sticker

8 that drapes over the front and back of Exhibit 265B?

9 A. I have.

10 Q. What date appears on that tab?

11 A. It's the date of 4-15-95.

12 Q. Let's turn our attention to the reverse side of  
265B, the

13 reverse side of the receipt; and we'll zoom in if we  
can,

14 please, on the handwriting that appears on the center  
of that

15 receipt.

16 Would you circle the handwriting that appears  
there.

17 Did you notice that handwriting on the back of  
this

18 receipt when you found it in Mr. Nichols' wallet?

19 A. I did.

20 Q. Would you read into the record what appears there?

21 A. It has the letters "SWB" and the numbers "9349."

the  
22 MR. MACKEY: Your Honor, at this time we'd ask  
23 Court to publish Stipulation No. 8.

24 THE COURT: Dealing with Exhibit 1721?

25 MR. MACKEY: Yes, your Honor.

10334

Daniel Jablonski - Direct

record  
1 THE COURT: "Government's Exhibit 1721 is a  
2 from the Southwestern Bell Telephone Company regarding  
3 telephone service for a Terry Nichols, 109 South 2nd,  
4 Herington, Kansas. The record reflects issuance of a  
5 Southwestern Bell credit card. Government's Exhibit  
No. 2003  
6 is a copy of the Southwestern Bell credit card issued  
in the  
7 name of Terry Nichols with personal identification No.  
9349.

records is  
8 "The 'Terry Nichols' listed in the above  
9 the same person as the defendant, Terry Lynn Nichols."

10 That's the agreement?

business  
11 MR. WOODS: Yes, your Honor. That's the  
12 record of the phone company. Stipulate to that.

13 THE COURT: All right.

14 MR. MACKEY: Your Honor, we move to admit  
Government's

15 Exhibit 1721 and 2003.

16 THE COURT: They're received pursuant to the  
17 stipulation.

18 BY MR. MACKEY:

19 Q. Mr. Jablonski, while that's still up on the screen,  
take a  
20 look, please, for Exhibit 2003.

21 A. I have 2003.

22 Q. It's also now being shown to the jury.

23 Do you see a PIN number on the face of Exhibit  
2003?

24 A. I do.

25 Q. And for the record, what number appears there?

10335

Daniel Jablonski - Direct

1 A. 9349.

2 Q. Agent Jablonski, on the back of that Wal-Mart  
receipt that

3 we saw earlier, did you notice your initials and the  
date?

4 A. Yes, I did.

5 Q. And those are the date or the initials and date you  
put on

6 it when you first saw it on April 22?

7 A. I did -- yes, I placed my initials "DLJ" and the  
date of 8 4-22-95 on the back of the receipt.

9 MR. MACKEY: Thank you, your Honor. That's  
all I have 10 for this witness.

11 THE COURT: All right. Mr. Woods?

12 MR. WOODS: Yes, your Honor.

13 CROSS-EXAMINATION

14 BY MR. WOODS:

15 Q. Now, Agent Jablonski, you mentioned in your  
testimony that

16 you were the one that arrested Mr. Nichols and took him  
to

17 Abilene. Is that correct?

18 A. That is correct.

19 Q. And what time did you arrest Mr. Nichols?

20 A. Approximately 12:25 -- 12:20, 12:25.

21 Q. In the morning?

22 A. The morning of April 22, 1995.

23 Q. And where did the arrest take place?

24 MR. MACKEY: Judge, objection. Beyond the  
scope.

25 THE COURT: Overruled.

10336

Daniel Jablonski - Cross

1 BY MR. WOODS:

2 Q. Where did the arrest take place, sir?

3 A. At the Herington Public Safety building.

4 Q. In what room?

5 A. The downstairs -- large room downstairs.

6 Q. And had you been in that room earlier with Mr.  
Nichols,

7 during that evening and into the prior afternoon of  
Friday, the

8 21st?

9 MR. MACKEY: Objection.

10 THE COURT: Sustained.

11 BY MR. WOODS:

12 Q. Did you have a warrant for Mr. Nichols' arrest when  
you

13 arrested him at 12:20 Saturday morning?

14 A. I did not have -- physically have a warrant, no.

15 Q. Were you advised to arrest Mr. Nichols?

16 A. I was.

17 Q. By whom?

18 A. By SAC David Tubbs.

19 Q. Was he there in the Herington police station?

20 A. Yes, he was.

21 Q. What time did he advise you to arrest Mr. Nichols?

22 A. Around 11:00. 11 p.m. on 4-21-95.

23 Q. And did he advise you that there was a warrant for  
his

24 arrest?

25 A. Yes, he did.

10337

Daniel Jablonski - Cross

1 Q. Did you see the warrant?

2 A. No, I did not.

3 Q. Did Mr. Tubbs tell you what the warrant concerned

--

4 MR. MACKEY: Objection.

5 BY MR. WOODS:

6 Q. -- either for --

7 MR. WOODS: I haven't finished the question.

8 MR. MACKEY: Sorry.

9 BY MR. WOODS:

10 Q. Was the warrant for a warrant of arrest as a  
subject of an

11 investigation, or as a material witness?

12 MR. MACKEY: Objection.

13 THE COURT: Overruled.

14 THE WITNESS: Material witness.

15 BY MR. WOODS:

16 Q. Mr. Tubbs advised you of that?

17 A. Yes.

18 Q. Did Mr. Tubbs have a copy of the warrant?

19 A. I do not know.

at 20 Q. Were you aware that a copy had been received there  
21 Herington police station?  
22 A. I was not aware, no.  
23 Q. What did Mr. Tubbs tell you?  
24 MR. MACKEY: Objection.  
25 THE COURT: Sustained.

10338

Daniel Jablonski - Cross

1 BY MR. WOODS:  
2 Q. Were you one of the FBI agents that interviewed Mr.  
Nichols 3 during the course of that day, April 21, and April 22?  
4 MR. MACKEY: Objection.  
5 THE COURT: Sustained.  
6 BY MR. WOODS:  
7 Q. And you received word at 11:00 to arrest Mr.  
Nichols. Is 8 that correct?  
9 A. That is correct.  
10 Q. What did you do then at that point?  
11 A. I received word that we were going to arrest Terry  
Nichols 12 on the material witness warrant. I did not actually go  
back 13 into the interview room until 12:11 a.m.

14 Q. Who was in the interview room before you went in?

15 A. Agents Scott Crabtree and Steve Smith.

16 Q. What time did they leave?

17 A. At 12:11.

18 Q. Had you been ordered to get aggressive and  
confrontational

19 with Mr. Nichols?

20 A. Yes.

21 Q. And you went into the room with Agent Foley?

22 A. I did.

23 Q. Just the two of you and Mr. Nichols were in there.  
Is that

24 correct?

25 A. That is correct.

10339

Daniel Jablonski - Cross

1 Q. Did you walk over and kick a chair, one of those  
rolling

2 chairs that was near Mr. Nichols?

3 A. No, I did not.

4 Q. Did you have a folder that you slammed down on the  
table?

5 A. Possibly. I cannot specifically recall, but I may  
have

6 done that.

7 Q. And did you go over and stand right in front of

8 Mr. Nichols, who was seated in a chair?

9 A. No, I did not. I sat on the edge of a desk  
approximately

10 3, 4 feet from Mr. Nichols.

11 Q. Are you saying that at no time did you go and stand  
right

12 in front of Mr. Nichols and look down at him?

13 A. I may have gotten up. I didn't say that, no. I  
said I was

14 sitting on the edge of the chair -- on the edge of the  
desk

15 when I initially went in there.

16 Q. Describe for the jury what you mean by being  
"aggressive

17 and confrontational."

18 A. I told Mr. Nichols plain and simply that we did not  
believe

19 him; that he had left out a considerable amount of his

20 involvement in the crime, and that I would like -- I  
wanted him

21 to tell the truth. I wanted him to be a man and step  
up and

22 tell us what happened.

23 Q. And did you take notes of that confrontation?

24 A. No, I did not.

25 Q. Did Agent Foley?

Daniel Jablonski - Cross

not. 1 A. I don't believe he did. I'm not aware if he did or

you 2 Q. Well, how long did this confrontation last before

3 placed him under arrest?

a.m. 4 A. We went in there at 12:11. We went out at 12:28

under 5 Q. What time did you advise Mr. Nichols that he was

6 arrest?

7 A. I would say about halfway through.

witness? 8 Q. Did you tell him he was under arrest as a material

9 A. I did.

arrest 10 Q. And what happened after telling him he was under

11 halfway through?

to stand 12 A. We -- I read him his Miranda rights. We asked him

walk him 13 up. We placed the handcuffs on him. We proceeded to

Herington 14 out -- up the stairs and out into the garage of the

15 Public Safety building.

Miranda 16 Q. What time did you ask him to sign the waiver of

17 rights?

18 A. I would estimate probably 12:25.

19 Q. That's what the form says; right?

20 A. Yes.

21 Q. And Mr. Nichols refused to sign that?

22 A. He did.

23 Q. Now, you were aware that that form had been  
presented to

24 him earlier and he had refused to sign it, weren't you?

25 A. That is correct.

10341

Daniel Jablonski - Cross

1 Q. And yet you still wanted to try and get a signature  
on that  
2 page, didn't you?

3 A. No. What I -- plain and simply when I do place  
someone  
4 under arrest, it is my obligation when they're going to  
be  
5 taken into custody to read the Miranda rights, and that  
is what  
6 I did. It was his option to sign it or not sign it.

7 Q. And did you take notes during the course of your  
earlier  
8 interviews that evening with Mr. Nichols?

9 A. I did.

10 MR. MACKEY: Objection.

11 THE COURT: Sustained. I'm limiting it. You  
can, of  
12 course, inquire into this later, if you want.

13 MR. WOODS: We're going to have to, your  
Honor, bring

14 him back.

15 THE COURT: Okay.

16 BY MR. WOODS:

17 Q. So you've testified for the prosecution, then, only  
about

18 you picking up the wallet. Is that correct?

19 A. Yes, sir.

20 Q. And you stated that you observed Mr. Nichols when  
you took

21 him to the Dickinson County police station; that he was  
placed

22 against the wall and his personal items were removed by  
the

23 deputy sheriffs.

24 A. That is correct.

25 Q. Now, who was there with you from the FBI?

10342

Daniel Jablonski - Cross

1 A. Agents Jack Foley and SA Lee Roll.

2 Q. Who?

3 A. Lee Roll, R-0-L-L.

4 Q. And who is he?

5 A. He just simply was -- he is an agent out of the  
Kansas City

6 division. He is the -- a -- he's on the Violent Crime

Squad.

7 Q. Was he there in Herington police station at the  
time of the

8 arrest?

9 A. He was there just at the -- I saw him just at the  
end when

10 we walked up to the car. He rode in the car with us to  
the

11 Herington -- or to Abilene, excuse me. Dickinson  
County.

12 Q. So three of you -- Foley, Lee Roll, and yourself --  
took

13 Terry Nichols from Herington to Abilene in Dickinson  
County?

14 A. That is correct.

15 Q. Is that the nearest jail, or why did you go to  
Abilene?

16 A. I don't know. That's where the car was headed. We  
were

17 down in the interview process. I was not part of the  
decision

18 where to take him, but I believe it was the nearest  
county

19 location, county jail.

20 Q. How far away is Abilene?

21 A. I would estimate 20 minutes, 25 minutes.

22 Q. It's closer than Junction City?

23 A. To tell you the truth, I don't know.

24 Q. And when you say that's where the car was headed, I  
take it

25 you weren't driving.

Daniel Jablonski - Cross

1 A. I was not driving.

2 Q. You get to Abilene, Dickinson County, what time?

3 A. At approximately 1:00 in the morning.

4 Q. And Terry Nichols is seated in the back?

5 A. He is.

6 Q. And which side of the car?

7 A. On the passenger's side.

8 Q. Okay. And he's handcuffed with his arms in the  
back of  
9 him. Is that correct?

10 A. That's correct.

11 Q. And you take him into the Dickinson County Jail,  
the three  
12 of you?

13 A. That is correct.

14 Q. And when did the marshals show up?

15 A. I have no idea. I never saw a marshal.

16 Q. You never saw any deputy United States marshals  
there that  
17 evening?

18 A. I did not.

19 Q. All right. You go into the building. Is it one-  
story or

20 two-story?  
21 A. It's at least two stories.  
22 Q. And where was --  
23 A. Well --  
24 Q. Where was the booking office?  
25 A. If I may give -- finish my answer.

10344

Daniel Jablonski - Cross

1 We went in maybe on a basement level. So I  
know that  
2 we walked upstairs, and I think it's at least a two-  
level.  
3 Q. All right. Where was the booking office?  
4 A. I had never been there before, and I really don't  
know. We  
5 followed the people that were -- met us downstairs at  
the  
6 garage area and we followed them.  
7 Q. And who met you downstairs?  
8 A. I could not tell you who.  
9 Q. How many people met you?  
10 A. Well, at least one.  
11 Q. And you followed that person upstairs to the  
booking  
12 office?  
13 A. That is correct.

deputy 14 Q. And the three FBI agents, Mr. Nichols, and how many

15 sheriffs in the booking office?

went 16 A. I don't believe so. I believe that Jack Foley -- I

Jack was 17 with Mr. Nichols. Lee Roll was not -- was not there.

maybe three 18 maybe just outside the office. There were maybe --

person 19 sheriff's deputies that were waiting there. Well, the

20 that took me up there and two additional.

handcuffs off 21 Q. All right. And at some point you take the

22 Mr. Nichols; is that correct?

23 A. That is correct.

wall, 24 Q. All right. And you observed him placed against the

sheriffs? 25 spread-eagled, and he's searched by the deputy

10345

Daniel Jablonski - Cross

1 A. That is correct.

him? 2 Q. Did you advise them that you had already searched

3 A. No.

possessions 4 Q. You observed them remove Mr. Nichols' personal

5 from him?

6 A. That is correct.

7 Q. They removed the wallet?

8 A. They did.

9 Q. Did you see them go through the wallet?

10 A. No, I did not.

11 Q. They removed the comb?

12 A. They did.

13 Q. The watch?

14 A. Yes.

15 Q. The lip balm, or whatever you described it as?

16 A. That is correct.

17 Q. Removed all his items and they had them in their  
18 possession. Is that correct?

1852A, 19 A. They removed the items and they placed them into  
20 this envelope.

21 Q. And you watched that being filled out?

22 A. I did. I watched them place them in this envelope.

p.m. on 23 Q. Now, when you got the envelope the next day at 7

then 24 Saturday, after it had been taken over at Wichita and

testimony? 25 brought to you, you opened it up. Is that your

Daniel Jablonski – Cross

1 A. That is correct.

2 Q. And you went through the contents of the wallet of

3 Mr. Nichols?

4 A. I did.

5 Q. Did you have on gloves?

6 A. Yes, I did.

7 Q. What kind of gloves did you have on?

8 A. I had on cloth gloves. Evidence -- gloves that we  
use when

9 we handle evidence.

10 Q. And where are you again at the police station?

11 A. The Herington -- or the Herington Public Safety  
building,

12 Herington, Kansas.

13 Q. And had you been handling evidence up to that point  
of

14 time?

15 A. No.

16 Q. You just had a pair of gloves with you?

17 A. Always do.

18 Q. Okay. And anytime you touch anything, you're going  
to put

19 on a pair of gloves -- that may be of evidentiary  
value; is

20 that your testimony?

21 A. That is correct.

22 Q. Now, you had received a map or diagram of Mr.

Nichols'

23 house from him, had you not?

24 A. Yes.

25 Q. And you had that in your possession when you took  
him to

10347

Daniel Jablonski - Cross

1 jail in Abilene, in Dickinson County?

2 A. That is correct.

3 Q. What did you do with it after you got it from Mr.  
Nichols?

4 What did you -- what did you do with that diagram?

5 A. Okay. I -- let me qualify that. I did not take  
into my

6 possession the original diagram.

7 Q. All right. Who did?

8 A. Either Steve Smith -- I believe Steve Smith or Jack  
Foley

9 did.

10 Q. All right. Are you saying you didn't end up with  
it that

11 evening after Mr. Nichols' arrest?

12 A. That is what I'm saying.

13 Q. And you don't know where it went from there; is  
that

14 correct?

15 A. What I can tell you is I saw Terry Nichols draw the

16 diagram, do what he did on it; and the interview then  
17 proceeded. And that is correct: One of -- Jack Foley  
or Steve  
18 Smith took that diagram into his possession.

19 Q. When you say you saw him draw the diagram and do  
what he  
20 did, he put the location of the guns and the ammunition  
in his  
21 house on that diagram, didn't he?

22 A. When he was asked to, yes.

23 Q. And you did not take the diagram to the agents that  
were  
24 going to do the search on Saturday. Is that your  
testimony?

25 MR. MACKEY: Objection.

10348

Daniel Jablonski - Cross

1 THE COURT: Sustained.

2 BY MR. WOODS:

3 Q. Are you telling the jury that you didn't end up  
with the  
4 diagram, sir?

5 A. That's what I'm saying, yes.

6 Q. And you don't know who did?

7 A. That is correct.

8 Q. Did you take part in the search of the house on  
Saturday,

9 April 22?  
10 A. I did not.  
11 Q. Where were you on Saturday, April 22, after you  
went to  
12 Abilene? What time did you leave Abilene, and where  
did you  
13 go?  
14 A. I think that I previously told you that I spent the  
night  
15 in a motel there.  
16 Q. Yes, sir.  
17 A. Okay. And then I got up the next morning bright  
and early  
18 and headed back to Herington to the Public Safety  
building.  
19 Q. Spent the day there?  
20 A. I did.  
21 Q. Were you aware that searches were going on in the  
city of  
22 Herington?  
23 A. I was.  
24 Q. And you did not participate in any of the searches?  
25 A. I was in a supervisory role there, and I did not  
leave the

10349

Daniel Jablonski – Cross

1 building.

2 supervising?

Q. Oh. You were a supervisor? What were you

3 information

A. Just the general -- I was -- the collecting of

4 that came back, analyzing, etc., etc.

5 Q. You have the title as a supervisor in the FBI?

6 A. No, I do not.

7 MR. MACKEY: Objection.

8 THE WITNESS: I was an assistant RAC.

9 BY MR. WOODS:

10 charge of

Q. An assistant RAC? An assistant resident agent in

11 a small resident agency?

12 Kansas.

A. In Wichita, Kansas, which covers the state of

13 location of

Q. Did you advise anybody on April 22 as to the

14 based on

the weapons and the ammunition in Mr. Nichols' house

15 what you had seen in the diagram?

16 A. No, I did not.

17 for the

Q. Did you feel that would be important information

18 agents doing the search?

19 MR. MACKEY: Objection.

20 THE COURT: Sustained.

21 see you

21 MR. WOODS: Thank you, Mr. Jablonski. We'll

22 later.

23 THE WITNESS: You're welcome.

24 THE COURT: Any redirect on this testimony?

25 REDIRECT EXAMINATION

10350

Daniel Jablonski - Redirect

1 BY MR. MACKEY:

2 Q. Agent Jablonski, did Mr. Nichols place on the  
diagram a  
3 notation for blasting caps?

4 A. No, he did not.

5 MR. MACKEY: Nothing else.

6 MR. WOODS: Your Honor, just one further  
question.

7 THE COURT: You may, yes.

8 RECROSS-EXAMINATION

9 BY MR. WOODS:

10 Q. Agent Jablonski, you mentioned that you took Mr.  
Nichols'

11 driver's license. Is that correct?

12 A. That is correct.

13 Q. And you have that driver's license in front of you?

14 A. Yes, I do. I do, yes. 1901.

15 MR. WOODS: Your Honor, may we ask that be  
published?

16 THE COURT: Yes.

17 MR. WOODS: Thank you, sir.

18 THE WITNESS: You're welcome.

19 THE COURT: It's already up there, I guess,  
through  
20 some magic process.

21 MR. WOODS: Magic of computers here.

22 BY MR. WOODS:

23 Q. Agent Jablonski, can you tell what date that  
driver's  
24 license was issued?

25 A. It's not on the big screen.

10351

Daniel Jablonski - Recross

1 THE COURT: Well, it should be right in front  
of you.

2 THE WITNESS: It's on, yes.

3 BY MR. WOODS:

4 Q. Let me just give you the original, in case you  
can't read  
5 it.

6 Can you tell the date that was issued, sir?

7 A. Yes, I can. Issued 4-12, 1994.

8 Q. And at that point of time, Mr. Nichols gave an  
address in  
9 Marion, Kansas. Is that correct?

10 A. The address that appears on this driver's license  
is RR 3,

11 Box 83, Marion, Kansas.

12 Q. And you've been part of this investigation, have  
you not?

13 A. Yes, I have.

14 Q. And you know that that's the correct address for  
15 Mr. Nichols as of April, '94?

16 A. I cannot say that. I did not look into that  
myself.

17 Q. Were you aware of him working at the Donahue farms  
during

18 '94?

19 A. Yes, I did learn that.

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

22 MR. MACKEY: Just one, your Honor, about the  
driver's

23 license.

24 THE COURT: All right.

25 MR. MACKEY: Honest to goodness.

10352

Daniel Jablonski - Redirect

1 REDIRECT EXAMINATION

2 BY MR. MACKEY:

3 Q. Read into the record, please, Agent Jablonski, the  
4 handwritten language that appears immediately before  
the

5 signature of Terry Nichols.

6 A. It says, "Without prejudice, UCC 1-207."

7 MR. MACKEY: Thank you. That's all.

8 MR. WOODS: Nothing further at this time, but  
we will

9 re-call Mr. Jablonski, your Honor.

10 THE COURT: Understood.

11 I take it he can go back and then be subject  
to call.

12 MR. WOODS: Sure.

13 THE COURT: So you're -- you can leave now and  
be

14 available for re-call.

15 THE WITNESS: Thank you, Judge.

16 THE COURT: You may step down.

17 Members of the jury, we'll be taking our noon  
recess

18 at this time.

19 And again, just a bit of explanation about  
procedure

20 so that you -- your curiosity can be satisfied, if you  
are

21 curious. There is in -- the cross-examination,  
generally

22 speaking, is limited to what's in direct examination.  
And

23 therefore, when there are objections, as there were in  
this

24 case, with questions that go to subject matter that was  
not

those 25 inquired into on direct examination by the prosecution,

10353

That 1 objections can be -- should be sustained, and I did.

means 2 doesn't mean those questions were improper. It simply

can 3 that the timing of it is a matter that the prosecution

undoubtedly 4 control with its witnesses; and this witness will

at a 5 be back to respond to questions like that, called again

the 6 different time in the case, when the defense can call

7 witnesses.

think 8 So that's what went on there. You know, I

the 9 sometimes it helps you to understand something about

Counsel 10 procedure so you don't get the wrong impression that

11 has done anything improper.

about the 12 So we will recess now till 1:35 with the usual  
13 cautions of keeping open minds, avoiding discussion

anything 14 case and anything connected with it and avoiding

15 outside of our evidence.

16 You're excused till 1:35.

17 (Jury out at 12:05 p.m.)

18 THE COURT: Mr. Mackey?

19 MR. MACKEY: If I might just complete the  
record with

20 respect to the Manning deposition.

21 THE COURT: Yes.

22 MR. MACKEY: For the record, I want to move  
formally

23 to admit 273AA, which is the videotape portion that was  
24 displayed to the jury, and in addition, 273BB, which is  
the

25 transcript of only the portion played to the jury.

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1 THE COURT: And these are matters for the  
record.

2 MR. MACKEY: For the record.

3 THE COURT: Not to go to the jury.

4 MR. MACKEY: Yes.

5 THE COURT: They will remember his testimony  
as they

6 will of the live witnesses.

7 MR. TIGAR: That was the purpose of my  
standing, your

8 Honor. That's agreed.

9 THE COURT: I suspected it was.

10 MR. TIGAR: Thank you, your Honor.

11 THE COURT: All right. We'll be in recess,  
1:35.

12 (Recess at 12:06 p.m.)

13 \* \* \* \* \*

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15 Item

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22 Redirect Examination by Mr. Goelman  
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24 Daryl Ingermanson

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10294	3	Redirect Examination by Ms. Wilkinson
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	19		PLAINTIFF'S EXHIBITS			
Withdrawn	20	Exhibit	Offered	Received	Refused	Reserved
	21	265	10330	10330		
	22	265B	10330	10330		
	23	273AA-273BB	10353	10354		
	24	1721	10334	10334		
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	1		PLAINTIFF'S EXHIBITS (continued)			
Withdrawn	2	Exhibit	Offered	Received	Refused	Reserved
	3	1852	10320			
	4	1852	10326	10327		
	5	1901	10328	10328		
	6	1922	10290	10290		
	7	2003	10334	10334		
	8		DEFENDANT'S EXHIBITS			
Withdrawn	9	Exhibit	Offered	Received	Refused	Reserved
	10	D1656	10248	10248		
	11			* * * * *		
	12		REPORTERS' CERTIFICATE			

13 We certify that the foregoing is a correct  
transcript from

14 the record of proceedings in the above-entitled matter.  
Dated

15 at Denver, Colorado, this 24th day of November, 1997.

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Paul Zuckerman

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Bonnie

Carpenter

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