

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

ff

9
 10 REPORTER'S TRANSCRIPT
 (Trial to Jury: Volume 90)

11
 ff

12 Proceedings before the HONORABLE RICHARD P.
 MATSCH,
 13 Judge, United States District Court for the District of
 14 Colorado, commencing at 8:40 a.m., on the 25th day of
 November,
 15 1997, in Courtroom C-204, United States Courthouse,
 Denver,
 16 Colorado.

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 20

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22
23
24
Transcription
Street,
629-9285

Proceeding Recorded by Mechanical Stenography,
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P.O. Box 3563, Denver, Colorado, 80294, (303)

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Western
Oklahoma
JAMIE
U.S.
Denver,
REID
1308,
Nichols.

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

12

* * * * *

13

PROCEEDINGS

14

(In open court at 8:40 a.m.)

15

THE COURT: Be seated, please. Good morning.

want to

16

We're a little early this morning because I

of the

17

make the rulings on the videotape that was the subject

yesterday.

18

motion and also briefed in discussion at sidebar

the

19

With the -- with respect to the concern about

think the

20

introduction of counsel, I thought that we could -- I

is that I

21

jury has to know who's questioning, and my suggestion

22

simply advise them that under the procedure followed by

23

agreement, counsel for Mr. Nichols went first in the

in the

24

questioning, and I believe Mr. Neureiter was introduced

25

opening statement that you made, Mr. Tigar.

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1

MR. TIGAR: Yes, your Honor.

remind

2

THE COURT: So I can simply refer to him and

3

them that he was introduced in the opening statement.

4

MR. TIGAR: Yes, your Honor.

5 THE COURT: So that seems to me to be the
solution to

6 that concern.

7 With respect to the substantive matters,
first, the

8 agreement was, I believe, that the photograph would be
cropped.

9 D1625.

10 MR. TIGAR: Yes, your Honor. 1625 is in
evidence and

11 will be shown in its entirety through another witness.
Our

12 thought is that when that photograph comes on, we stop
the tape

13 as we do and show the portion of the photograph on the
device

14 with the portion of it obscured.

15 THE COURT: All right. Then on the question
at page

16 32, question and answer, lines 5 to 13, the objection
there

17 is -- defense objection sustained.

18 So that should be edited.

19 And with respect to the material on page 40,
I'm

20 sustaining the objection on page 40, line 19, through
41, line

21 25, but denying it -- excuse me. The other way around.
I'm

22 overruling the objection on page 40, line 19, through
41, line

45, line 23 25, but sustaining it on page 42, line 1, through page

24 5.

it 25 I'll repeat that to make sure it's -- you got

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line 1 right. Overruled on page 40, line 19, through page 41,

line 5. 2 25. But sustaining on page 42, line 1, through 45,

turning pages 3 MR. TIGAR: Excuse me, your Honor. I'm

4 slowly.

you 5 THE COURT: That's fine. I want to make sure

6 understand.

that. 7 MR. TIGAR: Yes. Yes, your Honor. I have

then, 8 THE COURT: All right. That -- that picks up

9 sort of, at an -- yeah.

45, line 10 MR. TIGAR: Your Honor, if the -- if you have

11 5, there --

12 THE COURT: I have it here.

had 13 MR. TIGAR: -- lines (sic) 45, 6 through 19, I

14 thought there was an objection to that. Did I --

shown as 15 THE COURT: Well, there isn't -- it isn't

16 one, but --

17 MR. MACKEY: We agree. We withdraw that.

18 THE COURT: Yeah. That's what I assumed, that
19 something had happened to that because I'm ready to
sustain

20 that objection.

21 MR. MACKEY: We anticipated that.

22 THE COURT: All right. And then as I
understand it,

23 the other objections have been resolved by agreement.
Now, are

24 you going to edit out --

25 MR. MACKEY: Yes.

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-- that 1 THE COURT: -- the objections that have been

2 have been agreed, I assume?

3 MR. MACKEY: Yes.

4 MR. TIGAR: May I inquire of Government
counsel

5 through the Court when they think to present it so that

6 Mr. Neureiter will be present to show the exhibits --

7 THE COURT: Sure.

8 MR. TIGAR: -- he sponsored.

9 MR. MACKEY: I would expect what we can get
10 accomplished in the course of the day is the editing
and the
11 review by defense counsel to be sure that what we
produce is in
12 accord with both our agreement and the Court's rulings,
and
13 we'll plan on playing it probably tomorrow.

14 THE COURT: Tomorrow. So there's plenty of
time to
15 get it edited.

16 MR. TIGAR: Counsel will keep in touch, then,
your
17 Honor.

18 THE COURT: All right. Yeah. I noticed that
he was
19 on the list for today, but --

20 MR. NEUREITER: Your Honor, if I may be
excused. My
21 presence here was for this purpose.

22 THE COURT: Certainly.

23 MR. NEUREITER: Thank you.

24 THE COURT: All right.

25 Well, with that, it's now 8:45. I assume
we're ready

1 to start with our next witness. Okay.

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

We're
3 THE COURT: Members of the jury, good morning.
4 ready to resume and call for the next witness.

5 MR. MACKEY: Your Honor, we'll start the
morning with
6 Mr. Robert Dunlap.

7 THE COURT: All right. Mr. Dunlap.

8 (Robert Dunlap 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: Robert Dunlap, II, D-U-N-L-A-P.

13 THE COURTROOM DEPUTY: Thank you.

14 THE COURT: Mr. Mearns.

15 MR. MEARNS: Thank you, your Honor.

16 DIRECT EXAMINATION

17 BY MR. MEARNS:

18 Q. Good morning, Mr. Dunlap.

19 A. Hi.

20 Q. Where do you live?

21 A. Wichita, Kansas.

22 Q. And how long have you lived in Wichita?

23 A. My whole life.

24 Q. And what kind of education have you had?
25 A. I've got a bachelor of science in electrical
engineering.

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Robert Dunlap – Direct

1 Q. Where did you get your college degree?
2 A. Wichita State University.
3 Q. And when did you graduate?
4 A. 1986.
5 Q. Where do you work now?
6 A. Equity Standard Numismatics of Kansas.
7 Q. And what kind of a store or business is that?
8 A. We buy and sell coins, currency, stamps, things of
that
9 nature.
10 Q. What's your position or job at Equity Standard?
11 A. I'm the owner.
12 Q. Do you have any other employees besides yourself?
13 A. No.
14 Q. How long have you been in the coin business?
15 A. Over 20 years.
16 Q. How long have you had that particular business?
17 A. Since October of 1989.
18 Q. Where is your store located? Where is Equity
Standard

19 located?
20 A. It's at 8237 East Kellogg in Wichita, Kansas.
21 Q. Where is that, generally speaking, in Wichita?
22 A. On the east side of town.
23 Q. And how long has it been at that location?
24 A. Since September of 1990.
25 Q. Tell us a little bit more about what you do in your

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Robert Dunlap – Direct

1 business on a day-to-day basis.
2 A. We buy and sell coins. We appraise coins. We buy
and sell
3 currency, stamps.
4 Q. Do you buy and sell actual precious metals, as
well?
5 A. Yes.
6 Q. What kind of precious metals do you buy?
7 A. We buy gold, silver, platinum.
8 Q. And do you sell that, too?
9 A. Yes, we do.
10 Q. From what sources do you buy coins?
11 A. From the public, wholesalers, other dealers.
12 Q. And to whom do you sell your coins?
13 A. To the same venue. The public, dealers, other
wholesalers.

do you 14 Q. When you sell coins to individual customers, what

15 accept for payment?

ID, cash, 16 A. We accept personal checks up to \$250 with proper

17 and cashier checks.

into your 18 Q. And when you purchase coins from people who walk

your 19 store from the general public, how do you pay them for

20 purchases?

21 A. We pay them by check or cash.

every 22 Q. Do you prepare a receipt, an individual receipt for

customer? 23 transaction that you engage in with an individual

24 A. No.

25 Q. When do you prepare a receipt?

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Robert Dunlap – Direct

1 A. When requested by the customer.

customer 2 Q. And what kind of receipts do you prepare when a

3 requests a receipt?

carbonless 4 A. We have Ready Forms. They are a duplicate,

5 form.

6 Q. And what kind of information is -- is put down on
that form

7 for a transaction?

8 A. What was purchased and payment method, check number
or by

9 cash.

10 Q. Do you put the person's name, as well?

11 A. If they want.

12 Q. And you said those were duplicate, carbonless
forms?

13 A. Yes.

14 Q. How many different forms are generated in a
transaction

15 like that?

16 A. Two.

17 Q. And what do you do with those two different copies?

18 A. We generally give the customer the white copy, and
we

19 retain the yellow copy.

20 Q. Is that yellow copy retained for your own record-
keeping

21 purposes?

22 A. Yes.

23 Q. When a customer doesn't request a receipt, do you
-- do you

24 create any kind of a -- a record for your own internal

25 record-keeping purposes?

Robert Dunlap - Direct

1 A. We'll generally retain that on a piece of paper.

2 Q. What do you do with that information?

3 A. We'll generally go ahead and transfer that to a
receipt at
4 a later point.

5 Q. What do you mean by put it on a receipt at a later
time?

6 A. Basically, one of the formalized receipts a
customer
7 requested, we'll transfer once the transaction is not
-- the
8 customer is not requesting a receipt to that receipt.

9 Q. And so there can be more than one transaction
listed on a
10 particular receipt?

11 A. Yes.

12 Q. Do you have a security camera, any kind of a
security
13 camera in your store?

14 A. Yes.

15 Q. Is it a video camera or still camera?

16 A. Video camera.

17 Q. How long have you had that video security camera?

18 A. Since late 1993.

19 Q. What I want you to do now, Mr. Dunlap, if you would
--
20 there's a large folder on the witness stand in front of

you.

Exhibit 21 If you would look in that folder and find Government

22 235. Do you have that?

23 A. Yes.

24 Q. Do you recognize that?

events 25 A. Yes. This is a videotape of my premises showing

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Robert Dunlap – Direct

1 that occurred between 9–13 of '94 and 9–23 of 1994.

2 Q. How do you recognize that?

3 A. It has my handwriting on it.

4 Q. You wrote those dates?

5 A. Yes, I did.

6 Q. And is that the original videotape for those dates,
7 September 13 to September 23, 1994?

8 A. Yes, it is.

9 Q. And was that videotape then created by your
security camera

10 in the ordinary course of your business?

11 A. Yes, it was.

Government 12 MR. MEARNS: Your Honor, we would offer

13 Exhibit 235.

14 MR. WOODS: No objection.

15 THE COURT: Received.

16 BY MR. MEARNS:

17 Q. Now, Mr. Dunlap, if you would -- well, let me ask
you a
18 question before you move that away. If we were to put
that
19 videotape into a VCR and try to watch it, would we be
able to
20 see what was on that videotape?

21 A. It would be very difficult. It's a time-lapse
version. It
22 would be very choppy and go by very quickly.

23 Q. Look in your folder, if you would, for Government
Exhibit
24 236. Do you recognize that, Mr. Dunlap?

25 A. Yes. This is a real-time version of the -- from
the

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Robert Dunlap - Direct

1 time-lapse version.

2 Q. And is that a real-time version of one single date
from the
3 original videotape, that date being September 14, 1994?

4 A. Yes it is.

5 Q. And is the only difference is that's a videotape
that you
6 could actually watch on a VCR?

7 A. Yes, it is.

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

9 Exhibit 236.

10 MR. WOODS: No objection.

11 THE COURT: 236 received.

12 BY MR. MEARNS:

13 Q. Now, Mr. Dunlap, if you would look into your folder
for
14 Government's Exhibit 235A and 235B and 235C. Do you
have

15 those?

16 A. Yes.

17 Q. What are those?

18 A. These are pictures of my shop from 9-14 of 1994.

19 Q. And are those still photographs derived from the
original
20 videotape that you just testified about a moment ago?

21 A. Yes, they are.

22 Q. For September 14, 1994?

23 A. Yes.

24 MR. MEARNS: Your Honor, we would offer 235A,
B, and

25 C.

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Robert Dunlap - Direct

1 MR. WOODS: May I examine them, your Honor?
2 THE COURT: Yes. Sure.
3 MR. WOODS: Thank you. No objection, your
Honor.
4 THE COURT: All right. 235A, B, and C are
received.
5 MR. MEARNS: Your Honor, there's a stipulation
that
6 the individual depicted in that photograph is Mr.
Timothy
7 McVeigh.
8 MR. WOODS: Yes, your Honor. That is our
stipulation.
9 THE COURT: All right. The jury will accept
that
10 agreement.
11 MR. MEARNS: At this time, I'd like to, with
the
12 Court's permission, publish 235A.
13 THE COURT: Please. You may proceed.
14 MR. MEARNS: Thank you.
15 BY MR. MEARNS:
16 Q. And, Mr. Dunlap, if you could, beginning in the
upper
17 left-hand corner, just orient us to what we see in that
18 photograph. Tell us what we see.
19 A. In the upper left-hand corner is the date 9-14-94
and the
20 time, which is 12:00, 4 minutes after and 15 seconds.
21 Q. And what do we see then generally in the -- in the

22 photograph?
23 A. You see the premise itself. I'm setting (sic) on a
chair.
24 Q. And you have a -- excuse me. If I can interrupt
you. You
25 have a pen that's attached to a wire up there, an
electric pen.

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Robert Dunlap - Direct

1 If you could just circle where you are, indicate with
an X
2 where you are in the photograph.

3 Okay. And could you indicate where Mr.
McVeigh is in
4 that photograph.

5 Now, is the area where Mr. McVeigh is standing
-- is
6 that the general customer area of your store?

7 A. Yes, it is.

8 Q. And if you could clear those marks and indicate
where the
9 front door of your store is.

10 And if you had -- if we were to go out that
door,
11 where would we go?

12 A. You'd go out on the sidewalk in front of the
shopping
13 center.

on the -- 14 Q. What is -- what do we see in the photograph to --
and to 15 to Mr. McVeigh's right, or to the left of Mr. McVeigh
guess 16 the -- and to the right? On either side of those -- I
17 they are counters there?

18 A. There's a chair.

19 Q. Well, what -- are those glass cases there?

20 A. Oh, yeah. Yeah. Those are showcases.

21 Q. And what is the -- contained in those?

22 A. Coins.

23 MR. MEARNS: And if we could have 235B,
please.

24 BY MR. MEARNS:

25 Q. And if you could clear your pen and just indicate
for the

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Robert Dunlap - Direct

1 record the date and time of this photograph.

2 A. It's 9-14 of '94 at 12:05:23.

3 Q. And if we could have 235C, please.

4 And if you could indicate the date and time on
that,

5 please.

6 A. This is 9-14 of '94. And this is 12:07:57.

Honor? 7 MR. MEARNS: May I just have a moment, your

8 THE COURT: Yes.

9 BY MR. MEARNS:

10 Q. And if we could just zoom in on the customer there.

11 These were all -- these were all photographs
taken

12 during the same transaction with Mr. McVeigh?

13 A. Yes.

14 Q. During this transaction, did you sell anything to
15 Mr. McVeigh or buy anything from him?

16 A. I purchased coins from him.

17 Q. How many coins did you purchase from him?

18 A. Six.

19 Q. And what kind of coins did you purchase?

20 A. 1-ounce gold Maple Leafs.

21 Q. And how much did you pay for those coins?

22 A. \$2330.

23 Q. If you would look in your folder there, Mr. Dunlap,
for

24 Government Exhibit 237 and Government Exhibit 1722.

25 Do you have those documents in front of you?

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Robert Dunlap - Direct

1 A. Yes, I do.

2 Q. Beginning first with 237, what is that?
3 A. This is a check drawn on my business for \$2330 on
September
4 the 14th, 1994, payable to Marife Nichols.
5 Q. Was that the check that you gave to Mr. McVeigh for
the
6 coins you purchased that day?
7 A. Yes, it was.
8 Q. And was that check created and maintained in the
ordinary
9 course of your business?
10 A. Yes, it was.
11 MR. MEARNS: We would offer Government Exhibit
237.
12 MR. WOODS: May I examine the back of it, your
Honor?
13 THE COURT: Sure.
14 MR. WOODS: Thank you. No objection, your
Honor.
15 THE COURT: 237 received.
16 BY MR. MEARNS:
17 Q. Mr. Dunlap, is this your handwriting on the check?
18 A. Yes, it is.
19 Q. And we see on the check that it's made out to the
-- it's
20 paid to the order of Marife Nichols.
21 A. Yes.
22 Q. Why did you make this check payable to Marife
Nichols?

23 A. I was instructed to do so by Mr. McVeigh.

24 Q. Turning to 1722. What is that?

25 A. This is a receipt from my business.

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Robert Dunlap – Direct

1 Q. Is that a receipt that relates only to this
transaction?

2 A. No. It relates to multiple transactions.

3 Q. And is one of the transactions the transaction with
4 Mr. McVeigh on September 14?

5 A. Yes, it is.

6 Q. And was this document created and maintained in the
7 ordinary course of your business?

8 A. Yes, it was.

9 MR. MEARNS: We would offer Government Exhibit
1722.

10 MR. WOODS: I can't read the copy. Your
Honor, may I
11 examine it?

12 THE COURT: Sure.

13 MR. WOODS: Thanks. No objection, your Honor.

14 THE COURT: 1722 is received.

15 BY MR. MEARNS:

16 Q. And if we could first display the entire document.

17 Tell us what we see on this document, Mr.
Dunlap.

business 18 A. We see multiple transactions that occurred at my
19 during the month of September.
date 20 Q. Now, we see in the upper right-hand corner that the
21 there is September 15, 1994.
22 A. Yes.
created? 23 Q. Is that the date that this purchase order was
24 A. Yes.
McVeigh, 25 Q. And was this created for the transaction with Mr.

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Robert Dunlap - Direct

1 or a different transaction?
2 A. For a different transaction.
reflected on 3 Q. Is Mr. -- is the transaction with Mr. McVeigh
4 this receipt anywhere?
5 A. Yes, it is.
receipt. 6 Q. Could you circle where it's reflected on this
7 Okay. And if we could focus on that area of
the
8 receipt, please. Okay. If you could erase the light
pen. If
9 you'd press your -- there you go. And circle it again
on this

10 focused version.

11 Mr. Dunlap, how do you know that this is --
that this

12 entry on this receipt is the one that pertains to the
13 transaction with Mr. McVeigh?

14 A. Because it's the same check number as the one that
I wrote
15 and gave to Mr. McVeigh.

16 Q. Okay. Could you tell us what that check number is
that's
17 reflected on this entry.

18 A. Check No. 2423.

19 Q. And what is the information that's contained to the
left
20 there? There's a number 6 and then there's some
writing there.

21 A. It's six 1-ounce GML, which is an abbreviation for
gold
22 Maple Leafs.

23 Q. And what kind of a coin is that?

24 A. It's a 1-ounce Canadian gold coin.

25 Q. During the course of this transaction, did Mr.
McVeigh ask

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Robert Dunlap - Direct

1 you anything about the check that you gave him?

2 A. Yes. He inquired about where he could go to cash

it.

3 Q. Did you respond to that question?

4 A. Yes.

5 Q. What did you tell him?

6 A. I told him that he needed to go out to Kellogg and
proceed
7 through two stoplights to Armor and take a right and
that the
8 bank was located right next to Target.

9 Q. Now, I'd like you to look into your folder for
Government
10 Exhibit 1875, which is in evidence.

11 If you could pull it out of the larger plastic
sleeve.

12 A. It's stapled shut.

13 Q. Oh, it's stapled shut. How do the coins that is
contained

14 in Government's Exhibit 1875 compare to the coins that
you
15 purchased from Mr. McVeigh on September 14, 1994?

16 A. The same type.

17 Q. Could you hold those up to the jury.

18 And there are two coins contained in there,
19 Mr. Dunlap?

20 A. It appears to be.

21 Q. And you purchased six from Mr. McVeigh that day?

22 A. That's correct.

23 Q. Thank you, Mr. Dunlap.

24 Now, if you would look into your folder for
Government
25 Exhibit 238.

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Robert Dunlap - Direct

1 Do you recognize that?

2 A. Yes. This is a videotape of events that occurred
at my
3 premise on 10-13-94 through 10-24 of 1994.

4 Q. And how do you recognize that as the original
videotape for
5 those -- for those dates?

6 A. It has my handwriting on it.

7 Q. Was that videotape also created in the normal
course of
8 your business?

9 A. Yes, it was.

10 MR. MEARNS: Your Honor, we would offer
Government
11 Exhibit 238.

12 MR. WOODS: No objection.

13 THE COURT: Received. 238.

14 BY MR. MEARNS:

15 Q. Now, Mr. Dunlap, if you would locate the videotape
that's
16 marked Government Exhibit 239. And what is that?

17 A. This is a real-time version taken from the time-

lapse tape.

18 Q. Is that for all of those dates or just for one
particular

19 date?

20 A. One particular date.

21 Q. And what date is that?

22 A. 10-19 of 1994.

23 Q. That's for October 19, 1994?

24 A. Yes, it is.

25 Q. And is that a real-time tape derived from the
original

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Robert Dunlap - Direct

1 information on Government Exhibit 238?

2 A. Yes, it is.

3 MR. MEARNS: Your Honor, we would offer 239.

4 MR. WOODS: No objection.

5 THE COURT: Received.

6 BY MR. MEARNS:

7 Q. Now, Mr. Dunlap, if you would locate three
photographs

8 marked 238A, 238B, and 238C.

9 Do you recognize those photographs?

10 A. Yes, I do.

11 Q. How do you recognize them?

from 12 A. These are pictures that reflect my business premise
13 10-19 of 1994.

from 14 Q. And are those photographs still photographs derived
15 the videotapes, 238 and 239?

16 A. Yes, they are.

B, and 17 MR. MEARNS: Your Honor, we would offer 238A,

18 C.

19 MR. WOODS: No objection.

20 THE COURT: They are received.

respect 21 MR. MEARNS: And there is a stipulation with

that 22 to the individual depicted in these three photographs,

23 it's the defendant, Terry Nichols.

stipulation. 24 MR. WOODS: Yes, your Honor. That is our

agreement. 25 THE COURT: All right. Then we accept that

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Robert Dunlap - Direct

1 BY MR. MEARNS:

2 Q. If you would clear your light pen, Mr. Dunlap.

and time 3 And if you could begin by telling us the date

4 that we see reflected there in the upper left-hand

corner.

5 A. This is 10-19, 1994, at 10:11:07.

6 Q. And if you could put a circle around the individual
who's

7 been identified as Mr. Nichols.

8 Now, we don't see you in this photograph; is
that

9 correct?

10 A. That's correct.

11 Q. Where were you at the time that this picture was
taken?

12 A. I was in the back room, doing opening duties.

13 Q. What time does your store open every morning?

14 A. 10 a.m.

15 Q. And what time did you arrive at the store and open
your

16 store that morning?

17 A. 10:06 a.m.

18 Q. And who was the first customer to come in your
store that

19 morning on October 19?

20 A. Mr. Nichols.

21 Q. And what time did Mr. Nichols enter the store?

22 A. 10:07 a.m.

23 Q. Approximately four minutes before this still
photograph was

24 taken?

25 A. Correct.

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Robert Dunlap - Direct

1 MR. MEARNS: If we could display 238B.

2 BY MR. MEARNS:

3 Q. And this is a photograph just taken a few seconds
later at

4 10:11 and 8 seconds; is that correct?

5 A. Yes.

6 MR. MEARNS: And if we could finally have
238C.

7 BY MR. MEARNS:

8 Q. If you could clear your light pen there. And if
you could

9 indicate with an X where you are.

10 And an X where Mr. Nichols is.

11 And back behind Mr. Nichols, we see other
individuals.

12 Do you see those?

13 A. Yes.

14 Q. Okay. Could you just put a circle where those
other

15 individuals are.

16 Now, if you could clear your light pen for us.
And if

17 we could focus on the camera more specifically on Mr.
Dunlap

18 and Mr. Nichols.

Nichols 19 Did you buy anything or sell anything to Mr.
20 that day?
21 A. I purchased some coins from Mr. Nichol (sic) that
day.
22 Q. Do you recall how many coins that you purchased?
23 A. No, I do not.
24 Q. Do you have any record that reflects the purchase
of those
25 coins that day?

10551

Robert Dunlap - Direct

1 A. No, I don't.
2 Q. How do you recall that then?
3 A. By viewing the videotape. It's normal procedure
that I do.
4 Q. And how do -- how did you pay for the purchase of
coins
5 from Mr. Nichols that day?
6 A. I paid him in cash.
7 Q. On a typical day, how much cash do you have on hand
to
8 purchase coins or other items from customers that come
in?
9 A. It varies.
10 Q. And what does -- what is the range?
11 A. It can be from a few thousand to 8-, 9-, 10,000.

conclude 12 Q. What time did your transaction with Mr. Nichols
13 that morning?
14 A. At about 10:17.
the 15 Q. And where did Mr. Nichols -- did Mr. Nichols leave
16 store at that 10:17?
17 A. Immediately.
store, Equity 18 Q. What was your -- the telephone number at your
19 Standards? What is the telephone number at your store?
20 A. It's area code (316) 689-8773.
in 21 Q. And was that the same telephone number that you had
22 October of 1994?
23 A. Yes, it is.
Exhibit 24 MR. MEARNS: I'd like to display Government
25 1888, page 7, please.

10552

Robert Dunlap - Direct

1 BY MR. MEARNS:
2 Q. Do you recognize this, Mr. Dunlap?
of 3 A. It appears to be a phone record from Tuesday, 10-18
4 1994.
5 Q. And have you examined this record prior to coming

to court

6 today?

7 A. Yes, I have.

8 Q. Okay. And as you see on that record, there are a series of

9 telephone calls from a Coastal Mart pay telephone in Council

10 Grove, Kansas, beginning at 3:32 in the afternoon, proceeding

11 down the page to a call -- the last call reflected there at

12 4:05 p.m. Do you see that?

13 A. Yes, I do.

14 Q. And if you would look at the last phone call from that same

15 Coastal Mart pay phone in Council Grove, and the "call to" on

16 the right-hand side, do you recognize the phone number there

17 that's listed for Equity Standard Numismatics?

18 A. Yes.

19 Q. And is that your -- was that your telephone number in

20 October of 1994?

21 A. Yes, it was.

22 Q. Now, if we would turn to the next page, 1888, page A. Have

23 you reviewed this record prior to coming to court?

24 A. Yes, I have.

25 Q. And you see there a series of six telephone calls

from a

10553

Robert Dunlap - Direct

1 Denny's pay phone in Wichita, Kansas?

2 A. Yes.

Do

3 Q. And you see that there's a series of phone calls.

4 you -- could you read into the record what the
telephone number

5 is at that Denny's pay phone?

6 A. Yes. It's area code (316) 684-9041.

correct,

7 Q. And the first call begins at 10:24 a.m.; is that

8 Mr. Dunlap?

9 A. Yes, it does.

Nichols

10 Q. When -- when is that time in relation to when Mr.

11 left your store that morning?

12 A. Almost eight minutes after he left my store.

in

13 Q. Do you know where that Denny's pay phone is located

14 relation to your store in Wichita?

15 A. Yes. It's about five minutes' walking distance.

Exhibit

16 Q. I'd like you to look in your folder for Government

17 1734.

18 Do you see it?

19 A. Yes, I have it.

20 Q. What is that?

21 A. This is an aerial photograph of the shopping center
where
22 my business is located and the surrounding area.

23 Q. And does it reflect your store?

24 A. Yes, it does.

25 Q. Does it also reflect the Denny's pay phone that you
just

10554

Robert Dunlap - Direct

1 spoke about a moment ago?

2 A. Yes, it does.

3 Q. And does it fairly and accurately depict the
relative
4 distance between those locations?

5 A. Yes, it does.

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

7 Exhibit 1734.

8 MR. WOODS: No objection.

9 THE COURT: Received.

10 MR. MEARNS: And if we may publish it, please.

11 BY MR. MEARNS:

12 Q. Could you put an X by where your store is located
in this

13 photograph, 1734.

Denny's 14 And now if you could put a circle around the
15 restaurant where the pay phone is located.

phone 16 And how is it that you know the Denny's pay
17 number that was listed in that record, 1888, is located
in that 18 Denny's restaurant?

19 A. I went in and looked at it.

Honor. 20 MR. MEARNS: I have no further questions, your

21 THE COURT: Mr. Woods.

22 MR. WOODS: Yes, your Honor. Thank you.

23 CROSS-EXAMINATION

24 BY MR. WOODS:

I'm one 25 Q. Good morning, Mr. Dunlap. My name is Ron Woods.

10555

Robert Dunlap - Cross

1 of the lawyers appointed to help Terry Nichols in this
case.

2 We saw some photographs from your business in
3 September of '94 where Mr. McVeigh is captured on your
video;

4 is that correct?

5 A. Yes.

6 Q. Okay. Now, you keep videos for a long time,
evidently, at

7 your place, do you not?

8 A. For some -- for some circumstance, yes.

9 Q. What period of time do you keep the videos that are
on your

10 security camera?

11 A. It varies.

12 Q. Well, the FBI came to you in February of '96 and
asked you

13 for these videos, and you had them for October '94; is
that

14 correct?

15 A. Yes.

16 Q. So what period of time do you keep videos?

17 A. Well, the videos that I had were for another
particular

18 reason. I'd had a sprinkler system discharge in my
space, and

19 I was keeping them for that.

20 Q. For insurance purposes to show --

21 A. Yes.

22 Q. -- the damage?

23 A. Yes. And then the -- the refurbishing of it.

24 Q. So what -- what period of time did you start
keeping videos

25 then in '94?

10556

Robert Dunlap - Cross

1 A. Initially about eight, ten weeks.

keeping

2 Q. No, what -- what month was it that you started

3 them?

late

4 A. I started -- I have the ones from 1994 from, like,

5 July or early August.

6 Q. All the way through till when?

7 A. Till now.

--

8 Q. So you've kept them every -- every day since August

9 July, August '94?

10 A. Yes.

then

11 Q. Okay. And these are quick-time videos that you can

12 just write on your cassette and keep them?

13 A. Yes.

that were

14 Q. Okay. Now, the first -- first series of photos

15 offered into evidence showed Mr. McVeigh there during a

14th?

16 weekday; is that correct? On Wednesday, September the

17 A. It was September the 14th, yes.

workday,

18 Q. And didn't your camera reflect that that was a

19 Wednesday?

20 A. I believe so.

21 Q. During the middle of the week?

22 A. I believe so.

23 Q. Okay. And he asked that the check be written out
to a

24 Marife Nichols; is that correct?

25 A. That's correct.

10557

Robert Dunlap – Cross

1 Q. Did you notice how Mr. McVeigh arrived at your
store; in
2 any particular type vehicle?

3 A. No, I did not.

4 Q. Did you see him leave and get into a vehicle?

5 A. No, I did not.

6 Q. So you didn't see him with anyone outside; is that
correct?

7 A. That's correct.

8 Q. Okay. The check was made out to Marife Nichols; is
that
9 correct?

10 A. That's correct.

11 Q. And it's endorsed by Marife Nichols on the back; is
that
12 correct?

13 A. I don't know.

14 Q. Well, why don't you take a look at it and see what
name is
15 on the back of where the -- for the endorsement.
16 A. Marife Nichols appears on the reverse of the check.
17 Q. Okay. And those are your checks that you keep as
part of
18 your business; is that correct?
19 A. That's correct.
20 Q. And you have a bank down the street as you related
giving
21 the directions to -- you have a bank that you do
business with
22 that'll cash your checks that you issue to the
customers who
23 sell you items; is that correct?
24 A. That's correct.
25 Q. And you directed Mr. McVeigh to that bank --

10558

Robert Dunlap - Cross

1 A. Yes, I did.
2 Q. -- to cash that check?
3 A. Yes, I did.
4 Q. Okay. Now, the other series of photos that you
talked
5 about in your testimony was of Mr. Nichols on October
19, '94;
6 is that correct?

7 A. Yes.

8 Q. And the FBI in February of '96 came to you and
asked for

9 the videos; is that correct?

10 A. I believe so.

11 Q. And by looking at that video, what, a year and a
half

12 later -- what's the time from October of '94 to
February of

13 '96?

14 A. It's about 18 months, I guess.

15 Q. 18 months. A year and a half later, by looking at
that

16 video, you can recall that you bought coins from Mr.
Nichols?

17 A. Yes.

18 Q. Okay. But you didn't make any record of that one?

19 A. I can't find the record in my records that reflects
that.

20 Q. Well, sometimes you use checks to pay customers for
their

21 coins; right?

22 A. Correct.

23 Q. Now, you're required by the Internal Revenue
Service to

24 report to Internal Revenue Service on various
transactions when

25 you buy coins of certain value and content of gold,
aren't you?

Robert Dunlap – Cross

1 A. Certain quantities, yes.

2 Q. Okay. And the best way to keep those records is a
check

3 register, I assume; is that correct?

4 A. Check or cash. I mean, write down the receipts.

5 Q. And in the month of October, you have a check
register and

6 you had 37 checks that you wrote for the month of
October,

7 didn't you?

8 A. Yes.

9 Q. And those were to customers that were selling you
items?

10 A. I couldn't tell you if all of those were to
customers

11 selling items or not.

12 Q. Okay. Well, you have to keep records for Internal
Revenue

13 Service because of your business, don't you?

14 A. Yes.

15 Q. All right. But you don't have any record for this
16 transaction for Mr. Nichols on October 19; is that
correct?

17 A. I don't have any way of reflecting that actual
transaction,

18 no.

19 Q. Okay. And you have no idea what the transaction

was, do

20 you, a year and a half later when they asked you about
it?

21 A. I know that I did pay the gentleman in cash, and I
know I

22 did buy coins from him.

23 Q. And you just don't have any recollection?

24 A. I don't have any recollection of the specific
transaction,

25 no.

10560

Robert Dunlap – Cross

1 Q. And you do a lot of your business in cash, don't
you, sir?

2 A. We do some, yes.

3 Q. But you just don't keep records of those cash
transactions?

4 A. No. We do keep records of those cash transactions.

5 Q. Do you have a record for that day, October 19, '94,
of that

6 cash transaction?

7 A. I'm not certain of that particular transaction, no.

8 Q. Okay. Now, do you recall back on September the
6th, when

9 an investigator from our staff came to interview you?

10 September the 6th of '95?

11 A. Yes, I do.

you
could
12 Q. And you told him you wouldn't talk to him but that
13 would check with the FBI and Mr. Randy Wolverton and he
14 come back the next day?

with him
15 A. No. What I said was that I'd prefer not to speak
16 at that time.

17 Q. But you asked him to come back the next day?

18 A. No.

investigator,
19 Q. Okay. And is it true that Mr. Killam, the
20 came back the next day?

21 A. No.

you had
22 Q. On September the 7th, didn't you advise him that
23 spoken to FBI Agent Randy Wolverton and that you had
nothing to
24 say to us?

name I
25 A. No. What I did was I advised him of the agent's

10561

Robert Dunlap – Cross

1 spoke to at his request.

nothing to
2 Q. Okay. And after speaking to the FBI, you had
3 say to us; is that correct?

4 A. I had nothing to say to you before.

Killam 5 Q. Uh-huh. And who was the agent that you advised Mr.

6 that you had spoken to?

7 A. I had contacted Mr. Wolverton.

Dunlap, 8 MR. WOODS: Thanks for this opportunity, Mr.

9 to talk to you. Nothing further, your Honor.

10 MR. MEARNS: Very briefly.

11 REDIRECT EXAMINATION

12 BY MR. MEARNS:

13 Q. Mr. Dunlap, in your business, do you honor a
customer's

14 request to pay that customer either by cash or by
check?

15 A. Yes.

16 Q. And on this particular transaction, the transaction
with

17 Mr. Nichols, you paid him -- you paid in cash?

18 A. Yes.

19 Q. Was that at his request or was that your decision?

20 A. I -- I couldn't recollect.

21 Q. If Mr. Nichols had requested a check, would you
have given

22 Mr. Nichols a check?

23 A. Most definitely.

24 Q. And if you had paid him with a check, would you
have been

25 able to identify the specific transaction?

Robert Dunlap – Redirect

1 A. Yes, I would have.

2 MR. MEARNS: Thank you.

3 RECROSS-EXAMINATION

4 BY MR. WOODS:

5 Q. You have no recollection of this transaction, do
you, sir,

6 in February of '96 when they first came to you?

7 A. No.

8 MR. WOODS: Thank you.

9 MR. MEARNS: Witness may be excused, your
Honor.

10 THE COURT: Agree to excuse?

11 MR. WOODS: Yes, your Honor.

12 THE COURT: All right. Mr. Dunlap, you may
step down.

13 You're excused.

14 Next, please.

15 MR. MACKEY: Yes, your Honor. We'll call Mary
Garza.

16 (Mary Garza affirmed.)

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

18 Would you state your full name for the record
and

19 spell your last name.

20 THE WITNESS: Mary Garza, G-A-R-Z-A.

21 THE COURTROOM DEPUTY: Thank you.

22 THE COURT: Mr. Goelman.

23 DIRECT EXAMINATION

24 BY MR. GOELMAN:

25 Q. Ms. Garza, where do you live?

10563

Mary Garza - Direct

1 A. Abilene, Kansas.

2 Q. And where do you work?

3 A. Fort Riley, Kansas, at the DRMO.

4 Q. What does DRMO stand for?

5 A. Defense Reutilization Marketing Office.

6 Q. Are you in the military, ma'am?

7 A. No. I'm a civilian.

8 Q. Where in Kansas is Fort Riley?

9 A. About the middle.

10 Q. Is it between Manhattan and Junction City?

11 A. Yes, it is.

12 Q. How long have you been at DRMO?

13 A. 12 -- a little over 12 years.

14 Q. You've told us what the initials stand for. What
does DRMO

15 do?

16 A. Defense Reutilization Marketing Office, and we're a
-- sort
17 of like a recycling center. Everything that's excess,
surplus,
18 or if it's broken, it comes to us and we try to find a
new home
19 for it within the DOD and federal agencies. And then
if we
20 can't do that, then it goes to the sales block and we
sell it.

21 Q. And this excess property comes from where?

22 A. Comes from the Department of Defense within Fort
Riley,
23 some from Topeka, various organizations -- federal and
DOD
24 organizations.

25 Q. Ms. Garza, can you make sure to speak into the
microphone

10564

Mary Garza - Direct

1 when you give your answers. Thank you.

2 What was your position at the DRMO when you
started 12

3 years ago?

4 A. I was warehouseman.

5 Q. And what are the responsibilities of a warehouseman
at

6 DRMO?

that 7 A. I took in the property and confirmed the paperwork

8 went with it, placed it in the appropriate areas.

then? 9 Q. Was that in-house, inside the DRMO warehouse area

10 A. Yes. Most generally, I worked inside.

11 Q. How long did you work in the warehouse?

12 A. About four or five years.

13 Q. What did you do after that?

14 A. I became a sales writer.

15 Q. What's a sales writer at DRMO?

get ready 16 A. We do an itemized description of the property and

17 to catalog it for sale.

catalog; 18 Q. And the descriptions are -- are then compiled in a

19 is that right?

20 A. Right.

21 Q. When are items offered for sale to the public?

whole 22 A. It takes about 90 days for it to go through the

and 23 process. It's -- first, we have to find a home for it,

find that 24 it's called reutilizing properties. And if we can't

25 home for it, then it goes to the sales block.

Mary Garza – Direct

1 Q. Okay. That first part of the process, the
reutilization

2 process, what does that involve?

3 A. That involves my -- my section having to find
customers for

4 it. We check on the Web and various organizations on
the base

5 to see if anyone needs that property first. And then
the

6 federal agencies get contacted, see if they need it.

7 Q. So in those first steps, is the public involved at
all in

8 purchasing the property?

9 A. No.

10 Q. Are you still a sales writer, Ms. Garza?

11 A. No. I'm not.

12 Q. What's your position now?

13 A. Chief of the distribution branch.

14 Q. What's the distribution branch at DRMO?

15 A. In charge of reutilization and the sales process.

16 Q. So you supervise both ends of the way DRMO gets rid
of

17 property?

18 A. Right.

19 Q. And how long have you been chief of the
distribution

20 branch?

21 A. About five years.

1995? 22 Q. Were you chief of the distribution branch in April,

23 A. Yes, I was.

24 Q. I'm going to show you what's been marked for
identification

25 as Government Exhibit 1962, which will pop up on your
screen

10566

Mary Garza - Direct

1 under your window there. Do you recognize that?

2 A. Yes. It's a layout of Camp Funston.

3 Q. And is Camp Funston where the DRMO is located?

4 A. Yes, it is.

5 Q. Is that a fair and accurate depiction of the way
DRMO and

6 the surrounding area looked in April, 1995?

7 A. Yes.

8 MR. GOELMAN: Move to admit Government 1962,
your

9 Honor.

10 MR. WOODS: No objection.

11 THE COURT: Received.

12 BY MR. GOELMAN:

13 Q. Ms. Garza, can you take the light pen, which should
be on

14 your left up there -- it's got a cord attached to it --
and

15 could you mark on this exhibit, just put a circle
around the

16 area that's the DRMO.

17 Is it about there?

18 A. It's a little to the left, but that's it.

19 Q. What are the other areas to the left of the DRMO,
itself?

20 A. Okay. There's like a storage area. There are --
this is

21 the National Guard units and -- are clear, clear to the
left.

22 And further down here, there is more areas. DOL, they
store

23 vehicles over there, but they are not part of the DRMO.

24 Q. Ms. Garza, if you're at the DRMO without a vehicle,
is

25 there anyplace to go within walking distance to get a
cup of

10567

Mary Garza - Direct

1 coffee or something?

2 A. No.

3 Q. I want -- ask you to take a look now at Government
Exhibit

4 1961. And can you click the side of your pen, Ms.
Garza, and

5 get rid of those marks.

6 Do you recognize what's depicted in Government

1961?

7 A. Yes. DRMO.

8 Q. And is that a fair and accurate depiction of DRMO
as it

9 appeared in April '95?

10 A. Yes, it is.

11 MR. GOELMAN: Move to admit Government 1961,
your

12 Honor.

13 MR. WOODS: No objection, your Honor.

14 THE COURT: Received.

15 BY MR. GOELMAN:

16 Q. Okay. Ms. Garza, using your light pen, could you
please

17 describe the basic layout of the DRMO.

18 A. This is the -- this is the main warehouse right
here. This

19 part right here is where the offices are. This part
here is

20 where the inside warehouse storage is.

21 Q. Okay.

22 A. This is B warehouse. This is an overflow area.
This is

23 our outside yard. This is hazardous back here. We
have more

24 property. Here's -- the middle part coincides with
this part,

25 also. R deck.

Mary Garza - Direct

was the

1 MR. WOODS: I'm sorry. I can't hear. What
2 middle part?

3 THE COURT: Would you speak up?

4 THE WITNESS: This one here?

5 BY MR. GOELMAN:

6 Q. Yes.

will store

7 A. This one. For the bigger, bulkier items. They

Area 2,

8 them there, and they also are like Area 2, 3. This is

9 3, 4. 2, 3, 4. 5 -- excuse me, last one is 5.

10 Q. Okay.

parking.

11 A. And this is the parking lot. And up front is also

different

12 Q. Ms. Garza, we'll get into the numbers of the

to the

13 areas in a minute. You mentioned that items turned in

sale to the

14 DRMO are first reutilized and only then offered for

15 public; is that right?

16 A. Right.

to be

17 Q. How -- once they are determined that they are going

18 offered to the public, how is that done?

19 A. The sales writers go out and write up the property.

And

we mail 20 it's an itemized description. It gets catalogued, and

21 out catalogues.

the 22 Q. Okay. But when the property is finally offered to

some 23 public for sale, is it done through auction or through

24 different type of sale?

25 A. Yes. Auctions and sealed bids.

10569

Mary Garza - Direct

1 Q. And what's the difference between an auction and a
2 sealed-bid sale?

have an 3 A. An auction is live, like in civilian sector. You

sealed bid 4 auctioneer. You register, you have paddles. And a

your 5 is silent. You get a bidder's registration. You sign

sheets as to 6 sheets and your bid sheets. You annotate your bid

it in. 7 what item you want and how much you bid, and you hand

the 8 And then on the 4th day, that's when we decide who gets

9 bid. It's computerized.

10 Q. The item goes to the highest bidder at that point?

11 A. Right.

12 Q. Is the public given an opportunity to inspect items
for

13 sale before both auctions and sealed-bid sales?

14 A. Yeah. There's a three-day inspection period.

15 Q. Is that called -- are those days called "viewing
days"?

16 A. Yes, they are.

17 Q. Okay. Now, for any given sale, Ms. Garza, would
all the

18 items at DRMO be offered for sale to the public?

19 A. No.

20 Q. About how much of the DRMO's property would be
offered to

21 the public each sale?

22 A. Just those areas. It's about a fourth of the
property.

23 Q. About a fourth. And what about the -- the rest of
the

24 items that are not offered for sale to the public at
that

25 particular time? Is the public allowed to view those
items on

10570

Mary Garza - Direct

1 viewing days anyway?

2 A. No. They are not.

3 Q. Are the items that are for sale and the items that

are not

4 for sale mixed together in the same area?

5 A. No. They are separated.

you

6 Q. And is that what you were talking about before when

7 were listing the numbered areas?

8 A. Right.

the public

9 Q. Does the DRMO have a policy about whether or not

10 is allowed in areas where there are items that are not
for sale

11 on viewing days?

12 A. Yes. We try to keep the public out of those areas
because

13 they are not up for sale yet.

14 Q. What are the reasons for this policy?

15 A. Because the reutilization program is still in
effect. The

16 stuff can be reutilized all the way up to sale day.
There's no

17 point in having them go through those areas. No. 2,
you don't

18 want to allow some customers in there while others
don't have

19 the opportunity to look.

20 Q. And how is this policy enforced?

21 A. Well, the staff's all been informed to try to keep
people

22 out of those areas. So when we see someone, we do ask
them to

23 leave.

24 Q. Are the areas that are off limits marked in any
way?

25 A. The inside and the outside areas, they have what we
call

10571

Mary Garza - Direct

1 "placards." There's like little signs, and they have
numbers

2 on them. They are all one color. And they should know
that

3 this property -- each pallet has that color on it, and
that's

4 what's up for sale.

5 Q. Does this policy mean that no one ever gets into an
6 unauthorized area for any time?

7 A. No. It -- people have gone through. We try to
catch them.

8 It's hard to keep them in those areas sometimes.

9 Q. Who enforces this policy in the outside area, out
in the

10 yard?

11 A. That would be the outside man, Bill.

12 Q. What's Bill's last name?

13 A. McDonald.

14 Q. And what about the people who work inside the
office? Do

15 they have any role in enforcing this rule as it applies

to the

16 outside area?

17 A. Our office faces part of the yard, so we can pretty
much

18 see the R0 area and the sales and "re-ute." section
face that

19 way. So they usually try to watch out the windows,
too, when

20 they can. And if we see somebody, we try to go get
them.

21 Q. Have you ever from the inside personally observed
someone

22 in the off-limits area on the outside?

23 A. Yes.

24 Q. And what have you done on those occasions?

25 A. I've gone out myself, or I've sent someone.

10572

Mary Garza - Direct

1 Q. Ms. Garza, have you reviewed your records to
determine

2 whether there was a sale in April, 1995?

3 A. Yes.

4 Q. And do you know whether it was an open auction or
5 sealed-bid sale?

6 A. Sealed-bid.

7 Q. Do you know if the viewing days for this sale were
the

8 17th, 18th, and 19th of April?

9 A. Yes, they were.

10 Q. And do you know which section of the DRMO the items
for

11 sale on April 18th, were located in?

12 A. Area 2.

13 Q. Would you please examine Government Exhibit 1960.
It

14 should be coming up on your screen, Ms. Garza.

15 A. Okay.

16 Q. Does this diagram accurately reflect which areas of
the

17 DRMO were open to the public on the viewing day of
April 18,

18 1995?

19 A. Yes, it does.

20 MR. GOELMAN: Move to admit Government 1960,
your

21 Honor.

22 MR. WOODS: No objection.

23 THE COURT: Received.

24 BY MR. GOELMAN:

25 Q. Now, Ms. Garza, if you could reach for your light
pen

10573

Mary Garza - Direct

1 again, and mark on this diagram where it is that

customers who

2 came to this viewing day would park.

3 A. Can you see that?

4 Q. Uh-huh.

another

5 A. That's the front parking lot. And over there is

6 parking lot.

7 Q. And where would customers first enter the sale?

8 A. Okay. Right here. It's on the yellow.

9 Q. That little arrow on the yellow part?

into,

10 A. The yellow block is where they are supposed to go

11 A02.

explain?

12 Q. Ms. Garza, would it help you if we showed you an
13 enlargement of this diagram? Would it help you to

14 A. I can see it. I can't work the pen.

15 Q. Okay. Would it help you if you could just point --

admit an

16 MR. GOELMAN: Your Honor, could we move to

17 enlargement of Government Exhibit 1960?

purposes

18 MR. WOODS: Your Honor, for demonstrative

19 only.

20 THE COURT: All right.

21 MR. GOELMAN: Thank you, your Honor.

22 BY MR. GOELMAN:

23 Q. Ms. Garza, if you want to step down, or you can

just use

point 24 the pointer, whichever is more convenient for you. And

down on the 25 again to where the parking lots are that you marked

10574

Mary Garza - Direct

1 screen.

here is 2 A. Here's the main parking lot. And right in front of

3 parking.

sale? 4 Q. Okay. And then where do customers first enter the

5 A. Through this door right here.

enter at 6 Q. What -- what does the customer see when they first

7 that door in the A02 area?

8 A. It has steps, and we've got pennants on it, banners
9 indicating that's the area to go into.

see? 10 Q. Okay. But once they get inside, what do they first

11 A. They see the ladies with a table and catalogues.

12 Q. Okay. What -- what else is at the table besides
13 catalogues?

14 A. Registration, bidder sheets.

what 15 Q. And the catalogues that are at the table, are those

sales 16 you were describing you would write when you were a
17 writer?
18 A. Correct.
19 Q. They contain descriptions of items for sale?
20 A. Right.
besides 21 Q. Is there any way for customers to get a catalogue
22 getting one there at the sale, itself?
23 A. Through the mailing list.
list? 24 Q. And in April, 1995, did the DRMO have a mailing
25 A. Yes, we did.

10575

Mary Garza - Direct

after a 1 Q. Then referring back to the diagram, Ms. Garza,
what would 2 customer went in and got a catalogue and signed in,
3 they do after that?
the 4 A. They would look around the area inside here where
tell 5 property is at. Then the -- the lady at the desk would
exit back 6 them where the rest of it's at. They would have to
see this 7 out of here and go through this fence, the gate, and

8 property right there and there.

9 Q. And is there different types of property offered
for sale

10 in the different areas marked in yellow?

11 A. Yes. Inside property is right here. And that's
the stuff

12 that the weather would damage: Dressers, clothing --
military

13 clothing, computers, typewriters.

14 Q. What about the R02 area?

15 A. Okay. R02 has got refrigerators, automotive parts,
ammo

16 cans, things of that area.

17 Q. You mentioned ammunition cans?

18 A. Yes.

19 Q. How were they sold? Were they sold individually?

20 A. No. By the lot. They were banded.

21 Q. So could customers open up and examine each
individual

22 ammunition can if they wanted?

23 A. No, they were -- were banded with a metal band
through the

24 handles of them.

25 Q. Okay. What kind of things were up for sale in the
S2 area

10576

Mary Garza - Direct

1 up top?

2 A. Vehicles, abandoned vehicles and cargo trailers.

3 Q. Abandoned vehicles and cargo trailers?

4 A. Right.

5 Q. And if a customer was interested both in items on
the

6 inside and on the outside, you indicated that -- would
you

7 point again to where they would walk.

8 A. Okay. They would come out of here, and that's the
main

9 gate, drive-in gate. Of course, they don't drive in.
And they

10 would go through this area and then through this area.

11 Q. And if, after viewing items, the customer decided
that he

12 or she wanted to put a bid down, is there a location to
submit

13 a bid?

14 A. Yes. They would come back through this area here.
This is

15 what the -- what is called the "auction room." It's
the bid

16 room. There's a cashier's cage here, and that's where
they

17 will go to and submit their bids.

18 MR. GOELMAN: Your Honor, can the record
reflect that

19 Ms. Garza was pointing at the upper left corner of the

20 warehouse area depicted on Government 1960.

21 THE COURT: If you say so. I can't see it.

22 MR. GOELMAN: Thank you, Agent Tongate. Put
it down

23 now.

24 BY MR. GOELMAN:

25 Q. You pointed out where customers would submit their
bids.

10577

Mary Garza - Direct

1 Did the DRMO have any practice of time-stamping the
customer's

2 bid?

3 A. Yes, we did.

4 Q. And when was that done?

5 A. After the customer completed his bid sheet and it
was given

6 to the individual taking it.

7 Q. After the customer handed in the bid sheet, how
long would

8 it take before the bid sheet was time-stamped?

9 A. Right then and there.

10 Q. Ms. Garza -- can you click -- no need.

11 You mentioned that when customers first
arrived at the

12 DRMO, there would be signs directing them where to go?

13 A. Yes.

14 Q. What if, for some reason, a customer did not want

to follow

15 the signs and sign in and instead wanted to go straight
to the

16 outside yard? Was there anything physically preventing
them

17 from doing that?

18 A. No.

19 Q. Ms. Garza, do you remember the April, 1995 sale?

20 A. Yes.

21 Q. Was there anything unique about that sale that
makes you

22 remember it?

23 A. It was a zone sale.

24 Q. What's a zone sale?

25 A. We had to combine Fort Leavenworth sale with our
sale and

10578

Mary Garza - Direct

1 sell them together, thinking that would help promote
the

2 property better by having two sales.

3 Q. And does that mean that you actually showed -- had
the Fort

4 Leavenworth property on your base?

5 A. No, we didn't.

6 Q. Did DRMO have any -- did DRMO Fort Riley have any
zone

7 sales before April, 1995?

8 A. No, we didn't.

9 Q. Did you have any after April, 1995?

10 A. No.

11 Q. Was there anything else unusual about the April,
1995 sale

12 besides that it was in conjunction with Fort
Leavenworth?

13 A. It was a small sale.

14 Q. What do you mean by that?

15 A. Smaller than what we'd been having in downsize. We
were

16 having about 350 to 400 lots. This one was somewhat
over 200

17 lots, including Leavenworth.

18 Q. And when you talk about small, are you talking
about the

19 number of items offered for sale?

20 A. Right.

21 Q. I want to show you a series of different records,
22 Ms. Garza, created at different points in the DRMO sale
23 process. And I'll put up 1960 again. And would you
identify

24 again where the sign-in desk would be when customers
first

25 entered the sale.

Mary Garza – Direct

1 A. We'll get there. The yellow place.

2 Q. Right when they would walk in the building?

3 A. Yeah. Right when they walk in.

4 Q. Now, would all customers entering the building be
required

5 to sign in?

6 A. Yes.

7 Q. How strict was that policy in April, 1995?

8 A. I always had someone sitting there to -- to help
the

9 customers sign in.

10 Q. You always had someone sitting there at the desk?

11 A. Yes, I did.

12 Q. What about if the person sitting at the desk had to
go away

13 for five minutes to use the bathroom or something?

14 A. I had someone in the office cover that. I'd have
them go

15 down every hour to check on people to see if they
needed to be

16 relieved.

17 Q. Was there a reason that you were so strict about
this

18 sign-in policy?

19 A. It's part of the regulation. They want us to have
people

20 sign in when they come in.

21 Q. And as chief of the distribution branch, did you

have any

log 22 other interest in having people sign in, having that

23 accurately reflect sign-ins?

with it. 24 A. Well, I liked it because I could do my marketing

25 Found out where people were coming from. I do all the

10580

Mary Garza – Direct

1 marketing for the branch.

and see 2 Q. Okay. Would you look inside your folder, please,

3 if you can find Government Exhibit 1963.

4 A. Okay.

Government 5 Q. And could you also look and see if you can find

6 Exhibit 1956. It should be the same type of document.

7 A. Okay.

8 Q. Are both of those DRMO sign-in logs?

9 A. Yes.

keeps in 10 Q. And are both of those records that DRMO makes and

11 its course of business?

12 A. Yes.

Government 13 MR. GOELMAN: Your Honor, I move to admit

14 1956 and 1963.

15 MR. WOODS: May I examine these, your Honor?

16 THE COURT: Yes.

17 MR. WOODS: Thank you.

18 Thank you, your Honor. No objection.

19 THE COURT: They are received. 1963 and 1956.

20 MR. GOELMAN: Thank you, your Honor.

21 BY MR. GOELMAN:

22 Q. Ms. Garza, you said that the sign-in policy was
strict.

23 Can you say the same for the sign-out policy?

24 A. No.

25 Q. Why is that?

10581

Mary Garza - Direct

1 A. It was hard to control them once they left the
yard.

2 Q. You mentioned that there would be a pile of
catalogues when

3 customers went in; is that right?

4 A. Right.

5 Q. Could you look and see if you can find what's
already been

6 received in evidence Government 1957 and 1958.

7 A. Okay.

8 Q. Do you recognize those booklets?

9 A. Yes. They are catalogues from the April sale.

10 Q. April, 1995 sale?

11 A. Right.

12 Q. They are both catalogues from the same sale?

13 A. Yes.

14 Q. Now, without opening up those catalogues, is there
anything

15 from the front of them that you can see that
distinguishes one

16 from the other?

17 A. One's been mailed and it's got a mailing label on
it and

18 one hasn't.

19 Q. Which is the one that has been mailed? Can you
look at the

20 number on that, please.

21 A. This. 1957.

22 Q. I want to show you the cover of that on the screen.
And is

23 that the cover from Government Exhibit 1957?

24 A. Yes.

25 Q. Is that the type of mailing label that the DRMO
uses?

10582

Mary Garza - Direct

1 A. Right.

2 Q. And can you please read into the record to whom

this

3 particular catalogue was mailed and the address.

4 A. Joe Rivers, 1228 Westloop, Apartment 197,
Manhattan,

5 Kansas.

6 Q. When a customer submits a bid at the DRMO, Ms.
Garza, is

7 there a form that the DRMO provides to them where they
can list

8 what items they are interested in bidding on?

9 A. Correct. It's a bid sheet.

10 Q. It's called a bid sheet?

11 A. Uh-huh.

12 Q. Are there any bid sheets contained in the DRMO
catalogues?

13 A. Yes. They are printed inside there.

14 Q. Where in the catalogue are there?

15 A. Usually towards the end.

16 Q. Could you look in Government's Exhibits 1957 and
1958 to

17 see if the bid sheets are still inside those two
catalogues.

18 A. Yes, they are.

19 Q. They have not yet been removed?

20 A. No.

21 Q. Okay. Could you see if you can find Government
Exhibit

22 1964.

23 A. Okay.

24 Q. What's that?

excuse
25 A. 1427 -- it's a contract. Bidder's registration --

10583

Mary Garza - Direct

1 me. It's a bidder's registration.

2 Q. The bid sheet?

3 A. Yes.

4 Q. It's one that's been filled out?

5 A. Right.

turned
6 Q. Does DRMO keep the bid sheets once the customer has

7 it in?

8 A. Yes, we do.

9 Q. And is that a business record of the DRMO?

10 A. Yes.

your
11 MR. GOELMAN: Move to admit Government 1964,

12 Honor.

13 MR. WOODS: May I examine, your Honor?

14 THE COURT: Yes.

15 MR. WOODS: No objection, your Honor.

16 THE COURT: 1964 is received.

17 BY MR. GOELMAN:

18 Q. Is that the color of bid sheets at DRMO when they

are first

19 printed up, Government Exhibit 1964? Is that a --

20 A. They are white. This one's --

21 Q. That one is a little darker. Is it hard to read
some of

22 the items on that, Ms. Garza?

23 A. A little bit. I can probably read them still.

24 Q. Okay. Can you look and see if you can find
Government

25 Exhibit 1964A, which should just be a copy before the

10584

Mary Garza - Direct

1 fingerprinting process of the front of that slip.

2 A. Okay.

3 Q. And is that just a copy of the front of the same
bid sheet?

4 A. Yes.

5 MR. GOELMAN: Move to admit 1964A, your Honor.

6 MR. WOODS: No objection.

7 THE COURT: Received.

8 BY MR. GOELMAN:

9 Q. What name is this bid in, Ms. Garza?

10 A. Terry Nichols.

11 Q. Okay. You mentioned earlier that when customers
submitted

12 a bid, the bid sheet was time-stamped; is that right?

13 A. Yes.

14 Q. Can you see a time stamp on this bid sheet?

15 A. Yes.

16 Q. Where is it?

17 A. Left-hand -- 18 March, '95.

18 Q. Upper left-hand corner?

19 A. Yes.

20 Q. And can you read the time stamp into the record,
please.

21 A. 18 March, '95, 12:37.

22 Q. And could you now look at the back of 1964 and see
if

23 there's a different date where the customer signed.

24 A. It's 18 April.

25 Q. Do you know why the time stamp would be different
from the

10585

Mary Garza - Direct

1 written date, Ms. Garza?

2 A. Because the time stamp was broke.

3 Q. Do you know how broke the time stamp was?

4 A. It was off a month and an hour.

5 Q. Now, was it broke or was it just not set correctly?

6 A. No. It -- we only used it three days a month. And
by the

was -- 7 time we realized it, every month, it would be off. It
wouldn't 8 it just didn't pick up the time. It would run, but it
9 catch up.

10 Q. It would run, though?

11 A. Uh-huh.

is that 12 Q. And it was consistently one month and one hour off;
13 right?

14 A. Right.

then, 15 Q. So adjusting for the discrepancy in the time stamp
not 16 was this bid actually submitted at 1:37 p.m. on April,

17 March 18?

18 A. Right.

1972. It 19 Q. Why don't you take a look at Government Exhibit

to 20 should be on your screen, Ms. Garza, if you don't want
21 bother finding it.

22 Is that also a bid sheet from the same sale?

23 A. Yes, it is.

your 24 MR. GOELMAN: Move to admit Government 1972,

25 Honor.

Mary Garza – Direct

1 MR. WOODS: May I examine this original?

2 THE COURT: Yes. Yes.

3 MR. WOODS: Thank you.

4 Thank you. No objection, your Honor.

5 THE COURT: 1972 is received.

6 MR. GOELMAN: Thank you, your Honor.

7 BY MR. GOELMAN:

find

8 Q. Just a couple more exhibits, Ms. Garza. Will you

9 Government Exhibit 1966, please.

10 A. Okay.

11 Q. Do you recognize that record?

12 A. It's a contract.

13 Q. How does the DRMO use this contract?

the

14 A. It's a 1427. We print it out after we've awarded

15 property to the highest bidder.

kind of

16 Q. So after the bidder gets the property, this is the

17 receipt of sale?

18 A. Right.

19 Q. And is this also a business record that DRMO keeps?

20 A. Right.

your

21 MR. GOELMAN: Move to admit Government 1966,

22 Honor.

23 MR. WOODS: No objection, your Honor.

24 THE COURT: Received, 1966.

25 BY MR. GOELMAN:

10587

Mary Garza - Direct

1 Q. What sale is this particular document from?

2 A. 31st of March, '95.

3 Q. Okay. It's from the month before the sale we had
been
4 talking about?

5 A. Yes.

6 Q. I want to turn back to Government 1956, which is
the
7 sign-in sheet that was admitted a couple minutes ago.
And I

8 want to show you page 11 from that sign-in sheet.
Would you

9 please read the third name on this 11th page. I'll
zoom in a

10 little bit more for you.

11 MR. WOODS: I'm sorry. What number was that?

12 MR. GOELMAN: 1956, page 11.

13 MR. WOODS: Thank you.

14 BY MR. GOELMAN:

15 Q. Can you read that, the name on the --

16 A. Terry Nichols.

17 Q. And can you read the time that the sign-in
reflects.

18 A. It looks like 12:50.

19 Q. Would that be a.m. or p.m.?

20 A. In the afternoon.

21 Q. So ten minutes before 1 in the afternoon?

22 A. Correct.

23 MR. GOELMAN: Your Honor, the parties have
reached a

24 handwriting stipulation that the -- that particular
entry,

25 including the name, date, and time of 12:50, is the
handwriting

10588

Mary Garza - Direct

1 of Mr. Nichols.

2 MR. WOODS: Yes, your Honor. That is the
stipulation.

3 THE COURT: All right. Then we accept it,
members of

4 the jury.

5 BY MR. GOELMAN:

6 Q. I just have a couple more questions, Ms. Garza. At
the

7 Government's request, did you review the entire sign-in
log

8 from April 18, 1995, at the DRMO?

9 A. Right.

10 Q. And did you search for any other entries in the
name of

11 Terry Nichols?

12 A. Yes, I did.

13 Q. Did you also search for any entries in the name of
Joe

14 Rivers?

15 A. Yes.

16 Q. And Joe Kyle?

17 A. Yes.

18 Q. And Ted Parker?

19 A. Yes.

20 Q. And Terry Havens, Joe Havens and Mike Havens?

21 A. Yes.

22 Q. Did you find that anyone using any of these names
signed in

23 at the DRMO at any time before 12:50 in the afternoon?

24 A. No, I did not.

25 Q. Have you been able to locate any record at all that

10589

Mary Garza – Direct

1 reflects Terry Nichols' presence at the DRMO before 10
minutes

2 of 1 in the afternoon on April 18?

3 A. No, I did not.

4 MR. GOELMAN: That's all I have, your Honor.

5 THE COURT: All right. Mr. Woods.

6 MR. WOODS: Yes, your Honor. Thank you.

7 CROSS-EXAMINATION

8 BY MR. WOODS:

9 Q. Good morning, Ms. Garza. My name is Ron Woods.
I'm one of

10 the lawyers appointed to help Terry Nichols in this
case.

11 You mentioned to the prosecutor that you're
not in the

12 military. Is DRMO -- is that a governmental agency?

13 A. Yes, it is.

14 Q. And you're employed by the government?

15 A. Yes, I am.

16 Q. Okay. How many times have you met with the
prosecutors in

17 this case?

18 A. Three.

19 Q. Okay. And when was that?

20 A. I believe the first week of September and Oc --
first week

21 of October, and this week.

22 Q. All right. And prior to that, you've met with the
FBI a

23 number of times; is that correct?

24 A. Correct.

25 Q. Do you recall how many times you met --

10590

Mary Garza - Cross

1 A. No. It was a lot of times.

2 Q. Okay. More than you can recall numberwise?

3 A. Yes, sir.

4 Q. Okay. Now, was it the FBI that made the request to
you to

5 try and figure out what's wrong with that clock?

6 A. Yes.

7 Q. Because your documents didn't make sense, did they,
with --

8 A. No, they didn't.

9 Q. -- with your bidder registration and your sign-in
-- or

10 rather your bidder sheet that shows when the person
submits a

11 bid on April 18th, your time stamp shows March 18th; is
that

12 correct?

13 A. That's right.

14 Q. So they asked you, you know, would -- to check it
and you

15 checked it personally; is that correct?

16 A. That's right.

17 Q. Now, it's one month off, but it's also one hour
off; is

18 that correct?

19 A. Right.
20 Q. Which way is the hour off?
21 A. It was back an hour. So it should have been up an
hour.
22 Q. So everything should have been up --
23 A. Daylight Savings Time or something with that.
24 Q. Well, Daylight Savings Time doesn't change the
months, does
25 it?

10591

Mary Garza - Cross

1 A. No. It ran slow. Now, I don't -- before the sale,
the
2 lady is always supposed to change it so it's back up to
par,
3 but sometimes we didn't catch it.
4 Q. That's part of your strict compliance that you run
--
5 A. No. That's common sense.
6 Q. -- there at the shop?
7 A. That's common sense. We were trying to get it
fixed.
8 Q. Okay. You were trying to get it fixed for what
period of
9 time?
10 A. God, that was quite a while back. I think we had a
work

11 order in for it. Before --

12 Q. For the --

13 A. Before that.

14 Q. For the government to fix that clock, you had to
submit a

15 work order to get it moved up a month?

16 A. No. There had to be something wrong why it
wouldn't run.

17 It was just losing time. I'm not an expert in that
field.

18 Q. Okay. But we know that this governmental time
stamp stamps

19 people in when they submit their bid. The clock was
off one

20 month and one hour.

21 A. Uh-huh.

22 Q. And it's behind time; is that correct? That month
and

23 hour. So if the person signs in at 12:00 on April
18th, your

24 time stamp would have it March 18th at 11:00? Is that
what

25 you're telling us about this clock?

10592

Mary Garza - Cross

1 A. I'm telling you the clock was off one month, one
hour.

2 When they sign in, it doesn't have anything to do with
the

3 clock.

4 Q. No, I'm speaking of your bidder sheet when the
bidder sheet

5 is submitted and you time stamp it.

6 A. Right.

7 Q. Okay. And your explanation was it just kept losing
time

8 over --

9 A. It just wouldn't -- I don't have a clue why that
did that.

10 Q. Okay. But I assume your other clocks there in that
office

11 were all perfect; is that correct?

12 A. I suppose not. They are all a couple minutes off.

13 Q. Okay. Now, you have an exhibit in front of you,
1957, the

14 catalogue that was mailed to Joe Rivers, Manhattan,
Kansas, a

15 Westloop address.

16 A. Yes.

17 Q. Now, is that the catalogue that was mailed out in
advance

18 of this sale, your sealed-bid sale of April the 20th?
Can you

19 look at that and see if that's a catalogue that was
mailed out

20 for this sale?

21 A. Yes, it's the April sale.

22 Q. All right. And in the catalogue, it announces that
you can

23 view the items on the three days previously; is that
correct?

24 A. Correct.

25 Q. And that's April 17, 18th, and 19th.

10593

Mary Garza - Cross

1 A. Right.

2 Q. All right. Now, would you open that up. How many
items

3 were up for sale there at DRMO at Fort Riley for that
sealed

4 bid, sealed auction sale?

5 A. 196.

6 Q. And those are separate lot numbers. Like if you
got a big

7 lot number of ammo cans, that's one item; is that
correct?

8 A. On those, yes.

9 Q. All right. Now, how many were inside of those
items 196 --

10 how many of them were in the inside warehouse and how
many of

11 them were in the outside area?

12 A. Okay. In the catalogue, on Item 85, it'll tell you
the

13 outside area starts there.

14 Q. So the first 1 through 84 is on the inside in the
warehouse

15 and everything from 85 to 195 is on the outside; is
that
16 correct?
17 A. That's right.
18 Q. Now, would you look at the bidder sheet that you've
19 identified that Mr. Nichols submitted.
20 He submitted bids on how many items?
21 A. Ten.
22 Q. All right. Out of that ten, were seven of them
items that
23 were on the outside?
24 A. Right.
25 Q. Now, if you would, go back to 1957, which is the
catalogue

10594

Mary Garza - Cross

1 that was mailed to Joe Rivers at the Manhattan address,
2 Westloop. When those items are listed, 1 through 195,
are some
3 of them circled by pencil or pen?
4 A. Yes.
5 Q. Okay. Can you determine how many are circled
there?
6 You don't mail them out with those circles on
them, do
7 you?

8 A. No. I'm assuming the customer did this.

9 Q. Okay.

10 A. Three.

11 Q. There are only three items on there that are
circled?

12 A. That's all I saw.

13 MR. WOODS: May I approach the witness?

14 THE COURT: Yes, you may.

15 MR. WOODS: Okay. Thanks.

16 May I confer with counsel, your Honor? We had
been

17 provided a Xerox copy.

18 THE COURT: Yes, you may.

19 BY MR. WOODS:

20 Q. Is there another catalogue up here?

21 A. Yeah. This one here.

22 Q. Thank you. That's the one. Thank you.

23 Ms. Garza, if you would look at 1958. Now,
that is

24 another catalogue for that same sale; is that correct?

25 A. Yes.

10595

Mary Garza – Cross

1 Q. And if you would look through that. And how many
of those

2 items are circled?

3 A. 20.

those 4 Q. Okay. And are there prices out beside a number of

5 that are written in by pencil or pen?

6 A. Yes. Some of them have that.

submitted by 7 Q. And do those prices match the prices that were

8 Mr. Nichols on his bid sheet that he submitted?

9 A. Yes, they do.

the 10 Q. Okay. Thank you. Now, you further testified for

in log; 11 prosecutor that Mr. Nichols signed a time in on a sign-

12 is that correct?

13 A. Yes.

you go in 14 Q. Now, that sign-in log is kept at the office where

15 to submit your bids; is that correct?

16 A. No.

17 Q. Okay. Which sign-in log were you referring to --

Honor? 18 MR. WOODS: May I approach the witness, your

19 THE COURT: Yes, you may.

here? 20 THE WITNESS: Are you talking about this right

21 BY MR. WOODS:

22 Q. Yes.

table is 23 A. That's at the area that we're selling at where the

24 and the catalogs are.

25 Q. This is the March 28 one.

10596

Mary Garza - Cross

1 A. Okay. Either way, they don't hold these at the
room where
2 they put in the bids.

3 THE COURT: We're getting a conversational
tone here
4 that's hard to hear.

5 MR. WOODS: I'm sorry. I'm sorry, your Honor.

6 BY MR. WOODS:

7 Q. If I may take these.

8 Now, Ms. Garza, you had discussed and
testified about

9 another sale that Mr. Nichols had taken part in the
previous
10 month; is that correct? In March of '95?

11 A. Right. Right.

12 Q. All right. And he had won the bid on that one; is
that
13 correct? On a number of items?

14 A. I can't recall that.

15 Q. Okay. Do you recall a contract that you testified
about

16 showing that Mr. Nichols was successful on a bid? It's
-- it

your 17 should be there in front of you, if you want to refresh

18 memory.

19 THE COURT: 1966, I think.

20 MR. WOODS: Thank you, your Honor.

21 THE WITNESS: Yes.

22 BY MR. WOODS:

23 Q. Okay. And what date was that?

24 A. 31st March.

25 Q. And that was a prior sale; is that correct?

10597

Mary Garza – Cross

1 A. That was an auction.

at the 2 Q. And the sales are all there at the same location,

3 DRMO?

4 A. Yes, sir.

person who 5 Q. Now, you testified for the prosecution that a

in the 6 parked there could walk into the gate to view the items

7 outside area; is that correct?

8 A. Correct.

at the 9 Q. Without going to the sign-in entry up at the -- up

10 further part of the warehouse; is that correct?

11 A. Yes, sir.

12 Q. Okay. There's no locked gate and there's no one
there

13 barring entry into going in and looking at the outside
items,

14 is there?

15 A. No.

16 Q. Now, your time stamp on the bidder sheet which
shows that

17 Mr. Nichols filled out a bid for ten items, the time
stamp

18 shows -- again, what was it?

19 A. 18 March, 12:37. 18 March, '95.

20 Q. At 12:37?

21 A. Right.

22 Q. So by your calculations for the Government on April
the

23 26th -- this is when they brought it to your attention,
wasn't

24 it? April 26 of '95?

25 A. I don't recall that date. I'm sorry.

10598

Mary Garza - Cross

1 Q. It was -- by looking at the time stamp and looking
at your

2 watch, that was the day you figured out that it was a
month and

3 an hour off; is that correct?

4 A. Yes, sir.

5 Q. But we don't know what was --

6 A. I mean, we knew it was off before that.

7 Q. Pardon me?

8 A. We knew it was broke.

9 Q. But you're not sure of how far it was off the week
before?

10 A. I can't recall.

11 Q. Okay. Now, was Mr. Nichols awarded the contract on
any of

12 those ten items that he submitted a bid on?

13 A. The ones on the contract, yes.

14 Q. Yes, ma'am. The ones for your April the 20th sale.

15 A. Correct. He has the contract.

16 Q. No. For the April the 20th sale, he submitted a
bid on ten

17 items.

18 A. Oh, I'm sorry. That --

19 Q. Was he awarded the contract on any of those?

20 MR. GOELMAN: May I make a foundational
objection? If

21 she knows. This might be something she doesn't know
off the

22 top of her head.

23 BY MR. WOODS:

24 Q. If you know. Did the FBI ask you to check the
prices and

bid? 25 to see what contracts had been awarded on that sealed

10599

Mary Garza - Cross

1 A. We just -- no. Not in particular.

2 Q. All right. Okay.

3 A. At that point, we were just pulling --

4 Q. Pulling the documents --

5 A. Pulling documentation.

6 Q. -- is that correct?

ask that 7 MR. WOODS: All right. Your Honor, we would

entered 8 (sic) the stipulation that the Government and we have

circles 9 into that the handwriting on that catalogue with the

Nichols. 10 and the price indications is the handwriting of Terry

11 THE COURT: That is on 1957?

12 MR. GOELMAN: I think that's 1958, your Honor.

Honor. 13 MR. WOODS: I believe it's on 1958, your

14 THE COURT: 1958. Yes. That's agreed?

15 MR. GOELMAN: Yes, your Honor.

agreement. 16 THE COURT: All right. Jury accepts that

the other 17 Now, that's the catalogue, not the mailed catalogue,

18 one?

19 MR. WOODS: Yes, your Honor.

20 THE COURT: All right.

21 BY MR. WOODS:

22 Q. Now, the sign-out dates or sign-out times on that
sheet are

23 not accurate? Is that your testimony?

24 MR. GOELMAN: Your Honor, can I just have an
exhibit

25 number of what sheet he's talking about.

10600

Mary Garza – Cross

1 MR. WOODS: Yes, your Honor. It's 1956.

2 THE COURT: All right.

3 BY MR. WOODS:

4 Q. When the customers leave the area, be it from the
inside

5 warehouse or the outside warehouse, most of them don't
sign the

6 sign-out sheet, do they?

7 A. Some of them don't.

8 Q. Okay.

9 A. True.

10 Q. And the ladies managing the sign-in/sign-out sheet
often

11 fill in the times for sign-out, don't they?

12 A. Sometimes they will try to lock in the times.

13 MR. WOODS: Okay. Thank you, your Honor. No
further
14 questions.

15 THE COURT: Any redirect?

16 MR. GOELMAN: Yes, your Honor.

17 REDIRECT EXAMINATION

18 BY MR. GOELMAN:

19 Q. Ms. Garza, you have two catalogues up there from
the April,
20 1995 sale; is that right?

21 A. Right.

22 Q. Government 1957 and Government 1958?

23 A. Correct.

24 Q. Which one of those has the mailing label on it?

25 A. 1957.

10601

Mary Garza - Redirect

1 Q. And which one of those has the circles around the
items
2 that Mr. Nichols bid on?

3 A. I think it was 1958. Just a minute. 1958's got
the 20 in
4 it with the prices on it.

5 Q. And which one has the handwritten prices that Mr.
Nichols

6 wrote? 1957 or 1958?

7 A. 1958.

8 Q. Is 1958 the kind of catalogue that you can get in
the mail?

9 A. It's the same catalogue. This one was apparently
picked up

10 at the DRMO. It has no mailing label or post office
stamp on

11 it.

12 Q. And you indicated that people pick up catalogues at
the

13 DRMO when they sign in; is that right?

14 A. Yes.

15 Q. Do sometimes people use catalogues that they pick
up when

16 they first sign in to make notations when they are
walking

17 around, looking at items?

18 A. Exactly.

19 Q. And do sometimes those notations include the price
that

20 they want to bid so that they have a record of it?

21 A. Yes.

22 Q. Ms. Garza, if someone gets a catalogue in the mail,
is that

23 catalogue necessarily accurate as far as everything
that is and

24 is not going to be offered for sale that month?

25 A. No.

10602

Mary Garza - Redirect

1 Q. Why is that?

2 A. Because of the regulations. The Department of
Defense

3 still has the right to draw property from the sale
right --

4 right up to the sale day. So when we have to make a
change,

5 we -- we annotate that change and we put those -- that

6 information on the table with the catalogues, let
people know

7 if something has been withdrawn or if there's been
something

8 altered.

9 Q. And if a customer were to, for whatever reason, not
sign in

10 when they first got there and go directly to the yard,
would

11 they have any way of finding out items that had been
withdrawn?

12 A. Not -- no.

13 Q. Not until they signed in?

14 A. Right.

15 Q. Mr. Woods asked you some questions about the time
stamp and

16 when you noticed that it was off by one month and one
hour.

17 When -- when you spoke to the FBI after the bombing,

did you do

18 a test stamp, Ms. Garza?

19 A. Yes, I did.

20 Q. And what did you determine?

21 A. It was off by a month and an hour.

22 Q. Do you have any reason to doubt the time written
down by

23 the customer, Mr. Nichols, as 12:50 p.m.?

24 A. No, I don't.

25 Q. And have you ever known anyone to submit a bid
before they

10603

Mary Garza - Redirect

1 sign in?

2 A. No.

3 MR. GOELMAN: One moment, your Honor.

4 THE WITNESS: Unless it's faxed-in bids. We
have

5 faxed-in bids.

6 BY MR. GOELMAN:

7 Q. I'm talking about when customers are physically
present at

8 the sale. What do they do first? Do they sign in
first or do

9 they submit a bid first?

10 A. They sign in first, and then they look around and
then they

11 submit a bid.

12 MR. GOELMAN: Thank you, Ms. Garza. That's
all I

13 have.

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

15 THE COURT: All right. Witness excused?

16 MR. GOELMAN: Yes, your Honor.

17 THE COURT: You may step down, and you're
excused.

18 We'll take our midmorning recess at this time,
members

19 of the jury. And again, of course, with the recess
comes the

20 caution of keeping an open mind and avoiding discussion
about

21 any aspect of the case and avoiding anything outside of
our

22 evidence which could influence you which would be
improper to

23 do so on your decisions to be made.

24 You're excused now. 20 minutes.

25 (Jury out at 10:18 a.m.)

10604

1 THE COURT: Okay. Recess.

2 (Recess at 10:18 a.m.)

3 (Reconvened at 10:39 a.m.)

4 THE COURT: Please be seated.

5 (Jury in at 10:39 a.m.)

6 THE COURT: All right. Next, please.

7 MR. MACKEY: Your Honor, our next witness is
William
8 McDonald.

9 THE COURT: Very well.

10 THE COURTROOM DEPUTY: Would you raise your
right
11 hand, please.

12 (William McDonald affirmed.)

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

14 Would you state your full name for the record
and
15 spell your last name.

16 THE WITNESS: William McDonald, M-C-D-O-N-A-L-
D.

17 THE COURTROOM DEPUTY: Thank you.

18 THE COURT: Mr. Goelman.

19 MR. GOELMAN: Thank you, your Honor.

20 DIRECT EXAMINATION

21 BY MR. GOELMAN:

22 Q. Mr. McDonald, do you work in the yard at the DRMO
in Fort
23 Riley?

24 A. Yes, sir.

25 Q. Where do you live, sir?

10605

William McDonald - Direct

- Kansas.
- 1 A. I live in Grandview Plaza. Grandview Plaza,
- 2 Q. Grandview Plaza, Kansas?
- 3 A. Yes, sir.
- 4 Q. Do you have any children?
- 5 A. Yes, sir.
- 6 Q. Do you have any grandchildren?
- 7 A. Yes, sir.
- McDonald?
- 8 Q. Did you spend some time in the U.S. military, Mr.
- 9 A. 24 years, sir.
- 10 Q. What branch of the service was that?
- 11 A. U.S. Army, sir.
- 12 Q. Was a good part of those 24 years spent as a drill
- 13 sergeant?
- 14 A. Seven of those years, sir.
- 15 Q. When did you retire from the Army?
- 16 A. 1 August 1986, sir.
- 17 Q. And what kind of discharge did you get?
- 18 A. Honorable.
- Army?
- 19 Q. What position did you hold at the time you left the
- 20 A. Sergeant major, sir.

21 Q. When did you go to work for the DRMO?
22 A. In 19 June 1989, sir.
23 Q. Have you been there ever since?
24 A. Yes, sir.
25 Q. What do you do for the DRMO at Fort Riley?

10606

William McDonald - Direct

store it, 1 A. I receive surplus federal property, offload it,
2 document it, ensure it's on record.

3 Q. I want to show you what's already been received in
4 evidence, Government 1961. Do you recognize that has a
picture 5 of DRMO?

6 A. Yes, sir.

7 MR. GOELMAN: Your Honor, may I have Agent
Tongate put 8 an enlargement of 1961 on the easel for demonstrative
purposes?

9 THE WITNESS: I'm sorry, sir?

10 THE COURT: All right.

11 MR. GOELMAN: I'm talking to the Judge, Mr.
McDonald.

12 THE COURT: Go ahead.

13 BY MR. GOELMAN:

14 Q. Mr. McDonald, is there a pointer up there?

15 A. Oh.
16 Q. Could you -- no, no. A wooden pointer? It should
be on --
17 A. Oh, yes, sir.
18 Q. Could you, please, using Government's Exhibit 1961,
or I
19 guess -- is that 1926? Is that how that one is marked,
the
20 enlargement?
21 Oh, 1961.
22 Could you point out where you spend your time
at the
23 DRMO?
24 A. In this area right here, sir.
25 Q. And what is that area called?

10607

William McDonald - Direct

1 A. It is designated R02, 3, 4 and 5, sir.
2 MR. GOELMAN: Your Honor, could the record
reflect
3 that the witness pointed to the area directly to the
left of
4 the warehouse?
5 THE COURT: All right.
6 BY MR. GOELMAN:
7 Q. Now, what types of goods are sold at the DRMO,

8 Mr. McDonald?

9 A. We have military tents, automotive equipment,
tires, some

10 household refrigerators, stoves, even some commercial-
type

11 equipment that come out of mess halls; and we have
ammunition

12 cans. We have a large variety of items that's offered
for

13 sale, sir.

14 Q. And you indicated that your particular area is the
R0 area?

15 A. Yes, sir.

16 Q. That part of the yard?

17 A. Yes, sir.

18 Q. What kind of things are offered for sale in your
area?

19 A. Those items that can stand weather, that's durable-
type

20 goods that's stored outside, sir.

21 Q. Can you give us a few examples?

22 A. Tents, tires, automotive equipment, heavy axles,
23 transmissions, engines.

24 Q. Ammo cans?

25 A. Yes, sir.

10608

William McDonald - Direct

property 1 Q. When can the public come in and take a look at the

2 when it's offered for public sale?

3 A. Sir, we offer one sale per month under normal
standards.

4 And we have a three-day viewing cycle prior to the
auction or

5 be it opening date, whichever the case it may be, sir.

6 Q. Are you familiar with the routine followed by the
DRMO on

7 viewing days before sales?

8 A. Yes, sir.

9 Q. On viewing days, is the public allowed to view all
of the

10 property at DRMO?

11 A. No, sir.

12 Q. What is the public allowed to view?

13 A. The one area that is being sold, sir.

14 Q. And how many different sections are there in your
15 particular area, in the R0 area?

16 A. Four, sir.

17 Q. For any given viewing day, how many of those are
people out

18 in?

19 A. One, sir.

20 Q. And has this policy been consistent since you've
been at

21 the DRMO, since 1989?

22 A. Yes, sir.

23 Q. Have you received any directions from your
supervisors

24 about how to enforce this policy?

25 A. On many occasions, sir.

10609

William McDonald - Direct

1 Q. And what are those instructions?

2 A. Politely ask the people to leave the area that
they're not

3 supposed to be in but ensure that they leave.

4 Q. You've described your job to us at DRMO generally.
Does

5 your job change at all on viewing days?

6 A. On those days, it increases somewhat because I have
to

7 direct a lot of attention to these areas where people
should

8 not be, sir.

9 Q. And out in the yard, do you do anything to let
customers

10 know what areas are open and what areas are off limits?

11 A. I have roped those areas off. I've put up metal
containers

12 to prevent people from going into them. I've put up
"do not

13 enter" signs.

14 Q. Does that mean that customers never go into any of
the

15 unauthorized areas?

16 A. No, sir.

17 Q. Do customers sometimes go in there anyway?

18 A. Yes, sir.

19 Q. What is your practice when they do?

20 A. My practice is to get to them as soon as I can and
ask them
21 to leave that area, sir.

22 Q. How much attention do you pay to what's happening
in the
23 off-limits areas on viewing days?

24 A. My attention is there quite often. If I'm off-
loading a

25 truck, I'll still look at these areas periodically to
determine

10610

William McDonald - Direct

1 if there is anyone in there.

2 Q. How long could a customer stay in one of the
unauthorized

3 areas before you ask them to move on?

4 A. 15 minutes.

5 Q. Is that maximum?

6 A. I would say no more than 20, sir.

7 Q. Have you ever had someone refuse to leave an off-
limits

8 area after you told them to?

9 A. No, sir.

10 Q. Have you ever had to tell someone twice?

11 A. No, sir.

12 MR. GOELMAN: Thank you, Agent Tongate.

13 BY MR. GOELMAN:

14 Q. I want to show you Government's Exhibit -- well,
you've

15 already seen Government's Exhibit 1961. Do you
remember the

16 April, 1995 sale, sir?

17 A. Yes.

18 Q. Do you remember what area in the R0 area was open
to the

19 public?

20 A. It was R02, sir.

21 Q. And do you remember the March, 1995 sale?

22 A. Yes, sir.

23 Q. Do you remember which area was open to the public
during

24 that sale?

25 A. It was R05, sir.

10611

William McDonald - Direct

1 Q. Is part of your job helping customers load items
that they

2 purchase into their vehicle?

3 A. Yes, sir.

4 Q. Do you know who Terry Nichols is, Mr. McDonald?

5 A. Yes, sir.

6 Q. And do you remember if you ever assisted him after
the

7 March, 1995 sale?

8 A. Yes, sir.

9 Q. I want to show you what's already been introduced
into

10 evidence as Government 1966. Do you see that?

11 A. Yes, sir.

12 Q. Do you recognize what kind of document this is?

13 A. That's our 1427. It's a release document after a
sale,

14 sir.

15 Q. And how is this document used?

16 A. When a bidder is awarded a bid on an item, this
form is

17 filled out, reflecting his name, address, the items
that he was

18 awarded, and of course, what he paid for those items.

19 Q. What's the -- I'm sorry.

20 A. And then it also shows us that we have a release
for those

21 items, sir.

22 Q. What name is this particular form in?

23 A. "Terry Nichols," sir.

24 Q. Mr. McDonald, do you see anything on this form
reflecting
25 your name or initials?

10612

William McDonald - Direct

1 A. The bottom line on this form, Item 340, sir, where
the one,
2 two -- fifth column over says "partial" or "part."
That's my
3 writing; and to the right of that, that's my initials,
sir.

4 Q. Could you please circle those items.
5 Mr. McDonald, you have to go right on the
screen. You
6 have to go under the window. Sorry.
7 And now if you could just click your pen, the
side of
8 your pen, it will erase those two circles.

9 Mr. McDonald, you've indicated that you
remember the
10 April, 1995 sale at DRMO. Is that right?
11 A. Yes, sir.
12 Q. Do you know if it was an auction, or a sealed-bid
sale?

13 A. It was a sealed-bid sale, sir.

14 Q. Do you remember the date of the sale?

15 A. The bid opening date was the 20th of April, sir.

16 Q. Do you remember what the viewing days before the

sale were?

17 A. The three days preceding: 17, 18, 19, sir.

18 Q. Now, what hours is the DRM0 open to the public on
viewing
19 days?

20 A. From 7:00 in the morning to 3:00 in the afternoon,
sir.

21 Q. I want to show you Government Exhibit 1960. Does
that
22 accurately reflect those areas of the DRM0 that were
open to
23 the public on April 18, 1995?

24 A. Yes, sir.

25 Q. And using your pen, can you indicate the R02 area,
your

10613

William McDonald - Direct

1 section of the yard, that would have been open to the
public.

2 Now, where would customers go first when they
arrived
3 at DRM0?

4 A. They would go to the entrance door, sir.

5 Q. Can you make a mark where that is?

6 A. Located approximately right here.

7 Q. And then what would they do?

8 A. They would go outside. We have a door out that
they would

9 go in to view A02, sir.

10 Q. If they were interested in viewing items in the
yard area,

11 what would they do after that point?

12 A. Come back out of the warehouse, sir, proceed north.
We

13 have a small gate right here and a larger gate for
vehicles

14 moving, and then they could proceed on over to R02 to
view that

15 property, sir.

16 Q. Do you know if you worked on Tuesday, April 18,
1995,

17 Mr. McDonald?

18 A. Yes, sir.

19 Q. Do you have any memory of the April, '95 sale for
any

20 reason?

21 A. Yes, sir.

22 Q. What do you remember about it?

23 A. Well, (1) we had an attached sale from Fort
Leavenworth.

24 We had some 30 items that we were selling for them on
that

25 sale.

10614

William McDonald - Direct

1 And another thing is this was an extremely
small sale
2 as far as I was concerned because the previous three to
four
3 sales had in excess of 350 to around 400 line items
that we
4 were selling.

5 The R02 area that we sold in April had less
than 200,
6 sir.

7 Q. Has your time at the DRMO been devoted exclusively
to
8 working in the R0 area?

9 A. Yes, sir.

10 Q. And in your time out there, have you seen sales of
11 different sizes, sir?

12 A. Yes, sir.

13 Q. Have you gotten to know some of your regular
customers?

14 A. Yes, sir.

15 Q. Have you learned some of the people who buy some of
the
16 different items out there?

17 A. Yes, sir.

18 Q. Have you ever, since coming to work at DRMO in
1989, seen

19 someone stay outside in the yard for longer than 45
minutes?

20 A. Only one person that I can recall, sir.

21 Q. And do you remember anything about that person?

some 10- 22 A. Big man, 6' 2", 6' 3", heavy-set, was looking at

23 hundred-20 tires we had in that area, sir.

24 Q. Do you remember what he was doing with the tires?

25 A. He was unstacking the tires, looking at each tire,
making a

10615

William McDonald - Direct

1 note on a notepad, and then he would restack the tires.

2 Q. Was the man who spent -- how long did that man
spend there?

3 A. Four hours or more, sir.

4 Q. And was the man who spent four hours at the DRMO
yard Terry

5 Nichols?

6 A. No, sir.

7 Q. Where did you work on Tuesday, April 18?

8 A. I worked the R0 area, sir.

9 Q. And do you remember seeing Mr. Terry Nichols in the
R0 area

10 on that morning?

11 A. No, sir.

12 Q. Now, Mr. McDonald, are you saying that Terry
Nichols was

13 not there for any amount of time?

14 A. No, sir.

minutes, 15 Q. If the defendant had been in the yard for, say, 10

16 would you necessarily remember him?

17 A. No, sir.

hour, 18 Q. If the defendant had been in the yard for a half

19 would you necessarily remember him?

20 A. No, sir.

DRMO 21 Q. Mr. McDonald, what if the defendant had been in the

p.m.? 22 yard for five hours on April 18, from 8 a.m. till 12:50

23 Would you remember him then?

24 A. Yes, sir, I would have.

25 Q. Do you?

10616

William McDonald - Direct

1 A. No, sir.

2 MR. GOELMAN: That's all I have, your Honor.

3 THE COURT: Mr. Woods?

4 MR. WOODS: Yes, your Honor.

5 CROSS-EXAMINATION

6 BY MR. WOODS:

Woods. I'm 7 Q. Good morning, Mr. McDonald. My name is Ronald

in this 8 one of the lawyers appointed to represent Terry Nichols

9 case.

10 You related that you recall Mr. Nichols from
an earlier sale. Is that correct?

12 A. Yes, sir.

13 Q. Okay. And did you help load those items when Mr.
Nichols came and picked them up, or did you just sign the
release, or
15 what?

16 A. I loaded -- I loaded Mr. Nichols on the item that I
17 indicated before, sir, Item 340.

18 Q. Okay. And what item was that?

19 A. That was four pallets of M2 ammo cans.

20 Q. And did other individuals load the other items that
had been awarded on that contract?

22 A. Yes, sir.

23 Q. And who was that?

24 A. Harold Robinson loaded some. Robert Hanks loaded
some.

25 Q. Okay. Now, you were shown the diagram 1960. Is
that

10617

William McDonald - Cross

1 correct?

2 A. Yes, sir.

3 MR. WOODS: Could we have that back on the
board here.

4 Okay.

5 BY MR. WOODS:

6 Q. Now, you clicked your pen, and that's clear.

7 The items that were inside on that auction on
8 April 19: Would you designate to the jury where those
are.

9 Thank you.

10 For that sale, which is the April 20 bid sale,
the
11 viewing area was 17th, 18th, and 19th -- viewing time,
that is.

12 A. Yes, sir.

13 Q. How many items were on the inside?

14 A. I would say right around 100, sir.

15 Q. If the records reflected that 1 through 84 -- the
catalogue
16 lists the items and the number, do they not? If the
records
17 reflected that Items 1 through 84 were on the inside,
would you
18 dispute that?

19 A. No, sir.

20 Q. Okay. And do you recall how many items were on the
outside
21 that were for sale?

22 A. In R02, sir?

23 Q. Yes, sir.

24 A. Probably some 85 to 90 items, sir.

25 Q. Now, R02 wasn't the only area where you had the
outside

10618

William McDonald - Cross

1 items. Is that correct?

2 A. Yes, sir.

3 Q. And you had them in -- is that "S" something?

4 A. S02, sir.

5 Q. Okay. And you had the vehicles over there. Is
that

6 correct?

7 A. We had some property over there, sir. I don't know
exactly

8 what was in that area.

9 Q. When you have vehicles for bidding on, is that
where

10 they're kept, in that "S" area?

11 A. Yes, sir.

12 Q. Do you recall -- have you looked at that catalogue
for the

13 sale of that day to see what items were for sale?

14 A. No, sir.

15 MR. WOODS: Okay. Do you have that handy?

16 It's up there on the stand?

17 May I approach the witness, your Honor?

18 THE COURT: Yes.

19 BY MR. WOODS:

20 Q. Excuse me, Mr. McDonald. They inform me that it's
up here
21 in your folder.

22 I'm going to show you what's been marked and
admitted
23 into evidence as Government's Exhibit No. 1958. Can
you tell
24 from that catalogue, sir, what items were for sale that
day in
25 total?

10619

William McDonald - Cross

Item 181
1 A. Sir, we started -- should have started an S02 at
2 and went on down to Item 196.

S02?
3 Q. Okay. So you had, what, 15 items that were over at

4 A. Yes, sir.

inside
5 Q. Okay. And Items 1 through 84: Were they on the
6 warehouse?

7 A. I'm sorry, sir.

8 Q. Yes, sir. The items listed in the catalogue.

9 A. 1 through 84.

10 Q. 1 through 190--some--odd. Is that correct?

11 A. Sir, Items 1 through 83 should be on the inside of
the
12 warehouse. 84 and 85 was withdrawn.

13 Q. And what items pick up, then, on the outside area?

14 A. Items 86 through Items 180, sir.

15 Q. Now, the only way that a person can get in and view
those
16 items on the inside warehouse is to sign in. Is that
correct?

17 A. Yes, sir.

18 Q. Now, a person can get in the outside area by just
walking
19 through that gate. It's a big area where you can drive
20 vehicles in. Is that right?

21 A. Yes, sir.

22 Q. And people that have been there before are aware
that the
23 outside items are out there. Is that correct?

24 A. Yes, sir.

25 Q. And you've got it fenced off with little ropes and
flags to

10620

William McDonald - Cross

1 show what's available, what's not available. Is that
correct?

2 A. Yes, sir.

3 Q. And you had over 100 items out there. And can you
give the

4 jury an idea of what type of items you had out there,
sir?

5 A. We had refrigeration units. This is household-
type. We

6 may have had one or two commercial type.

7 Q. Excuse me for interrupting you. Would it help to
refer to

8 that catalogue just to note type of items available
outside?

9 A. Okay. We had metal shipping containers. We had
field

10 wheel assemblies. We had containers, ammunition
containers.

11 We had tents and liners, final drive assemblies,
engines. We

12 had some scrap items out there, including stainless
steel,

13 radiators, scrap canvas, axles, numerous tires --
several

14 tires, ice-making machine, scrap copper, compressors,
spraying

15 outfits, household ranges.

16 Q. Okay. A wide variety of items --

17 A. Yes, sir.

18 Q. -- is that correct?

19 All of it Army surplus, military surplus items
that

20 you're trying to work back into the public, get some
sales

21 value out of the surplus items. Is that correct?

22 A. Yes, sir.

23 Q. But at first your job at DRMO is to try to
reutilize it,

24 send it back to the military somewhere to be used
before

25 offering for sale to the public? Is that generally the

10621

William McDonald - Cross

1 function of DRMO?

2 A. Yes, sir.

3 Q. But you end up giving sales -- having sales for
these

4 various items. Is that correct?

5 A. As a final result, sir.

6 Q. Yes. Now, have you viewed the documents of that
day, sir,

7 April 19, reflecting a sign-in date for Mr. Nichols --
sign-in

8 time, rather, of 12:50?

9 A. Did I read that, sir?

10 Q. Yes. Have you reviewed the documents --

11 A. No.

12 Q. -- that the Government has provided to you?

13 A. No, sir.

14 Q. Are they in that folder, also?

15 MR. WOODS: May I approach the witness, your

Honor?

16 THE COURT: Yes.

17 BY MR. WOODS:

18 Q. I'm going to show you what's been marked for
identification

19 as 1956, and it's in evidence.

20 I'll also ask you to look at 1964.

21 Now, looking at that sign-in sheet -- and
there is a

22 number up there on the corner again. What was that?

23 A. 1956, sir.

24 Q. '56, yes, sir. Do you see a sign-in time for Mr.
Nichols

25 at 12:50? It's that discolored one there that the
Government

10622

William McDonald - Cross

1 has got in there.

2 A. I see it, sir.

3 Q. Okay. And is that the sign-in time, 12:50?

4 A. It appears to be, sir.

5 Q. All right. And then look at the bidder sheet that
I

6 pointed out in front of you; and it's got a number on
the

7 corner which is?

8 A. 1964.

of that? 9 Q. 1964. And what is the time stamp, sir, on the top

bid sheet 10 Well, first let me ask you: When a person submits a

that 11 there in the bid office, is there a time machine there

12 stamps that when it's received?

this 13 A. Sir, I don't know this. I have no dealings with

14 whatsoever.

15 Q. You don't work in that bid office there?

16 A. No, sir.

17 Q. Can we put this 1960 back on the projector.

bid 18 Can you point out to the jury there where the

bid? 19 office is that a person enters into to submit their

20 A. Right in there, sir.

then walks 21 Q. And that's after looking at the items, a person

want to 22 in there with a bid sheet filled out on the bid they

23 submit. Is that correct?

can 24 A. There is chairs and tables in there, sir. A person

25 take their bid sheet in there and fill it out, yes.

10623

William McDonald - Cross

1 Q. But it's time-stamped when it's submitted. Is that
2 correct?

3 A. Sir, I have no knowledge of this.

4 Q. All right. Is that a -- that Exhibit No. 1964 --
do you

5 recognize that as being a DRMO exhibit that comes from
that

6 operation you worked with?

7 A. This is one of our bid sheets, yes, sir.

8 Q. Okay. All right. Now, the time stamp says March
18 --

9 right -- at the top?

10 A. 18 March '95, sir.

11 Q. And what time does it give?

12 A. 12:37, sir.

13 Q. Okay. And if the records show that the clock is
off one

14 hour, it's behind one hour, what time would that make
it, one

15 hour from 12:37?

16 A. It would be 11:37, sir.

17 Q. Well, if it's off -- if it's slow one hour
according to the

18 records, if it says 12:37, would 1:37 be the accurate
time?

19 A. Yes, it should be.

20 Q. Okay. Now, there is another office right here on
the front

21 of that bid office; is that correct? From the outside

as

office 22 you're walking up, isn't there an entrance there and an

23 there?

24 A. This, sir -- oh, boy.

entrance. 25 Right there, sir, would be our primary
That

10624

William McDonald - Cross

at our 1 is the main entrance that anyone would normally go to

2 DRMO.

public 3 Q. And what do you have available out there for the

DRMO? 4 that wants to come and just look at the operation at

three or 5 A. Actually, we only have a small foyer there with

have a 6 four chairs where someone could sit down, and then we

7 receptionist once you go through the next door.

8 Q. Okay. And what's available in that foyer?

now, and 9 A. Just -- I think we have three or four chairs right

10 it's just -- it's just a place to sit for a while.

where you 11 Q. Okay. Okay. How big of an area was your area

an 12 had all those outside items? Can you give us in just

13 estimation of the size of it?

14 A. Sir, that area right there --

15 Q. Yes, sir --

16 A. -- will run approximately 215 feet in length.

17 Q. Not quite a football field long? Not quite a
football

18 field long?

19 A. Right, sir.

20 Q. How wide was it?

21 A. This right here will go approximately 80 feet, sir.

22 Q. All right. And within that area, you had most of
those

23 outside items stacked up for viewing and inspection.

24 A. Yes, sir.

25 Q. And then over in your S2 area, you had the
vehicles. Can

10625

William McDonald - Cross

1 you tell from that catalogue whether or not you have
vehicles

2 for sale?

3 A. Yes, sir.

4 Q. How many?

5 A. We did, sir.

6 Q. Oh, you did. How many vehicles did you have for
sale?

many. 7 A. I'd have to look again for that, sir, but it wasn't

8 10 vehicles, sir.

then in 9 Q. All right. So you had approximately how many items

10 R02 for sale? 100-what?

-- 86 is 11 A. I think we had less than a hundred. We ran items

Item 180. 12 where this property started, and it would run up to

that 13 Q. Okay. And some of those are big bulk items; is

14 correct?

15 A. Yes, sir.

item? 16 Q. If you have 400 ammo cans, they're listed as one

that are 17 A. Yes, sir, but if you look at all the "withdrawns"

several 18 listed in here, like 148, 149, withdrawn -- there were

the 19 items that are withdrawn, and the numbers will not give

20 true story of the numbers that are for sale, sir.

21 Q. Can you tell on there how many are withdrawn?

22 A. It looks like three, sir.

23 Q. Three were withdrawn?

24 A. Uh-huh.

25 Q. In looking at that bid sheet, which was 1964 --

10626

William McDonald - Cross

1 A. Okay, sir.

many

2 Q. It's a little discolored there. Can you tell how
3 items Mr. Nichols bid on?

4 A. 10.

on there

5 Q. And out of that 10, can you tell from the numbers
6 how many were outside items?

7 A. Six.

8 Q. Are there six, or seven?

9 A. I'm sorry, sir. Seven.

somebody can

10 Q. Okay. Now, as I understand your testimony,

where

11 walk through the big gate that -- gate that you have

that and

12 vehicles can drive through. People can walk through

13 look at the outside items first. Is that correct?

14 A. Yes, sir.

that's

15 Q. Okay. But to get back and look at the inside items

16 in the warehouse, you have to sign in; is that correct?

17 A. Yes, sir.

McDonald.

18 MR. WOODS: Okay. Thank you very much, Mr.

19 No further questions.

20 THE COURT: Any redirect?

21 MR. GOELMAN: Just briefly, your Honor.

22 REDIRECT EXAMINATION

23 BY MR. GOELMAN:

24 Q. I'm going to put up the second page of Government's
Exhibit

25 1964, which is the bid sheet that you were talking
about with

10627

William McDonald - Redirect

1 Mr. Woods. There are 10 items on there. Is that
right,

2 Mr. McDonald?

3 A. Yes, sir.

4 Q. Are any of those items something that was located
in the

5 S02 area on April 18?

6 A. Yes, sir.

7 Q. Which one?

8 A. 109, 116, 131.

9 Q. Mr. McDonald, were those located in the R02 area?

10 A. I'm sorry, sir?

11 Oh, oh, I'm sorry. These -- the ones I'm
calling off

12 are the R02 area, sir. I'm sorry. I misunderstood
you.

13 Q. Are there any items at all on that list that were

located

14 in the S02 area?

15 A. No, sir. No.

16 Q. And how many of those items were located inside?

17 A. Some 84 items, sir.

18 Q. Okay. On this list, were the first three items on
this bid

19 sheet inside items?

20 A. Yes, sir.

21 Q. What happens if somebody enters that front office
on a

22 viewing day where you're talking about three or four
chairs?

23 What do the people in the front office tell them?

24 A. Explain to them where the items that are for sale
are

25 located, sir, and how to get to that area.

10628

William McDonald - Redirect

1 Q. Where do they direct them? Do they direct them
into the

2 R02 area, or do they direct them down to sign in at the
A02

3 area?

4 A. They direct them to the A02 area, sir, to sign in.

5 Q. Mr. Woods asked you some questions about
Government's

6 Exhibit 1858. That's the sales catalogue.

7 A. Yes, sir.

8 Q. When you're out working in the R02 area on viewing
days,

9 Mr. McDonald, are you carrying around a big stack of
catalogues

10 to hand out to customers?

11 A. No, sir.

12 Q. Where do customers get catalogues?

13 A. When they sign in, sir, at A02.

14 Q. Does that catalogue have a mailing label on it?

15 A. No.

16 MR. GOELMAN: That's all I have, your Honor.

17 MR. WOODS: Just one question.

18 THE COURT: Yes. All right.

19 RECROSS-EXAMINATION

20 BY MR. WOODS:

21 Q. Mr. McDonald, the bidder sheet, 1964, that's in
front of

22 you: Those items are listed in a numerical order. Is
that

23 correct?

24 A. Yes, sir.

25 Q. Okay. And bid prices are submitted for each of
those

William McDonald – Recross

1 items. Is that correct?

2 A. Yes, sir.

3 MR. WOODS: Okay. Thank you. No further
questions.

4 MR. GOELMAN: Nothing further. This witness
may be

5 excused, your Honor.

6 MR. WOODS: Yes, your Honor.

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

8 Next, please.

9 MR. MACKEY: Thank you, Judge. We'll call
Carolyn

10 Marin.

11 THE COURT: All right.

12 THE COURTROOM DEPUTY: Would you raise your
right

13 hand, please.

14 (Carolyn Marin affirmed.)

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

16 Would you state your full name for the record
and

17 spell your last name.

18 THE WITNESS: Carolyn Denise Marin, M-A-R-I-N.

19 THE COURTROOM DEPUTY: Thank you.

20 DIRECT EXAMINATION

21 BY MR. GOELMAN:

- 22 Q. Good morning.
- 23 A. Good morning.
- 24 Q. Where do you live, ma'am?
- 25 A. Bad Nauheim, Germany.

10630

Carolyn Marin - Direct

- 1 Q. What do you do in Germany?
- 2 A. My husband is stationed with the Army.
- 3 Q. What does your husband do for the Army?
- 4 A. Drives a tank.
- 5 Q. Do you have any children?
- 6 A. Yes, I have two: a son that's 12 and a daughter
that's 6.
- 7 Q. How long has your husband been stationed overseas?
- 8 A. Since January, '96.
- 9 Q. Where was your husband stationed before that?
- 10 A. Fort Riley, Kansas.
- 11 Q. And was he at Fort Riley, Kansas, in April, 1995?
- 12 A. Yes.
- 13 Q. Where did you live at that time?
- 14 A. We lived in government housing on Custer Hill on
the post.
- 15 Q. That's right on post?
- 16 A. Yes.

17 Q. On Fort Riley?

18 A. Yes.

19 Q. When did you move into that government housing?

20 A. January, '95.

21 Q. In April, 1995, was your house on post fully
furnished?

22 A. No.

23 Q. And to find furniture and other items, did you go
to a sale

24 at the Fort Riley DRMO?

25 A. Yes.

10631

Carolyn Marin - Direct

1 Q. Do you remember what month that was?

2 A. It was April.

3 Q. Had you ever -- have you been to the DRMO for any
reason

4 before that?

5 A. No.

6 Q. And who went to the DRMO in April, 1995?

7 A. My husband, me and my daughter.

8 Q. Do you remember what day of the week it was?

9 A. I don't remember the day.

10 Q. How old was your daughter at that time?

11 A. She was 4.

12 Q. And did your husband work that day?

13 A. Yes. He was on his lunch break.

14 Q. What time was your husband's lunch break?

15 A. Anywhere from 11 to 11:30 until 1:00.

16 Q. And what was the plan for how you, your husband,
and your

17 daughter would get to the DRM0 on that day?

18 A. He came from work to our house and picked me up and
drove

19 us there.

20 Q. What time did your husband pick you up?

21 A. Shortly after 11:30.

22 Q. About what time did you arrive at DRM0?

23 A. Maybe 11:40, quarter till.

24 Q. I want to show you Government's Exhibit 1961. Do
you

25 recognize that?

10632

Carolyn Marin - Direct

1 A. Yes.

2 Q. Do you recognize that as DRM0?

3 A. Yes.

4 Q. Can you take your light pen and mark where you,
your

5 husband, and your daughter parked?

6 A. Right here.

7 No, wait. Right there.

8 Q. Did you and your husband and your daughter sign in
when you

9 first got to the sale?

10 A. Actually, no. We went into the office first
because we

11 didn't know what we were doing or where we were
supposed to go.

12 Q. Did the office direct you where to go?

13 A. Yes.

14 Q. When you entered that particular door, was there a
sign-in

15 desk there?

16 A. Yes.

17 Q. Did you sign in?

18 A. At first, we just started to walk off because we
didn't

19 know we were supposed to sign in, and a man called my
husband

20 back and told him that he needed to sign in.

21 Q. Did you sign in at that time?

22 A. Uh-huh. My husband did.

23 Q. I want to show you Government's Exhibit -- first,
can you

24 mark -- strike that. I want to show you Government's
Exhibit

25 1956 and ask you if you see your husband's name
anywhere on

10633

Carolyn Marin - Direct

1 here?

2 A. Yes.

3 Q. Could you circle that, please.

4 Do you recognize your husband's signature?

5 A. Yes.

6 Q. Did he write down a time when he signed in?

7 A. No.

8 Q. Are there entries just above and just below your
husband's

9 entry that you -- that do have times in them?

10 A. Yes.

11 Q. What are those times?

12 A. The top one is 11:50. The one directly below it, I
can't

13 read. But the next one says 11:56.

14 Q. Without regard to the log, what is your memory
about

15 approximately what time you and your husband signed in
on

16 April -- on the day that you went to the DRMO?

17 A. It would have been shortly before 12.

18 Q. So is the sign-in sheet at least roughly accurate?

19 A. Uh-huh. Yes.

20 Q. What did you see when you signed in? Where was
this

21 sign-in log located?
22 A. When you walked into the door, there was a table
set up to
23 the right, and there was like paper sitting there.
There was a
24 man and a lady there.
25 Q. You said there were papers on that table?

10634

Carolyn Marin - Direct

1 A. Right.
2 Q. Did you get a chance to determine what those papers
were?
3 A. Yeah. They were like a catalogue of the things
that were
4 in there. It had a description of the things that were
there.
5 Q. And how do you know that those papers were
catalogues?
6 A. Because the man handed it to us.
7 Q. What did you do once you got your catalogue?
8 A. I rolled it up in my hand and took off to go look
at stuff.
9 Q. What kind of stuff was there?
10 A. There was dressers, furniture, big boxes of like
old BDUs,
11 old office equipment.
12 Q. What are BDUs?
13 A. The outfit that soldiers wear, battle dress

uniform.

14 Q. Okay. What other kind of stuff did you see?

15 A. Old typewriters, just pieces of things, junk.

16 Q. Did you find anything that you were interested in?

17 A. Yeah. I found a dresser, and I looked at a table
-- I mean

18 a chair and a Foosball table.

19 Q. How long did you spend inside the warehouse on that
day?

20 A. Oh, maybe about 15 minutes.

21 Q. And was the entire building available for you to go
into

22 and view items?

23 A. No.

24 Q. How much of it was -- was open?

25 A. There was like just two rows of things, and the
whole rest

10635

Carolyn Marin - Direct

1 of the left side was roped off, closed off.

2 Q. Was there a portion on the right side that was
roped off,

3 too?

4 A. Yes.

5 Q. What did you do after leaving the warehouse, after
you

6 spent 15 or 20 minutes there?

walked 7 A. The man told us there was stuff outside, so we
8 around the side of the building.

pen, can 9 Q. I want to show you again 1961. And taking your
10 you trace the path that you took when you left the
warehouse.

11 Okay. What did you do when you got to that
area?

12 A. There was a bunch of stuff like tires and lawn
mowers and
13 things we weren't very interested in, so we just kind
of walked
14 very quickly through there.

15 Q. How much time did you spend there?

16 A. Maybe a minute or two.

17 Q. Okay. And why did you spend such a short period of
time
18 there?

19 A. There was nothing there that we wanted to look at
and it
20 was cold.

21 Q. How were you dressed?

22 A. We were dressed warm, but I didn't have on a coat
or, you
23 know, hat and gloves or anything.

24 Q. Had you noticed the weather earlier when you first
arrived
25 at DRMO?

10636

Carolyn Marin - Direct

1 A. Yes. It was very cold and windy.

2 Q. And do you remember asking your husband to do
anything

3 because of that?

4 A. I asked him to move the truck closer to the door so
I

5 didn't have to walk so far.

6 Q. How long a walk were you trying to avoid?

7 A. Maybe half a block.

8 Q. And did he do that?

9 A. No.

10 Q. Where did you go, referring back to the aerial --
where did

11 you go after spending a minute or two in that area?

12 A. We walked around the storage shed to the back.
There was a

13 couple rows of cars back there.

14 Q. Can you mark the screen where the couple rows of
cars were?

15 A. Right -- right there.

16 Q. Somewhere in between those lines?

17 A. Yeah.

18 Q. What kind of cars were there?

19 A. There was a lot of broken-down cars, you know,
missing

sitting 20 parts, with flat tires and stuff. And then our car was
21 at the very end, and it was in really good shape.
22 Q. Your car?
23 A. Yeah. We ended up buying the car.
up 24 Q. Okay. Tell me about the car that you later ended
25 buying.

10637

Carolyn Marin - Direct

good 1 A. It was a little gray Chevette, and it was in really
it was 2 condition. So we went over to look at it except that
because 3 cold. So me and Jeneka got in the driver's door
sat 4 they're not locked or anything, so we got in there and
looked at the 5 there because it was very windy, while my husband
6 engine.
7 Q. Jeneka is your daughter's name?
8 A. Yes.
9 Q. Where in the Chevette did you and Jeneka sit?
10 A. In the driver's seat.
11 Q. How long did you spend there?
12 A. Just a couple of minutes.

13 Q. And what were you doing at that time?

14 A. Just sitting there.

15 Q. Did you eventually leave the car and --

16 A. Yeah. My husband asked me to come look at the
engine.

17 Q. And do you know something about cars?

18 A. A little bit. We've owned a lot of junkers, so
we've had

19 to work on them ourselves.

20 Q. What happened when you looked at the engine?

21 A. We just looked at it. It was in really good shape
except

22 there was a fan that had come off and it was just kind
of

23 sitting in there propped up against the engine.

24 Q. How long did you spend checking out the Chevette?

25 A. Maybe 10 minutes. 10 or 15 minutes.

10638

Carolyn Marin - Direct

1 Q. And what did you do at that time?

2 A. Then we went back inside.

3 Q. Do you remember the trip from where the cars were
located

4 back into the building?

5 A. Yeah. It was very cold and we were walking really
fast, so

6 my husband had to pick Jeneka up to carry her.

7 Q. And why is that?

8 A. Because we were walking fast and she couldn't keep
up.

9 Q. Do you remember where in relation to your husband
you

10 walked during that journey?

11 A. Right -- yeah. Right behind him.

12 Q. Why were you doing that?

13 A. To block the wind.

14 Q. Did that work?

15 A. No.

16 Q. And how do you remember that?

17 A. My nose was running, my eyes were watering, my hair
was

18 whipping around my face. It was very, very windy.

19 Q. Did you end up submitting a bid on any of the items
that

20 you saw that day?

21 A. Yes. The dresser and the car and the Foosball
table.

22 Q. Were you successful on any item?

23 A. We got the car and the dresser.

24 Q. How much was the car?

25 A. \$150.

1 Q. How much was the dresser?

2 A. \$100.

3 Q. I want to show you what's already been received in
4 evidence, Government's Exhibit 1972. Do you recognize
the
5 writing on the front of that document?

6 A. Yes. All the writing is mine except the signature
is my
7 husband's.

8 Q. Is that the signature at the bottom left there, Ms.
Marin?

9 A. Yes.

10 Q. Now, do you see both the dresser and the car that
you bid
11 on listed in this list of items?

12 A. Yes.

13 Q. And I want to turn your attention to -- back to the
first
14 page to a time stamp that appears in the upper left-
hand
15 corner. Do you see what that says? Can you read it
off there?

16 A. Yeah. It says 18 March '95, 11:27.

17 Q. Were you at the DRMO on March 18, 1995?

18 A. No.

19 Q. Do you know approximately when you submitted this
bid?

20 A. It was 18 April.

21 Q. About what time?

22 A. Probably about 12:30ish.

23 Q. So about a month and hour after the time stamp
indicates?

24 A. Right.

25 Q. You mentioned that you were successful on bidding
on both

10640

Carolyn Marin – Direct

1 the car and a dresser. How did you find out that you
were the
2 high bidder on those items?

3 A. We got a thing in the mail.

4 Q. What kind of thing?

5 A. A statement saying that we had won the bid on these
things.

6 Q. Would you look on your screen at Government's
Exhibit 1973,

7 which is not yet in evidence, I don't think.

8 Can you look down on your screen?

9 A. There is nothing there.

10 Q. What about now?

11 A. Yeah.

12 Q. Do you recognize that?

13 A. Yes.

14 Q. What is it?

15 A. It's the paper we got saying that we had gotten the

car and

16 the dresser.

17 MR. GOELMAN: Move to admit Government 1973,
your

18 Honor.

19 MR. WOODS: No objection.

20 THE COURT: Received.

21 BY MR. GOELMAN:

22 Q. Does that reflect that you and your husband were
successful

23 on any of your bids?

24 A. Yes.

25 Q. Which ones?

10641

Carolyn Marin - Direct

1 A. The chest of drawers and the Chevy sedan.

2 Q. And that's the Chevette?

3 A. Right.

4 Q. What did you do when you got that Chevette?

5 A. We took it home and parked it for a while, and then
we

6 eventually worked on it and got it running.

7 Q. Have you ever bought another vehicle at a DRMO
sale?

8 A. No.

9 Q. Have you ever bought another dresser?

10 A. No.

11 Q. Have you ever bought anything at any other DRMO
sale except

12 for the one in April of 1995?

13 A. No.

14 Q. I want to show you what's already been -- do you
see what

15 date the sign-in log where you identified your
husband's name

16 is?

17 A. 4-18-95.

18 Q. And is that consistent with your memory of when you
went to

19 see these items at the DRMO?

20 A. Uh-huh.

21 Q. How long total did you spend at the DRMO on April
18, 1995?

22 A. Maybe an hour at the most.

23 Q. And was that enough time to look at everything that
you

24 were interested in?

25 A. Yes.

10642

Carolyn Marin - Direct

1 Q. Was it enough time to make a number of bids and
actually to

2 buy a car?

3 A. Yes.

4 Q. Did you see any other customers at the DRMO while
you were
5 there?

6 A. I saw an elderly black man outside, the man and the
woman
7 that were at the table. There was an older gentleman
in there,
8 and outside there was a worker on like a forklift type
of
9 tractor.

10 Q. After the Oklahoma City bombing, Ms. Marin, did you
follow
11 the investigation in the media at all?

12 A. A little bit.

13 Q. And do you remember seeing pictures of Terry
Nichols in the
14 media at sometime after the bombing?

15 A. Yes.

16 Q. I'm going to ask you if you would to take a look at
17 Mr. Nichols, who is sitting at counsel table there.

18 Did you see Mr. Nichols at the DRMO on April
18, 1995?

19 A. No.

20 Q. And does this mean that you can say with certainty
that he
21 wasn't there at any point in time?

22 A. No.

23 Q. I want to ask you a little more specifically about

the

24 different areas of the DRMO that you were in at
different
25 times.

10643

Carolyn Marin – Direct

1 Can you again mark where you bought the
Chevette?

2 A. Well, right in there somewhere.

3 Q. And when you were looking at the different vehicles
up

4 there, did you see anyone there just kind of standing
there in

5 the -- in that area of the yard?

6 A. No. There was a worker over to the right, but he
was on a

7 tractor.

8 Q. After leaving that area of the yard, did you go
into the

9 side of the building where there is a window, to submit
bids?

10 A. Yes.

11 Q. And can you mark that on this particular diagram?

12 And when you went in there, did you see any
customers

13 just kind of sitting down there?

14 A. No. There was no one in there at all.

15 Q. When you walked back from the yard to the

warehouse, did

16 you walk in front of the warehouse at all?

17 A. Yes.

18 Q. And why did you do that?

19 A. There was no one in the bid office, so we had to go
into

20 the front office, and also because I took Jeneka to the
21 restroom there.

22 Q. Can you mark the location where you went in the
front
23 office.

24 About what time did you go in there?

25 A. Maybe 12:30, 12:35.

10644

Carolyn Marin - Direct

1 Q. And about 12:30, 12:35, on April 18, 1995, did you
see

2 Terry Nichols standing in front of the warehouse?

3 A. No.

4 Q. Did you see anyone just kind of standing in front
of the

5 warehouse waiting for a buddy to pick him up?

6 A. No.

7 MR. GOELMAN: That's all I have, your Honor.

8 THE COURT: Mr. Woods?

9 MR. WOODS: May we leave that particular item?

10 THE COURT: All right.

11 CROSS-EXAMINATION

12 BY MR. WOODS:

13 Q. Good morning, Ms. Marin. My name is Ron Woods.
I'm one of

14 the lawyers appointed by the judge to help Terry
Nichols in

15 this case.

16 You told the jury that when you first got to
DRMO that

17 you went into that office on the corner; that you later
went in

18 to take your daughter to the bathroom. Is that
correct?

19 A. Yes.

20 Q. Okay. And what did you notice inside that office
when you

21 were in there?

22 A. It was a very small room, and there was a counter
that was

23 like L-shaped.

24 Q. Okay. Did you notice any pamphlets around
explaining DRMO

25 or anything like that?

10645

Carolyn Marin - Cross

1 A. I don't remember.

2 Q. Okay. And you were directed to go -- if you wanted
to look
3 at the items inside -- you were directed to go down to
the
4 building to another entrance. Is that correct?
5 A. Yes.
6 Q. And that's where you actually signed in for the
first time.
7 A. Right.
8 Q. Your husband signed in in your presence. Is that
correct?
9 A. Yes.
10 Q. And you looked at the items that were in the inside
of the
11 warehouse.
12 A. Yes.
13 Q. Do you recall how many items were for sale total
when you
14 were at that sale, that sealed bid?
15 A. No.
16 Q. Okay. So nothing that you were paying particular
attention
17 to the number of items. Correct?
18 A. No.
19 Q. You were interested in furniture to furnish your
house?
20 A. Yes.
21 Q. And they had a few items on the inside. Is that
correct?
22 A. Yes.

23 Q. And that's what you looked at is a chest of
drawers, a

24 Foosball machine?

25 A. Right. We walked around the whole area, but I was

10646

Carolyn Marin - Cross

1 concentrating on the furniture.

2 Q. Looking for furniture; is that correct?

3 A. Yes.

4 Q. Then when you went outside and entered into the
outside

5 area, you didn't have to sign in to get into that
outside area,

6 did you?

7 A. No.

8 Q. In fact, it was a big, open gate that vehicles can
drive

9 through. Is that correct?

10 A. Yes.

11 Q. And do you recall how many items were available for
viewing

12 and inspection on that outside area?

13 A. There was just like a couple of rows. It wasn't a
very big

14 area.

15 Q. Do you recall the number of items that were there?

16 A. No.

17 Q. And you mentioned that you saw several things that
you
18 weren't interested in, tires and lawn mowers and things
like
19 that, and so you didn't spend any time inspecting
those. Is
20 that correct?

21 A. That's correct.

22 Q. Were you looking for anything in particular when
you went
23 out there?

24 A. No. We didn't even know what was out there. We
just knew
25 there was more stuff.

10647

Carolyn Marin - Cross

1 Q. More stuff?

2 A. Yeah.

3 Q. Okay. Stuff that would stand the weather?

4 A. Yes.

5 Q. And you found a car that you were interested in.

6 A. Yes.

7 Q. And bought it for 150?

8 A. Right.

9 Q. Okay. But you were not inspecting those items
carefully

that 10 for buying them and then reselling them, all the items

11 were there lined up in rows. Is that correct?

12 A. No.

look at 13 Q. Okay. And it took you approximately one hour to

14 the items in total. Is that correct?

15 A. Yeah. The whole --

your 16 MR. WOODS: Thank you. No further questions,

17 Honor.

18 MR. GOELMAN: No questions, your Honor.

19 THE COURT: I take we're excusing the witness.

20 MR. WOODS: Yes, your Honor.

21 MR. GOELMAN: Yes.

step down. 22 THE COURT: Okay. You're excused. You may

23 Next, please.

Agent -- 24 MR. MACKEY: Yes, your Honor. We'll call FBI

25 Special Agent, excuse me -- Patrick Daly.

10648

1 THE COURT: All right.

please. 2 THE COURTROOM DEPUTY: Raise your right hand,

3 (Patrick Daly affirmed.)

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

5 Would you state your full name for the record
and
6 spell your last name.

7 THE WITNESS: Patrick J. Daly, D-A-L-Y.

8 THE COURTROOM DEPUTY: Thank you.

9 THE COURT: Proceed.

10 MS. WILKINSON: Thank you.

11 DIRECT EXAMINATION

12 BY MS. WILKINSON:

13 Q. Good morning, Agent Daly. Can you tell the jury
where you
14 work.

15 A. I work in FBI office in Chicago, Illinois.

16 Q. Are you a special agent?

17 A. Yes. I'm a supervisory special agent there.

18 Q. How long have you been an agent with the FBI?

19 A. It will be 15 years next month.

20 Q. Did you have any prior law enforcement experience
before
21 you joined the FBI?

22 A. Yes. I was a police officer in Oak Park, Illinois,
for six
23 years.

24 Q. And then did you join the Bureau?

25 A. Yes, I did.

10649

Patrick Daly – Direct

1 Q. Can you tell us what your current assignment is.

2 A. I supervise an FBI Task Force of FBI agents and
police
3 officers investigating organized crime.

4 Q. And you do that in Chicago?

5 A. Yes.

6 Q. How long have you been assigned to the field
division in

7 Chicago?

8 A. Since probably 3 1/2 years.

9 Q. So would that mean you were assigned there in April
of

10 1995?

11 A. Yes, I was.

12 Q. Do you have any special duties or responsibilities
other

13 than your supervisory position in Chicago?

14 A. I also supervise our Evidence Response Team.

15 Q. And are you prepared today to tell us about your
attendance

16 at the Oklahoma City crime scene in April of 1995?

17 A. Yes, I am.

18 Q. Okay. Can you start first by telling us a little
bit about

19 what an Evidence Response Team does?
20 A. Our Evidence Response Team is made up of special
agents in
21 Chicago who are trained in the collection and logging
in of
22 evidence and also the processing of crime scenes.
23 Q. And is that something you and your fellow agents
have been
24 trained to do?
25 A. Yes, it is.

10650

Patrick Daly – Direct

1 Q. What do you do as the supervisor of ERT?
2 A. I assign the assignments to the agents who are
trained and
3 belong to the Evidence Response Team. I decide whether
or not
4 the Evidence Response Team should be called out in FBI
cases or
5 local jurisdiction matters.
6 Q. And what type of training have you and your fellow
agents
7 had for these duties?
8 A. There is an 80-hour basic course, and then there
are
9 specialized courses that the agents and myself have
taken, as
10 well as quarterly training, two-day training each
quarter for

11 the agents.

12 Q. Can you give the jury an idea of some of the
specific
13 training courses that you and your fellow agents have
been to?
14 A. I recently myself taught a two-day post-blast
course for
15 the agents in Chicago on how to process bombing crime
scenes.
16 Last month we had a bullet trajectory course, which
would
17 enable us to do a crime scene involving the use of a
firearm.
18 Q. I take it from your answers that you're constantly
updating
19 your training?
20 A. Yes.
21 Q. And prior to April of 1995, did you have any other
22 specialized areas of responsibility or training?
23 A. In 1985, I was a -- trained as a bomb technician
through
24 the FBI/U.S. Army school at Redstone Arsenal.
25 Q. How long was that training, sir?

10651

Patrick Daly - Direct

1 A. The basic course was a four-week course.
2 Q. After that, were you qualified as a bomb
technician?

3 A. Yes, I was.

involved? 4 Q. Is there any kind of recertification process

5 A. There is a one-week annual recertification that all

6 FBI-trained bomb technicians take on an annual basis.

1995? 7 Q. Were you a certified bomb technician in April of

8 A. Yes, I was.

technician? 9 Q. What does that mean to be a certified bomb

week 10 A. That I've gone through the basic course, the four-

11 course, and that I've kept current with the annual

12 recertifications.

Is that 13 Q. You told us you've taught some post-blast courses.

14 right?

it to 15 A. Yes. I teach it to the ERT team as well as I teach

16 local law enforcement personnel.

17 Q. Have you ever taught overseas?

18 A. I've taught overseas as well, yes.

19 Q. In which subject matter area?

20 A. Post-blast crime-scene processing.

What are 21 Q. Now, what do you do as a bomb tech for the FBI?

22 your general responsibilities?

cases 23 A. Generally it's to process and handle explosives in

24 involving FBI matters and also to teach local law
enforcement

25 and public safety bomb technicians on not only the
processing

10652

Patrick Daly - Direct

1 of bombing crime scenes but also the render safe of
improvised

2 explosive devices.

3 Q. Are you permitted with your certification to
actually

4 render an explosive device safe?

5 A. It's not FBI policy unless there is some compelling
reason

6 why we should do it.

7 Q. So do you focus normally on post-blast
investigations?

8 A. That's correct.

9 Q. Now, had you been to any other major bombing crime
scenes

10 prior to the Oklahoma City bombing in April of 1995?

11 A. I was at the World Trade Center bombing crime scene
in

12 1993.

13 I was also on temporary duty in Bogota,
Colombia, in

14 1989, when the DAS, D-A-S -- the DAS building was blown
up by a

15 vehicle bomb.

16 Q. What is DAS?

17 A. The DAS is the equivalent of the FBI in Colombia.

18 Q. Through your participation in the investigation of
the
19 World Trade Center bombing, did you develop procedures
for
20 investigating post-blast crime scenes?

21 A. Yes. We applied the procedures already in place
that we
22 used in post-blast crime scenes to that crime scene.

23 Q. When you went to Oklahoma City to investigate that
bombing,
24 did you work with other agents who had also been with
you at
25 the World Trade Center bombing crime scene?

10653

Patrick Daly – Direct

1 A. Yes, I did.

2 Q. Was that helpful?

3 A. Yes, because they had the experience especially in
4 processing a major post-blast crime scene.

5 Q. Had you ever seen or participated in the
investigation of

6 an outdoor bombing crime scene like the one in Oklahoma
City?

7 A. Not one such as to the scale, the large scale of
Oklahoma

8 City.

9 Q. Let's turn, if we can, to that crime scene and talk
about

10 April 19, 1995. Do you recall where you were when you
learned

11 about the bombing in Oklahoma City?

12 A. Yes. I was in a departure lounge at O'Hare Airport
in

13 Chicago. I was picking up an agent there, and I
noticed on the

14 monitor that broadcast CNN -- they showed a picture of
the

15 Murrah Building and said it was live; and that's when I
first

16 learned of the bombing.

17 Q. Who were you picking up that day at Chicago O'Hare
Airport?

18 A. I was picking up Agent Jeffery Hayes, who was
flying in

19 from Hawaii; and he and I were going to drive to
Huntsville,

20 Alabama, for our bomb technician recertification.

21 Q. Were you going to drive on that day, April 19?

22 A. No. We were probably going to drive the next day.

23 Q. I take it you weren't able to attend the
recertification

24 course in 1995.

25 A. No, I did not.

10654

Patrick Daly - Direct

CNN, did 1 Q. After you learned of the bombing through watching
2 you and Agent Hayes receive an assignment?

City to 3 A. Yes. We were both tasked to travel to Oklahoma
4 help in the processing of the crime scene.

5 Q. What did you do?

office. 6 A. I -- myself -- I drove Agent Hayes back to the

gear for 7 Then I drove to my residence to pack my clothes and my
8 the trip to Oklahoma City.

City 9 Q. What type of gear did you bring for the Oklahoma
10 bombing investigation?

as -- in 11 A. Well, this gear would be the gear that I would use
12 processing a post-blast scene; that is, protective
clothing,

use to 13 gloves, goggles and also items -- tools that I would

evidence 14 collect evidence at the scene, hand tools, as well as

that I 15 bag -- evidence collection bags, log sheets, things
16 would use in a post-blast crime scene.

you? 17 Q. What type of protective clothing did you bring with

18 A. I brought coveralls, heavy boots with steel toes,

heavy

19 leather gloves, helmets, goggles, things that I would
use on

20 the scene where there would be a potential because of

21 post-blast destruction to cause damage to one's body.

22 Q. Okay. And had you ever worn those coveralls or any
of that

23 protective clothing to any other bombing crime scene?

24 A. Those particular coveralls, no. They were fresh
coveralls.

25 Q. Do you have any procedures for what you do with
your boots

10655

Patrick Daly - Direct

1 that you wear when you're going out to crime scenes?

2 A. After a crime scene, normally we would disinfect
the boots

3 with a water and chlorine bleach solution and that
serves two

4 purposes: To counteract any blood-borne pathogens if
there had

5 been physical injuries as well as to wash away any type
of

6 debris that was taken from the scene and still on the
boots.

7 Q. So were your boots clean when you went to Oklahoma
City in

8 April of 1995?

9 A. My boots were clean, yes.

things 10 Q. You told us you took some clothing and helmets and
or items 11 like that. Did you take any other pieces of material
12 for actually working the crime scene?

use to 13 A. Yes. I took evidence recovery logs that we could
scene, 14 log in any evidence that we may have taken from a crime
other 15 as well as evidence collection bags, cardboard boxes,
crime 16 packaging material for items that we may take from a
17 scene.

after 18 Q. What time did you actually arrive in Oklahoma City
19 the bombing?

and 20 A. I think the plane arrived there probably between 5
21 6 p.m. in the afternoon.

22 Q. On April 19?

23 A. On April 19.

arrived in 24 Q. Do you recall what the weather was like when you
25 Oklahoma City that evening?

10656

Patrick Daly – Direct

1 A. It was cloudy and overcast; and then shortly after

arrival,

2 it began to rain.

3 Q. Do you recall how heavy the rain was?

4 A. It got to be extremely heavy with -- accompanied by
thunder

5 and lightning.

6 Q. When you arrived in Oklahoma City that night of
April 19,

7 did you go to the crime scene?

8 A. Yes.

9 Q. Do you recall what time it was when you arrived?

10 A. Sometime around 6 p.m., I believe.

11 Q. And do you recall where you went first when you got
close

12 to downtown Oklahoma City?

13 A. We were directed first by the Oklahoma City agents
to the

14 command post, which was set up approximately two or
three

15 blocks to the east of the Murrah Federal Building.

16 Q. By that time when you arrived on the evening of
April 19,

17 was there a security perimeter established around the
Murrah

18 Building?

19 A. Yes, there was. There was police officers
maintaining a

20 security perimeter around the federal building.

21 Q. What was the purpose of that?

rescue 22 A. I think there was a twofold purpose. There was a
the 23 attempt at the time going on; and for the protection of
public 24 people participating in an attempt and also to keep the
25 out to reduce confusion, that perimeter was set up.

10657

Patrick Daly – Direct

1 And in addition, as any crime scene, the law
unwarranted 2 enforcement would set up a perimeter to keep
3 intrusion into that crime scene.

4 Q. Now, after you went into the command post that
night, did 5 you actually go to the Murrah Building that evening?

6 A. Yes, I did.

7 Q. Can you tell the jury what you saw.

8 A. I saw a state of confusion. I saw a rescue attempt
being 9 done by fire department personnel on a building, the
Murrah 10 Federal Building, that had been blown up.

11 There was mass destruction in surrounding
structures.

12 I saw vehicles, cars on the street and in parking lots
blown 13 up. I saw vehicle parts strewn across the sidewalk,
the

14 street, up in trees.
15 I saw windows blown out and walls and roofs
blown out
16 in surrounding structures, and I saw the front of the
Murrah
17 Federal Building basically caved in. It reminded me of
the DAS
18 building that I had seen back in 1989 in Bogota which
was blown
19 up by a vehicle bomb; and also it reminded me of
pictures I had
20 seen of the American embassy and the Marine Corps
barracks in
21 Beirut in 1983, which had been blown up by vehicle
bombs.

22 Q. When you went to the Murrah Building that evening,
what was
23 your focus?

24 A. My focus at the time was to try and determine what
I would
25 need as a crime-scene processor along with other agents
that

10658

Patrick Daly – Direct

1 were brought in as possible team leaders of Evidence
Response
2 Teams. We needed to determine No. 1, I think, how many
3 personnel were required to process this scene, what
tools and

4 equipment we needed and just to get an idea of the
extent of
5 the area that we needed to process.

6 Q. Were other agents from your Chicago ERT team coming
down to
7 Oklahoma to assist you with the crime-scene
investigation?

8 A. Yes. A few, I think maybe four, had flown with me;
and the
9 balance, approximately 15 agents from the Chicago
Evidence
10 Response Team, were driving in vehicles that carried
our
11 equipment from Chicago.

12 Q. Excuse me. Had you instructed them to bring items
like
13 evidence tags and things like that to the crime scene?

14 A. Yes, I did.

15 Q. When you did your initial inspection that night of
16 April 19, could you determine whether those materials
that your
17 fellow teammates were bringing would be sufficient to
collect

18 all the evidence you would need at the crime scene?

19 A. What we had in our two trucks that were coming down
was not
20 going to be sufficient to process this scene.

21 Q. And were you aware that other agents from around

22 the
country were coming in to Oklahoma City to assist you
with

23 processing the crime scene?

24 A. Yes, I was.

25 Q. And were they all bringing equipment with them?

10659

Patrick Daly - Direct

1 A. Yes, they did.

2 Q. Now, when you looked at the Murrah Building that
evening,

3 did you focus on the parking lot right across from the
4 building?

5 A. No. I focused obviously on the building. That's
where the

6 greatest damage was, the federal building. That's
where the

7 rescue attempt was going on, and that's where the
lighting, the

8 portable lighting was focused as well.

9 Q. And when you arrived that evening, did you notice
the

10 crater in front of the building?

11 A. Yes, I did.

12 Q. Did you examine it at that time?

13 A. I examined it visually but did no more than that.

14 Q. At any time that evening of April 19, did you
actually

15 collect any evidence?

16 A. I did not.

17 Q. Why not?
18 A. I wanted to do a systematic collection of evidence,
and we
19 hadn't set up a system at that time.
20 Q. Now, the next morning, April 20, did you come back
to the
21 crime scene?
22 A. Yes.
23 Q. And did you meet with fellow agents to determine
this plan
24 that you described you wanted to put in place?
25 A. Yes. We had a meeting early in the morning,
brought in

10660

Patrick Daly - Direct

1 agents identified who would be team leaders, evidence
search
2 team leaders, and decided how would we divide the
scenes --
3 MR. TIGAR: Excuse me, your Honor. Object to
the "we
4 decided" without some foundation as to who is speaking
and what
5 they're saying.
6 THE COURT: Sustained, yes.
7 BY MS. WILKINSON:
8 Q. Mr. Daly, who was at the meeting with you that
morning?

veteran 9 A. There were several agents from around the country,
some of 10 agents who had participated previously in crime scenes,
Dave 11 whom -- if you'd like me to name them, would be Agent
myself; some 12 Williams from the FBI; Richard Hahn from the FBI;
of 13 other agents from other agencies including the Bureau
recall 14 Alcohol, Tobacco, and Firearms, whose names I can't
City 15 right now, and also local jurisdictions, the Oklahoma
State of 16 Police Department and the surrounding law enforcement
17 Oklahoma police.

were you 18 Q. After you had that meeting or during that meeting,
19 designated as one of the team leaders?

20 A. Yes, I was.

evidence 21 Q. And can you tell us what your plan was to recover
22 from this entire crime scene.

leaders 23 A. In the discussion of how myself and the other team
the area 24 would process the crime scene, we divided up basically
each 25 surrounding the Murrah Federal Building, going out in

10661

Patrick Daly - Direct

1 direction into a grid-type system and assigned a team
and a
2 team leader to each grid to search that area and
recover any
3 evidence that was included in that area.

4 Q. Do you recall how many teams were assigned that
morning to
5 collect evidence?

6 A. I believe at least five, maybe six teams.

7 Q. And can you tell us without naming the specific
people what
8 organizations were represented on your team.

9 A. On my team, there were FBI agents; agents from the
Bureau
10 of Alcohol, Tobacco, and Firearms; Oklahoma City
police,
11 Oklahoma City fire marshals; State of Oklahoma
officers; I
12 think local county officers -- and I can't recall the
name of
13 the county -- and some other people from some
neighboring
14 counties that I don't recall the names of those
counties.

15 Q. Why would you have fire personnel on your crime
scene
16 search team?

17 A. Well, they were fire marshals, they were
experienced in

18 processing especially arson crime scenes. Also, they
provided
19 the benefit of the equipment belonging to the fire
department,
20 including ladders, aerial ladder trucks so that
eventually we
21 could go up on roofs.

22 Q. Was that part of your plan to search the crime
scene?

23 A. Yes. We were going to search the surrounding area
which
24 would include searching roofs of buildings, obviously.

25 Q. Now, your team was Team 1. Is that right?

10662

Patrick Daly - Direct

1 A. Yes.

2 Q. What was the assignment for Team 1 when you began
to search
3 the crime scene?

4 A. Team 1 was assigned Grid 1, which encompassed an
area from

5 N.W. 5th going north to N.W. 9th and from Harvey going
west to
6 Shartrel (sic).

7 Q. Now, that's obviously a lot bigger than what's
noted here
8 on the model in front of the jury. Is that right?

9 A. Yes, it is.

10 Q. And in the command post when you were setting out
11 assignments to the different teams, did you use a grid
map?

12 A. Yes, I did, and the other team leaders did as well.

13 Q. What was the purpose of the grid map?

14 A. To document and to explicitly show the team
leaders, where

15 their areas of responsibility for the searches were.

16 MS. WILKINSON: Your Honor, may I ask for
Agent

17 Norman's assistance in showing exhibits to the witness
that if

18 they're admitted will be displayed?

19 THE COURT: Yes.

20 MS. WILKINSON: If you could show the witness

21 Government's Exhibits 727 and 728, please.

22 BY MS. WILKINSON:

23 Q. Let's start with 727, Agent Daly. Do you recognize
that?

24 Don't show it to the jury yet. It's not in yet.

25 There you go.

10663

Patrick Daly - Direct

1 Do you recognize that?

2 A. Yes, I do.

3 Q. What is it?

myself
of the
the

4 A. This is a portion of the grid map that was used by
5 and the other team leaders to divide up the search area
6 Oklahoma City bombing post-blast scene.

7 Q. And would it assist you in showing the jury some of
8 areas where you searched?

9 A. Yes, it would.

Government's
10 MS. WILKINSON: Your Honor, we'd offer
11 Exhibit 727.

12 MR. TIGAR: May I inspect it, your Honor?

13 THE COURT: You may, yes.

14 MS. WILKINSON: Your Honor, he may want to
look at 728

15 while he's up there to save a trip.

16 THE COURT: All right.

17 MR. TIGAR: All right. I'll do it.

18 All right. I've looked at that.

19 Thank you, Agent.

of
20 Thank you. I have no objection to either one
21 these.

22 THE COURT: All right. We'll receive.

23 MR. TIGAR: Which one shall I hand to Agent --

24 THE COURT: I can't answer your question.

25 MS. WILKINSON: Your Honor, I didn't offer

728; but

10664

Patrick Daly – Direct

1 since Mr. Tigar doesn't object, I'll offer both 727 and
728.

2 THE COURT: 727, 728 are both received.

3 MR. TIGAR: May I inquire of counsel through
the Court

4 which one shall I hand to the witness?

5 MS. WILKINSON: 728, the aerial photo.

6 MR. TIGAR: Is that the one you wanted?

7 MS. WILKINSON: Yes. Thank you.

8 Agent Norman, could you put the aerial photo
on the

9 easel, please.

10 BY MS. WILKINSON:

11 Q. Agent Daly, if you can keep your voice up, could
you step

12 down and orient the jury and show them where the Murrah

13 Building is on this aerial photo of Oklahoma City?

14 A. The Murrah Federal Building is approximately here
in the

15 center of the photo.

16 MS. WILKINSON: Your Honor, I'm not sure all
the

17 jurors can see that photograph.

18 BY MS. WILKINSON:

19 Q. Can you just move it a little forward, Agent Daly.
20 Now, can you point out where the Murrah
Building is?
21 A. Again it's approximately right here in the center
of the
22 photograph.
23 Q. Can you orient them by showing them where 5th
Street is?
24 A. And 5th Street would be right here just north of
the Murrah
25 Federal Building.

10665

Patrick Daly – Direct

1 Q. And using this aerial photograph, Government's
Exhibit 728,
2 can you show them how you roughly divided up the grid
areas for
3 the searches?
4 A. The main dividing line was 5th Street between the
grid
5 areas, and also this is Harvey Street here; and that
was
6 another dividing line.
7 My grid area was Grid No. 1, which was
basically from
8 Harvey up to 9th Street and from Hudson to Shartrel
(sic),
9 which those two streets, 9th and Shartrel, don't appear
on this

10 photograph of -- excuse me.

Murrah

11 Q. Agent Daly, is that the area northwest of the

12 Building?

13 A. That's northwest of the Murrah Building.

grid

14 Q. Could you now look at Government's Exhibit 727, the

15 map, please.

727

16 What does the yellow on Government's Exhibit

17 indicate?

18 A. That indicates the search area that was
accomplished by

19 myself and the other search teams.

20 Q. What about the white areas?

we

21 A. The white area would be outside of the areas that

22 searched.

area was

23 Q. Can you tell the jury approximately how large the

searched

24 that you and your fellow agents and police officers

25 during this investigation?

10666

Patrick Daly - Direct

1 A. It was approximately about a mile and a half in
length and

width. 2 about a mile and a quarter to a mile and a half in

building? 3 Q. Why was it necessary to go so far out from the

we 4 A. Basically, what we wanted to do was to ensure that

any type 5 searched an area large enough that we would discover

any bomb 6 of fragment either from the container of the bomb or

7 fragments.

Team 1, 8 Q. Now, where did you start when you and your team,

9 began your search?

bombing, 10 A. We began our search on April 20, the day after the

collect any 11 and we wanted to ensure that we would be able to

it was 12 evidence that was remaining after the bombing, before

were not 13 disturbed. So we tried to first search the areas that

the 14 secured by law enforcement that were basically open to

come into 15 public, to the residents or any visitors that might

16 the area.

to the 17 So we started searching in -- on the streets

started 18 northwest of the federal building, and basically we

did the 19 with any location that was open to the public. And we

20 northwest -- the east/west streets and the north/south
streets.

21 We went from block to block searching each street,
sidewalk to

22 sidewalk, alley to alley. We searched the roofs. We
searched

23 the interiors of any building that showed evidence of
any

24 penetration possibly by fragments of the bomb.

25 Q. Agent Daly, did you start at the outside of the
yellow area

10667

Patrick Daly - Direct

1 when you began on April 21?

2 A. Yes, we did, because that was the area that was
most

3 vulnerable to any entry by the public because it was
not

4 secured by police or law enforcement.

5 Q. Without describing for us each street and building
that you

6 covered, did you work from outside toward inside,
toward the

7 Murrah Building?

8 A. We worked from outside towards the Murrah Building,
again

9 because this was vulnerable to access to the public.

10 I had people going on the sidewalks, on the
streets,

of the 11 in the alleys, on the lawns, in the buildings, on top
of this 12 buildings, and we searched each and every square inch
13 area.

14 Q. You can take your seat, please.

15 THE COURT: I think we'll interrupt at this
time for 16 the noon recess.

17 MS. WILKINSON: Sure.

18 THE COURT: So you can step down now. We're
going to 19 take the recess.

20 And, members of the jury, we'll take our usual
21 90-minute luncheon recess; and, of course, please
continue to 22 follow the cautions regularly given, keeping open
minds, 23 avoiding discussion of anything relating to the case
and 24 avoiding anything outside of our evidence.

25 You're excused now till 1:30.

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1 (Jury out at 12:02 p.m.)

2 THE COURT: Recess, 1:30.

3 (Recess at 12:02 p.m.)

4 * * * * *

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25

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1 Patrick Daly

10648 2 Direct Examination by Ms. Wilkinson

3 PLAINTIFF'S EXHIBITS

Withdrawn 4 Exhibit Offered Received Refused Reserved

5 235 10538 10538

6 235A-235C 10539 10540

7 236 10539 10539

8 237 10543 10543

9 238 10547 10547

10 238A-238C 10548 10548

11 239 10548 10548

12 727-728 10663 10664

13 1722 10544 10544

14 1734 10554 10554

15 1956 10580 10580

16 1960 10572 10572

17	1961	10567	10567
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1 REPORTERS' CERTIFICATE

2 We certify that the foregoing is a correct
transcript from

3 the record of proceedings in the above-entitled matter.
Dated

4 at Denver, Colorado, this 25th day of November, 1997.

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Paul Zuckerman

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Carpenter

Bonnie

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