

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 115)

11  
ff

12  Proceedings before the HONORABLE RICHARD P.  
MATSCH,  
13 Judge, United States District Court for the District of  
14 Colorado, commencing at 8:45 a.m., on the 9th day of  
December,  
15 1997, in Courtroom C-204, United States Courthouse,  
Denver,  
16 Colorado.

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24  
Transcription  
Street,  
629-9285

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13306

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9 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,  
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Nichols.

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PROCEEDINGS

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

THE COURT: Please be seated. Good morning.

MR. TIGAR: May I approach, your Honor?

(At the bench:)

(Bench Conference 115B1 is not herein transcribed

by court

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

13314

1 (In open court:)

2 (Jury in at 8:52 a.m.)

We

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

This is

4 apologize for keeping you waiting for a few minutes.

minutes

5 another one of those days, though, in which the few

discuss 6 involved has saved us some time. I've been able to  
to move 7 some things with the lawyers on both sides to enable us  
wasted. 8 ahead, so please forgive us that. It's not time

9 You'll recall when we recessed yesterday  
afternoon, we  
10 were hearing from Mr. Darwin Bates, and we'll continue  
with his  
11 testimony now.

12 Mr. Bates, will you come in and again take the  
stand  
13 under the oath you took yesterday.

14 THE WITNESS: Yes.

15 THE COURT: Mr. Thurschwell.

16 (Darvin Bates was re-called.)

17 DIRECT EXAMINATION CONTINUED

18 BY MR. THURSCHELL:

19 Q. Good morning, Mr. Bates.

20 A. Good morning.

21 Q. When we broke yesterday, I believe you had just  
described  
22 your conversation with the FBI agent in the Lawton  
office up to  
23 the point where you had given some of the facts and  
24 descriptions about the individual who you believed was  
John Doe  
25 No. 2. Do you recall that?

13315

Darvin Bates - Direct

1 A. Yes, sir.

2 Q. Okay. What was the reaction of the FBI agent when  
you --

3 after you gave him that description and those facts?

4 A. He stated that they had the two they were  
interested in and

5 if they needed additional information, they would  
contact me.

6 Q. Okay. And could you -- could you repeat that?  
They

7 need -- could you re -- I didn't quite catch the  
beginning of

8 that response.

9 A. Well, he said they had the two arrested that they  
needed in

10 the case, or the two --

11 Q. Okay. And he said if they needed any additional  
12 information, they would contact you?

13 A. Correct.

14 Q. Okay. Now, that was Friday morning?

15 A. Correct.

16 Q. Did this individual who you believe to be John Doe  
No. 2

17 show up for work that day?

18 A. Yes.

19 Q. Did he work a full shift?

20 A. Yes.

21 Q. That was 2 to 10?

22 A. Correct.

during 23 Q. Did you have any conversation with him about money

24 his workday?

25 A. Yes.

13316

Darvin Bates - Direct

about 1 Q. What -- could you tell the jury about that briefly,

2 that conversation.

homeless, 3 A. He stated he was homeless, and I knew that he was

couldn't 4 and that he needed some money. And I told him that we

loan him 5 give him a check that late in the night; that I would

morning; that 6 \$90; that he had approximately \$100 coming Monday

up with 7 when my wife made the checks out, that we would settle

8 that.

think of 9 Q. All right. So was the \$90 you gave him -- did you

10 that as an advance on his salary?

11 A. Yes.

12 Q. Okay. Was he scheduled to work the next day?

13 A. Yes.

14 Q. Did he show up for work the next day?

15 A. No.

16 Q. Did he ever show up for work again?

17 A. No.

18 Q. Did you ever see him again?

19 A. No.

20 Q. Did the FBI ever follow up with you about the  
information

21 you had provided?

22 A. No.

23 MR. THURSCHELL: No further questions, your  
Honor.

24 THE COURT: Mr. Ryan.

25 MR. RYAN: Thank you, your Honor.

13317

Darvin Bates – Cross

1 CROSS-EXAMINATION

2 BY MR. RYAN:

3 Q. Good morning, Mr. Bates.

4 A. Good morning.

5 Q. How are you?

6 A. Fine.

7 Q. My name is Pat Ryan. I'm a United States Attorney

in

8 Oklahoma City. We haven't met, have we?

9 A. No. I don't think so.

10 Q. You've never called my office?

11 A. No, sir.

12 Q. Okay. Now, the events that you're telling us about

13 yesterday and today, when did they occur?

14 A. Approximately one month after the bombing.

15 Q. You're saying May?

16 A. Well, I couldn't give specific dates. It could  
have been

17 three weeks, or it could have been five weeks. It was  
after

18 the bombing.

19 Q. Was it June?

20 A. No. I don't think so.

21 Q. July?

22 A. No. No.

23 Q. You're sure it wasn't August?

24 A. I'm positive it wasn't August.

25 Q. You're positive about that?

13318

Darvin Bates – Cross

1 A. Yeah.

2 Q. What is your telephone number from which you made



these

3 calls, sir?

4 A. What was my telephone number?

5 Q. Yes, sir.

6 A. 252-0014.

calls?  
7 Q. But you have no record of when you made these

8 A. No, sir.

9 Q. You can't tell us who you talked to?

10 A. No, sir.

11 Q. Any of the people?

12 A. No, sir.

you don't  
13 Q. The agent of the FBI that you say you talked to,

14 recall his or her name?

15 A. No, sir.

16 Q. Was it a his or a her?

17 A. Which location?

18 Q. You say -- how many times did you talk to an agent?

19 A. Three.

20 Q. You talked to three agents?

21 A. I called the FBI office three different times.

or woman?  
22 Q. All right. The first time you spoke to who? Man

23 A. A lady in Oklahoma City.

24 Q. What was her name?

25 A. I don't know.

13319

Darvin Bates - Cross

1 Q. Okay. The next time, you spoke to who?

2 A. A lady in Lawton.

3 Q. What was her name?

4 A. I don't know.

5 Q. The next time, you spoke to who?

6 A. An agent in Lawton, a man.

7 Q. A man. Have you ever been to the Lawton agency --

8 A. No.

9 Q. -- of the FBI?

10 A. No.

11 Q. Or been at the Oklahoma City office of the FBI?

12 A. No.

FBI's

13 Q. Now, did the -- have you heard of the fact that the

14 interviewed approximately 30,000 people in this case?

15 A. No.

it was

16 Q. Do you have any idea or did the agents tell you why

didn't

17 that they didn't -- they selected you as a person they

18 come out and talk to?

19 A. No.

20 Q. Now, how did -- how did you come to be known as a

witness?

21 A. How? I felt that any reasonable-thinking person  
that loved

22 his country would like to bring forth any pertinent  
information

23 that might be valuable to this trial.

24 Q. So did you write the FBI?

25 A. Did I what?

13320

Darvin Bates - Cross

1 Q. Did you write the FBI to tell them what you --

2 A. No, sir.

3 Q. -- have told this jury?

4 A. No. I wrote Michael Tigar's office.

5 Q. You wrote the defense counsel?

6 A. Yes, sir.

7 Q. You didn't write Janet Reno?

8 A. Didn't write who?

9 Q. Attorney General, Janet Reno.

10 A. No.

11 Q. Or Louie Freeh, the director of the FBI?

12 A. No. No.

13 Q. You didn't write me as the United States Attorney?

14 A. No. No.

15 Q. Mr. Mackey?

16 A. No.

17 Q. Bob Macy, the U.S. --

18 THE COURT: Well, you know, let's not go  
through a

19 whole list of people he didn't write.

20 BY MR. RYAN:

21 Q. The only person you wrote was Michael Tigar?

22 A. Correct.

23 Q. Now, did you bring your telephone records with you?

24 A. No, sir.

25 Q. Did you ask the telephone company to provide them?

13321

Darvin Bates - Cross

would 1 A. I suggested that to the defense, and they said it

2 take too long to get those records in order to have  
them here

3 for the trial.

4 Q. So we have to rely on your memory?

5 A. Well, the FBI should have a record of it.

6 Q. Of your telephone records?

7 A. Well, they should have a -- probably should have a  
log, I

8 would think, of the calls they received.

9 Q. If you called, they would; is that right?

10 A. Well, I called.

11 Q. Now, you don't remember when it was, but you know  
it was a

12 Wednesday?

13 A. Wednesday that what now?

14 Q. You don't know when it was that John showed up, you  
just

15 know it was a Wednesday?

16 A. He showed up to go to work on Wednesday.

17 Q. And he gave you his first name as John?

18 A. No, sir. I could never pronounce his first name --  
his

19 name, and he said, "Just call me John."

20 Q. Did you tell him you thought he was John Doe 2?

21 A. On Friday, I did. I didn't tell him I thought he  
was. I

22 asked him, I said, "Has anybody ever told you that you  
look

23 exactly like John Doe No. 2?"

24 Q. And had you given him the name "John" before that?

25 A. Oh, yes.

13322

Darvin Bates - Cross

1 Q. Now, you've said this man was very short; correct?

2 A. Yes.

3 Q. You said he came to about your shoulder?

4 A. No. Right about here.

neck? 5 Q. About your neck. Top of your neck. Bottom of your

6 A. Right in there.

7 Q. Indicating your collarbone area?

8 A. Yes.

3" or 9 Q. So you would estimate his height as being what, 5'

10 4"?

11 A. I don't know how tall my --

12 Q. You're about 6 --

13 A. I'm 6-foot-1.

he was? 14 Q. You're 6' 1", and you were a full head taller than

15 A. Yes.

16 Q. And he was not very stout?

17 A. No.

18 Q. And he would not have been ex-military?

19 A. Well, I don't know --

20 Q. Didn't look like ex-military to you; is that right?

21 A. He didn't -- he acted like ex-military, but he

didn't 22 appear to be physically ex-military.

23 Q. Because he was frail-looking?

24 A. He wasn't frail-looking. He just wasn't very

strong. 25 Q. All right. And his hair in a crew cut?

Darvin Bates - Cross

1 A. Yes, sir.

2 Q. He was well-dressed?

sport

3 A. He was clean and had on a clean pair of khakis and  
4 shirt.

5 Q. He was well-groomed?

6 A. Yes.

7 Q. He was very polite, you told us?

8 A. Yes.

striations in

9 Q. And he did not have a winged cap with little  
10 his hat?

11 A. No.

12 Q. Is that right?

13 A. That's correct.

the

14 Q. Now, had you seen photographs of this John Doe 2 in  
15 newspaper?

16 A. Yes.

evidence. Do

17 Q. Let me show you Exhibit 2142. It's not in  
18 you see that photograph?

19 A. Yes.

20 Q. Is that the -- a sketch of the person that you're

21 attempting to describe?

22 A. Yes.

23 MR. RYAN: Your Honor, we would offer 2142.

clarify 24 MR. THURSCHELL: Object, and just ask to

25 which of the two sketches.

13324

Darvin Bates – Cross

2. 1 THE WITNESS: The bottom one is John Doe No.

Honor. 2 MR. RYAN: All right. We offer 2142, your

to the 3 MR. THURSCHELL: Your Honor, I would object

being 4 newspaper article as hearsay. I'm not sure what it's

5 entered --

6 MR. RYAN: Just entered for the sketch.

contents 7 THE COURT: Well, we'll have to block out the

8 of the article.

with the 9 MR. RYAN: Let me go a little further than

10 witness, your Honor, before I make the offer.

11 THE COURT: All right.

12 BY MR. RYAN:

13 Q. In this Exhibit 2142 -- you see it on your screen?



14 A. Yes.

15 Q. Do you see the description that -- of the individual that's

16 underneath the sketches?

17 A. I can't read that. You talking about the print?

18 Q. Let me see if I can bring it in a little closer.  
Had you

19 read this information here prior to John coming to your waffle

20 shop?

21 A. No, sir.

22 Q. You'd just seen the sketch?

23 A. Yes.

24 Q. Now, did you have John Doe fill out an employment

25 application?

13325

Darvin Bates - Cross

1 A. I gave him employment applications, and he -- we were

2 shorthanded. We had dirty dishes stacked up at the waffle

3 shop, and I said, "Go to work, and you can fill those out after

4 we get caught up."

5 And he asked if he could bring them back the next day,

6 and he never brought them back.

7 Q. So you don't have an employment application --

8 A. No, sir.

9 Q. -- to show us today?

10 A. No, sir.

11 Q. Do you have a W-2?

12 A. No, sir.

13 Q. Didn't fill that out, either?

14 A. No, sir.

15 Q. Don't have a paycheck?

16 A. No, sir.

17 Q. Pay stub?

18 A. He never got a paycheck. I gave him -- I loaned  
him \$90

19 cash, and he was to pay me back Monday when he got  
paid.

20 Q. Did you pay other employees in cash?

21 A. No, sir.

22 Q. Just John?

23 A. Yes, sir.

24 Q. How about a timecard? Do you use timecards there  
in your

25 employment?

13326

Darvin Bates - Cross

1 A. Yes. Yes.

2 Q. Did you bring us his timecard?

3 A. No, sir.

4 Q. Didn't have a timecard?

5 A. Yes, sir. He filled out his timecard. Employees  
fill  
I  
read his  
my wife  
timecard  
6 their timecards out, and it was in the rack. His name,  
7 looked at it probably half a dozen times, trying to  
8 name. I could never read it. And Monday morning, when  
9 went to pull all the timecards out of the rack, his  
10 was gone.

11 Q. So you don't have a timecard?

12 A. No, sir.

13 Q. Now, the -- if the John Doe that was described in  
the  
wasn't  
14 newspaper was described as an -- as 5' 9" or 10", that  
15 the man that you saw?

16 MR. THURSCHELL: Objection to what --

17 THE COURT: Sustained as to what was in the  
newspaper.

18 BY MR. RYAN:

19 Q. Didn't see any tattoo?

20 A. No, sir.

21 Q. This man certainly didn't weigh 175 or 180 pounds?

22 A. No.

23 Q. And he had a -- like a flattop?

I would  
24 A. Well, I wouldn't say it was a flattop. It was what  
25 call a crew cut. His hair was real short.

13327

Darvin Bates - Cross

you  
1 Q. Now, at the time that you called the -- you told us  
2 called the FBI, you weren't able to provide them with a  
name?

3 A. No.

4 Q. You weren't able to provide them with any --

5 A. They didn't ask for a name.

number?  
6 Q. Weren't able to provide them with a Social Security

7 A. That's correct.

8 Q. He didn't have a motor vehicle --

9 A. No.

guess you  
10 Q. -- is that right? You couldn't tell them -- I

us  
11 knew at the time what the date was, but you can't tell

12 today?

13 A. I was sure --

14 Q. Excuse me?

15 A. Yeah. I knew that day.

16 Q. Do you have any -- you never saw him with Tim

McVeigh; is

17 that right?

18 A. No.

19 Q. You don't know whether this man who was in your  
shop was,

20 in fact, involved in the bombing, do you?

21 A. No.

22 Q. And you last saw him, at least in terms of a  
vehicle, on a

23 bicycle?

24 A. Correct.

25 MR. RYAN: That's all I have, your Honor.

13328

1 THE COURT: Any follow-through?

2 MR. THURSCHELL: No redirect, your Honor.  
The

3 witness is excused.

4 THE COURT: Is that agreed?

5 MR. RYAN: Yes, your Honor.

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

7 THE WITNESS: Thank you.

8 THE COURT: Next, please.

9 MR. WOODS: Richard Coffman.

10 THE COURTROOM DEPUTY: Raise your right hand,

please.

11 (Richard Coffman affirmed.)

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

13 Would you state your full name for the record  
and

14 spell your last name.

15 THE WITNESS: Richard Coffman, C-O-F-F-M-A-N.

16 THE COURTROOM DEPUTY: Thank you.

17 DIRECT EXAMINATION

18 BY MR. NEUREITER:

19 Q. Where are you from, sir?

20 A. Fort Mohave, Arizona.

21 Q. And what do you do for a living?

22 A. I don't have a job right now. I've been a part-  
time poker

23 dealer over in Nevada.

24 Q. Have you in the past worked for a department of

25 corrections?

13329

Richard Coffman - Direct

1 A. That's correct.

2 Q. And where was that?

3 A. That was in California.

4 Q. And what did you do and how long did you do it?

5 A. I was a supervising cook for the department of  
corrections,

6 and I did that for eight years.

7 Q. Are you familiar with an organization called the  
National

8 Alliance?

9 A. Yes.

10 Q. And what is the National Alliance?

11 A. We're an organization that is worried about the  
future of

12 European Americans.

13 Q. Would it be fair to say that your organization  
favors white

14 supremacy?

15 A. No. That's not fair to say that.

16 Q. Would it be fair to say that your organization  
favors white

17 separatism?

18 A. Yes.

19 Q. Does your organization oppose American citizenship  
for

20 people of nonwhite races?

21 A. Yes. If -- if this is to be our territory for our  
territory is,

22 people -- wherever our people are, wherever our  
races.

23 as a people, we would oppose citizenship of other  
24 Q. Did you at one time hold office in the  
organization?

25 A. Yeah. I was at one time a unit coordinator.

13330

Richard Coffman - Direct

1 Q. And are you currently affiliated with the National  
2 Alliance?

3 A. Yes.

4 Q. Are you --

5 A. I'm a member.

6 Q. You're a dues-paying member?

7 A. Yes.

8 Q. This is an organization where the members pay dues?

9 A. Yes.

10 Q. How does the National Alliance get out its message?

11 A. We get the message out by -- we have a book  
catalogue. We

12 sell books. We've got some periodicals. We've got a

13 periodical called Free Speech that comes out once a  
month. And

14 this is a -- in print what our radio programs were for  
the

15 previous month.

16 Q. Does the National Alliance have a publishing arm?

17 A. There are -- there are books that the National A --  
18 National Vanguard Books has published.

19 Q. Is National Vanguard Books part of -- or affiliated  
with



20 the National Alliance organization?

21 A. Yes. Yes.

22 Q. And explain that affiliation, if you could.

23 A. Well, it's a close affiliation. The National  
Alliances

24 are -- is the name of the organization that -- where  
the

25 membership is. And then National Vanguard Books is the  
arm of

13331

Richard Coffman - Direct

1 the organization that sells books and publishes books.  
I can't

2 say how many books National Alliance has published.

3 Q. And is it fair to say --

4 A. A few, I guess.

5 Q. -- that those publications carry the message of the  
6 National Alliance?

7 A. That's accurate.

8 Q. Does the National Alliance take a position with  
respect to

9 interracial marriage?

10 A. Yes. We're opposed to it.

11 Q. Does the National Alliance -- how does the National  
12 Alliance make itself accessible to new individuals who  
are

13 interested in the message of the National Alliance?

14 A. Well, we get -- on an individual basis, members  
distribute

15 our literature, pamphlets, encourage others to buy our  
books.

16 Q. Does the -- or did at one time the National  
Alliance have a

17 system of phone messages whereby interested individuals  
could

18 call?

19 A. We still have that system.

20 Q. Tell the jury exactly how that system works.

21 A. Usually, in individual homes, national -- a  
National

22 Alliance member will put in an answering machine and a  
private

23 line for the National Alliance, and people calling in  
will hear

24 a recorded message.

25 Q. Will the -- will the people calling in generally  
leave a --

13332

Richard Coffman - Direct

1 a return phone number or address?

2 A. We hope they will, but sometimes they just call and  
listen

3 to the message and then hang up. But sometimes, if  
they -- if

4 they want additional information, there is time to  
leave their

5 name and address, and then they -- we send them  
additional  
6 information and hope they will be encouraged to either  
buy some  
7 of our books or become ultimately a member after they  
find out  
8 more.

9 Q. In April of 1995, did you have a phone in your home  
that  
10 was listed as the National Alliance phone number in  
Arizona?

11 A. Yes.

12 Q. And what was that number, if you recall it?

13 A. Let me look.

14 Q. Well --

15 A. I've got it written down in a -- a little address  
book.

16 Q. Would looking at that address book refresh your  
17 recollection as to what that number was that you had  
your  
18 answering machine hooked up to?

19 A. It would tell me what it was.

20 Q. All right. Well, if you could glance at that and  
see if it  
21 refreshes your recollection, that would be helpful.

22 A. Okay.

23 THE COURT: Well, I don't think it's a matter  
of  
24 refreshing recollection. He's going to look at the  
book.

25 There isn't any objection to that, is there?

13333

Richard Coffman - Direct

1 MR. NEUREITER: Thank you.

2 THE WITNESS: It's scratched out on my book  
because  
3 it's no longer -- it -- this is an answering service  
that is no  
4 longer in existence. It was 768-8685.

5 BY MR. NEUREITER:

6 Q. And what was the area code?

7 A. At that time, it was 602, but that area code has  
been  
8 changed for the area to 520. 520 doesn't apply. At  
that time,  
9 it was 602.

10 Q. But that same area -- 520 or 602, those were the  
two area  
11 codes that would have applied, to the best of your  
12 recollection? Either applies now or did apply then?

13 A. No. It's a fact. The area code at that time was  
602.

14 Q. All right.

15 A. It's the only one that applied at that time.

16 Q. Did there come a time in 1995 when you received  
some  
17 unusual phone messages on your answering machine?

18 A. I got three phone messages from --  
19 Q. Hold on. The answer is yes, I take it?  
20 A. Oh, okay. Yeah. It's yes.  
21 Q. How was that number listed in -- or was it listed  
at all in  
22 the telephone directory in Arizona?  
23 A. It was in the Yellow Pages.  
24 Q. And what was it located under? What was the  
listing?  
25 A. It was located under "political organizations."

13334

Richard Coffman - Direct

1 Q. And there, you would find the words "National  
Alliance" and  
2 the number you just gave us?  
3 A. Right. Right above the "Republican Party," if I  
remember  
4 right.  
5 Q. So you got some phone calls in 1995. Can you  
remember what  
6 month it was that you received these phone calls?  
7 A. It was -- the Oklahoma City bombing was in April?  
Right?  
8 Q. That's what the evidence has been so far; yes.  
9 A. Okay. Well, it was -- it was towards the end or  
the first  
10 of that month. The end of the previous month. March

or the

11 first of April.

12 Q. If you could please tell the jury what best you  
recall

13 about the messages that were left on that National  
Alliance

14 answering machine.

15 A. Yeah. The individual identified himself as Tim  
Tuttle, and

16 he said that he -- and he left his address.

17 Q. Do you recall what town that address was in?

18 A. Kingman.

19 Q. Go ahead.

20 A. Kingman, Arizona.

21 Q. All right.

22 A. He left his address. And he said he wanted to talk  
to

23 somebody from the National Alliance, and he said he  
didn't have

24 a phone where he could be reached at. And he said he  
would be

25 leaving town soon. Kingman.

13335

Richard Coffman - Direct

1 Q. Right. Now, you said there were three messages?

2 A. Yes.

3 Q. And is that, to the best of your recollection, the

first

summary 4 message, or is this a compilation of the three and the

5 of the three?

messages 6 A. That's pretty close to what was said on all three

7 with one exception.

8 Q. Why don't you tell the jury about the exception.

message, he 9 A. I think I'm accurate to say that on the second

10 said that he wanted to -- he was going to call back the

didn't 11 following day at a particular time, and that because he

answer 12 have a phone, he hoped that somebody would be there to

Is 13 the phone instead of him just listening to the message.

14 that clear?

15 Q. Did you ever speak with this individual?

16 A. No. Never spoke with him.

message where 17 Q. After that second message, was there a third

18 the individual tried to recontact you?

19 A. There was a third message.

urgency 20 Q. Was there -- tell us, was there or wasn't there any

21 in his messages?

leaving 22 A. Yeah. He -- he emphasized that he was going to be

23 town soon, and therefore, he wanted to talk to somebody

with

24 the National Alliance soon.

25 Q. I'd like to put on the ELMO what has been  
previously

13336

Richard Coffman - Direct

1 admitted -- pages of what has been previously admitted  
as

2 Government Exhibit 553, I believe, and they are pages  
189, 190,

3 and 191. Now, this is a page of Exhibit 553 that's  
labeled

4 April 5, 1995. Do you see that at the top? Can you  
read that,

5 or am I going to have to zoom in a little more?

6 A. Zoom in a little bit more. I can read it.

7 Q. Is that accurate? That's April 5, 1995?

8 A. That's what it says.

9 Q. And we see a series of phone calls, and the first  
one is

10 from the Imperial Motel to Ryder Truck Rental One Way  
in Lake

11 Havasu, Arizona. Do you see that?

12 A. Yes.

13 Q. And that's April 5 at 3:43:18 p.m. Is that  
accurate?

14 A. Yes.

15 Q. Okay. And the second one is from the Imperial



Motel in

16 Kingman to a David Millar in Muldrow, Oklahoma. Do you  
see

17 that?

18 A. Yes.

19 Q. Do you know a David Millar?

20 A. No.

21 Q. The third one is to an account balance. And the  
fourth one

22 at 10:44 p.m. is from the Imperial Motel to -- if you  
could

23 just read that into the record what that says there.  
I'll zoom

24 in.

25 A. Area code (520) 768-8685.

13337

Richard Coffman - Direct

1 Q. To the best of your recollection, that's the wrong  
area

2 code?

3 A. Yeah. I could be wrong there. Maybe when I wrote  
that in

4 my address book, area code 602, I just didn't change  
the 602 --

5 Q. All right.

6 A. -- when it changed -- when it, in fact, changed to  
520. I

7 don't -- okay. Obviously, it's 520.

8 Q. But those last digits are the number --

9 A. The last digit. 768-8685. That's correct.

10 Q. If you look at -- that's a 3-minute-and-36-second  
call; is

11 that correct?

12 A. That's what it says.

13 Q. Do you recall the length of these messages? Were  
they

14 fairly lengthy, or were they short?

15 A. Yeah. Our messages were --

16 Q. Not the message that you left for people to hear  
but these

17 particular Tim Tuttle messages that were left for you.  
Were

18 those lengthy messages that were left, or were they  
relatively

19 brief, to your recollection?

20 A. The messages where people leave their name and  
address and

21 phone number and all that are very brief, as was his.  
The

22 phone message we had was maybe -- you know, 3, 4  
minutes long.

23 Q. All right.

24 A. And maybe even a little bit more than 4 minutes in  
some

25 cases, but I can't say that for sure. Thereabouts.  
Our

13338

Richard Coffman - Direct

want to 1 message, and then you hear the beep, and then if you  
2 leave your name and number. You get the drift.  
account 3 Q. Okay. We got the drift. Okay. The next one is an  
4 balance. Then at 11:03 p.m., a 3-minute-and-36-second  
call 5 from the Imperial Motel, and is that the same number to  
6 the  
7 National Alliance?  
8 A. That's the same number.  
top, 9 Q. And we turn to the next page, which is 190. At the  
10 it's April 6, 1995. And at 1:59 p.m., there's a 3-  
minute-and-11 22-second call from the Imperial Motel; and is that the  
same 12 number again?  
13 A. That's the same number.  
14 Q. At the National Alliance?  
15 A. At my house.  
National 16 Q. At your house. And it's listed here as the  
17 Alliance because that's what it was listed under in the  
Yellow 18 Pages?  
19 A. Yeah. Right.  
20 Q. Okay. And then at 9:58 p.m., there's a 17-second

call from

20 the Imperial Motel to the National Alliance.

21 A. Uh-huh.

machine

22 Q. Now, did you get a number of -- would your phone

23 indicate if somebody had called and not left a message?

24 A. All the time. Yeah. Sure.

25 Q. There would be a click or a beep?

13339

Richard Coffman - Direct

light

1 A. Yeah. Yeah. The machine would be -- a little red

there

2 would be flashing that you got a call, but then the --

3 would be nothing there.

4 Q. Okay.

5 A. Yeah.

6 Q. 9:59 and 39 seconds, Imperial Motel to the National

7 Alliance. Is that accurate?

8 A. Says the same.

9 Q. And that one was 0 time period there, so --

National

10 The next one is 10:27, Imperial Motel to the

11 Alliance; correct?

12 A. That's right.

13 Q. And that's 0, as well.

14 And 10:01 and 21 seconds, Imperial Motel to  
the

15 National Alliance. Again, it's 0.

16 And then 10:03 p.m., Imperial Motel to the  
National

17 Alliance. And this one was a 20-second call; is that  
right?

18 A. That's what it says.

19 Q. And then here is the April 7 at 1:57 p.m., 12-  
second call

20 from the Silver Spoon pay phone in Kingman, Arizona, to  
the

21 National Alliance; is that correct?

22 A. That's what it says.

23 MR. NEUREITER: Okay. I would, your Honor,  
like to

24 republish for the jury what has been previously  
admitted as

25 Government Exhibit 260, which is a registration at the  
Imperial

13340

Richard Coffman - Direct

1 Motel for Mr. Tim McVeigh, date in 3-31-95, date out  
April 7,

2 1995. And this is the Imperial Motel in Kingman,  
Arizona.

3 THE COURT: And you just did.

4 MR. NEUREITER: I did.

5 THE COURT: All right.

6 MR. NEUREITER: If it was all right with the  
Court.

7 THE COURT: I'd let you know if it wasn't.

8 BY MR. NEUREITER:

9 Q. Do you know a gentleman by the name of William  
Pierce?

10 A. Yes.

11 Q. Who is William Pierce?

12 A. William Pierce is the chairman of the National  
Alliance.

13 Q. Has Mr. Pierce authored some books?

14 A. Yes. He's -- he's authored two novels.

15 Q. Did he author those novels under a pseudonym?

16 A. Yes.

17 Q. What was that pseudonym?

18 A. Andrew Macdonald.

19 Q. And what were the names of those books?

20 A. One was The Turner Diaries. That was the first.  
And the  
21 second was Hunter.

22 Q. Did FBI agents come to visit you after the bombing  
in  
23 Oklahoma?

24 A. Yes.

25 Q. Did you try and sell those -- or did you sell those  
FBI

Richard Coffman - Direct

1 agents a copy of either of those books?

2 A. Yes.

3 MR. NEUREITER: Pass the witness.

4 THE COURT: Mr. Goelman.

5 CROSS-EXAMINATION

6 BY MR. GOELMAN:

the

7 Q. Mr. Coffman, my name is Aitan Goelman. I'm one of

You and

8 lawyers representing the United States in this matter.

9 I have never met, have we?

10 A. No.

you in

11 Q. You never spoke to whoever it was that was calling

12 March or April of 1995, did you, sir?

13 A. That's correct, I did not.

leave on

14 Q. And you indicated that the messages that you would

listen to

15 your answering machine that people would call up and

16 were sometimes lengthy; is that right?

and 4

17 A. No. I didn't say that. I said they were between 3

18 minutes.

particular

19 Q. There were different messages, depending on what

20 time someone called? Did you change them monthly?

21 A. I changed them just at -- I had -- oh, three, four  
messages

22 on hand, and I changed them periodically and without  
any kind

23 of schedule.

24 Q. And those messages broadcast the National  
Alliance's

25 particular agenda, what you wanted callers to know?

13342

Richard Coffman - Cross

1 A. Yes.

2 Q. To the best of your recollection, was the message  
-- the

3 outgoing message on the National Alliance's answering  
machine

4 in April, 1995, between 3 and 4 minutes long?

5 A. Oh, yes.

6 Q. I want you to look down on your screen again, and  
I'm

7 showing you page 190 from Government Exhibit 553.

8 A. Uh-huh.

9 Q. Defense counsel just asked you some questions about  
those

10 phone calls. And you identified the National  
Alliance's number

11 in Mohave Valley, Arizona; is that right, Mr. Coffman?

12 A. That's right.



seconds' 13 Q. The last five calls there were all under 20  
14 duration; isn't that right? Or 20 seconds or less?  
15 A. That's right.  
And 16 Q. I'm showing the telephone calls from April 7, 1995.  
17 that call indicates a 12-second duration, doesn't it?  
18 A. Yes.  
records to 19 Q. And that's the last phone call on these phone  
20 the National Alliance, isn't it, sir?  
21 A. That's all you have here.  
himself as 22 Q. Now, you don't know how the man who identified  
Mohave 23 Tim Tuttle got the number of the National Alliance in  
24 Valley, Arizona, do you, sir?  
25 A. I don't know.

13343

Richard Coffman - Cross

he called 1 Q. And you don't know what it is that he wanted when  
2 the National Alliance, do you?  
3 A. No. He told me what he wanted.  
4 Q. He wanted to talk to someone?  
5 A. Yeah.

6 Q. You don't know what he wanted to talk to someone  
about, do

7 you, sir?

8 A. Not at all.

9 Q. And you don't know how the person who identified  
himself as

10 Tim Tuttle even learned of the existence of your  
organization,

11 do you, sir?

12 A. No idea.

13 Q. But it's not hard, is it, Mr. Coffman?

14 A. No, it's not.

15 Q. The National Alliance is not a covert organization,  
is it?

16 A. No, it's not.

17 Q. In fact, you guys are listed in the Yellow Pages?

18 A. That's correct.

19 Q. And as -- what did you say your title was in the  
National

20 Alliance? Unit chief?

21 A. The answer to the question was that I -- I was at  
one time

22 a unit coordinator.

23 Q. Was one of your responsibilities as unit  
coordinator

24 recruitment and outreach?

25 A. Yes.

Richard Coffman – Cross

the 1 Q. And to that effect, did you occasionally represent  
2 National Alliance at gun shows?

3 A. Yes.

4 Q. As part of your effort to recruit new members?

5 A. That's correct.

sir? 6 Q. And you distributed literature there, didn't you,

7 A. Yes.

National 8 Q. That's one way that people could find out about  
9 Alliance if they were interested in it?

10 A. Yes.

11 Q. Your presence at gun shows?

12 A. Yes.

13 MR. GOELMAN: May I approach, your Honor?

14 THE COURT: Yes.

15 BY MR. GOELMAN:

put out 16 Q. Defense counsel asked you about some publications

received in 17 by your organization. I'm showing you what's been

that 18 evidence as Government Exhibit 158. Do you recognize

19 book, Mr. Coffman?

20 A. Yes.

21 Q. What's that book called?

22 A. Hunter.

23 Q. And that's one of the books your organization puts  
out?

24 A. Yes.

25 Q. That's one of the books that was written by William  
Pierce?

13345

Richard Coffman – Cross

1 A. Yes.

2 Q. The head of National Alliance?

3 A. Yes.

4 Q. And that, is it not, sir, is one of the pieces of  
5 literature that you sold at gun shows?

6 A. Yes.

7 Q. And if someone were to call your organization's  
phone  
8 number in April, 1995, they could obtain a copy of this  
book,

9 couldn't they?

10 A. Not by just calling. I would send them literature  
and with

11 a book catalogue in which Hunter is listed for sale.

12 Q. And then they could order Hunter through that  
catalogue?

13 A. Sure. Uh-huh.

14 Q. And is it fair to say, sir, that National Alliance

is in

15 favor of as many people as possible being exposed to  
the ideas

16 espoused in Hunter?

17 A. That's -- we're very agreeable to that idea. This  
-- this

18 is a novel. This -- but it's a way we disseminate  
ideas.

19 Q. It's a way that you reach the public?

20 A. Yes.

21 Q. And is it fair to say that your organization wants  
as many

22 people as possible to read that book?

23 A. I think that's fair to say, yeah.

24 Q. You never met Tim McVeigh, did you, Mr. Coffman?

25 A. No.

13346

Richard Coffman - Cross

1 Q. Never spoke to Tim McVeigh?

2 A. No.

3 Q. Never met Terry Nichols?

4 A. No.

5 Q. You didn't have anything to do with the Oklahoma  
City

6 bombing, did you, Mr. Coffman?

7 A. No.

8 MR. GOELMAN: That's all I have.  
9 THE COURT: Any redirect?  
10 MR. NEUREITER: No, your Honor. The witness  
is  
11 excused.  
12 THE COURT: All right. You may step down.  
You are  
13 now excused.  
14 Next, please.  
15 MR. WOODS: Betty Zabel.  
16 THE COURTROOM DEPUTY: Would you raise your  
right  
17 hand, please.  
18 (Betty Zabel affirmed.)  
19 THE COURTROOM DEPUTY: Would you have a seat,  
please.  
20 Would you state your full name for the record  
and  
21 spell your last name.  
22 THE WITNESS: My name is Betty Lou Zabel, Z,  
like in  
23 zebra, A-B-E-L.  
24 THE COURTROOM DEPUTY: Thank you.  
25 MR. WOODS: Thank you, your Honor.

13347

Betty Zabel - Direct

1

DIRECT EXAMINATION

2 BY MR. WOODS:

3 Q. Good morning, Ms. Zabel.

4 A. Good morning.

5 Q. Will you tell the jury where you live.

6 A. I live at 2030 East Andy Devine, Kingman, Arizona.

7 Q. Okay. What is that? What is that address? Is  
there an

8 apartment house or residence or --

9 A. Yes.

10 Q. Is it known as a Belle Artes (sic) Motel?

11 A. Yes, it is.

12 Q. Excuse me, your Honor. And how long have you lived  
there?

13 A. Four years.

14 Q. Okay. What unit do you live in?

15 A. No. 11.

16 Q. Okay. And have you lived in No. 11 the whole time?

17 A. Yes, sir.

18 Q. Okay. In February, 1995, did you come to know a  
person by

19 the name of Tim McVeigh?

20 A. Yes, I did.

21 Q. Will you tell the jury how you became acquainted  
with

22 Mr. McVeigh.

23 A. He lived in Unit 9.

24 Q. Okay.

would 25 A. And as he was outside, my going to the office, I

13348

Betty Zabel - Direct

1 speak to him.

2 Q. Did you come to know where he was from or his  
background?

3 A. No, sir.

4 Q. Did you learn whether or not he had been in the  
military?

5 A. Yes, sir.

6 Q. And what did he tell you about that?

7 A. I remarked to him that -- he wore fatigues all the  
time,

8 and I remarked to him that when my boys got out of the

9 military, they were ready to get rid of them. And he  
said he

10 liked them, and he would continue to wear them.

11 Q. All right. Did he tell you anything about his  
military

12 experience?

13 A. No, sir.

14 Q. Okay. Did he tell you where he had served or when  
he had

15 served?

16 A. No, sir. Our conversations didn't go into that,  
you



17 know --

18 Q. All right. When he was wearing fatigues, did you  
notice

19 anything unusual about his appearance?

20 A. He was always neat and tidy, but he always carried  
a --

21 what we call a sidearm, you know. A pistol.

22 Q. Where would he carry it?

23 A. More or less on his hip, down to his leg. You  
know, it was

24 strange for around there.

25 Q. Okay. Approximately how long did he live there, if  
you

13349

Betty Zabel - Direct

1 recall?

2 A. I'm not really sure. I'm --

3 MR. WOODS: Okay. Your Honor, may it please  
the

4 Court, the defense would offer into evidence Defense  
Exhibit

5 1430, which is the motel records for the Belle Artes  
(sic)

6 Motel by agreement with Government counsel with the  
foundation.

7 THE COURT: All right.

8 MR. MEARNS: That's agreed. No objection.

9 THE COURT: All right. You may do so then.

D1430

10 will be received as Belle Arte Motel records, Kingman,  
Arizona.

11 BY MR. WOODS:

12 Q. Now, Ms. Zabel, I've put on the screen there in  
front of

13 you a motel receipt from the Belle Arte at 2030 East  
Andy

14 Devine in Kingman. Is that the address where you live?

15 A. Yes, sir.

16 Q. Okay. And this is for a Mr. McVeigh, Timothy  
McVeigh, for

17 Suite No. 9. Is that your recollection of where Mr.  
McVeigh

18 lived?

19 A. Yes, sir.

20 Q. Okay. And it shows that he checked in on January  
31, '95,

21 paid for a week, February 7 of '95. Does that conform  
with

22 your memory about when you saw him?

23 A. Yes, sir.

24 Q. Okay. Did there come a time that you made a  
complaint to

25 the manager concerning Mr. McVeigh?

13350

Betty Zabel - Direct

1 A. It wasn't a -- a -- actual complaint. It was sort

of a --

2 a statement that some of his friends were rowdy,  
comparing, you

3 know, when he was there by himself.

4 Q. All right. Now, you say that "when his friends  
were

5 there." Would this be during the day, or during the  
evening,

6 or when?

7 A. Mostly during the day.

8 Q. Okay. And approximately how many people came when  
you saw

9 Mr. McVeigh in that motel?

10 A. Oh, there was three or four in and out, but only  
two that I

11 could identify.

12 Q. Okay. Over this one -- was it approximately one  
week that

13 you saw Mr. McVeigh there, or was it longer?

14 A. I can't really remember.

15 Q. Okay. Did the FBI come to interview you shortly  
after the

16 bombing in Oklahoma City?

17 A. Yes, sir.

18 Q. Okay. And they took statements from you?

19 A. Yes, sir.

20 Q. And did they show you this motel registration that  
21 reflected Mr. McVeigh was registered there?

22 A. No, sir. They -- this is the first I've seen of

this.

23 Q. All right. Did they show you photographs to ask  
you to  
24 identify other people that might have been there with  
25 Mr. McVeigh?

13351

Betty Zabel - Direct

1 A. Yes, sir.

2 Q. And by that time, had you seen some of the  
publicity on  
3 television?

4 A. Yes, sir.

5 Q. Okay. And was it a matter of interest in the  
Kingman area  
6 on local television stations?

7 A. Yes, it was.

8 Q. Okay. Did you identify some photographs that the  
FBI  
9 showed you?

10 A. Yes, sir.

11 Q. Okay. Do you recall which photographs you  
identified who  
12 the individuals were that you knew the names of?

13 A. Mr. Rosencrans -- what. I'm sorry. I get mixed up  
on that  
14 one.

15 Q. Okay. Mr. Rosencrans?

16 A. Yes.

17 Q. Do you recall another one?

18 A. Well, we just -- it was known in Kingman for Mr.  
Fortier,  
19 so they didn't show me a photograph of him.

20 Q. Okay. Did you tell the FBI that you had seen Mr.  
Fortier  
21 there?

22 A. Yes, sir.

23 Q. Okay. So you were able to identify two people  
other than

24 Mr. McVeigh; is that correct?

25 A. Yes, sir.

13352

Betty Zabel - Direct

1 Q. Now, approximately how many others were there that  
you  
2 couldn't identify?

3 A. Either two or three.

4 Q. Okay. Could you give the jury just a general  
description

5 of what you saw -- the description of the individuals  
that you  
6 saw there.

7 A. One --

8 THE COURT: Excuse me just a minute. You're  
not

9 talking about the photographs now?

10 MR. WOODS: No, your Honor.

11 THE WITNESS: No.

12 BY MR. WOODS:

13 Q. Just the two individuals that you couldn't  
identify, can

14 you give the jury just a general description of one and  
then

15 the other.

16 A. The one was -- I would say medium height, stocky  
build.

17 I -- I wouldn't attempt to give a facial description.

18 Q. Sure. Could you tell what race he was?

19 A. No. He was tan, but everybody in Arizona gets tan  
--

20 Q. Okay.

21 A. -- you know. Just you get out in our sunshine and  
--

22 Q. Sure.

23 A. But to be able to say if he was dark- or light-  
complexioned,

24 I could not do it.

25 Q. All right. What about the other person?

13353

Betty Zabel - Direct

1 A. He was a little heavier than Mr. Fortier. And they  
were in

2 and over -- I didn't pay that much attention to them  
except  
3 their -- their vulgarity.  
4 Q. Vulgarity?  
5 A. Yes.  
6 Q. All right.  
7 A. Mr. McVeigh was very mannerly, very polite. And  
these  
8 people would come in and they had used quite a lot of  
profane  
9 language. And it was surprising, you know, that one  
would be  
10 very mannerly and the others would be rude and -- and  
vulgar.  
11 Q. And how many days did this go on, this type of  
behavior?  
12 A. Almost the entire time he was there.  
13 Q. All right. And you made a statement to the  
management; is  
14 that correct?  
15 A. Yes. Well, it was just a general statement. It  
was not a  
16 complaint.  
17 Q. Okay.  
18 A. You know, it was just a --  
19 Q. Is that Mr. Rincon, the manager?  
20 A. Yes.  
21 Q. Did you ever notice Mr. Rincon talk to them?  
22 A. No. I didn't -- I cannot honestly say that I did.

asked to 23 Q. Okay. Do you know whether or not they were all  
24 leave the motel?

told me 25 A. A few days after they moved, well, then Mr. Rincon

13354

Betty Zabel - Direct

1 he was -- they were told to leave.

2 Q. Okay.

3 A. But I did not hear the conversation.

that 4 Q. All right. But you're sure it was Mr. McVeigh; is  
5 correct?

6 A. Yes, sir.

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

8 THE COURT: All right. Mr. Mearns.

9 CROSS-EXAMINATION

10 BY MR. MEARNS:

11 Q. Good morning, Mrs. Zabel. My name is Geoff Mearns.

McVeigh's 12 Mr. Woods was asking you questions about Mr.  
13 stay at this motel in approximately February of 1995.

14 A. Yes, sir.

particularly 15 Q. And I think you told us that you don't have a

16 clear recollection of a lot of the events back from



February of

17 '95?

18 A. Yeah.

19 Q. And would it be fair to say that you had very  
little

20 interaction with Mr. McVeigh during that week that he  
stayed

21 there?

22 A. Very little.

23 Q. You don't --

24 A. Just -- I'm the type of person if somebody is  
outside, you

25 know, I'll speak to them and talk to them -- to them  
about the

13355

Betty Zabel - Cross

1 weather and just, you know, things in general.

2 Q. And you didn't get to know him very well at all?

3 A. Oh, no.

4 Q. You did have a chance to observe him around the  
motel,

5 though; right?

6 A. Yes.

7 Q. Okay. And was it obvious to you that he was very  
hyper and

8 anxious?

9 A. Yes. Yes.

10 Q. And would it be fair to say that in -- that he  
acted very

11 suspicious?

12 A. Yes. Very strange about people that lived there,  
you know.

13 Q. And that was obvious to you, even though you didn't  
know

14 him very well?

15 A. Yes.

16 Q. With respect to the -- the tan man that you  
described as

17 being with Mr. McVeigh --

18 A. Yes.

19 Q. -- after the bombing in Oklahoma City, did you have  
an

20 opportunity to see sketches in the newspaper of a  
person who

21 was identified as John Doe No. 2?

22 A. Yes.

23 Q. And the tan man you saw didn't fit the sketch John  
Doe No.

24 2; right?

25 A. I cannot say. Under oath, I would not attempt to  
say yes,

13356

Betty Zabel - Cross

1 or no, you know. I'm not sure.

2 MR. MEARNS: No further questions.

3 MR. WOODS: Nothing further, your Honor.

4 THE COURT: Excusing her then, I assume?

5 MR. WOODS: Yes, your Honor.

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

7 THE WITNESS: Thank you.

8 MR. WOODS: Glynn Tipton.

9 THE COURTROOM DEPUTY: Would you raise your  
right

10 hand, please.

11 (Glynn Tipton affirmed.)

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

13 Would you state your full name for the record  
and

14 spell your last name.

15 THE WITNESS: Glynn A. Tipton, T-I-P-T-O-N.

16 THE COURTROOM DEPUTY: Thank you.

17 DIRECT EXAMINATION

18 BY MR. THURSCHELL:

19 Q. Good morning, Mr. Tipton.

20 A. Good morning.

21 Q. Mr. Tipton, where do you live?

22 A. Manhattan, Kansas.

23 Q. And where are you working?

24 A. For VP Racing Fuels and Palmer Industries.

25 Q. What do you do for VP Racing Fuels?

13357

Glynn Tipton - Direct

1 A. Effectively, I'm the manager and salesperson.

2 Q. Okay. Is that out of the Manhattan office?

3 A. Yes.

4 Q. All right. Did you hold the same position in  
October of

5 1994?

6 A. Yes, I did.

7 Q. Okay. Now, briefly, can you tell the jury what VP  
Racing

8 Fuels' business was in October of 1994.

9 A. We sell racing fuel to any type of motor sports,  
which

10 encompasses drag racing, circle track, just about  
anything that

11 has an internal combustion engine.

12 Q. Could you lean forward a little bit just to speak  
into the

13 microphone.

14 A. Okay.

15 Q. Thank you, sir. What types of fuel do you sell to  
these --

16 A. We carry a large line of gasoline, methanol,  
nitromethane,

17 various different power additives and accessories that  
go along

18 with, you know, petroleum and fuel products.

19 Q. Are you -- do you know Tim Chambers?

20 A. Yes, I do.

21 Q. Who is Tim Chambers?

22 A. He's the truck driver and does national events for  
VP San

23 Antone.

24 Q. VP San Antone. Is that the San Antonio, Texas  
office?

25 A. Yeah. The headquarters.

13358

Glynn Tipton - Direct

1 Q. Okay. Mr. Tipton, I'm going to show you what has  
been  
2 previously admitted as Government Exhibit G318. Have  
you ever  
3 met this individual in person?

4 A. Yes, I did.

5 Q. When did you meet him?

6 A. It would have been October 1, 1994.

7 Q. All right. And do you recall what time of day it  
was?

8 A. It was early afternoon, right around 1:00.

9 Q. Now, where were you when you met him?

10 A. I was at the Sears Craftsman Nationals just south  
of

11 Topeka.

12 Q. Okay. Is that -- tell the jury what the Sears  
Craftsman

13 Nationals is.

14 A. It's an NHRA-sanctioned drag race.

15 Q. And by NHRA, is that the National Hot Rod  
Association?

16 A. Yes, it is.

17 Q. Okay. What was the name of the racing park that  
you were

18 located at?

19 A. Heartland Park, Topeka.

20 Q. And where is that -- it's called the Topeka Park,  
but where

21 is it actually located?

22 A. It's south of Topeka, actually on Highway 75. I  
think

23 there's a sign there that says Pauline, Kansas, or  
something.

24 Q. Okay. Now, tell the jury about your encounter with  
this

25 individual.

13359

Glynn Tipton - Direct

1 A. Basically, he just had approached me. I was -- had  
my back

2 to the door -- side door in the --

3 Q. Let me stop you there. Maybe I should -- where

were you

4 specifically at the park when you first met this  
person?

5 A. Okay. I was at the race truck which is a semi  
tractor-

6 trailer, and we sold the fuel out of the -- out of the  
tractor.

7 Q. Is that sort of a mobile office for you when you go  
to

8 racetracks?

9 A. For those particular events, yes.

10 Q. Okay. Now -- now, go ahead and tell -- tell the  
jury what

11 happened.

12 A. I remember that I was at one point in time going  
down the

13 steps. I turned around and went back up to get  
something else.

14 I heard an individual holler "hey, boss" at me. I  
turned

15 around to look and find out what that individual  
wanted.

16 Q. Okay. And the individual that you saw was the  
individual

17 we just showed on the screen?

18 A. Yes.

19 Q. And did you subsequently come to learn that that  
was

20 Timothy McVeigh?

21 A. Yes, I did.

22 Q. Okay. Now, did you have a conversation with Mr.

McVeigh at

23 that time?

24 A. Yes, I did.

25 Q. And tell the jury what he said and what you said.

13360

Glynn Tipton - Direct

anhydrous 1 A. Basically, he was looking for 55-gallon drums of

2 hydrazine.

3 Q. Did he --

4 A. Price and availability.

anhydrous 5 Q. Okay. He asked you about the availability of

6 hydrazine, 55-gallon barrels?

7 A. Yes.

what he 8 Q. All right. When he asked you that, did you know

9 was talking about?

point 10 A. I did not know what anhydrous hydrazine was at that

11 in time.

12 Q. And so how did you respond?

company, 13 A. I would check with the chemical agent for the

Monday. 14 which was not at the event at that point in time, on

15 Q. Okay. And who was that chemical person at the



company?

16 A. That would be Wade Grey.

17 Q. Okay. Did Mr. McVeigh give you his name at that  
time?

18 A. He gave me the name of John, I believe.

19 Q. All right. And did you subsequently write that  
down?

20 A. Yeah. I -- at one point in time, I went back up  
into the

21 truck to get a piece of paper and a pen; and I was  
making some

22 notes as far as what he wanted, what his name was. I  
was going

23 to try and get his phone number.

24 Q. Okay. Did he give you his phone number?

25 A. No. He said he was in the process of moving from  
Junction

13361

Glynn Tipton - Direct

1 City to Salina, I believe. And that at that point in  
time, I

2 think I may have went back in the truck and got a  
business card

3 and gave it to him.

4 Q. And what was your purpose in giving him the  
business card?

5 A. He was going to get back in touch with me on the --  
on the

6 product.

7 Q. All right. Did you have any other conversation  
with him?

8 A. At that point in time, I think I turned around to  
go back

9 up the -- the steps, or maybe I was in the truck at  
that point

10 in time. But anyway, I turned around. He turned  
around to

11 leave. He stopped and asked me what the price of a  
drum of

12 nitromethane was.

13 Q. All right. And what did you tell him?

14 A. \$1,200, I believe.

15 Q. Okay. And then -- and then what occurred? Did you  
have

16 any further conversation?

17 A. No, he left at that point.

18 Q. Now, did you get a clear look at this individual  
while --

19 during the course of this conversation?

20 A. Yes.

21 Q. Okay. About how far away from him were you when  
you were

22 speaking to him?

23 A. Oh, I'd say the closest was about around 2 to 3  
feet.

24 Somewhere right around there.

25 Q. Okay. Now, you had mentioned to him that you would  
follow

13362

Glynn Tipton - Direct

that 1 up about the anhydrous hydrazine with Wade Grey; is

2 correct?

3 A. Yes. That is correct.

4 Q. Did you, in fact, do that?

5 A. Yes, I did.

6 Q. When did you do that?

7 A. Monday morning.

8 Q. Okay. You -- did you call Mr. Grey?

9 A. Yes, I did.

with 10 Q. Now, when you -- as a result of your conversation

11 Mr. Grey, did that cause him some concern?

12 A. Yes, it did.

13 Q. And what was his concern?

the 14 A. Well, basically, I at some point in time through

nitromethane with 15 conversation -- I had asked him if you mixed

be the 16 anhydrous hydrazine, you know, what would -- what would

or be 17 result. And he explained that it would become a bomb

18 explosive. And so at that point, I explained the whole

call the 19 situation and the contact, and he thought we ought to

20 ATF.

21 Q. He thought you should call the ATF?

22 A. Yes.

23 Q. And that's the Bureau of Alcohol, Tobacco, and  
Firearms?

24 A. Yes.

25 Q. Did you do that?

13363

Glynn Tipton - Direct

New 1 A. He conference-called to the office, I believe, in

2 Orleans -- I believe it was.

3 Q. Okay.

4 A. And they referred us to the Kansas City office  
because of

5 where the -- the interaction took place.

6 Q. Okay. Did you have any further contact with  
Timothy

7 McVeigh after that initial contact?

8 A. I received a phone call approximately two to three  
weeks

9 later.

10 Q. Okay.

11 A. I guess.

12 Q. Are you sure about the timing of that, two to three  
weeks?

13 A. Not 100 percent positive, no.

14 Q. Okay. Now, where were you when you received the  
phone

15 call?

16 A. I was in my office.

17 Q. And do you recall -- well, before I ask that, how  
do you

18 know that it was Timothy McVeigh or the same individual  
you had

19 spoken to earlier?

20 A. Because when he -- or when I answered the phone,  
anyway, he

21 explained to me, "I was looking for the anhydrous  
hydrazine,"

22 so --

23 Q. Okay. Now, did you ask him at that point whether  
he had

24 any plans about mixing the anhydrous --

25 A. Yes, I did.

13364

Glynn Tipton - Direct

1 Q. -- hydrazine and nitromethane?

2 A. Yes, I did.

3 Q. What did he say?

4 A. He said no, he didn't have any plans on that.

5 Q. Do you recall your phone number in October 1994 at  
the

6 office there?

7 A. Yes, I do.

8 Q. What was it?

9 A. It's (913) 539-2700.

Honor. 10 MR. THURSCHELL: Okay. Excuse me, your

11 BY MR. THURSCHELL:

51 of 12 Q. Mr. Tipton, I want to show you what -- what -- page  
553. 13 what has been previously admitted as Government Exhibit

14 And zooming in, do you see there your phone number --

15 A. Yes, I do.

16 Q. -- office phone number at the time?

17 A. Yes, I do.

that's 18 Q. Okay. And zooming out a bit, do you see the date  
19 indicated?

20 A. October the 7th.

21 Q. Does that refresh your memory that the call might  
have been

22 received only about a week after your initial contact?

23 A. Yeah.

24 Q. Now, looking -- looking across to the initial  
column, do

25 you see where that call was placed from?

Glynn Tipton - Direct

1 A. Yes.

2 Q. And where is that?

3 A. It says Kingman, Arizona.

4 Q. Okay. And the residence of Michael Fortier; is  
that right?

5 A. Yes.

6 Q. Okay. And do you see some additional -- another  
phone call

7 made shortly after the one to your office?

8 A. Yes.

9 Q. And was that made to Coogle Trucking?

10 A. Yes, it was.

11 Q. What is Coogle Trucking?

12 A. It's another company that services NHRA national  
events --

13 Q. Okay.

14 A. -- with racing fuel.

15 Q. They sell racing fuel, also?

16 A. Yeah. They --

17 Q. Do they sell nitromethane?

18 A. They are bigger in the nitromethane than they are  
the

19 racing fuel.

20 Q. Mr. Tipton, when -- when did you first realize that  
it was

21 Timothy McVeigh who you had had contact with on these

22 occasions?  
23 A. After I had been presented with a picture by the  
FBI and I  
24 started comparing my description that I had given them  
to  
25 the -- to the picture.

13366

Glynn Tipton - Direct

1 Q. Okay. When you -- you were given a photograph of  
Timothy  
2 McVeigh by the FBI?

3 A. Yes.

4 Q. And were you given a photograph of Terry Nichols at  
the  
5 same time?

6 A. I believe so.

7 Q. Okay. And you, after some cogitation -- you  
decided that  
8 the person you had seen was Timothy McVeigh?

9 A. Yes.

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

11 THE COURT: Mr. Goelman.

12 CROSS-EXAMINATION

13 BY MR. GOELMAN:

14 Q. Good morning, Mr. Tipton.

15 A. Good morning.



16 Q. On October 1, 1994, sir, you had a face-to-face  
encounter

17 in Kansas with Tim McVeigh?

18 A. Yes, I did.

19 Q. And he was looking to buy fuel?

20 A. Anhydrous hydrazine.

21 Q. And nitromethane?

22 A. And nitromethane, yeah. Basically.

23 Q. Two things that, when combined together, would be  
24 explosive?

25 A. Yes.

13367

Glynn Tipton - Cross

1 Q. You testified that Mr. McVeigh made inquiries about  
buying

2 a drum of nitromethane; is that right?

3 A. Yes.

4 Q. Did he actually try to buy nitromethane from you on  
5 October 1, 1994?

6 A. No. He just asked for a price.

7 Q. And after you told him the price, did he explain  
why he

8 didn't want to take possession of nitromethane right  
then and

9 there?

10 A. No, he did not.

evidence 11 Q. I want to show you what's already been received in

VP 12 as Government Exhibit 2098. Is that what the top of a

13 barrel of nitromethane looks like?

14 A. Yes, it is.

15 Q. So it's clearly labeled as nitromethane?

16 A. Uh-huh.

17 Q. And do you have experience in selling and handling  
18 55-gallon drums of nitromethane for VP?

19 A. Yes, I do.

a 20 Q. Could you fit three of those drums in the trunk of

21 compact car like a Chevy Spectrum?

22 A. No.

gallon 23 Q. But you could, could you not, sir, load three 55-

24 drums into a pickup truck with a camper shell?

25 A. Oh, yes.

13368

Glynn Tipton - Cross

those 1 Q. And isn't it a fact, Mr. Tipton, that each one of

2 55-gallon drums weighs about 500 pounds?

3 A. That is correct.

in 4 Q. Are you familiar with an NHRA race held every year

5 Ennis, Texas?

6 A. Yes, I am.

7 Q. And is VP Racing represented at that race?

8 A. Yes, they are.

9 Q. Is Coogle Trucking represented at that race?

10 A. Yes, they have been.

11 Q. Okay. And were you personally at that race on  
October 21,

12 1994?

13 A. No, I was not.

14 Q. And why is that?

15 A. That's not my territory.

16 Q. And you already testified that Tim Chambers is a  
driver for

17 VP?

18 A. Yes, he is.

19 Q. Would Tim Chambers have been at that race as part  
of his

20 duties for VP?

21 MR. THURSCHELL: Objection, your Honor.

22 THE COURT: Sustained.

23 BY MR. GOELMAN:

24 Q. I want to show you what's already been received in  
evidence

25 as Government 143. Do you recognize that as a receipt,  
a VP

13369

Glynn Tipton - Cross

1 Racing Fuels receipt?

the

2 A. Yeah. That looks like one of the ones they use off

3 trucks.

of

4 Q. Does that indicate a cash purchase of three drums

5 nitromethane?

6 A. Yeah.

him

7 MR. THURSCHELL: Your Honor, I'll object to

8 testifying unless he has personal knowledge of this.

9 THE COURT: Sustained.

10 BY MR. GOELMAN:

drums

11 Q. Mr. Tipton, have you ever made a cash sale of three

12 of nitromethane?

13 A. No, I have not.

become

14 Q. Through your work at VP Racing, sir, have you

15 familiar with how barrels are stored?

16 A. Yeah.

barrels

17 Q. And have you become familiar with any markings that

18 make on concrete floors?

19 A. Yes.

evidence 20 Q. I want to show you what's already been received in

21 as Government 2054. Do you see those markings on that  
floor?

22 A. Yes, I do.

23 Q. Do they look familiar to you?

24 A. They look like a drum has been sitting in those  
positions.

25 Q. Can you count how many rings there are on that  
picture?

13370

Glynn Tipton - Cross

1 A. It appears that there's three.

2 MR. GOELMAN: Thank you, Mr. Tipton. That's  
all I

3 have.

4 THE COURT: Any redirect?

5 MR. THURSCHELL: No redirect, your Honor.  
Witness is

6 excused.

7 THE COURT: All right. You may step down.  
You're

8 excused.

9 MR. WOODS: Kelly Langenburg.

10 THE COURT: Thank you.

11 THE COURTROOM DEPUTY: Would you raise your  
right

12 hand, please.

13 (Kelly Langenburg affirmed.)

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

15 Would you state your full name for the record  
and

16 spell your last name.

17 THE WITNESS: Kelly Langenburg, L-A-N-G-E-N-B-  
U-R-G.

18 THE COURTROOM DEPUTY: Thank you.

19 MR. WOODS: Thank you, your Honor.

20 DIRECT EXAMINATION

21 BY MR. WOODS:

22 Q. Good morning, Ms. Langenburg. Will you tell the  
jury where

23 you live?

24 A. Snover, Michigan.

25 Q. Okay. Are you the sister of Lana Padilla?

13371

Kelly Langenburg - Direct

1 A. Yes, I am.

2 Q. Okay. Do you know Terry Nichols?

3 A. Yes, I do.

4 Q. Approximately when did you meet Terry Nichols?

5 A. Oh, the exact year, I don't know. Probably 15  
years ago.

you? 6 Q. All right. How much older is Lana Padilla than

7 A. About 16 years.

married 8 Q. Okay. Do you recall a time that Terry Nichols was

9 to your sister, Lana Padilla?

10 A. Yes.

you at 11 Q. All right. And when they got married, how old were

12 that time?

13 A. 17.

after he was 14 Q. Okay. Did you baby-sit for their child, Josh,

15 born?

16 A. Yes, I did.

Padilla 17 Q. Okay. Do you recall the time that Terry and Lana

18 got divorced?

19 A. Yeah. Sort of.

went 20 Q. All right. Do you recall the time that Mr. Nichols

21 into the Army?

22 A. Vaguely, yes.

23 Q. All right. Were you married to James Nichols?

24 A. Yes.

Nichols? 25 Q. What period of time were you married to James

## Kelly Langenburg – Direct

1 What years?

2 A. '84 and '85.

3 Q. Okay. And do you have a son by James Nichols?

4 A. Yes, I do.

5 Q. And what is his name?

6 A. Chase.

7 Q. And how old is he?

8 A. 12.

9 Q. Okay. Have you subsequently remarried?

10 A. Yes.

11 Q. Okay. During the year 1993, did you come to know a  
person

12 by the name of Tim McVeigh?

13 A. Yes.

14 Q. And where did you meet Mr. McVeigh?

15 A. I met him at my place of work.

16 Q. And where do you work?

17 A. LaFave Steel.

18 Q. And where is that?

19 A. In Cass City, Michigan.

20 Q. Okay. How did you meet Mr. McVeigh?

21 A. He had come in with James.

22 Q. Okay. Did you find out whether or not he was  
living with



23 James?  
24 A. Yes. I knew he was because he was picking Chase up  
from  
25 the babysitter's and taking him back to James', and  
Chase would

13373

Kelly Langenburg - Direct

1 talk about Tim being there.  
2 Q. Okay. Do you and James share custody of Chase?  
3 A. I have custody. He has visitation.  
4 Q. Okay. Do you recall approximately what time period  
it was  
5 that Tim McVeigh was living with James?  
6 A. Around '93.  
7 Q. All right.  
8 A. Maybe part of '94.  
9 Q. And during that time, do you know whether or not  
Terry  
10 Nichols was living in Decker, Michigan?  
11 A. In '93, I believe he was. Part of '93.  
12 Q. Do you recall whether or not he was married at that  
time?  
13 A. Yes, he was.  
14 Q. And did you meet his wife?  
15 A. Yes, I did.  
16 Q. And would you tell the jury her name?

17 A. Marife.  
18 Q. Okay. And did they have any children?  
19 A. Yes, they do.  
20 Q. And what was the daughter's name?  
21 A. Nicole.  
22 Q. Okay. Do you recall when Terry Nichols left the  
Decker,  
23 Michigan area?  
24 A. In the end of '93, I believe it was.  
25 Q. All right. And at that time, where was your  
sister, Lana

13374

Kelly Langenburg - Direct

1 Padilla, living?  
2 A. In Las Vegas.  
3 Q. Okay. Do you know whether or not Terry Nichols  
went to Las  
4 Vegas?  
5 A. I don't know for sure. I believe he did, but I  
don't know  
6 for sure.  
7 Q. And was Tim McVeigh still living at the Decker  
farm, to  
8 your knowledge?  
9 A. Yeah. As far as I know.  
10 Q. And do you know approximately when he left the  
Decker farm?

11 A. Not exactly.

12 Q. Okay. Now, I want to call your attention to April  
the 21st

13 of 1995, two days after the bombing in Oklahoma City.

Do you

14 recall that period of time?

15 A. Yes.

16 Q. Okay. Did you have an occasion to be called down  
to the

17 sheriff's office in Sanilac County?

18 A. Yes, I did.

19 Q. Okay. What day and what time was that?

20 A. April 21st, around 5:30, 6:00 in the morning.

21 Q. Okay. Who did you meet with there?

22 A. Paul Cowley.

23 Q. And who is he?

24 A. He's a detective at the sheriff's department. And  
Gary

25 English from the Friend of the Court.

13375

Kelly Langenburg - Direct

1 Q. And what is Friend of the Court?

2 A. What is Friend of the Court?

3 Q. Yeah. What is a Friend of the Court? Is that an

4 investigative position, or is that a --

5 A. Yeah.

6 Q. -- official position there in the Michigan?

7 A. From the Friend of the Court office.

8 Q. Okay.

9 A. He's an investigator for Friend of the Court  
office.

10 Q. There's an office there called Friend of the Court?

11 A. Yes.

12 Q. Okay. Those two people: Mr. English and Mr.  
Cowley. And

13 anybody else present?

14 A. Dave Hall and two men from the FBI. I believe  
there were

15 two.

16 Q. And during that meeting, did they ask you questions  
about

17 your knowledge of Mr. McVeigh and Terry Nichols and  
James

18 Nichols?

19 A. Yes.

20 Q. And did you tell them everything that you could  
recall

21 about Timothy McVeigh, Terry Nichols, and James  
Nichols?

22 A. As much as I could remember.

23 Q. Okay. Did you advise them that Terry Nichols had  
been

24 married to your sister, Lana Padilla?

25 A. Yes.

13376

Kelly Langenburg - Direct

of your 1 Q. And did you give them the address and phone number  
2 sister in Las Vegas?

3 A. Yes, I did.

home 4 Q. And you had that current number, work number, and  
5 number?

6 A. I believe I had her home number.

Terry 7 Q. Okay. Now, what did you tell the FBI concerning  
8 Nichols, as best you can recall, at that time?

9 MS. WILKINSON: Objection, your Honor.

10 THE COURT: Sustained.

11 BY MR. WOODS:

remember 12 Q. Okay. Best you can recall, you told them what you  
13 about where he lived; is that correct?

14 A. I don't believe at the time I knew where he lived.

15 Q. Well, I mean, in the past. Where --

-- 16 A. In the past, yeah; but at the current time, I don't

Timothy 17 Q. And did you tell them whatever you knew about  
18 McVeigh?

19 A. Yeah. As far as what I knew, yeah.

20 Q. Okay. Did you know very much?

21 A. No. I didn't know Tim very well.

for a  
22 Q. Okay. You just knew that he had been living there  
23 period of time; is that correct?

24 A. Yes.

home  
25 Q. And at that time, you did not know Terry Nichols'

13377

Kelly Langenburg - Direct

1 address, where he was living at that time?

at the  
2 A. I don't believe I knew that he was -- where he was  
3 time.

knew  
4 Q. Okay. And you gave them information about what you  
5 about his living there in the past in Michigan; is that  
6 correct?

7 A. Yes.

your  
8 MR. WOODS: Thank you. No further questions,  
9 Honor.

10 THE COURT: Any questions?

Honor.  
11 MS. WILKINSON: We have no questions, your

12 THE COURT: All right. Excusing her?

13 MR. WOODS: Yes, your Honor.  
14 THE COURT: You may step down. You're  
excused.  
15 MR. WOODS: Sheila Nicholas.  
16 THE COURT: All right. Sheila Nicholas.  
Nicholas?  
17 MR. WOODS: Excuse me?  
18 THE COURT: The name is Nicholas?  
19 MR. WOODS: Yes, your Honor.  
20 THE COURT: All right. I thought I heard you  
say  
21 that.  
22 MR. WOODS: We're skipping over Mr. Hall, your  
Honor.  
23 THE COURT: All right.  
24 THE COURTROOM DEPUTY: Would you raise your  
right  
25 hand, please.

13378

1 (Sheila Nicholas affirmed.)  
2 THE COURTROOM DEPUTY: Would you have a seat,  
please.  
3 Would you state your full name for the record  
and  
4 spell your last name.  
5 THE WITNESS: Sheila Vianne Nicholas, N-I-C-H-  
O-L-A-S.

6 THE COURTROOM DEPUTY: Thank you.

7 DIRECT EXAMINATION

8 BY MR. NEUREITER:

9 Q. Just for the record and jury, that's Nicholas, l-a-  
s;

10 correct?

11 A. Yes.

12 Q. No relation to Terry Nichols?

13 A. No.

14 Q. How are you doing today?

15 A. I'm doing fine. Thanks.

16 Q. Could you tell the jury where you're from.

17 A. I'm from Vassar, Michigan.

18 Q. And where is that precisely for people who aren't  
familiar

19 with Michigan?

20 A. It's located in the Thumb.

21 Q. So down to the bottom of the Thumb of Michigan.  
That's

22 where Vassar is?

23 A. I would say roughly mid Thumb area.

24 Q. Mid thumb. And where is Detroit in relation to --

25 A. Two hours south.

13379

Sheila Nicholas - Direct



1 Q. The bottom of the Thumb?

2 A. Yes.

3 Q. How old are you?

4 A. 26.

5 Q. And what do you do for a living?

6 A. I take care of apartments, and I am a mother.

7 Q. You're married?

8 A. Yes.

9 Q. To whom are you married?

10 A. Kevin Nicholas.

11 Q. And do you have children?

12 A. Yes. We have two.

13 Q. What are their ages?

14 A. My daughter is six and my son is just over two.

15 Q. Do you know Timothy McVeigh?

16 A. Yes, I do.

17 Q. And do you know Terry Nichols?

18 A. Yes, I do.

19 Q. Let's first talk about how you know Tim. When was  
the  
20 first time you met Timothy McVeigh?

21 A. November of '94.

22 Q. And before you met him, had you learned that your  
husband  
23 and Tim were friends?

24 A. Yes.

25 Q. And had your husband told you a little bit about  
Tim before

13380

Sheila Nicholas - Direct

1 you met him?

2 A. Somewhat, yeah.

3 Q. What did he tell you about Tim?

4 A. That he had --

5 MR. MACKEY: Objection.

6 THE COURT: Sustained.

7 BY MR. NEUREITER:

8 Q. Did there come a time when Tim came to your home?

9 A. Yes, there was.

10 Q. If you could tell the jury when that was and how  
that came

11 about.

12 A. November of '94, I believe he was just in the area  
and

13 popped in.

14 Q. He popped in?

15 A. Yeah.

16 Q. Had there been any prior notification that Tim  
would be

17 popping in?

18 A. Maybe a few hours.

19 Q. And was that Mr. McVeigh's practice, to your  
knowledge?

20 A. Yes.

21 Q. Just popping in?

22 A. Yes.

23 Q. Did Mr. McVeigh spend Thanksgiving of 1994 with you  
and

24 your family?

25 A. Yes, he did.

13381

Sheila Nicholas - Direct

1 Q. Describe that for the jury.

2 A. He went with us to our family Thanksgiving. That  
would be

3 my side. Attended the dinner.

4 Q. And you say Mr. McVeigh popped in in November of  
1994. Was

5 this a one- or two-hour visit and then he left, or did  
he stay

6 for an extended period of time in your home?

7 A. He stayed for approximately two months.

8 Q. And to the best of your recollection, when did he  
leave

9 your home?

10 A. The beginning of January of '95.

11 Q. The beginning of January, or was it the end of  
January?

be. 12 A. Super Bowl time. I'm not sure what date that would

13 Q. Around the Super Bowl in 1995?

14 A. Yes.

living 15 Q. And describe your household for us. You -- who was

months? 16 there at the time when Tim was living there for two

17 A. My husband, myself, and my daughter and Tim.

two 18 Q. Would -- did Tim stay there continuously for that

19 months, or did he come and go on occasion?

20 A. He came and went.

during 21 Q. Can you remember how many times he came and went

22 those two months?

23 A. For extended times would be twice.

24 Q. And do you know where he went?

Arizona 25 A. He -- I believe he went to New York once and to

13382

Sheila Nicholas - Direct

1 once.

some car 2 Q. Okay. Did there come a time where Mr. McVeigh had

3 problems?

4 A. Yes, there was.

5 Q. Could you describe that incident to the best of  
your  
6 recollection to the jury.

7 MR. MACKEY: Objection. Lack of foundation.

8 THE COURT: You have to establish the  
foundation.

9 MR. NEUREITER: Very well.

10 BY MR. NEUREITER:

11 Q. Did you -- during one of these periods when Mr.  
McVeigh was

12 gone, were you in the home with Kevin?

13 A. Yes.

14 Q. And did Kevin receive a phone call?

15 A. Yes, he did.

16 Q. And on receiving that phone call, did your husband  
tell you  
17 what his intent was to do?

18 A. Yes. He intended on going to pick Tim up. Help  
him get  
19 his car home.

20 Q. Okay. And did your husband leave the home?

21 A. Yes, he did.

22 Q. And did he reappear sometime thereafter with Mr.  
McVeigh?

23 A. Yes, he did.

24 Q. And did you see the next day a vehicle that Mr.  
McVeigh had

25 been driving?

Sheila Nicholas - Direct

1 A. Yes.

2 Q. I'd like to show on the ELMO what has not yet been  
3 admitted, D1838.

4 And do you recognize that?

5 A. Yes, I do.

6 Q. And what is that?

7 A. That is Tim's car.

8 Q. And is that after the incident where Kevin went to  
pick him  
9 up that you saw this vehicle?

10 A. Yes, it is.

11 MR. NEUREITER: We offer D1838.

12 MR. MACKEY: No objection.

13 THE COURT: Received. May be shown.

14 BY MR. NEUREITER:

15 Q. And that's -- did Tim tell you what had happened to  
his  
16 car?

17 A. He told us he had been rear-ended, yes.

18 Q. He had been rear-ended. And was that why Kevin was  
going  
19 to pick him up?

20 A. Yes.

21 Q. How far away did Kevin have to go to pick up Tim,

to your

22 knowledge?

23 A. Approximately 30 miles, 20 miles.

24 Q. Is it unusual for folks at rural Michigan to drop  
25 everything and go and help out a friend who's had car  
troubles?

13384

Sheila Nicholas - Direct

1 MR. MACKEY: Objection.

2 THE WITNESS: No, it's not.

3 THE COURT: Sustained.

4 BY MR. NEUREITER:

5 Q. After this accident, and when Tim came back to your  
home,

6 did he stay with you continuously from that time on  
until he

7 left in -- at Super Bowl time, 1995?

8 A. He had left one other time. I'm not sure if that  
was

9 before or after the incident.

10 Q. Okay. Did -- over the course of those two months  
that he

11 was there, did you get to know Tim?

12 A. Yes.

13 Q. And did you come to trust Tim?

14 A. Yes.

15 Q. Did Tim play with your child?

16 A. Yes.

17 Q. Did you run errands with Tim?

18 A. Yes.

19 Q. Did you have conversations with Mr. McVeigh?

20 A. Yes.

21 Q. Did you come to learn some of his political  
beliefs?

22 A. A few.

23 Q. Could you tell those to the jury?

24 A. He was unhappy about the way Waco had ended.

25 Q. Did he have some views about gun control?

13385

Sheila Nicholas - Direct

1 A. Yes. He was unhappy with some of the laws that  
they had

2 tried to pass, I guess.

3 Q. And with respect to the issue of Waco, was Mr.  
McVeigh's

4 unhappiness with the way that had ended shared by many  
people

5 in your community?

6 A. Yes.

7 Q. Did you talk with Tim a lot over those two months?

8 A. Yes.

9 Q. Was -- where was Kevin during the time when you



were

10 running errands with Tim and talking with Tim?

11 A. He was working.

12 Q. What was Kevin doing?

13 A. Farming.

14 Q. And did -- what kinds of errands did Tim help you  
run?

15 A. Grocery store, shopping, visiting.

16 Q. Did you allow Mr. McVeigh to use your telephone --

17 A. Yes, I did.

18 Q. -- while he was there in your home?

19 A. Yes.

20 Q. Did you know who he was calling?

21 A. No, I did not.

22 Q. Did you know where he was calling?

23 A. No, I did not.

24 Q. How was -- how were those calls paid for?

25 A. I believe he used a calling card. They were not  
charged to

13386

Sheila Nicholas - Direct

1 my phone.

2 Q. Would he have those conversations in the living  
room, or

3 would he go into another room so that you couldn't hear  
the

4 conversations?

5 MR. MACKEY: Objection. Form of the question.

6 THE COURT: What's the objection?

7 MR. MACKEY: Objection to the form of the  
question.

8 THE COURT: Yes. It's leading.

9 BY MR. NEUREITER:

10 Q. Were you able to overhear the conversations that  
Tim had?

11 A. No.

12 Q. Now, let's talk about Terry Nichols. How many  
times had

13 you met Mr. Nichols?

14 A. Once.

15 Q. And can you remember, to the best of your  
recollection,

16 when that occurred?

17 A. April -- the beginning of April, 1995.

18 Q. And with whom -- what was the context of your  
meeting with

19 Mr. Nichols?

20 A. Context?

21 Q. Yeah. Who was there? How did it come about?

22 A. Him and his wife and his daughter had come for a  
visit.

23 Q. Okay. I'd like to put on the ELM0 what's been  
marked for

24 identification as D1625.

of 25 Ask you if you recognize that as a photograph

13387

Sheila Nicholas - Direct

1 Mr. Nichols, his wife, and his daughter.

2 A. Yes.

3 MR. NEUREITER: We offer it, your Honor.

4 MR. MACKEY: No objection.

5 THE COURT: Received.

6 BY MR. NEUREITER:

three 7 Q. If you could just identify for the record who those  
8 people are.

9 A. Terry Nichols, Marife, and his daughter, Nicole.

10 Q. And they came in April of 1995 to your home?

11 A. Yes.

12 Q. Can you describe how long they stayed?

13 A. Approximately two hours.

14 Q. And why did he come by your house?

15 MR. MACKEY: Objection.

16 THE COURT: Sustained.

17 BY MR. NEUREITER:

occurred 18 Q. Did -- can you describe the conversation that

19 during those two hours that they visited in April of  
1995.

20 A. Catch up. Hadn't seen each other in quite a while.

21 Q. When you say they hadn't, this is Kevin and Tim --  
or Kevin

22 and Terry?

23 A. Yes.

24 Q. And were you all in the same room?

25 A. Different parts of the same room, yes.

13388

Sheila Nicholas - Direct

1 Q. And were you speaking with Mrs. Nichols?

2 A. Most of the time, yes.

3 Q. Did Mr. Nichols explain his purpose in being in  
Michigan at

4 that time?

5 A. Yes.

6 Q. And what was that?

7 A. He was attending a gun show.

8 Q. And did you, during the course of those  
conversations,

9 learn the types of items that Mr. Nichols was selling  
at those

10 gun shows?

11 MR. MACKEY: May I object and just make clear  
that the

12 witness is speaking with firsthand knowledge of  
conversations

13 with Mr. Nichols, as opposed to his wife.

14 THE COURT: You're asking what Mr. Nichols  
said to  
15 her?

16 MR. NEUREITER: Yes.

17 BY MR. NEUREITER:

18 Q. Only talk about what specifically you overheard Mr.  
Nichols  
19 saying during those conversations.

20 A. He was selling shovels, fertilizer -- small amounts  
of  
21 fertilizer, and guns.

22 Q. Okay. Describe the shovels and how that -- how you  
heard  
23 about that.

24 A. My husband decided he'd like to purchase one, which  
he did.  
25 I have not seen it, so I don't know what it looks like;  
but it

13389

Sheila Nicholas - Direct

1 was a shovel.

2 Q. Did you, Mr. Nichols -- did you hear Mr. Nichols  
say the  
3 origin of the shovels, where he had gotten them?

4 A. No. I don't recall.

5 Q. Now, you said he was selling fertilizer. Can you  
describe

6 what you heard Mr. Nichols say about his sale of  
fertilizer at

7 that time?

8 A. He was selling mayonnaise-sized jars, small  
amounts.

9 Q. About this size?

10 A. Yeah, of fertilizer for personal use.

11 Q. And did you overhear Mr. Nichols and your husband  
have some

12 laughter about his sale of fertilizer?

13 A. Yes, I did.

14 Q. Can you describe that for the jury and what caused  
that to

15 come about.

16 A. My husband thought it odd that someone would pay  
for a

17 small amount when they could purchase a larger amount  
for the

18 same amount of money at a fertilizer place.

19 Q. And did Mr. Nichols -- what did Mr. Nichols say?

20 A. A lot of people were not aware that they could  
purchase it

21 in larger quantities, and a lot of people only needed a  
small

22 amount.

23 Q. Did he say anything about his -- how that  
particular

24 product was -- was selling?

25 A. Pretty well.

13390

Sheila Nicholas - Direct

1 MR. NEUREITER: One moment, your Honor.

2 THE COURT: Yes.

3 MR. NEUREITER: Pass the witness, your Honor.

4 THE COURT: Mr. Mackey.

5 CROSS-EXAMINATION

6 BY MR. MACKEY:

7 Q. Is it true that people from Michigan get tired of  
using  
8 their hand to show where they live?

9 A. Yes.

10 Q. Let me show you Government Exhibit 2134. It's not  
yet been  
11 admitted. And is that an accurate depiction of the  
relative  
12 location of places like Decker and Vassar and Saginaw,  
13 Michigan?

14 A. Yes.

15 MR. MACKEY: Judge, I'd offer 2334 (sic).

16 MR. NEUREITER: No objection.

17 THE COURT: Received.

18 BY MR. MACKEY:

19 Q. Mrs. Nichols -- Nicholas -- I'm sorry -- this shows  
where  
20 Decker is; correct?

21 A. Uh-huh.

there? 22 Q. And Vassar, you and your husband, Kevin live near

23 A. Yes.

24 Q. Not exactly in Vassar, but not too far?

25 A. Correct.

13391

Sheila Nicholas - Cross

little 1 Q. Which is not too far from the Saginaw Bay, just a

2 bit south and east of Saginaw; correct?

3 A. Correct.

4 Q. Some distance from Kalamazoo and Grand Rapids?

5 A. Yes.

6 Q. Which rest further west in that state; correct?

7 A. Yes.

you and 8 Q. Tell the members of the jury, Mrs. Nicholas, when

9 Kevin first became a couple.

10 A. We started dating in the summer of 1994.

where 11 Q. 1994. At that time, Mrs. Nicholas, do you remember

12 Kevin was working?

13 A. He was working for his uncle, William Kretzschmer.

14 Q. Do you know where he had worked prior to that time?



Nichols 15 A. I later became aware that he had worked on the  
16 farm.

17 Q. That's the Nichols farm in Decker, Michigan?

18 A. Yes.

19 Q. Do you know how long your husband or soon-to-be  
husband had 20 worked at the Nichols farm?

21 MR. NEUREITER: Objection, your Honor.

22 THE COURT: Sustained.

23 BY MR. MACKEY:

24 Q. Did you come to Denver with Kevin, Mrs. Nicholas?

25 A. Yes, I did.

13392

Sheila Nicholas - Cross

1 Q. All right. In late November, 1994, your memory is  
that

2 Mr. McVeigh came and joined you and Kevin at your  
residence in

3 Michigan; is that correct?

4 A. Yes, he did.

5 Q. And he was there on and off, as you've described,  
up until

6 the time of the Super Bowl?

7 A. Yes.

8 Q. Which is not something you put down in your  
calendar and

9 you don't remember the date?

10 A. Correct.

11 Q. All right. During that time frame, Mrs. Nicholas,  
you

12 testified to the jury that there were a number of phone  
calls

13 made from your residence; is that correct?

14 A. Yes.

15 Q. And you and your husband were working, as well,  
with a

16 business known as the Nicholas Rentals?

17 A. Yes.

18 Q. All right. You've seen, have you not, before  
coming to

19 court a -- an exhibit that included a number of phone  
calls

20 placed from numbers subscribed to you?

21 A. Yes.

22 Q. And to the Nichols -- Nicholas Rentals; correct?

23 A. Yes.

24 Q. Would it be your testimony, Mrs. Nicholas, that  
none of

25 those phone calls were placed by either you or your  
husband?

13393

Sheila Nicholas - Cross

1 A. The ones that you have shown me, no.

from 2 Q. If any phone call were made from your residence or  
December of 3 your business residence number during November or  
you or 4 1994, or January of 1995, those were not made by either  
5 your husband; is that correct?

6 A. That's correct.

7 Q. Do you know Lana Padilla?

8 A. No, I do not.

9 Q. Ever talk to her?

10 A. No.

11 Q. Ever have any reason or occasion to call her?

12 A. No.

Exhibit 13 Q. Let me show you just a few pages from Government  
14 553. Some phone records.

from your 15 This is a phone call or record of phone call  
16 residence on January 16, 1995; is that correct?

17 A. Yes. I assume so.

18 Q. See the date at the top?

19 A. I don't. Oh, yes. Okay. Yeah.

20 Q. You see your phone number there?

21 A. Yes.

22 Q. This phone call was placed to the residence of Lana  
23 Padilla; correct?

24 A. Correct.

25 Q. You had no reason to make that phone call?

13394

Sheila Nicholas - Cross

1 A. No, I did not.

2 Q. Was this during the time period that Tim McVeigh  
was at  
3 your house?

4 A. I believe so.

5 Q. On the next day, January 17, 1995, you see, do you  
not, a  
6 number of other phone calls placed from your residence  
on that  
7 same day?

8 A. Yes.

9 Q. You didn't make any of those phone calls?

10 A. No, I did not.

11 Q. And Mr. McVeigh was at your house?

12 A. Yes.

13 Q. Also on January 17, you see a 6-minute phone call  
from your  
14 residence to that of Lana Padilla?

15 A. Yes.

16 Q. Do you see that?

17 A. Uh-huh.

18 Q. And that takes place about 8:51 Central Standard

Time in

19 the morning; correct?

20 A. Okay. Yeah.

21 Q. Do you see that?

22 A. Uh-huh.

23 Q. And lasts a little more than 6 minutes?

24 A. Yeah.

record,  
25 Q. And later that same morning, according to this

13395

Sheila Nicholas - Cross

1 9:13, there's a 5-minute phone call, is there not?

2 A. Yes.

3 Q. Back to your house?

4 A. Yes.

1995?  
5 Q. You didn't talk to Lana Padilla on January 17,

6 A. No, I did not.

7 Q. But Mr. McVeigh was at your house?

8 A. Yes, I believe so.

it not?  
9 Q. The next phone call is from the business phone, is

10 A. Yes.

have  
11 Q. Nicholas Rentals. Never talked to Michael Fortier,

12 you?

13 A. No, I have not.

14 Q. On January 18, 1995, to the best of your  
recollection, was

15 Mr. McVeigh still at your home --

16 A. Yes, I believe he was.

17 Q. -- in Vassar, Michigan? These phone calls from the  
Padilla

18 residence to your home were not calls that you  
participated in?

19 A. No.

20 Q. Phone calls from your business phone to the Padilla  
21 residence, back to back, were not calls that you  
participated

22 in?

23 A. No.

24 Q. Do you know where Terry Nichols was on January 18,  
1995?

25 A. No, I do not.

13396

Sheila Nicholas - Cross

1 Q. Mr. McVeigh had a car; correct?

2 A. Yes.

3 Q. And you saw evidence of that in the photograph;  
correct?

4 A. Yes.

5 Q. And while he was staying with you in January of  
1995, did

6 you observe him purchase or drive other vehicles?

7 A. Yes, I did.

8 Q. When you last saw Mr. McVeigh in January of 1995,

do you

9 remember him driving the dark-blue Pontiac station

wagon,

10 J2000?

11 A. Yes, I do.

12 Q. Was that the vehicle he left Michigan in when you

last saw

13 him in January of 1995?

14 A. Yes, it was.

15 Q. Let me show you what's already been admitted into

evidence

16 as Government Exhibit 273P.

17 MR. MACKEY: May I display it to the jury?

18 BY MR. MACKEY:

19 Q. Does that look like a photograph of the car you

last saw

20 Mr. McVeigh driving in January of '95?

21 A. It looks like it, yes.

22 Q. The one and only time that you've met Terry Nichols

was at

23 a brief visit in April of 1995; is that correct?

24 A. Yes.

25 Q. And that was at your residence in Vassar, Michigan?

13397

Sheila Nicholas - Cross

1 A. Yes, it was.

2 Q. He arrived with Marife and his young daughter; is  
that

3 correct?

4 A. Yes.

5 Q. Stayed for a couple hours?

6 A. Yes.

7 Q. And that's what your -- you testified about here  
earlier

8 today?

9 A. Yes.

10 Q. Did you ever attend any gun show with Mr. Nichols?

11 A. No, I did not.

12 Q. In the conversation about the items that he was  
offering

13 for sale, did Mr. Nichols tell you how long he had been  
selling

14 ammonium nitrate at gun shows?

15 A. Not that I recall.

16 Q. You do recall that your husband reacted to his  
description

17 as being "this doesn't make economic sense. Why would  
anyone

18 pay more for something that they can buy --"

19 A. Right.

20 Q. "-- in large quantity"; correct?



21 A. That's correct.

22 Q. And Mr. Nichols' response again was what?

23 A. "People were not aware of that."

24 Q. Mr. Nichols said that people are unaware that you  
can go to  
bucks?  
25 a store and buy 50 pounds of ammonium nitrate for 5

13398

Sheila Nicholas - Cross

1 A. As best as I can recall, yeah.

2 Q. Did he tell you what use -- you said "personal use"  
--  
3 exactly what use his customers would -- or he'd be  
offering it  
4 for sale?

5 A. As far as I know, to fertilize. I'm not sure, you  
know,  
6 what the uses would be for that.

7 Q. Have you ever heard of the term "ground zero  
impact," or  
8 did you hear so in the conversation with Mr. Nichols?

9 A. No, I did not.

10 Q. Your husband didn't buy any small quantities of  
ammonium  
11 nitrate?

12 A. No, he did not.

13 Q. He bought one shovel?

14 A. Yes.

15 Q. Mr. Neureiter asked you some questions about the  
Tim  
in late  
16 McVeigh that you came to know during the two-month stay  
17 '94 and early '95. Do you remember those questions?  
18 A. Yes.

19 Q. You described for the jury how he was helpful --  
20 A. Yes.

21 Q. -- in running errands or supporting the family  
needs or --  
22 A. Yes.

23 Q. -- those kinds of things; is that correct?  
24 A. Uh-huh.

25 Q. And that was the kind of person that you  
encountered and

13399

Sheila Nicholas - Cross

1 experienced in Tim McVeigh; is that correct?  
2 A. Yes.

3 Q. You trusted him?  
4 A. Yes.

5 Q. And he never gave you any reason to not trust him?  
6 A. Correct.

7 Q. Never misled you?  
8 A. No.

9 MR. MACKEY: Thanks, Ms. Nicholas.  
10 THE COURT: Any redirect?  
11 MR. NEUREITER: I have some questions, your  
Honor.  
12 THE COURT: All right.  
13 REDIRECT EXAMINATION  
14 BY MR. NEUREITER:  
15 Q. With respect to -- you were just asked some  
questions about  
16 the -- again about the conversation, the sale of  
ammonium  
17 nitrate and your husband's reaction. Did Mr. Nichols  
say  
18 anything about the distinction between rural and city  
folk in  
19 terms of ammonium nitrate purchases?  
20 A. Not that I can recall.  
21 Q. Were you aware -- well, did Mr. McVeigh tell you at  
any  
22 time that he was storing explosives in your shed?  
23 A. No, he did not.  
24 Q. I wanted to show some more pages of these phone  
records,  
25 starting on page 89. Do you see the date up here  
December 20?

13400

Sheila Nicholas - Redirect

1 If you can't read it, we can zoom in a little.

2 A. Yes. I can see it.

3 Q. Does it say "Nicholas, Kevin and Jolynn"?

4 A. Yes.

5 Q. Is that a number that would have been listed at  
your home?

6 A. Yes. That is our home.

7 Q. And there's a call to Dave Paulsen. Do you know  
who that

8 person is?

9 A. No, I do not.

10 Q. Did you ever call Dave Paulsen?

11 A. No, I did not.

12 Q. December 21, two more calls originating from the  
Nicholas

13 number. Two more to that same Dave Paulsen person?

14 A. Yes.

15 Q. Do you see that?

16 A. Yes.

17 Q. Now, on page 91, this is December 26, 1994. Now,  
this is a

18 little bit different number. Teri Nicholas. Is that  
someone

19 that you know or is that a phone in your house?

20 A. Yes. That's my husband's sister.

21 Q. Would that have been located in a different --  
different

22 location than your home?

23 A. Yes.

24 Q. We see a call here to William McVeigh?

25 A. Yes.

13401

Sheila Nicholas - Redirect

1 Q. And another one to William McVeigh?

2 A. Yes.

3 Q. And then four more calls to Dave Paulsen?

4 A. Yes.

5 Q. And December 26, Kevin Nicholas, Kevin Nicholas,  
that's

6 your house again, these two calls?

7 A. Yes.

8 Q. Dave Paulsen, Dave Paulsen?

9 A. Yes.

10 Q. Now turning to page 95, December 30, that's Kevin  
Nicholas,

11 Kevin Nicholas, two more calls?

12 A. Yes.

13 Q. And Dave Paulsen, Dave Paulsen. That's the person  
that's

14 being called?

15 A. Yes.

16 Q. And you didn't make those calls?

17 A. No, I did not.

18 Q. Do you know if your husband knows a Dave Paulsen?

19 A. Not that I'm aware of.

20 Q. January 1, there's your number again, Kevin  
Nicholas?

21 A. Yes.

22 Q. And Dave Paulsen?

23 A. Yes.

24 Q. And January 3. Do you see that?

25 A. Yes.

13402

Sheila Nicholas - Redirect

1 Q. And here's Nicholas Rentals now. Would that be --

2 A. Yes. That's at our home.

3 Q. That's your home. That's just your business phone?

4 A. Yes. We have two.

5 Q. Dave Paulsen, Dave Paulsen, Dave Paulsen, Dave  
Paulsen.

6 Four more calls to Dave Paulsen; correct?

7 A. Yes.

8 Q. And just for the record, so that I'm not misleading  
9 anybody, there's 0000 in all these length of calls;  
correct?

10 A. Yes.

11 Q. So -- and I think that's all I have with the phone  
records.

12 And there were some calls that were shown from

Lana

13 Padilla's house to your home.

14 A. Yes.

15 Q. Correct? You were asked about those. Do you have  
any idea

16 what those calls were about?

17 A. No, I do not.

18 MR. NEUREITER: One moment, your Honor.

19 THE COURT: Yes.

20 MR. NEUREITER: We pass the witness, your  
Honor.

21 THE COURT: Any other questions?

22 MR. MACKEY: No questions.

23 THE COURT: You're excusing the witness?

24 MR. NEUREITER: Yes, your Honor.

25 Thank you very much.

13403

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

2 We'll take our morning recess. We went a  
little past

3 the usual time; but of course, again, please follow the  
4 cautions regularly given. We're going to hear more  
witnesses

5 than we've heard so far and also, the other parts of  
the trial

evidence 6 that you know will be important to understanding the  
the 7 that we hear and have heard. So please, again, follow  
with 8 cautions regularly given, open minds, avoid discussions  
careful to 9 all other persons, including other jurors, and be  
10 avoid anything outside the evidence.

11 You're excused now. 20 minutes.

12 (Jury out at 10:35 a.m.)

13 THE COURT: Okay. We'll be in recess.

14 (Recess at 10:36 a.m.)

15 (Reconvened at 10:55 a.m.)

16 THE COURT: Be seated, please.

17 Counsel, please.

18 (At the bench:)

19 (Bench Conference 115B2 is not herein transcribed  
by court  
20 order. It is transcribed as a separate sealed  
transcript.)

21

22

23

24

25



1 (In open court:)

2 (Jury in at 10:57 a.m.)

3 THE COURT: Next, please.

4 MR. TIGAR: Kelly Staatz.

5 THE COURT: Thank you.

6 THE COURTROOM DEPUTY: Raise your right hand,  
please.

7 (Kelly Staatz affirmed.)

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

9 Would you state your full name for the record  
and

10 spell your last name.

11 THE WITNESS: My name is Kelly Jo Staatz, S-T-  
A-A-T-Z.

12 THE COURTROOM DEPUTY: Thank you.

13 DIRECT EXAMINATION

14 BY MR. THURSCHWELL:

15 Q. Good morning, Mrs. Staatz.

16 A. Hi.

17 Q. Mrs. Staatz, where do you live?

18 A. In Herington, Kansas.

19 Q. How long have you lived there?

20 A. Probably about 13 or 14 years.

21 Q. In April of 1995, were you working?

22 A. Yes.

23 Q. Where were you working?

24 A. I had two jobs at the time. I was working for a  
company

25 called Occupational Center of Central Kansas,  
abbreviated OCCK,

13409

Kelly Staatz - Direct

1 and I also worked at the Herington Chamber of Commerce,  
in

2 Herington.

3 Q. All right. Now, was that a part-time job at the  
Herington

4 Chamber?

5 A. Yes.

6 Q. Herington Chamber of Commerce. Excuse me.

7 Was the Herington Chamber of Commerce also an  
office

8 of the Department of Motor Vehicles?

9 A. We did the -- we took tag work there for the  
Herington

10 residents and further sent it on to the county office  
in a

11 different town.

12 Q. Okay. Now, have you ever seen Terry Nichols  
before?

13 A. Yes.

14 Q. Do you recall when you saw him?

I don't 15 A. I seen him -- he came in and picked his tag up, and  
Monday or 16 remember which day for sure it was. It was either a  
17 a Tuesday.

the 18 Q. And could you just place that in relationship to  
19 Oklahoma City bombing, if you can?

20 A. The day or two before the bombing.

us what 21 Q. All right. I'll come back to the timing. But tell  
of. 22 your -- what your encounter with Mr. Nichols consisted

Commerce and 23 A. Okay. He came into the Herington Chamber of

name 24 asked for his tag and -- he proceeded to spell his last

walked 25 for me. And I looked it up and I handed it to him. He

13410

Kelly Staatz - Direct

around and 1 out the door. He came back in. He poked his head

back of 2 he said, "Do I need to have a tag for the front and the

3 my vehicle?"

Kansas." And 4 And I stated, "No, not in the state of

5 that was it.

6 Q. And then he left?

7 A. And then he left.

8 Q. Do you recall how he was dressed that day?

9 A. I think he had on jeans.

10 Q. Do you recall his general appearance? Neat and  
clean, or

11 dirty?

12 A. No, neat and clean. Not dirty.

13 Q. Not dirty.

14 A. No.

15 Q. Let me come back to the time -- you said it was  
either the

16 Monday or the Tuesday prior to the bombing.

17 A. Correct.

18 Q. Do you remember the time of day?

19 A. All I know, it was after 3 p.m. We close at 5, so  
it was

20 between 3 and 5.

21 Q. If I were -- do you recall speaking to the FBI  
about this

22 encounter with Mr. Nichols shortly after the bombing?

23 A. Yeah.

24 Q. If I were to show you a report of that interview,  
might

25 that refresh your memory as to which specific day it  
was?

13411

Kelly Staats - Direct

remember 1 A. I've thought about it, and I can't even really  
day. I 2 what I told the FBI agent, if I told him a specific  
if it was 3 don't know for sure. And I just -- I cannot remember  
4 Monday or Tuesday.

5 Q. Okay.

every 6 A. Because my hours weren't -- they weren't the same  
7 week at the Chamber.

your 8 Q. Okay. Is it your testimony, then, that reviewing  
certain of 9 interview report would not help you at all? You're  
10 that?

11 A. I'm just -- I just can't remember the day. I --

prior 12 Q. Okay. But you're sure it was the Monday or Tuesday  
13 to the bombing?

14 A. Uh-huh.

Honor. 15 MR. THURSCHELL: Thank you very much, your

16 Nothing further.

17 THE COURT: Any cross?

18 MR. ORENSTEIN: Very briefly.

19 THE COURT: All right.

20

CROSS-EXAMINATION

21 BY MR. ORENSTEIN:

22 Q. Good morning, ma'am.

23 A. Hi.

24 Q. You spent probably more time today talking about  
this

25 encounter with Mr. Nichols than you spent with him that  
day;

13412

Kelly Staatz - Cross

1 correct?

2 A. Probably.

3 Q. It was about a minute or two that he was there?

4 A. Yeah.

5 Q. And other than that minute or two on Monday or  
Tuesday

6 afternoon before the bombing, you have no idea where  
Terry

7 Nichols was or who he was with?

8 A. No, sir.

9 Q. Or what he was doing.

10 A. No.

11 MR. ORENSTEIN: Thank you. No further  
questions.

12 MR. THURSCHELL: No redirect, your Honor.  
The

13 witness is excused.

14 THE COURT: The witness is excused, I take it.

15 You may step down. You're excused.

16 THE WITNESS: Thank you.

17 THE COURT: Okay.

18 MR. TIGAR: Linda Almes.

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

21 (Linda Almes affirmed.)

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

23 Would you state your full name for the record  
and

24 spell your last name.

25 THE WITNESS: Linda Elaine Almes, A-L-M-E-S.

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1 THE COURTROOM DEPUTY: Thank you.

2 DIRECT EXAMINATION

3 BY MR. THURSCHELL:

4 Q. Hello, Mrs. Almes.

5 A. Hi.

6 Q. Mrs. Almes, where do you live?

7 A. Herington.

8 Q. Were you living in Herington in the period March,

April,

9 1995?

10 A. Yes.

11 Q. Where were you working at that time?

12 A. American Family Insurance.

13 Q. And what is the business of American Family  
Insurance?

14 A. We sell insurance of all natures: homeowner's,  
vehicle,

15 life.

16 Q. And what was your position with the firm?

17 A. I'm office manager, secretary.

18 Q. Now, do you occasionally handle new accounts?

19 A. Yes.

20 Q. Now, do you recall meeting Mr. Terry Nichols at any  
point

21 during the period March, April, 1995?

22 A. Yes.

23 Q. Okay. Can you tell the jury when that was.

24 A. In April.

25 Q. Do you remember the day in April?

13414

Linda Almes - Direct

1 A. No, I didn't actually until I saw the date. But  
whatever

2 date was on the application is correct.



well, let 3 Q. Okay. So if I were to show you a copy of the --  
for 4 me back up. Did Mr. Nichols fill out an application  
5 insurance?

information 6 A. Yes. I filled out the information and took the  
7 from him, yes.

for? 8 Q. Do you recall what kind of insurance he had applied

9 A. Vehicle.

10 Q. Automobile insurance.

11 A. Yes.

I 12 MR. THURSCHELL: All right. Your Honor, may  
13 approach?

14 THE COURT: Yes.

witness 15 MR. THURSCHELL: I am going to show the  
the 16 what's been marked as Defense Exhibit D638A, which for  
marked as 17 record consists of pages 3, 4, 5, and 6 of what was  
counsel. 18 D638. And it was -- has been shown to Government

19 BY MR. THURSCHELL:

20 Q. Mrs. Almes, would you page through that exhibit.

21 A. Okay.

22 Q. Can you -- if you could put it back together.

23 A. Sure.  
24 Q. Do you recognize that --  
25 A. Yes.

13415

Linda Almes - Direct

1 Q. -- exhibit? What is it?  
2 A. This is a standard vehicle application.  
3 Q. Do you recognize it as the vehicle application that  
was  
4 filled out by Terry Nichols?  
5 A. For him, yes.  
6 Q. For him. Okay. Thank you very much. Now if you  
could  
7 give that back.  
8 MR. THURSCHELL: Your Honor, we would move  
the  
9 admission of D638A.  
10 MR. ORENSTEIN: No objection.  
11 THE COURT: D638A received.  
12 BY MR. THURSCHELL:  
13 Q. Mrs. Almes, I am showing you and the jury the first  
--  
14 should say page 2 of the exhibit consisting of the  
application  
15 form itself. This is a copy, is it not, of the  
original --  
16 A. Yes.

I think 17 Q. -- form? It's not a very good copy I'm afraid; but

18 it's legible.

19 Do you -- can you see in front of you on the  
screen a

20 date and a time?

21 A. Yes. 4-14-95 to 7-14-95 and at a time of 4:20.

22 Q. The period of 4-14-95 to 7-14-95: What does that  
signify?

23 A. Just a three-month term of insurance.

24 Q. What's the significance of the first date, 4-14-95?

25 A. That would be the day that it was bound, which  
would be the

13416

Linda Almes - Direct

1 day that the person was in to get the insurance.

2 Q. And the time, 4:20: What does that indicate?

3 A. I called it my binding time. That would be the  
time that

4 we actually bind coverage on that vehicle.

5 Q. Now, I'm going to slide it over a little bit, and  
again

6 it's a little bit light. But focusing in, can you see  
the name

7 under -- in the space listed for "applicant"?

8 A. Yes.

9 Q. What is that name?

10 A. Terry Nichols. Terry L. Nichols.

11 Q. Okay. Does this document refresh your memory as to  
the  
12 date that Mr. Nichols came in for his application for  
13 automobile insurance?

14 A. I remember when he came in. If this is the date on  
the  
15 application, that would have been the date it would  
have been.

16 Q. Now, do you recall the kind of vehicle he wanted to  
insure?

17 A. It was an older pickup truck.

18 Q. Okay. Did you have any conversation with him about  
the  
19 truck?

20 A. Just basic, something about an older truck. I  
don't know.

21 It was kind of a joke in our town.

22 Q. Did you have any conversation with him about  
anything else?

23 A. Well, when I was asking the questions on the  
application,

24 his wife did not drive; so that was significant why she  
didn't

25 have a driver's license, and that's when the  
conversation about

13417

Linda Almes - Direct

1 the Philippines came up.

2 Q. Okay. So you talked to him about the Philippines?

3 A. In general, yeah, and a little bit about his wife  
being

4 from there.

5 Q. Anything out of the ordinary about this  
application?

6 A. No.

7 Q. How was Mr. Nichols dressed, if you recall?

8 A. I remember seeing him a couple times. He was  
always clean

9 and neat.

10 As far as dress, I would say probably in jeans  
or

11 something common to the area, because I don't remember  
anything

12 significant or out of the ordinary.

13 Q. Did he in the course of the conversation -- did he  
mention

14 what business he was in?

15 A. Military salvage or surplus, I believe.

16 MR. THURSCHELL: Thank you very much.

17 Nothing further, your Honor.

18 THE COURT: All right. Mr. Orenstein?

19 CROSS-EXAMINATION

20 BY MR. ORENSTEIN:

21 Q. Good morning, ma'am.

22 A. Hi.

23 Q. We met last night, didn't we?

24 A. Yes.

25 Q. Ma'am, you're here to tell us about Mr. Nichols  
coming in

13418

Linda Almes - Cross

1 to take out an insurance policy on his truck. Is that  
right?

2 A. Yes.

3 Q. And I believe you said once or twice to Mr.  
Thurschwell

4 that there was nothing out of the ordinary about that  
5 application. Is that right?

6 A. No, sir.

7 Q. Now, it's your business to fill out these forms or  
to help

8 customers fill out these forms; is that right?

9 A. I fill them out, yes, sir.

10 Q. Based on information that they provide to you?

11 A. Yes.

12 Q. And you rely on that information to transmit to the  
actual

13 insurer?

14 A. Yes.

15 Q. So that they'll insure the customer.

16 A. Yes.

17 Q. And in the exhibit that we were looking at, there  
are a

18 number of questions that you asked the customer; is  
that right?

19 A. Yes.

20 Q. And one of those questions is whether there are any  
liens

21 or judgments against him. Correct?

22 A. Yes.

23 Q. And I think we saw on that application -- perhaps  
it wasn't

24 very clear on the screen -- but his answer to that was  
no?

25 A. Yes.

13419

Linda Almes - Cross

1 Q. And did you later learn that the answer should have  
been

2 yes?

3 A. No. Actually, I didn't know that.

4 Q. Okay. But you've seen a document from your  
business

5 records; correct?

6 A. Right. Right.

7 MR. THURSCHELL: Objection to lack of  
personal

8 knowledge.

9 THE COURT: Well, yes, we have to have some

10 foundation.

Honor? 11 MR. ORENSTEIN: Yes. May I approach, your

12 THE COURT: Yes.

13 BY MR. ORENSTEIN:

14 Q. Ma'am, I've shown you and left with you on the  
stand there

15 a copy of what's marked for identification as  
Government's

16 Exhibit 2140. Do you have that with you?

17 A. Yes.

18 Q. Do you recognize that as a record that would be  
kept in

19 Mr. Nichols' file at your office?

20 A. Yes.

21 Q. That relates to the policy for which he applied on  
22 April 14, 1995, at 4:20 p.m.; correct?

23 A. Yes.

24 Q. And that is the same policy which you were just  
asked about

25 by Mr. Thurschwell. Correct?

13420

Linda Almes - Cross

that we 1 A. Well, I assume it was because that was the only one

2 wrote.



3 Q. Right. It's the only one you had in your files?

4 A. Exactly.

5 Q. At least with respect to the truck.

6 A. Yes.

7 Q. And that is a record developed later but in respect  
to the  
8 same policy; correct?

9 A. Yes.

10 MR. ORENSTEIN: Government offers Exhibit  
2140.

11 MR. THURSCHELL: May I inquire, your Honor?

12 THE COURT: Yes.

13 VOIR DIRE EXAMINATION

14 BY MR. THURSCHELL:

15 Q. Mrs. Almes, this is not a letter that's routinely  
sent to  
16 individuals who are insured by American Standard (sic)  
17 Insurance Company; is that correct?

18 A. One more time. I'm sorry.

19 Q. Is this -- this is not a letter that is routinely  
sent to  
20 individuals who are insured by American Standard  
Insurance.

21 A. It's not unusual for vehicle insurance or  
homeowner's,  
22 either one, to be denied for any number of reasons.

23 Q. Okay. And -- but is this particular letter with  
this

24 particular reason something that is routinely sent to

another? 25 individuals who are denied coverage for one reason or

13421

Linda Almes - Voir Dire

1 A. I've seen it on a homeowner's but never on a  
vehicle.

2 Q. Have you -- were you involved in the preparation of  
this

3 document?

4 A. No.

5 Q. Were you involved in the decision whether or not to  
issue

6 this document?

7 A. No.

8 MR. THURSCHELL: Your Honor, we would object.

9 THE COURT: Objection sustained.

10 MR. ORENSTEIN: May I inquire further to  
develop

11 further foundation?

12 THE COURT: You may try.

13 CROSS-EXAMINATION CONTINUED

14 BY MR. ORENSTEIN:

15 Q. Ma'am, you were visited by an investigator for the  
defense.

16 Do you recall that?

17 A. I remember two FBI men coming -- or, you mean last  
night?

18 I'm sorry.

19 Q. No, no, no. Do you see this gentleman over here in  
the  
20 gray suit, green sweater?

21 A. Uh-huh.

22 Q. Have you met him before?

23 A. I don't remember.

24 Q. You don't recall Mr. Killam and you at your office?

25 A. I'm sorry, no, I don't.

13422

Linda Almes - Cross

1 Q. Perhaps I could show you something that may refresh  
your  
2 recollection.

3 MR. ORENSTEIN: May I approach, your Honor?

4 THE COURT: I don't see what this has to do  
with this  
5 document.

6 MR. ORENSTEIN: I'm trying to establish that  
it was  
7 provided during that visit to Mr. Killam.

8 THE COURT: So what?

9 MR. ORENSTEIN: To show that it came from the  
business  
10 records.

11 THE COURT: Well, it's not a business record.

It's

12 not admissible for the information that's contained  
thereon as

13 a business record. It refers to other sources.

14 MR. ORENSTEIN: All right. I'm move on then,  
your

15 Honor. Thank you.

16 THE COURT: All right.

17 BY MR. ORENSTEIN:

18 Q. Ma'am, you spent how long with Mr. Nichols on April  
14?

19 A. It takes about an average of maybe 15, 20 minutes  
to fill

20 out an application.

21 Q. All right. And that was that afternoon, spent  
about 15 or

22 20 minutes with him?

23 A. Yes.

24 Q. And that was the last time you saw him?

25 A. Yes.

13423

1 MR. ORENSTEIN: I have nothing further.

2 Thank you, your Honor.

3 MR. THURSCHELL: No redirect, your Honor.

4 THE COURT: All right.

5 MR. THURSCHELL: The witness is excused.

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

7 Next, please.

8 MR. TIGAR: Barry Thacker, your Honor.

9 THE COURT: All right.

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

12 (Barry Thacker 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: My name is Barry W. Thacker,  
17 T-H-A-C-K-E-R.

18 THE COURTROOM DEPUTY: Thank you.

19 DIRECT EXAMINATION

20 BY MR. TIGAR:

21 Q. Good morning, Mr. Thacker.

22 A. Good morning.

23 Q. Will you tell the jury, please, where you're from.

24 A. I'm from Herington, Kansas, and currently the chief  
of  
25 police.

Barry Thacker - Direct

Public 1 Q. In Herington, Kansas, do you have a Department of  
2 Safety?

3 A. Not at this time.

Department of 4 Q. Going back to April of 1995, did you have a  
5 Public Safety?

6 A. Yes, sir, we did.

7 Q. And will you tell the jury, please, what your  
8 responsibility was at that time as opposed to the other  
people  
9 that were in charge of your Department of Public  
Safety.

10 A. Primarily I've had about 24 years' experience in  
law  
11 enforcement, so I had the title of assistant chief. I  
worked  
12 under the director, who actually used the title of  
chief. He

13 had about the same amount of experience in  
firefighting, so

14 they combined it together; and that's what the "public  
safety"  
15 was all about.

16 Q. All right. And you said that you've had 24 years  
of law  
17 enforcement experience?

18 A. Yes, sir.

19 Q. Will you tell us briefly what that experience was.  
20 A. I've only worked for one department. It was for  
the City  
21 of Herington; and I started off as a patrolman, worked  
my way  
22 up through sergeant and then became assistant chief and  
now I'm  
23 the chief.  
24 Q. When did you become chief?  
25 A. It was final, I believe, in like March of this  
year.

13425

Barry Thacker - Direct

1 Q. Now, going back to April 19 -- or excuse me --  
April 21,  
2 1995, was that a busy day in your life?  
3 A. Yes, sir, it was.  
4 Q. And do you know Terry Nichols?  
5 A. Yes, sir.  
6 Q. Do you see him in court?  
7 A. Yes, sir.  
8 Q. Could you point him out?  
9 A. Seated right over here.  
10 Q. All right. And when was the first time that you  
had ever  
11 seen Terry Nichols?  
12 A. The first time that I met Terry Nichols was that

day in the

13 police station.

14 Q. Now, had he been to your police station before  
that?

15 A. Yes, sir, he had.

16 Q. Now, I'm going to show you --

17 MR. TIGAR: Excuse me, your Honor.

18 BY MR. TIGAR:

19 Q. And based on your department records, what had he  
been in  
20 there before to do?

21 A. He came in, I believe it was on the 14th of April.  
It was

22 like one week before that. He had a registration on  
his pickup

23 that was registered in the state of Michigan. He  
wished to

24 change it over to a Kansas title.

25 Q. Okay. I'm going to put up here what's been marked  
but not

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Barry Thacker - Direct

1 yet received as D1017 and ask you if you recognize that  
as a

2 record of your department.

3 A. Yes, sir, I do.

4 MR. TIGAR: All right. We offer 1017.



5 MR. MACKEY: No objection, your Honor.

6 THE COURT: All right. Received. It's D1017?

7 MR. TIGAR: D, as in Dog, Delta, 1017. Yes,  
your

8 Honor. Thank you.

9 BY MR. TIGAR:

10 Q. And I'm going to show you also what's been marked  
here as

11 D1022 and ask if that is a record of your department?

12 A. Yes, sir, it is.

13 MR. TIGAR: We offer D1022.

14 MR. MACKEY: No objection.

15 THE COURT: Received.

16 BY MR. TIGAR:

17 Q. Placing up now on the machine the -- what's been  
received

18 as D1017, what does this form tell us, sir?

19 A. This form is what we use whenever someone comes  
into the

20 station for whatever reason. It gives us a record of  
what the

21 individual wanted or what -- who he wanted to see.

22 This particular incident was when he came in  
to have

23 the VIN check done for his vehicle.

24 Q. Now, under what circumstances is a VIN check  
required?

25 A. Only when they change out-of-state titles to in-  
state or to

13427

Barry Thacker - Direct

1 Kansas.

kind

2 Q. And does this reflect that you checked -- did some

3 of -- the department did some kind of computer check?

4 A. Yes, sir.

5 Q. And what did the computer check show?

matched the

6 A. The computer check showed that the VIN number

had not

7 title and there was no wants or warrants, the vehicle

8 been stolen.

time?

9 Q. And the time here says 1655. Is that military

10 A. That's correct.

14th?

11 Q. So that's 4:55 in the afternoon on Friday, the

12 A. Yes, sir.

checks

13 Q. Correct? Now, after somebody gets one of these VIN

Correct?

14 that's done -- I guess they have to pay you for it.

15 A. That's true.

Correct?

16 Q. And this rest, D1022, shows that he paid you \$10.

17 A. That's correct.

18 Q. And gave you his name and address.

19 A. That's correct.

then what 20 Q. Now, after you get your VIN check done like that,

21 do you do if you want to get your tags?

with 22 A. We give them a copy of an MV1 form. They take that

Chamber 23 their title to the county seat or at that time to the

verify -- 24 office -- I'm not familiar with which he used -- and

take that 25 that verifies that the vehicle was checked. And they

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Barry Thacker - Direct

of 1 form with the title, and it will be sent to the State

returned to 2 Kansas; and then a State of Kansas title will be

3 the owner.

1995. You 4 Q. Okay. Now let's move on to the 21st of April,

5 said you saw Mr. Nichols on that day. Correct?

6 A. Yes, sir.

FBI? 7 Q. Before you saw him, had you seen somebody from the

8 A. Yes, sir.

9 Q. Who had you seen from the FBI?

10 A. I met an Agent Smith.

11 Q. About what time -- what was his first name? Do you  
12 remember?  
13 A. I want to say Steve, but I'm not sure.  
14 Q. Well, when Agent Smith -- what time did Agent Smith  
come on  
15 the scene?  
16 A. He came into the department around 2:15 to 2:20,  
somewhere  
17 in that area.  
18 Q. And did you talk to him, sir?  
19 A. Mr. Kuhn talked to him first.  
20 Q. And did -- were you present during that  
conversation?  
21 A. Mr. Kuhn, after the conversation started, asked me  
if I  
22 would set (sic) in to see if I could help them, being  
as I had  
23 been in the area for 24 years.  
24 Q. And so Mr. Kuhn hadn't been in Herington for as  
long as you  
25 had?

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Barry Thacker - Direct

1 A. No, sir.  
2 Q. And what did Mr. Smith want?  
3 A. Mr. Smith had, I believe, two names that he wished  
to -- if

4 I would look at and see if I could identify or if I was  
5 familiar with these two names.

6 Q. Do you remember what the names were?

7 A. One was "Terry Nichols," and the other one -- I'm  
not real  
8 sure. It might have been "Rivers," but I can't swear  
to that  
9 now.

10 Q. Was -- did he show you an address that he had?

11 A. There was some conversation of an address, yes.

12 Q. And were you able to help him?

13 A. While he was there, we called the city office to  
verify if  
14 we had a Terry Nichols that was using city utilities.  
We were  
15 able to determine that Terry Nichols did live in  
Herington at  
16 109 South 2nd Street, and we give that information to  
Agent  
17 Smith.

18 Q. Did he leave then?

19 A. Shortly thereafter, yes.

20 Q. Did you leave the police station after Mr. Smith  
left and  
21 before Mr. Nichols showed up?

22 A. Yes, sir, I did.

23 Q. For about how long?

24 A. Approximately 30 minutes.

25 Q. And what was the purpose of your leaving, if you  
remember?

13430

Barry Thacker - Direct

1 A. The -- there was twofold. One was that we did a  
computer  
2 check and we found the VIN had been done for Terry  
Nichols.

3 And the other part was it was shift change, and I was  
out going  
4 to pick up my relief officer so he'd have a way in.

5 Q. About what time did you come back to the police  
station?

6 A. We arrived back at the police station about 2:55,  
just  
7 prior to 3:00.

8 Q. And you say "we." Who was that?

9 A. Officer Del Lindsly, my relief.

10 Q. And you went into the station?

11 A. Yes.

12 Q. Now, did you notice some kind of a car or truck in  
your  
13 parking lot that hadn't been there before?

14 A. No, sir, not at that time.

15 Q. Now, when is the first time, then, that you saw  
16 Mr. Nichols?

17 A. When we were walking to the building from our car,  
I looked

18 up north on Broadway Street and viewed a blue Chevrolet  
-- or,  
19 I'm sorry -- blue GMC pickup that was coming south  
towards the  
20 station; and it appeared to me that it was the vehicle  
that I  
21 had viewed a short time earlier in Mr. Nichols'  
driveway.

22 Q. All right. Now, you said "a short time earlier."  
Was that  
23 during the time you had gone out to try to look for  
Agent Smith  
24 and get your relief?

25 A. Yes, sir.

13431

Barry Thacker - Direct

1 Q. About how long before you saw this truck coming  
your way  
2 south on Broadway had you seen the car -- this truck,  
rather?

3 A. I don't recall just what it was, but I'm thinking  
it was  
4 probably about 15 to 20 minutes.

5 Q. Where had you seen it?

6 A. It was parked in Mr. Nichols' driveway, backed up  
to his  
7 garage.

8 Q. 109 South 2nd Street?

9 A. That's correct.

10 Q. You say "backed up to the garage"; that is, facing  
out?

11 A. Right.

12 Q. Now, did the truck pull into your parking lot?

13 A. Yes, sir, it did.

14 Q. And did Mr. Nichols get out?

15 A. Yes, sir, he did.

16 Q. Well, tell the jury what you saw.

17 A. What I saw was Mr. Terry Nichols -- he exited the  
driver's  
of the  
she was  
his wife  
to the

18 side of the vehicle. He was driving. He stepped out

19 vehicle, and he had his little daughter -- I believe

20 about 2 years old at the time. He carried her. And

21 exited the passenger side of the vehicle, and they came

22 front door of the Herington Public Safety building.

23 Q. Did he come inside?

24 A. Yes, sir, he did.

25 Q. Did he say something to you?

13432

Barry Thacker - Direct

1 A. Yes, sir, he did.

2 Q. Will you tell the jury, please, what did he say.



is  
for you,"

3 A. I opened the door. He stepped in. I said, "May --  
4 there something I can do for you," or "What may I do  
5 something on that order.

Nichols  
would like

6 And he stated to me that his name was Terry  
7 and that he had just seen his name on television and  
8 to talk to somebody about why it was there.

9 Q. What did he -- what did you tell him?

locate

10 A. I told him that I would try to see if I could  
11 someone and to step on inside, which he did.

12 Q. How did he appear to you?

13 A. He was nervous, concerned, carrying his child.

Nichols?

14 Q. Now, did Chief Kuhn come out and talk to Mr.

15 A. Yes, sir, he did.

each

16 Q. Did -- could you overhear what they were saying to  
17 other?

name

18 A. Basically, he stated the same; that he had seen his  
19 and he would like to talk to someone.

area,

20 Chief Kuhn asked him to come into the office  
21 which he did, and we stepped into the hallway.

were in

22 Q. Now, when you started out this conversation, you

23 the lobby of the police station; correct?

24 A. That's correct.

25 Q. Is that on the first floor?

13433

Barry Thacker – Direct

1 A. Yes.

2 Q. Now, did you then move into an office?

3 A. Yes.

4 Q. And whose office was that, sir?

5 A. This office that initially we went into is what the

6 officers use. It's a multipurpose room we use for  
traffic

7 work, DUIs, for interrogations, for officers to take  
breaks,

8 just a little bit of everything.

9 Q. A general-purpose room.

10 A. Correct.

11 Q. Now, did you take steps, then, to find somebody who  
could

12 answer Mr. Nichols' questions?

13 A. Yes, sir. I was attempting to.

14 Q. What steps did you take?

15 A. I proceeded into the dispatch area and was  
attempting to

16 locate a number so I could call either Kansas City or  
our local

17 agent to advise someone that I had a person there  
stating he  
18 was Terry Nichols and wanted to visit with somebody.  
19 Q. Were you able to contact the FBI?  
20 A. No, sir, I did not.  
21 Q. Did you have a phone number for them?  
22 A. Yes, sir, I found one.  
23 Q. And did anybody answer at that phone number?  
24 A. I didn't make a call to that number. We received a  
call  
Agent 25 just prior to when I was calling, and it was from an

13434

Barry Thacker - Direct

1 Smith who was calling to talk to Chief Kuhn.  
2 And when he talked to Chief Kuhn, it was over  
the  
3 situation that Terry Nichols was in the building.  
4 Q. Now, did you talk to Agent Smith, or was that just  
Chief  
5 Kuhn that spoke to him?  
6 A. Chief Kuhn did.  
7 Q. Did there later on, then -- did some agents come  
into the  
8 building?  
9 A. Yes, sir.

10 Q. Did they introduce themselves?

11 A. Yes, sir.

12 Q. And what did you do?

13 A. I directed them to the officers' room where Terry  
and his

14 wife and small child were. I told him that this was  
Terry

15 Nichols and he would like to visit with someone; he had  
just

16 seen his name on television, and I informed him that he  
was not

17 under arrest.

18 Q. And when Mr. Nichols was in the officers' room, did  
you get

19 some ID from him?

20 A. Chief Kuhn did, yes, sir.

21 Q. All right. And how was that done? How did you all  
get ID

22 from him?

23 A. Chief Kuhn asked him to spell his name, his wife's  
name.

24 Terry -- I believe he asked Terry for his  
driver's

25 license, and Terry got it out and give him the  
information that

13435

Barry Thacker - Direct

1 we needed.

license," 2 Q. Now, when you say "asked him for his driver's  
to 3 what did -- did you see what Mr. Nichols did in order  
4 display the driver's license?  
5 A. No, sir. I was in the other room or going to the  
other 6 room when that part of that conversation took place.  
at that 7 Q. Now, did Chief Kuhn ask Mr. Nichols any questions  
8 time when you all were getting identification?  
had any 9 A. The only thing I heard Chief Kuhn ask him was if he  
the 10 weapons or if he had some identification to help spell  
11 name. That's the only thing I heard.  
weapons, 12 Q. You talked about identification. With respect to  
him if 13 did you see what Mr. Nichols did when Chief Kuhn asked  
14 he had any weapons?  
15 A. Yes, sir, I did.  
16 Q. What did he do?  
and he 17 A. I viewed Mr. Nichols. He raised up his jacket --  
down in 18 may have taken it off -- turned around, and then he sat  
19 the chair. It was just a visual search is what it was.  
Kuhn 20 Q. Now, did Mr. Nichols object in any way when Chief  
21 told -- did there come a time when somebody told Mr.

Nichols

22 that the FBI had arrived?

23 A. Yes, sir. Probably just the time when we went into  
the

24 room itself.

25 Q. Did Mr. Nichols object to that?

13436

Barry Thacker – Direct

1 A. No, sir.

2 Q. Now -- then later on, did there come a time when  
3 Mr. Nichols and some other people went down into the  
basement?

4 A. Yes, sir.

5 Q. Who chose the basement as the room where they all  
were  
6 going to meet?

7 A. Basically, the agents did.

8 Q. What sort of survey of the building, if you could  
observe

9 it, did the agents do before they chose the basement?

10 A. Briefly, what they did was they looked at my office  
and an

11 office down the hallway, and they thought they were too  
small,

12 too confining to visit with Mr. Nichols.

13 At that point, the basement or the meeting  
area where

14 we conduct training was mentioned.

Kuhn, 15 I believe there was two agents along with Mr.

16 went down the steps to the basement and viewed it.

17 They come back upstairs and said it would be  
fine.

18 Q. Now, the basement -- the jury has seen pictures of  
it -- is

19 a big, wide-open area. Correct?

20 A. That's correct.

21 Q. And you do conduct training sessions down there.

22 A. That's correct.

23 Q. Now, at -- did you see Mr. Nichols and the agents  
go

24 downstairs?

25 A. Yes, sir.

13437

Barry Thacker - Direct

1 Q. And did Mr. Nichols offer any resistance to going

2 downstairs with the agents?

3 A. No, sir.

4 Q. Now, after the agents and Mr. Nichols went  
downstairs, did

5 you have occasion to go in the basement at any point?

6 A. Once.

7 Q. Do you remember about when that was?

the 8 A. It was very shortly after he was -- went down to  
9 basement. It was not very long after that.

the 10 Q. And what was the reason that you had gone down to  
11 basement?

12 A. The reason I went down into the basement was that  
13 downstairs we have a terminal down there for  
dispatching; and  
14 if we have severe weather or need of offices, we can go  
to the  
15 basement and continue.

being 16 The squelch was set open and radio traffic was  
17 heard in the basement, so they asked if I could squelch  
that so  
18 it would make it a little quieter, which I did do.

that 19 Q. Now, how long did you stay at the police station  
20 night, sir?

21 A. I left about 3:40, 4:00 in the morning.

when 22 Q. Now, during that time from 3:00 in the afternoon  
23 Mr. Nichols arrived, till 3:30, 4:00 in the morning,  
did you  
24 ever leave the police station?

25 A. Yes, sir, I did.



Barry Thacker – Direct

1 Q. And how many times did you leave?

2 A. Three, maybe four.

3 Q. And about total -- how much time were you out of  
the police

4 station during those three or four times, sir?

5 A. The best that I can recall, probably about three  
hours.

6 Q. Okay. Now, after this initial encounter where the  
7 agents -- how many agents went with Mr. Nichols  
downstairs into

8 the basement?

9 A. I believe three.

10 Q. And how many agents total were in your Department  
of Public

11 Safety at that time when they all went down in the  
basement?

12 A. Four.

13 Q. So one stayed upstairs?

14 A. That's correct.

15 Q. Now, during the course of the evening, did more  
agents

16 arrive?

17 A. Yes, sir.

18 Q. Can you tell the jury how many total agents there  
were in

19 your station at any one time.

20 MR. MACKEY: Objection, relevancy.

21 THE COURT: Overruled.

I would 22 THE WITNESS: The numbers varied greatly, but  
23 guess there was from 25 to 30, 40 maybe at some points.  
There 24 was ATF. There was other agencies that was there,  
also. 25 BY MR. TIGAR:

13439

Barry Thacker – Direct

people as 1 Q. And were you able to meet with each one of these

2 they came in?

3 A. No, sir, I did not.

observe 4 Q. Now, during the course of the evening, could you

back down 5 people coming up out of the basement and then going

6 into the basement? Did you ever see what happen?

7 A. I recall one person.

8 Q. Now, who was that?

9 A. Randy Rathbun.

10 Q. Who was Mr. Rathbun?

11 A. At that time, he was U.S. prosecuting attorney.

12 Q. What did you see -- I'm sorry.

13 A. An attorney for the U.S. Government.

14 Q. What did you see Mr. Rathbun do?

15 A. He -- when I seen him, he was just coming up to the  
first  
16 level on the steps; and he asked us to hold the noise  
down  
17 upstairs, apparently being distractive (sic).

18 Q. Now, the steps that you talk of: Where do those  
steps  
19 lead?

20 A. The bottom steps go down to the basement. When you  
come to  
21 the -- the landing, it goes out into the bay, and then  
you come  
22 up approximately four steps to the ground floor.

23 Q. So that -- in other words, the steps you saw Mr.  
Rathbun  
24 using: They go to the basement where Mr. Nichols was  
talking  
25 to the agents?

13440

Barry Thacker - Direct

1 A. Yes.  
2 Q. And did Mr. Rathbun say anything other than "could  
you hold  
3 the noise down, it's making it --" I don't want to put  
-- Could  
4 you tell us as best you can remember what Mr. Rathbun  
said when  
5 he came up the stairs.

6 MR. MACKEY: Objection. Hearsay, relevancy.

7 THE COURT: Overruled.

8 THE WITNESS: He stated something to the  
effect, "Just

9 kind of hold it down, guys"; and so we did. It was  
just a  
10 polite comment.

11 BY MR. TIGAR:

12 Q. And at the time that you saw Mr. Rathbun doing  
this, about

13 how many people other than your employees did you have  
in your  
14 police station?

15 A. At that point, there was not as many as there were  
earlier

16 because they were out working and doing other areas.  
At that  
17 time, a dozen or so, maybe.

18 Q. And again, can you remember about what time this  
was?

19 A. As I recall, it was just a little bit after 12,  
12:15, when

20 Randy come up the steps.

21 Q. And had you seen him go down the steps?

22 A. No, sir.

23 Q. Now, did there come a time when Mr. Nichols left  
the police

24 station?

25 A. Yes, sir.

13441

Barry Thacker - Direct

1 Q. About what time was that?

2 A. 12:30.

3 Q. Did you see when -- did you see Mrs. Nichols and  
Nicole

4 Nichols leave the station?

5 A. No, sir. They left while I was out.

6 Q. In other words, there came a time you left; and  
when you

7 came back, they were gone?

8 A. They were gone, yes, sir.

9 Q. Do you remember when it is that you left and came  
back and

10 they were gone? I mean, which one of the times when  
you had to

11 go out and do other business?

12 A. What comes to my mind is when we went out, I was  
asked to

13 go down the street and clear the houses approximately  
from one

14 block from the station. There was some discussion that  
they

15 were going to check Mr. Nichols' vehicle for explosives  
or

16 unsafe situation. And that would have been probably  
between 7

17 and 9, in that area. And it was -- there was quite  
some time

18 when I had the people leave their homes till when I got

back.

19                   When I returned back, she was not there.

20    Q.   Now, other than the conversation that you had with

21    Mr. Nichols when he first came in and introducing him  
to the

22    FBI agents, did you talk to him at any other time  
during that

23    evening?

24    A.   Mr. Nichols?

25    Q.   Yes, to Mr. Nichols.

13442

Barry Thacker – Direct

1    A.   No, sir.

2    Q.   And other than the conversation where you were  
introducing

3    people, did you talk to Mrs. Nichols at any other time  
during

4    that evening?

5    A.   No, sir.

6                   MR. TIGAR: Thank you very much, Chief.

7                   We have nothing further.

8                   THE WITNESS: You're welcome.

9                   THE COURT: Mr. Mackey.

10                                   CROSS-EXAMINATION

11    BY MR. MACKEY:

12    Q.   Good morning, Chief Thacker. How are you?

13 A. Fine, thank you.

arrived  
14 Q. On April 14, your records reflect that Mr. Nichols  
vehicle  
15 at the Herington Public Safety building and did a  
16 inspection. Is that correct?

17 A. That's correct.

of about  
18 Q. Did the report that you were shown -- bears a time  
19 4:55 p.m.?  
20 A. That's correct.

take for  
21 Q. Based on your experience, Chief, how long does it  
22 the Herington Police Department to run a VIN check?  
23 A. I would say in the neighborhood of 10 minutes.

minutes'  
24 Q. To your knowledge, based on that experience only,  
25 Mr. Nichols could have been there and gone in about 10

13443

Barry Thacker - Cross

1 time on Friday afternoon?

2 A. 10 to 15 minutes, yes.

3 Q. And that was a day you were not present?

4 A. That's correct.

1995;  
5 Q. You were present on the following Friday, April 21,

6 is that correct?

7 A. That's correct.

8 Q. And your testimony is that your first -- or the  
event that

9 drew your attention to Mr. Nichols in connection with  
this case

10 originated with the arrival of Agent Smith.

11 A. That's correct.

12 Q. And his inquiry with you and other local officials  
about

13 what, if any, information you had about an address in  
the

14 presence of certain individuals in Herington. Is that  
correct?

15 A. That's correct.

16 Q. One of those was Terry Lynn Nichols?

17 A. That's true.

18 Q. Had you at that point in time ever met or talked to  
Terry

19 Lynn Nichols?

20 A. Not to my knowledge.

21 Q. Never heard of his name in the course of policing  
the

22 streets of Herington at that point in time?

23 A. No.

24 Q. Do you know whether the name "Ted Parker" was asked  
of you

25 by Agent Smith on that Friday afternoon?



13444

Barry Thacker - Cross

1 A. It may have been. I -- I know there was another  
name, but

2 I don't recall what it was.

3 Q. Could have been Ted Parker?

4 A. Could have been.

5 Q. Whatever name it was, your check showed nobody by  
that name

6 living in Herington?

7 A. That's correct.

8 Q. But you did verify through City Water Services'  
records

9 that Mr. Terry Lynn Nichols was a resident at 109 South  
2nd?

10 A. That's correct.

11 Q. And you relayed that information to Agent Smith; is  
that

12 correct?

13 A. That's correct.

14 Q. In the course of that same afternoon and shortly  
15 thereafter, I take it, you left the police station;  
correct?

16 A. Yes.

17 Q. Made the drive that you've told this jury about?

18 A. Yes.

19 Q. And happened to drive by South 2nd; is that  
correct?

20 A. That's correct.  
21 Q. And saw a blue GMC pickup truck with a white camper  
top  
22 parked there?  
23 A. Yes, sir, I did.  
24 Q. And sometime shortly thereafter before you went  
back in  
25 with Officer Lindsly, you were walking into the  
building and

13445

Barry Thacker – Cross

1 you saw that same pickup truck headed your way?  
2 A. Yes, sir.  
3 Q. Did you think anything about it at that point in  
time?  
4 A. Yes, sir.  
5 Q. Because?  
6 A. Only because I just seen the vehicle earlier. It  
appeared  
7 to be the same vehicle; although till it got closer, I  
was not  
8 able to determine that for sure.  
9 Q. Just within the hour or so, the Federal Bureau of  
10 Investigation had been into your police station asking  
about  
11 one of your residents. Is that correct?  
12 A. That's correct.

13 Q. And that turned out to be Mr. Nichols on South 2nd;  
14 correct?

15 A. That's correct.

16 Q. Mr. Tigar has asked you some questions about places  
inside  
17 the police department. Let me show you a couple  
exhibits not

18 yet admitted and ask you a few questions about them.

19 Let me show you first a photograph I've marked  
for

20 identification as Government's Exhibit 2143. Sir, that  
is an

21 accurate depiction of the public entryway or the lobby  
at the

22 Herington police station?

23 A. Yes, sir, it is.

24 MR. MACKEY: Your Honor, I'd move to admit  
25 Government's Exhibit 2143.

13446

Barry Thacker - Cross

1 MR. TIGAR: No objection, your Honor.

2 THE COURT: Received. May be shown.

3 BY MR. MACKEY:

4 Q. Now, this doesn't show in this photograph  
everything that's

5 in the lobby; but this lobby is not gigantic, is it?

6 A. No, sir. It's rather small.

7 Q. There are a few chairs situated on the left-hand  
side of  
8 this photograph?  
9 A. That's right.

10 Q. As you walk in the door, you can find them on the  
left?  
11 A. Right.

12 Q. And the public traffic goes straight to the counter  
13 depicted on the left-hand portion of this photograph?  
14 A. That's correct.

15 Q. Was it in that area, Chief Thacker, that you  
encountered  
16 Mr. Nichols, his wife, and daughter?  
17 A. Yes, sir.

18 Q. Was it in that area that you had the conversation  
you've  
19 just described to this jury?  
20 A. Yes, sir.

21 Q. Mr. Nichols' statement to you at that time was,  
"I've heard  
22 my name on the radio, and I want to ask somebody why,"  
words to  
23 that effect?  
24 A. It was on television.  
25 Q. I'm sorry?

Barry Thacker – Cross

1 A. Yes.

2 Q. Thank you. But some news broadcast?

3 A. Yes.

4 Q. He told you, did he not, that he had heard his name  
in  
5 connection with the Oklahoma City bombing?

6 A. Yes.

7 Q. And that's the reason that, Chief Thacker -- that  
you  
8 didn't attempt to answer any of his questions.

9 A. That's correct.

10 Q. You knew at that point in time the bombing in  
Oklahoma City  
11 was being investigated by the FBI?

12 A. That's correct.

13 Q. Let me show you Government's Exhibit 1935 not yet  
in  
14 evidence. Is that, Chief Thacker, an accurate floor  
plan of

15 your police station?

16 A. Yes, sir, it is.

17 Q. That's the first floor?

18 A. Yes, sir.

19 Q. Let me show you Government's Exhibit 1936. Is that  
an  
20 accurate floor plan of the basement area, sublevel?

21 A. Yes, sir, it is.

both 22 MR. MACKEY: Your Honor, we'd move to admit  
23 Exhibits 1935, 1936.  
24 MR. TIGAR: No objection.  
published. 25 THE COURT: They're received, may be

13448

Barry Thacker – Cross

1 BY MR. MACKEY:  
using 2 Q. Let me start with the -- on that Friday afternoon,  
3 this exhibit, Mr. Nichols and family members arrived in  
the 4 immediate area left of this exhibit?  
5 A. That's correct.  
6 Q. Area marked "lobby"?  
7 A. Yes.  
moving 8 Q. How long were the three of them in that area before  
9 on?  
10 A. Just a matter of 2 to 3 minutes, very short.  
11 Q. When they did move, did you place them then in the  
the 12 officers' room, that room immediately to the right of  
13 lobby?  
14 A. That's correct.  
15 Q. And to your knowledge, was Mr. Nichols only in

either the

16 lobby or the officers' room before going downstairs to  
be

17 interviewed by the FBI agents?

18 A. Yes, sir.

19 Q. This floor plan depicts, does it not, all the other  
offices

20 on that first floor; is that correct?

21 A. That's correct.

22 Q. And that officers' room is the single largest room  
of any

23 of the rooms on the first floor; correct?

24 A. That's correct.

25 Q. This room all the way to the very rear, for  
example, is

13449

Barry Thacker – Cross

1 among the smallest, if not the smallest?

2 A. That's correct.

3 Q. And that's a room reserved for highway patrolmen or  
other

4 witness interviews; correct?

5 A. That's correct.

6 Q. You'd been in that room; correct?

7 A. Yes.

8 Q. It's a very, very small room?

9 A. Yes.

10 Q. Hard to get two or three people in there  
comfortably?

11 A. Yes.

12 Q. This is the floor plan, is it not, for the  
sublevel;

13 correct?

14 A. Yes.

15 Q. It depicts on the top center of this exhibit the  
stairwell

16 that leads down from the first floor to the basement;  
correct?

17 A. Yes.

18 Q. Emptying into a very large meeting area; correct?

19 A. Yes.

20 Q. And that's the area that Mr. Nichols was  
interviewed by FBI

21 during the course of that evening?

22 A. That's correct.

23 Q. And that's the single largest room in the Herington  
Police

24 Department?

25 A. Yes.

13450

Barry Thacker – Cross

1 Q. Upstairs when Mr. Nichols came in and you greeted  
him, did



2 you tell him at that time you would take steps to find  
someone

3 who might be able to answer his questions?

4 A. Yes, sir, I did.

5 Q. Did you tell him, Chief, that you were going to  
call the

6 FBI?

7 A. I may have. I can't say the exact words, but I --  
that's

8 the term that I meant. Whether I said it that way or  
not, I

9 don't know.

10 Q. But in any event, you made clear to him that you  
were not

11 in a position to attempt to answer his questions?

12 A. That's correct.

13 Q. You asked that he wait in the officers' room and he  
did?

14 A. That's correct.

15 Q. Shortly thereafter, your testimony is that a number  
of FBI

16 agents did arrive?

17 A. That's correct.

18 Q. You recognized Mr. Smith. He had been in before?

19 A. Yes.

20 Q. Not hard to forget. He's very tall and thin;  
correct?

21 A. That's correct.

22 Q. And you escorted those agents then to the same  
place that

23 you had Mr. Nichols and family members waiting.

24 A. That's correct.

25 Q. And you were there when you made the introduction?

13451

Barry Thacker – Cross

1 A. That's correct.

2 Q. And you made it clear to Mr. Nichols that the  
persons you

3 were introducing were from the FBI.

4 A. Yes, sir, I did.

5 Q. And you told them in words and substance: These  
are the

6 men that might be able to answer your questions?

7 A. That's true.

8 Q. Do you remember, Chief Thacker, that the FBI agents  
showed

9 their credentials or otherwise took steps to make known  
to

10 Mr. Nichols who in fact they were?

11 A. I believe they did.

12 Q. And then in sum and substance, you really turned  
the matter

13 over to them; is that correct?

14 A. That's correct.

15 Q. And you began to assist them in whatever way you  
could in a

large 16 support fashion, find a place that would be quiet and  
17 enough to conduct an interview.  
18 A. That's correct.  
19 Q. Provide support and general needs; right?  
20 A. Right.  
went 21 Q. On some occasion, Chief Thacker, before Mr. Nichols  
you not, 22 downstairs, you mentioned to Terry Lynn Nichols, did  
23 that he was free to go?  
Kuhn got 24 A. Yes, sir, I did. That occurred right after Chief  
25 the information on his driver's license and his correct  
name.

13452

Barry Thacker - Cross

or 1 We ran a triple I, which is a -- it's a criminal wants  
for 2 warrants -- to see if there was any wants or warrants  
3 Mr. Nichols; and there was not.  
room -- 4 And at that point, when I went back in the  
5 that's when I made the statement, yes.  
time -- 6 Q. So a local police officer -- and you were at that  
free to go 7 informed Mr. Nichols directly, "Mr. Nichols, you're

8 if you want to."

9 A. Yes.

10 Q. And he stayed?

11 A. Yes.

12 Q. Did you assist, Chief Thacker, personally in  
finding the

13 best room to conduct the interview?

14 A. Chief Kuhn was the one that went downstairs.

15 Basically what I did was when they were  
looking at the

16 rooms, I suggested that they may want to look at the  
basement,

17 as it was the largest room in the building, which they  
agreed

18 to do and then went down and viewed it.

19 Q. There is no windows down in the basement?

20 A. No.

21 Q. It's sealed off from the outside?

22 A. Yes.

23 Q. It would have been, in fact, the quietest room in  
the

24 building.

25 A. Yes.

13453

Barry Thacker – Cross

1 Q. Later in that same afternoon, Chief Thacker, you

told

turn off 2 Mr. Tigar that you had occasion to go downstairs and

3 the radio that was background noise.

4 A. Yes.

Nichols 5 Q. When you walked into the room, did you see Mr.

6 seated in a chair?

7 A. Yes, sir.

8 Q. And did you see one or more FBI agents near him?

9 A. Yes.

at that 10 Q. Would you describe how Mr. Nichols appeared to you

11 point in time as you saw him seated in the basement?

little 12 A. He appeared fairly calm. He might have been a

when I went 13 nervous but very poised, just setting there quietly

14 downstairs.

observation: 15 Q. And after -- you've been a police officer or in law  
16 enforcement for some 24 years; and that was your

who 17 that this was a person being questioned by FBI agents

18 appeared calm and poised.

19 A. That's correct.

of who it 20 Q. You were not in charge, of course, Chief Thacker,

time? 21 was would be talking to Mr. Nichols at what point in

22 A. No, sir.

23 Q. You were not in charge of keeping track of the many  
comings  
24 and goings of federal law enforcement officers that  
night?

25 A. No, sir.

13454

Barry Thacker – Cross

1 Q. You weren't making assignments, I take it, as to  
what agent

2 was supposed to do what in the course of their work in  
3 Herington that night?

4 A. No, sir. Only my officers and the assisting  
officers from

5 other agencies that were pulling security on buildings,  
but

6 that was all that I directed.

7 Q. Based on what you saw that evening, Chief Thacker,  
starting

8 with the first encounter upstairs in the officers'  
room, later

9 downstairs when you were there, and on any other basis  
of

10 first-hand knowledge, did you see any mistreatment of  
Terry

11 Lynn Nichols by FBI officials?

12 A. No, sir, I did not.

13 MR. MACKEY: I have nothing else, your Honor.

14 THE COURT: Mr. Tigar, any follow-up?

15 REDIRECT EXAMINATION

16 BY MR. TIGAR:

Smith and 17 Q. Chief Thacker, when the agents first came in, Mr.  
18 the other agents --

19 A. Yes, sir.

questions 20 Q. -- and you told them that Mr. Nichols had some  
--

21 A. Yes, sir.

time? 22 Q. -- did you hear them answer his questions at that

23 A. No, sir.

hear 24 Q. All right. At any time during the evening, did you

questions? 25 them provide him any information or answer his

13455

Barry Thacker - Redirect

1 A. No, sir.

the 2 Q. Now, you mentioned that when you went down to turn

3 radio down --

4 A. Yes, sir.

5 Q. -- you saw Mr. Nichols there; correct?

6 A. That's correct.

7 Q. And you said he appeared a little nervous?

8 A. Yes, but poised for the situation. He was setting  
there  
9 quietly. He wasn't running around. He wasn't doing  
anything  
10 that was unusual.

11 Q. Sitting in his chair?

12 A. That's correct.

13 Q. Now, during the time that you were in the basement  
14 adjusting the radio, did you hear the agents ask him  
any  
15 questions?

16 A. No, sir.

17 Q. Had you, as you came down the stairs towards the  
radio --  
18 could you hear them ask him any questions?

19 A. No, sir.

20 Q. And when you went down there, how many agents are  
present  
21 with Mr. Nichols, if you remember?

22 A. I believe there was three. There was either two or  
three.  
23 Q. And they were not asking questions at that point;  
right?

24 A. No, sir.

25 Q. At -- what time of the morning approximately did



Barry Thacker – Redirect

1 Mr. Nichols leave the police station?

2 A. 12:30.

3 Q. Now, when he left at about 12:30, was Mr. Rathbun  
still in

4 the building that you could observe?

5 A. Now, that, I can't swear to. He may have been; but  
they

6 were using other offices, and it would have been  
difficult for

7 me to know who was in which one.

8 Q. Do you remember at what time of the evening Mr.  
Rathbun was

9 first introduced to you or that you became aware that  
he was

10 there?

11 A. No, sir.

12 Q. Do you know who was in charge of this group of  
agents that

13 was in your police station during that evening?

14 A. At that point, I'm really not sure which senior  
agent was

15 in charge. Mr. Kuhn was working with two or three, and  
I'm

16 sure it was one of the -- those, but I don't recall the  
name.

17 Q. During that evening, did Mr. Kuhn have the  
principal

18 responsibility for coordinating with the agents?

19 A. Yes.

see us. 20 MR. TIGAR: Thank you very much for coming to

21 We have no further questions.

22 MR. MACKEY: Nothing else.

take it 23 THE COURT: All right. You may step down. I

24 he's excused.

25 MR. TIGAR: Yes, your Honor.

13457

1 THE COURT: You agree to that?

2 Thank you. You're excused.

time, 3 I think we'll take the noon recess at this

few 4 members of the jury, and for the usual period, maybe a

remembering 5 minutes longer. And during this time, of course,

be 6 that you will hear more testimony, more evidence will

case, 7 provided in the case, and there are other parts of the

ahead 8 being arguments and instructions. You know, don't jump

so 9 of us here. Wait until we give you the case to decide;

10 please continue to do as you've been doing, withholding

seeing 11 judgment about the case and not talking about it or

12 anything outside of our evidence.

13 I'm going to excuse you now till about 1:30.

14 (Jury out at 11:55 a.m.)

15 THE COURT: All right. We have some matters  
to take

16 up with respect to witnesses for whom counsel have been

17 appointed. And I see Ms. Grady and Mr. Richilano in  
the

18 courtroom now.

19 Let me first take up the witness James  
Rosencrans.

20 Mr. Richilano, you were appointed by the Court  
to

21 counsel with Mr. Rosencrans.

22 MR. RICHILANO: That's correct, your Honor.

23 THE COURT: And I take it that you were given  
some

24 information before talking with him or at least before  
you

25 completed talking with him about why he was summoned as  
a

13458

1 witness in this case and what it is that counsel may be  
asking

2 of him.

3 MR. RICHILANO: Only through the Court's  
staff, your

4 Honor. I've spoken with my client. I've not had a  
chance to  
5 speak with defense counsel whom I understand subpoenaed  
6 Mr. Rosencrans. And I would like the opportunity to do  
so just  
7 briefly before advising the Court of his position.

8 THE COURT: Sure. We can do that. And what  
about --  
9 Ms. Grady? You were appointed for a witness, Patty  
Edwards.

10 MS. GRADY: That's right, your Honor.

11 THE COURT: And let me ask of you the same  
question:  
12 Have you had an opportunity to visit with counsel who  
13 subpoenaed that witness?

14 MS. GRADY: I have, your Honor.

15 THE COURT: And then you've also counseled  
with the  
16 witness.

17 MS. GRADY: Yes, I have, as well.

18 THE COURT: And are you adequately informed  
with  
19 respect to the subject matter that would be expected to  
be  
20 covered in questions in direct and cross-examination of  
this  
21 witness?

22 MS. GRADY: I believe I am, your Honor.

23 THE COURT: And without asking you to in any  
way

position 24 invade the privilege of attorney/client, are you in a  
her 25 to advise us as to what her position is with respect to

13459

may 1 constitutional right to refuse to answer questions that  
2 incriminate her?

3 MS. GRADY: Her position is that she wishes to  
4 exercise her right to remain silent, your Honor.

Grady. 5 THE COURT: All right. So -- thank you, Ms.

take the 6 Mr. Richilano, if you want -- I mean we could  
7 noon recess and come back to this.

your 8 MR. RICHILANO: Whatever the Court prefers,  
9 Honor. It won't take long.

me. 10 THE COURT: Well, if you want to have a little  
11 conversation off the microphone there, that's okay with

12 MR. RICHILANO: That's fine, Judge.

Tigar, 13 (Discussion off the record among Mr. Richilano, Mr.  
14 Mr. Thurschwell, and Mr. Neureiter.)

15 MR. TIGAR: Just another moment, your Honor.

possible, of

16 THE COURT: Sure. I don't know -- it's  
17 course, that Mr. Richilano, you would want to know what  
18 Government counsel might have in mind on cross-  
19 examination,  
20 depending upon the --

now, Judge.

20 MR. RICHILANO: That's what I'm looking at

Richilano,

21 (Further discussion off the record among Mr.

22 Mr. Tigar, Mr. Neureiter, and Mr. Thurschwell)

that

23 MR. RICHILANO: Your Honor, it's evident to me

privileges

24 Mr. Rosencrans will heed my advice to assert his

25 under the Fifth Amendment to the Constitution.

13460

learned did

1 THE COURT: Yeah. I take it what you just

matter

2 not come as a surprise to you as to what the subject

3 might be.

4 MR. RICHILANO: That's correct, your Honor.

your

5 THE COURT: So you've already covered that in

6 conversation with him?

Rosencrans

7 And you're assuring us that if called, Mr.

8 would invoke his constitutional privilege not to  
testify under

9 the Fifth Amendment --

10 MR. RICHILANO: He would, your Honor.

11 THE COURT: -- about these matters.

12 MR. RICHILANO: I am making those, your Honor.

13 THE COURT: And I take it Counsel are willing  
to rely

14 on this.

15 MR. WOODS: Yes, your Honor.

16 MR. TIGAR: Yes, your Honor. We would ask for  
17 findings of unavailability with respect to Ms. Edwards  
and

18 Mr. Rosencrans.

19 THE COURT: All right. Thank you, Mr.  
Richilano. We

20 appreciate your service in this matter.

21 And I take it there is no controversy about  
making

22 findings of unavailability for these witnesses.

23 MR. MACKEY: None at all, your Honor.

24 THE COURT: Therefore, under Rule 804, the  
Court finds

25 that James Rosencrans and Patty Edwards are unavailable  
as

1 witnesses in this trial.

2 We'll recess till 1:30.

3 MR. WOODS: Your Honor, may we approach the  
bench on a

4 short matter?

5 THE COURT: Yes.

6 (At the bench:)

7 (Bench Conference 115B3 is not herein transcribed  
by court

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

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13471

1 (In open court:)

2 THE COURT: All right. This conference dealt  
with  
3 scheduling and getting witnesses here and recognizing  
there  
4 are, in circumstances like this, some logistical  
problems as  
5 well as some other matters that have to be discussed  
with  
6 counsel; so that's what this side bar conference was  
about.

7 Because the counsel have some things to do  
during this  
8 break, we're going to recess till 1:40.

9 Recess.

10 (Recess at 12:12 p.m.)

11 \* \* \* \* \*

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21 PLAINTIFF'S EXHIBITS

22	Exhibit	Offered	Received	Refused	Reserved
Withdrawn	23	1935-1936	13447	13447	
	24	2134	13390	13390	
	25	2140	13420		13421

1 PLAINIFF'S EXHIBITS (continued)

Withdrawn	2	Exhibit	Offered	Received	Refused	Reserved
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3 2142 13323

4 2142 13324

5 2143 13445 13446

6 DEFENDANT'S EXHIBITS

Withdrawn	7	Exhibit	Offered	Received	Refused	Reserved
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8 D1017 13426 13426

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10 D1430 13349 13349

11 D1625 13387 13387

12 D1838 13383 13383

13 D638A 13415 13415

14 \* \* \* \* \*

15 REPORTERS' CERTIFICATE

16 We certify that the foregoing is a correct transcript from

17 the record of proceedings in the above-entitled matter.

Dated

18 at Denver, Colorado, this 9th day of December, 1997.

19

20

---

Paul Zuckerman

22



Carpenter

23

24

25

Bonnie