

## McVEIGH'S SECOND TRIAL

### Part II

Mr. Hartzler told you that the Fortier's would admit, under the Government's proof, that they were users of amphetamines and marijuana. The proof will be they were daily users of amphetamines during the period of time for which they claim to have knowledge.

Mr. Fortier was a daily seller of amphetamines, both Michael and Lori used marijuana; and the evidence will show, as I've already indicated, that the Government wasn't interested in pursuing that; but Mr. Fortier didn't know that. Mr. Fortier's maximum punishment, under the charges that he pled guilty to, is 23 years but he faces over a hundred years if he had been charged with the other crimes for which he was not charged, multiple counts of drug use and possession and lying to the ATF.

Our proof is that what he could have been charged with that he did is far greater in its severity than that which he pled guilty to but didn't do; and of course, as Mr. Hartzler told you, no charges were filed against his wife whose drug use and habit was almost as great as Mr. Fortier's.

The FBI repeatedly told Mr. Fortier in the interviews that participants in the Oklahoma City bombing would face the death penalty. Our evidence is that Terry Nichols appeared to be in the same circumstantial position by Mr. Fortier and that Mr. Fortier could read the writing on the wall.

In the plea negotiations that Mr. Hartzler has referenced the government offered Mr. Fortier a deal which allowed he and his wife to escape death itself. Mr. Fortier believed, and he will tell you, that under the deal he could receive as little as two years and his wife would not be prosecuted at all.

The deal, as I indicated, and you'll see it in evidence, provides that the Government will file a motion for a lower sentence in the even Mr. Fortier, quote, "cooperated," close quote.

The bottom line was, and is, that under this agreement which will be introduced, in order to testify against Tim -- Mr. -- Mr. McVeigh, Mr. Fortier would avoid a federal prison sentence in excess of 50 years for false statements to the FBI, false statements to the ATF and drug possession and distribution all of which, the proof will show, are totally unrelated to the bombing of the Murrah Building; but in the Oklahoma City bombing case, under the agreement, he escapes capital prosecution and his wife avoids prosecution altogether.

Our proof is that under such circumstances Mr. and Mrs. Fortier could only be expected to say whatever the Government wanted to hear, and we will prove they tailored their testimony to fit what they already knew about the prosecution's case and theory and save their own skins at the expense of the truth.

We will prove that Mr. Fortier's testimony against Mr. McVeigh is the product of fear and intimidation, that he proclaimed Mr. McVeigh's innocence to his closest friends and the world and changed when Mr. Terry Nichols was charged.

Mr. Hartzler told you, and it's true that the Government will introduce evidence of -- in various ways to describe the Darrell Bridges debt card, *Spotlight* debt card, the telephone card, but we're all referring to the same thing. The material is put together in some kind of summary that you may see later, but basically here's what the proof will show: A telephone debt card is not of the same thing as a telephone credit card or direct distance dialing.

You have a telephone credit card and you call from your home in Denver to New York City, there is an electronic chain of billing. A call from your home or your office or a pay phone to the place in New York City that you call, and if you use direct distance dialing, you pick up the phone, you dial 1-212, whatever the number is, a record is created because you, or whom ever's phone you are using, is charged a tariff and part of that tariff is dependent upon several factors, where you called from and where you called to, whether you called in the morning or after 6, whether you called on a holiday or workday, whether you had operator assistance or not, whether you called person to person or station to station. All of that information is necessary for billing.

And the telephone debit card, none of it is necessary except one thing, where the call was placed to. Because the telephone debit card charges 25 cents a minute whether you call across the street or across the nation. It doesn't make any difference where you called from or how or the time of day, it's only important where you called to; and it's the same whether you called Evergreen or Bangor, Maine.

Now the way that works is, is that this *Spotlight*, which is a newspaper put out by Liberty Lobby in Washington, D.C., which is kind of a political organization, advertised these debt cards; and in fact debt cards are a new and fast growing way that people use the telephone. You have to put the money up front. So the company's already got your money, and you can put \$25, \$50, a hundred dollars up, you send them a check or money order, they put it in an account.

*Spotlight* is the company -- and I'm not sure of its full legal name, but that's, for ease of convenience, what we'll call it -- they market this debt calling card service. People fill out an application, they pay the money to open an account, and they get the card.

Now, you don't need the card to make a call. All you need to know is the number. So anybody that knows the number can make the call. It's not something you slide in the machine and slide back out. You can surf a number, you can steal somebody's number, you can memorize your number, or you can carry the card and pull it out when you get ready to make the call.

There's a second company that figures into these transactions when you're making these calls, and that's a company called OPUS. I'm sure that stands for something but I don't

remember what it is. That's the company -- remember Spotlight advertises a card and they sell it. Well OPUS is the company whose job it is to facilitate the billing for the *Spotlight* debt card calling customers.

These *Spotlight* customers prepay money into an account and they're given a number and this account is managed by OPUS; and then OPUS, through various computer systems, subtracts the cost of each call, which is 25 cents a minute, from the customer's account.

Anyone who has the pin number -- and that's what it's called -- of a particular *Spotlight* account, like a traditional calling card number, would be able to charge calls to that person's account.

One of the problems that the proof will show with the Bridges card record in this case is that the original design of the Spotlight calling card system was not to provide a trail from the calling party to the called party, not because they were trying to help the customer but because it wasn't needed so they didn't want to create more work and spend more money in a competitive market than what was needed. All they needed to know was how long you were on the phone, and as many minutes that you were on the phone they took 25 cents off.

The card didn't carry a camera with it, so who made the call is not in and of itself part of the telephone records; so there is, of course, a record of the call coming in. I make a call or Michael Fortier makes a call or Tim McVeigh makes a call, let's say, from Lockport, New York, and he wants to call Denver, so the mechanics -- and these experts will tell you about it -- you pick up the phone, any phone, and you dial an 800 number, 1-800-Spotlight or whatever it is, and a phone rings. It might not really ring, it's all computers, but to make it simple, a phone rings and somebody there picks up that phone and so now you're connected; and you punch in your pin number. 1, 2, 3, 4, 5, 6, 7, 8, and electronically you're then ready to make your call. So you make the call.

And then there's a record from the place where the call came in at OPUS, or wherever it might be, Los Angeles, to where the call is received, say Denver, Colorado.

But here's our proof, to go back and say that this call in Denver was made from this pay phone in Junction City is not certain, and the reason that it's not certain is because there are three clocks. There's three forms of billing along the way, three records kept, and the clocks aren't synchronized so they're off; and this call to Denver, which may or not -- may or may not be from Junction City is not the only call OPUS is handling. It might be the only call, and the records will show it, at 3 a.m. in the morning, but at nine o'clock in the morning there could be several thousand people using their debt card calling at the same time and then their calls are filtered out but they're not linked up except in narrow, specific circumstances.

You see these computers systems that have to arrange this, unlike the debt card -- unlike the credit card on direct distance dialing, our experts or the Government experts will tell you, were not designed to work together to produce a summary of the details of each call

like you get each month. When you get your phone call at the end of month you have a credit card for direct distance dialing, it will say call from Denver to Longmont or call from Denver to Kansas City on such and such a date, such and such a duration.

But that's not the way the debt card works. The Government experts spent over 2,000 hours trying to match and study these cards and I believe the proof will show on cross-examination that there were many, many mistakes and they continue to be mistakes. Just the other day, it will be introduced into evidence, there was a new summary that corrected 35 mistakes.

For example, almost two years after they had access to it, this new summary shows a new call being placed with the Bridges calling card that they hadn't found before. The Government's expert has changed the location to where a call was placed from the Bridges card from the Traveler's Motel to a Minimart pay phone, and changing the city from where the calls were placed, from, for example, Kingman, to Bullhead City.

These mistakes, which we will go over with you on cross-examination, are typical of the mistakes made in trying to show something because the various components of the system are not synchronized.

One of the computer systems gathers information about where a call was placed from. The OPUS system gathered information about billing and customer identification, and the third system gathered information to whom the call was placed.

In order to accommodate the Government's theory that specific phone calls to chemical companies or arms companies or certain individual's homes were placed by my client or Terry Nichols they used an eight minute window of time. They used different methodologies but changed the methodology; so if Methodology A would support that, well, maybe this call was made from Junction City to a chemical company in wherever, Fargo, North Dakota, and then later you couldn't use the same methodology on a subsequent call because it wouldn't prove what you wanted to prove. It wouldn't prove it was made from Junction City or Kingman where the Government's theory was.

So to get around this or to try to get around this the Government's experts in his charts program, used an eight minute window of time in which to arbitrarily chose whatever call he felt best fit the place where they wanted to make the call originate.

Sometimes -- and these records will be introduced, you'll see them -- they had two, three, four or even more choices from which to choose. They always chose the one that fit the theory that it was Tim McVeigh or Terry Nichols making the calls.

Now, Mr. Hartzler made reference to it, and it will be in evidence, and that's the telephone call to the Ryder truck. Here's what the evidence is going to show about that and arguable that's the most important call we've got here. It also relates to the evidence concerning Tom Manning and it relates to the evidence of who rented the Ryder truck.

So the evidence is going to concentrate on that morning that Mr. McVeigh purchased the old Mercury from Tom Manning.

Initially, when the Government's agents were working on this case for a period of several weeks they thought the phone call to Elliott's had come at about 8:44 in the morning from a pay phone at Fort Riley. That was the call that rented the Ryder truck. We'll show you the chart. It will be introduced into evidence showing it.

Well, during that same period of time they're questioning Tom Manning about the circumstance of the purchase of the Mercury Marquis, and the evidence will show that Tim's car, a car that he had had for a number of years, had been involved in some kind of accident and he gotten another car, I think, from James Nichols and it wasn't working. It came in, I think it just barely made it into Manning's Firestone store, belching smoke, whatever.

So he asked Mr. Manning if he had a car that he could buy. Tom Manning will tell you -- he'll testify here by deposition -- that he knew Tim McVeigh, he had been in there, traded with him in the past. So he said, Yeah, I've got a car. He had this old Mercury, and I believe it was 17 years old. This is the Mercury that the government will contend that Mr. McVeigh drove to Oklahoma City and this is the getaway car. This is the getaway car that Mr. McVeigh is purchasing. It was 17 years old.

I believe that Mr. Manning paid \$50 for it. He sold it for \$250. He actually sold it for \$300 and gave McVeigh back \$50.

He testified, and you'll hear it, that this car had 97,000 miles on the odometer that were showing -- of course it could be 197 or even 297, depending on how many times the odometer had turned over in this 17- to 19-year-old Mercury Marquis.

And, in addition to that *the fuel gauge permanently registered on empty*. The needle was always over on E. And on top of that, the transmission didn't also work so when he sold Mr. McVeigh the car, he also sold him some cans of transmission fluid and then watched as Mr. McVeigh drove this 17- to 19-year-old Mercury Marquis that had 97,000 or 197 or 297,000 miles on it, with the fuel gauge permanently on empty, and with transmission fluid in the back in case the car had a problem, was the getaway car that Mr. McVeigh drove to getaway from Oklahoma City.

Well, the FBI interviewed Mr. Manning eight times. Now either he didn't tell them or he told them and they didn't write it down or they didn't ask, he never once mentioned that Mr. McVeigh, while he was buying the car, left the store and came back.

He didn't mention that until about a year and a half later -- it might have been shortly less than a year and a half -- he had a conversation with one of the prosecutors in this case, just before he gave his deposition in Topeka, Kansas, two days after the election last year; and for the first time he remembered that Mr. McVeigh left his business. Or if he

had remembered it before, nobody had thought it important enough to write down in his statement.

Now he remembered. Well, our evidence will be that now something else had happened and that something else was that the phone call to Elliott's wasn't at 8:44, the new theory was that it was at 9:53. Well, if it was at 9:53, from the bus station down the street from the Firestone store, and certainly within walking distance, then it couldn't be made by Tim McVeigh because Tim McVeigh is down at Manning's buying this old car.

So now Mr. Manning says, I remember he left. Well, of course, if he left, he didn't make the call if he left at the same time the call was made.

But Mr. Manning testified -- and you'll hear it -- that that's not what happened, that Mr. McVeigh was gone for 10 or 20 minutes -- 10 to 15 minutes and got back about 10:20. Even under the most extended interpretation of when Mr. McVeigh left, he left seven minutes before the call was placed. That is what the evidence is.

Then, as Mr. Hartzler told you, our proof is -- and maybe their proof -- is during the record that this call to Elliott's was made on the pin number that was the Darrell Bridges debt card. Well, there's a computer glitch and just it so happened at that moment it didn't record the pin number. That's the explanation given; but the explanation is that has to be Mr. McVeigh because two minutes before there's a phone call to Terry Nichols house which is charged to the Bridges record. That's the proof. That's the evidence.

But the evidence also is that Vickie Beemer, who works at Elliott's, said the call came at 10:30; so the proof is, it came at 8:44 from Fort Riley to pay phone, 9:53 from pay phone to bus station, or somewhere else at 10:30 according to Vicki Beemer.

No one observed Tim McVeigh at a pay phone placing phone calls when these calls were allegedly placed as the Government says they were. All of that will be introduced into evidence.

For example, Richard Greenwald, who is a businessman, was interviewed regarding a phone call to his business on October the 14, 1994; however, the Bridges summary, that will be introduced into evidence, the most recent version states the call occurred on October 24, ten days later.

There are two Government witness statements from him that give two different call times for this one call, both of which are different from the Government's most recent summary.

In the summary that will be offered here, which the government has shown us, there is an earlier summary, the second or third version, which we will introduce which tries to track these calls which reveals that two of these so-called Bridges calls were placed two minutes apart from different locations 25 miles apart. One call being placed from Kevin

Nicholas's house and the other placed from Terry Nicole's house, both calls placed to Bill McVeigh's residence in Lockport, New York.

However, after this matter had been studied a little bit more these theories were changed and this proof was changed because it would mean there were multiple users of the Bridges card because the same person couldn't make a call from two different locations two minutes apart 25 miles apart; and the Government's theory is it's only Mr. McVeigh and Mr. Nichols.

There's another call that's important in this case. In the earlier version it was reflected that Bridges electronic records and charts show that a call was placed from Junction City, Kansas, at 2:51 p.m. to a Charles Kirby; however, the Government agents apparently discovered, under our proof, that two minutes prior to this call to Charles Kirby a call was placed with the Bridges card from St. George, Kansas. This is the call that was 25 miles apart between St. George's and Junction City, Kansas. This would have meant that other people besides Mr. Nichols and Mr. McVeigh had access to the Bridges calling card.

The new evidence is that the Bridges summary reflects that the call is placed to Charles Kirby, St. George, Kansas, now instead of Junction City.

Well, our proof is this: The Bridges summary is not an electronic telephone summary like you receive. It is a summary prepared from a lot of different records by FBI agents design to shape the telephone evidence to the theory in the case that the calls are made by Tim McVeigh or Terry Nichols.

Our proof is that the Bridges calling summary is not what it purports to be and cannot be relied upon.

Mr. Hartzler spoke to you about Mr. Glynn Tipton. Here is the defense proof with respect to Mr. Tipton who is the gentleman that allegedly had a contact with a man named John, last name unknown, who attempted to buy nitromethane and anhydrous hydrazine from Mr. Tipton during the week of October 1st in Topeka, Kansas. You remember Mr. Tipton, and the proof will be, was the sales manager for a company named VP Racing Fuels which operated, at least in that part of the country, out of Manhattan, Kansas.

The Government will offer evidence showing that a review of the Bridges card shows a phone call to VP Racing Fuel on October 7, 1994, at 2:22.

The FBI contacted Mr. Tipton at the racing fuel place on May 1st about seven months later. After this original contact with this individual named John, Mr. Tipton didn't contact the FBI, the FBI contacted him because of this purported call on Bridges summary.

Mr. Tipton was asked who called his business using a credit card call number in the name of Darrell Bridges. Mr. Tipton remembered right away that on the weekend of October the 1st he had been working at the Sears Craftsman National Drag racing in Topeka,

Kansas, and that a man name John approached him and asked him if he sold anhydrous hydrazine in 55-gallon barrels. Mr. Tipton said he would have to check his records and get back to the agent -- I'm sorry, Mr. Tipton told John that he would have to check to see if he had it and get back to him.

The next day was Monday. John did not give Mr. Tipton a phone number because he said he was in the process of moving; but Mr. Tipton remembers that he gave this John one of his cards. On Monday, October the 3rd, Mr. Tipton called Wade Grey; now Mr. Gray is the purchasing agent for Texas Allied, these chemical supply. They're the ones they get this fuel from. And Tipton told this gentleman about his encounter with John.

Now, up to this point Mr. Tipton would tell you that he didn't have a clue that there was anything unusual about this request. He had even quoted John, according to himself, a price of 55-gallon barrel of nitromethane at \$1200; but Wade Grey advised Mr. Tipton that Texas Allied didn't handle anhydrous hydrazine and if anhydrous hydrazine was mixed with nitromethane the combination could make a bomb.

You will hear the testimony of Wade Grey and Glynn Tipton about their various attempts to contact the ATF in different cities and to report what they thought was a suspicious inquiry, but for whatever reason the matter was not pursued.

Mr. Gray will tell you that one week after the Oklahoma City bombing he received a telephone call from Mr. Tipton who advised him that he had seen the arrest of the person arrested in the Oklahoma City bombing case and that the individual looked identical to the guy who had come up to him at the race track in that October.

But Mr. Tipton and Mr. Gray didn't call the FBI to report their suspicions, even though they say that they had seen Mr. McVeigh and that he was identical to the John that had approached Mr. Tipton at the race track.

As there's an FBI agent, special agent, named Doyle who made the first contact with Mr. Tipton after the bombing. He was there to inquire about this phone call that they thought they had found. They got together and met.

Mr. Tipton was interviewed on June 29, 1995, this time by another agent. During this interview he had far greater knowledge of the uses of racing fuel and nitromethane and anhydrous hydrazine and how they are sold. He even told this FBI agent that it was quite common for someone to buy 55-gallon barrel of racing fuel or nitromethane and that names are rarely put on the sales invoices because it was so common.

He will tell you, when he's called to the stand, that he received one other phone call from the person he knew as John. After that he never heard of John again. He never saw John again until Mr. Tipton heard through the media that the prosecution's theory that the bomb was made of ammonia nitrate and diesel fuel, he didn't even have a reason to think of John.

Mr. Tipton will testify in this proceeding and he will tell you about the various descriptions of this John that he saw. They do not match, our proof will be, Timothy McVeigh. Mr. McVeigh does not have brown hair and he doesn't have medium colored skin. He's not 5'8 or 5'10. He's considerably taller.

Our proof is that the John, whoever he may have been, was so unimportant to Mr. Tipton that even though for a brief while he thought he was identical to Tim McVeigh, he wasn't convinced enough himself to call the FBI and share with them his suspicions; and it wasn't until after the FBI came to see him followed by an NBC camera crew a little while later that he began to believe that Mr. McVeigh was this John who, by his own statement, was making an inquiry concerning a routine purchase of nitromethane.

There is a series of four, I believe it is, storage units Mr. Hartzler made reference to. These storage units, I believe there's one of them in Kingman, Arizona; and the other three are down around the Herington, Junction City, Kansas area, and Council Grove and other places.

As Mr. Hartzler told you, the Government's proof is that all of these chemicals and fertilizers and other things that went into make the Oklahoma City bomb were placed in these storage units.

Well, the FBI sent out people from the laboratory and they ran a series of chemical tests to see whether there was any chemical traces or residue traces of these various things that supposedly were in the bomb in these storage sheds. If they had been stored there for several months then presumably there would be some evidence of some residue, but they didn't find any.

Terry Nichols, our evidence will show, had a lot of judgments against him. He didn't always deal in his own name at the gun shows or businesses that he was involved in. He was running from his creditors. Mr. McVeigh had some credit problems.

Most of these units are right around the area where Mr. Nichols lived and was storing things, and our proof is that these storage units had absolute nothing to do with the Oklahoma City bombing. They were rented under aliases, there's no question about that; but exactly who rented them and what was placed in there and who had access to them and who took it out is an area where the evidence is going to conflict.

And in the final analysis the Government's proof will rely upon Michael Fortier who says that he came to one of these units in Kansas, but Mr. McVeigh went in it and there was some kind of mattress in there and Mr. Fortier himself could not tell what everything in the unit was because there was a mattress and some other items in there. It may have even been in the evening and his vision of what he saw was blocked.

Our proof is that Tim McVeigh had strong political views against the government, no question about that; that he communicated those views to other people; that he talked

about them with his sister Jennifer; wrote about them to his friend Steve Hodge and maybe Dave Darlak and with people that he knew in the Army.

He sold copies of *The Turner Diaries* at gun shows and had a business of selling things at gun shows. Usually at these gun shows they would have what they called 200 tables, which would be a good size gun show, and that from those items he supported himself; and that Terry Nichols did the same thing.

In fact, there's a videotape, which you will see, of Terry Nichols ordering cards in his own name from the Kinko's at Manhattan shortly before the Oklahoma City bombing was going off.

And as Mr. Hartzler says, fertilizer was found at Terry Nichols house, and indeed it was, along with two pound sacks that Mr. Nichols sold it in at gun shows. And certainly the proof will be that Mr. Nichols, Mr. James Nichols' brother, who is a farmer in Michigan, and Mr. McVeigh and some of their friends from time to time exploded pop bottles, so-called pop bottle firecrackers, up in Michigan. But these are not the type of bomb, either in composition, design or mixture used in the Oklahoma City bombing case.

Mr. McVeigh arrived in Junction City, Kansas, on Thursday from Kingman, Arizona. He had been living in a motel there. His dad lived in New York, he came out of Kingman, up the highway and got to Junction City, Kansas. I've already told you that he bought the automobile because his car gave out as he pulled himself into town. And after he got this car he drove down to the Dreamland Motel, which is owned and operated by a lady named Lea McGown who will testify in this case. Ms. McGown, a very industrious woman, I think she's originally from Germany, and she operates this motel and lives there and says that she only leaves two days a year, Easter and Christmas, and she's kind of there 24 hours a day. And she at got a daughter, Kathleen and her son, Eric, and sometimes they help her out with the motel.

The proof will be that Tim McVeigh comes into the motel and registers under his own name, Tim McVeigh -- that's what she will testify to -- fills out the registration card and goes down and is given Room 25, which is pretty close, maybe a door or two within sight or distance of Ms. McGown's office.

Now, her memory is that she saw him in a Ryder truck, but the proof is that the Ryder truck that carried the bomb here wasn't rented until Monday afternoon at 4:30. When asked how she could reconcile that, Lea McGown said it couldn't have been on Monday because Easter doesn't come on Monday, it comes on Sunday; and she remembered it. In fact she remembers it so well that she told her son, "Go down there and tell Mr. McVeigh to move that Ryder truck because it's blocking somebody else's door." There was a day sleeper that lived down in that area of the hotel.

Now, I wasn't there. I don't know whether she saw Mr. McVeigh in a Ryder truck, or she saw a Ryder truck and Mr. McVeigh wasn't in it, or she saw Mr. McVeigh; but there was

about 25 to 30 to 50 people in and out of this motel every day, and they saw Mr. McVeigh at times inconsistent with the Government's proof in this case.

Now, the proof is that a phone call was placed from the Dreamland Motel to a Chinese restaurant. Hunan's, I think it is. And somebody in the name of Robert Kling, according to the restaurant records, ordered some Chinese food to be delivered to Room 25. That's what the written record of proof will be.

Jeff Davis, who was the delivery man, took the order to the Dreamland; and when he got there, there was a man standing in front of a door and the door was open and the man paid him and gave him a tip and took the order that had been placed for Robert Kling. Jeff Davis will tell you that the man he gave the Chinese food to was not Timothy McVeigh. That will be the evidence.

Timothy McVeigh was staying at the Dreamland under his own name. Robert Kling rented the Ryder truck. The Ryder truck call was made, according to Vickie Beemer, at 10:30 in the morning to reserve the truck. There was a little conversation on the phone about size of the truck and what was needed and how much deposit was made. And she will tell you that she told Mr. Kling that he had to come in and make a deposit Saturday morning in order to keep the truck -- and Elliott's wasn't open all day on Saturday. It was only open for certain periods of the day in the morning -- and that Mr. Kling would be -- or Mr. Elliott would be there.

On Saturday morning, an individual identifying himself as Robert Kling appeared at Elliott's; and Mr. Elliott was there, and he paid him for the rental of the truck and advised that he would pick up the truck on Monday afternoon. The description that Mr. Elliott gave of the person that came,

according to the proof, was that he was about 5' 10" to 5' 11", medium build, weighed 100 to 185 pounds. That was Robert Kling. The proof is that Tim McVeigh is a tall, skinny guy anywhere from 6' 1" to 6' 2" and weighed 161 pounds.

On Monday afternoon, there is a videotape at McDonald's -- there are two McDonald's in Junction City. If you're going from the Dreamland Motel to McDonald's, it's shorter to go to the one in town if you are going by miles, but it's quicker if you're going to the one on the interstate because there's less traffic. You can get right down there from the Dreamland. You just simply exit the Dreamland, get on Interstate 70, go to the next exit, and there's McDonald's. That McDonald's is about a mile point three to a mile point five from Elliott's, which is further west and on an incline up on kind of a little bluff overlooking Interstate 70.

Now, there's a taxicab service in Junction City, and there's a man that works for the taxicab company; and when he was questioned by the FBI, the proof will be, he denied that he had carried Tim McVeigh to McDonald's. He'll testify -- and he has a severe diabetic problem. And the FBI was with him that day and they were with him the next

*day, and then he changed his story and he said, well, it must have been Tim McVeigh that he took; but his original thought of who his customer was, was it was not Tim McVeigh.*

Whether Tim McVeigh took a taxi there or not is an issue for you to determine, but there isn't any dispute; and the evidence is clear that Tim McVeigh is in McDonald's. He's there, and Mr. Hartzler gave you the time; and he was last seen at McDonald's at approximately 4:00. There is a little clock on the picture, as I recall, and you can see him with his food in his hand. You can also see the clothes that he is wearing.

Approximately 15 minutes later, Robert Kling and another man walked into Elliott's. Robert Kling is wearing military fatigue-type clothing. In the picture at McDonald's, Tim McVeigh is not wearing military fatigue-type clothing. When Kling and the other man enter Elliott's, there are three people that clearly see them that day: Vickie Beemer, who works in the front office; Mr. Tom Kessinger, who works there; and Mr. Eldon Elliott, who owned it. There is a computer that indicates when the transaction to rent the truck ends. There is a lease agreement that Robert Kling has to sign to rent the truck. The proof is Tim McVeigh's fingerprints are not on the lease and Tim McVeigh's fingerprints are not anywhere in Elliott's.

The office at Elliott's is very small, probably no larger if as large as the area that you, as members of the jury, sit. There are photographs of it. There's a camera. The transaction at Elliott's and the evidence connected with it is as follows: On April the 17th, which is the Monday, Tom Kessinger is working at Elliott's Body Shop and he takes an afternoon break, and that break is between 4:15 and 4:30. To take his break, he walks into the front office and sits down.

At some point in this period, two males come in and they are conversing with Vickie Beemer about renting the truck. The first individual -- and we'll call him Subject No. 1 -- the proof will show according to Kessinger, was very talkative and acted very nervously. According to Mr. Kessinger's description, this man was 5' 10" tall, weighed 175 to 185 pounds, had green or brown eyes, and rough complexion or acne.

Tim McVeigh's picture was taken before the week was out. He didn't have rough complexion and he didn't have acne and he didn't weigh 175 to 180 pounds, and he wasn't 5' 10".

When the FBI and the law enforcement officials discovered the VIN number on the Ryder truck from that axle that flew and hit the Ford Fiesta, the closest FBI agent to Junction City was a gentleman by the name of Scott Crabtree, who was stationed in Salina; and he went immediately to Junction City. Somebody called ahead to see who was there and told them what they were coming about; and even before the FBI agents got there for their interview, the proof will be that Beemer and Kessinger and Elliott started talking among themselves trying to remember what the person that rented the truck on Monday looked like and how many there were, and Eldon Elliott asked Vickie Beemer, "Did he have a beard?"

Tom Kessinger, once the FBI got there and interviewed him, apparently had the best memory of what the person looked like; so he met with an FBI visual information specialist named Raymond Rozycki, and they went down the hall and had a meeting in which they attempted to describe the man who rented the truck had carried the bomb that killed these people.

As they're sitting there, Kessinger is telling Rozycki that Subject No. 1 was accompanied by a person that was called later, for ease of reference, John Doe 2. And according to Kessinger, this man, John Doe 2, wore a black T-shirt and had a tattoo on his left arm. He wore a baseball cap with white and blue zigzag patterns; and as Kessinger is telling this to Rozycki, Rozycki is writing it down.

On April the 20th, Kessinger describes the second man as 5' 10", weighing 200 pounds, heavy, well-built, and brown eyes. Kessinger said that John Doe 2 had brown hair and a smooth complexion.

Subject No. 1, Kling, the man who rented the Ryder truck, was wearing a camouflage uniform on April the 17<sup>th</sup>, according to Kessinger, when he walked into Elliott's. On April the 24th, Mr. Kessinger helped prepare a composite drawing of John Doe 2's hat, the one with the white and the zigzag patterns.

On April the 27th, Mr. Kessinger provided to Sergeant Robert Story of the Junction City, Kansas, police department and Special Agent Ronald Rozycki from the FBI a statement of what he had seen. He told them in this statement that John Doe 1 or Robert Kling was the only individual that he had actually heard speak. He said that John Doe 1 had a different looking jaw line and it was for that reason that Kessinger looked at him so often but that John Doe 2 was muscular and had a V-shaped body.

Mr. Kessinger told Mr. Koziol that John Doe 2 always wore a hat while in the office and it looked like, from what he could see, that he had a good tan.

On April the 29th, Mr. Kessinger assisted in preparing yet another composite drawing of John Doe 2, this time with a profile.

On April the 30th, 1995, for the first time Mr. Kessinger was shown a photographic lineup and asked if anybody in that lineup looked like Subject No. 1 or Robert Kling. Mr. McVeigh was arrested by State Trooper Charles Hanger on April the 19th on state charges, held in the Noble County Jail until the afternoon of Friday, April the 21st, when he was then let out and the picture of him in the orange jump suit or prison garb that so many of you remember was shown to the world.

On Saturday morning when Mr. McVeigh was being held in Oklahoma City, a lineup was held and various people asked to come down and see if they could identify the individuals in the lineup, one of whom was Tim McVeigh. Tom Kessinger was not asked to come to Oklahoma City and neither was Vickie Beemer and neither was Eldon Elliott.

On April the 30th, seven days after Mr. McVeigh's image had been around the world, our proof will show, numerous times, Kessinger is approached and asked if he can identify the person that rented the truck. By April the 30th, 1995, Tom Kessinger knew that the Government had charged Tim McVeigh with the Oklahoma City bombing and believed he had rented that truck and had driven it to Oklahoma City.

Mr. Kessinger identified in the lineup Tim McVeigh and said, "This is the person that came in."

Mr. Kessinger himself will testify that Tim McVeigh had been seen by him coming out of the Noble County Jail wearing this orange jump suit, shackled and chained and surrounded by FBI agents and sheriff deputies. He knew who the Government thought had rented the truck and set off the bomb.

Mr. Kessinger, even though the FBI advised him not to watch media coverage, occasionally caught glimpses of it on television.

In fact, on May the 2nd, 1995, he telephoned Special Agent Scott Crabtree and said that he had been watching television, briefly switching channels, and had seen a media depiction of John Doe 2 on television. Mr. Crabtree reminded him again that he wasn't supposed to watch the media or be influenced by it.

Mr. Kessinger was contacted again on May the 8th by the same two FBI agents, Doyle and Koziol. On that date he did not tell Koziol or Doyle that he had been mistaken about John Doe 2.

On May the 23rd, Kessinger himself was contacted again, but this time by FBI Special Agents West and Dobson, again to talk about what he knew. He did not tell West or Dobson that he had been mistaken about John Doe 2.

The next month, in June, the evidence will show Kessinger was shown a photograph of a cap worn by a man named Todd Bunting on April 18, 1995.

Our evidence will be that Kessinger and Beemer and Elliott, if they identified anybody, were confused and when they were describing the people that were in on Monday afternoon to rent the Ryder truck that carried the bomb, the actual physical description they gave was of the two men that came in 24 hours later at the same hour and rented a Ryder truck, Michael Hertig and Todd Bunting.

When the FBI agent showed a photograph of the cap worn by Mr. Bunting -- by Mr. Bunting, he wore this cap -- they covered up the face so that all you could see was the cap. Kessinger looked at it and he said, This is not the cap, not the cap worn by John Doe 2 on April 17, 1995.

Kessinger again said John Doe 2 accompanied Kling when Kling rented the Ryder truck.

In November of 1996, a year and a half later, the evidence will be that Mr. Kessinger decided that Todd Bunting was in fact John Doe 2. He reached this opinion after meeting with the Government prosecutors. He had had meetings, according to the evidence, on April the 19th with Mr. Crabtree; on April the 20th with Mr. Rozycki, two meetings with Jean Boylan, that's an artist that the FBI used, a composite sketch artist; a meeting on April 24, one on April 27, one on April 29, one on April 30, May 2nd, May 3d.

In all of these meetings Mr. Kessinger did not change his description of John Doe 1 or the statement that John Doe 2 was accompanied by Robert Kling. That change occurred after he met with the prosecutors.

The second person present was Eldon Elliott, the owner -- I can finish Mr. Elliott or pause here.

THE COURT: Well, how much longer do you think it will be entirely?

MR. JONES: 45 minutes.

THE COURT: Then I think we'll pause here.

THE COURT: Mr. Jones, you may continue.

MR. JONES: Ladies and gentlemen of the jury, before the recess, I was describing to you what the three people at Elliott's remembered about the two men that came in to rent the Ryder truck that the FBI says carried the bomb.

From both the standpoint of the Government's evidence and ours, this is the critical event; and that is why I'm spending the time to tell you now, because we won't put on our case until much later, what we believe the evidence will show.

I have described for you what I believe the evidence will show Mr. Kessinger remembered as one of the people that was in the room the entire time Mr. Kling was. Mr. Elliott was not in the room except briefly.

I left off by telling you Mr. Elliott's memory as I believe the evidence will show it. Mr. Elliott, as Ms. Beemer had said to Mr. Kling, was working at his body shop. And I should say parenthetically that the rental of Ryder trucks is incidental to his body shop. His principal business there is he's got a body shop; but he's also got the Ryder truck franchise, and it's hooked up by the computer system to the Ryder office, wherever the corporate headquarters are.

In any event, be that as it may, he was working that Saturday morning, as he did most Saturday mornings, at his shop on April 15, 1995.

This fellow Kling comes up to him, and they have a brief conversation about putting a deposit on the truck. This is about 8:45 Saturday morning.

Kling paid the entire sum, which was exactly \$280.32 to rent the Ryder truck. Elliott's memory was that Kling was approximately the same height as Elliott, and Elliott will testify that his height is about 5' 10".

Kling on this Saturday morning was wearing a camouflage military T-shirt, and he had a wrinkle or a drawn-in mark on his chin.

Kling came back to Elliott's Body Shop on Monday, April 17, 1995; and according to Mr. Elliott, this was about 4:20 p.m. Elliott asked Kling at that time if he had changed his mind about insurance and whether Kling wanted to inspect the truck with Elliott.

Now, this was important to Mr. Elliott, because if Kling wanted insurance, Elliott didn't have to inspect the truck, because if there was any marks on it or damage, it was covered by insurance. But if Kling didn't want insurance, then Elliott had the obligation to take a form and go out and inspect the truck and mark on the form whatever damage was already on the truck so that presumably when Kling turned in the truck, he wouldn't be charged for damage that was already on the truck before he rented it.

Elliott himself remembers that on that Monday afternoon, Kling was accompanied by John Doe 2, or another man. Elliott remembers that the second man had a hat with blue stripes or lightening on the side of it. He remembers that John Doe 2 talked to Robert Kling briefly and that John Doe 2 was a little shorter than Kling.

Also, Elliott remembers that on April 17, Kling was wearing Army fatigues or military-type clothing when he was in picking up the truck.

The individual with Kling on Monday was described by Elliott as being about 5' 7" to 5' 8", wearing a white cap with blue stripes.

In June of 1995, the Government attorneys showed Mr. Elliott a photograph of a cap worn by Todd Bunting on April 19 -- or actually, the next day, April 18, 1995, the Tuesday before the bomb went off on Wednesday.

Mr. Elliott, like Mr. Kessinger, told the prosecutors that the cap was not the same one worn by John Doe 2.

Mr. Elliott again told the prosecutors that Mr. Kling was with a John Doe 2 when Kling rented the truck.

Mr. Elliott was interviewed on numerous occasions in late April: on the 20th, again on the 20th, on the 27th. He was not invited down to Oklahoma City. He wasn't shown a photographic lineup. He was contacted again by the FBI on May 8. He told them he had no new information. And on May 19, he was again interviewed, this time concerning the color of the Ryder truck.

And on June 6, 1995, Mr. Elliott was served with a grand jury subpoena. On June 8, approximately 50 days after the Oklahoma City bombing, he was asked for the first time - - on June 8 -- to look at a photo lineup. He had never been asked to participate in the lineup, he had never been asked to look at a photo spread or a photo lineup prior to June 8.

Before that time, he had seen countless media depiction's of Tim McVeigh coming out of the Noble County Jail. He admits himself that he saw some of them; but on that day, almost two months after the bombing, shown the spread, he identifies Tim McVeigh.

The third person present was Vickie Beemer. She was the bookkeeper; and she worked the counter at Elliott's Body Shop. She was the one who actually handled the transaction. She stood directly across from Kling almost the entire time. Kessinger -- he'll testify, he'll show you where he was sitting. He was kind of sitting over here. The counter goes like that; but Vickie Beemer is directly across the counter for 10, 15 minutes with this man Kling.

She starts the paperwork. A reservation has been made. It's been prepaid with cash. The truck is there.

According to her, Kling tells her that his birthday is April 19; and Vickie Beemer states to Kling that she had been married longer than Kling had been alive.

She remembered that Kling had telephoned her on April 14 to do a rate quote. He had provided to her Omaha, Nebraska, as an address. She told the FBI she could not remember his face. She could not remember what Robert Kling's face looked like, but she did remember that a second person accompanied him.

While she could not remember Kling's face, she stated that he was approximately 5 feet, 10 inches tall, medium build. She was interviewed by the FBI on the 19th, the 20th, the 27<sup>th</sup>, the 28th, May 5, 8, June 6, June 9, June 28, November 14, 1996. In none of these interviews did she ever change her indication that Robert Kling was accompanied by John Doe 2.

On August 1, 1995, the proof will show that Vickie Beemer came before the grand jury in Oklahoma City; and when asked by the prosecutor how certain she was that somebody was with Kling when he rented the truck, she responded, "Without a doubt, a hundred percent sure."

She told the grand jury Kling was 5' 10" to 5' 11".

On Tuesday, the 18th of April, at the same hour, approximately 4:30, two men entered Elliott's. One is about the same height as Tim McVeigh, about the same build, and about the same facial features, except he has a mustache, or at least he did then. The other gentleman who accompanied him is a shorter man with a kind of a tan complexion. He has black hair, has a tattoo, and he's a kind of a stocky fella.

The taller man is Sergeant Michael Hertig. The shorter man is Todd Bunting. Todd Bunting has a hat that has stripes on it, like lightening. It's white and blue. He calls it his Carolina Panther hat.

The proof will show that Mr. Elliott and Ms. Beemer and Mr. Kessinger are mistaken about two men being there on Monday and in their confusion described to the FBI -- honestly, I'm sure -- the people on Monday for the people on Tuesday, or the proof will show that the two people on Monday bear a striking resemblance to the two people on Tuesday, or it will show there was only one person on Monday; and our proof is if they're not even sure about whether there was a second one, how can they be sure what the first one looks like?

But based upon the sketch -- and you will see Michael Hertig in this courtroom, and you see Tim McVeigh, and you'll see the sketch, and you will see Todd Bunting. That sketch was taken around Junction City until it got to the Dreamland Motel; and Lea McGown said, "Looks like Tim McVeigh." And indeed, it does. It also looks like Michael Hertig; and John Doe 2 looks like Todd Bunting, or he could look like the person that Dana Bradley saw exiting the truck.

But based upon Tom Kessinger and Eldon Elliott and Vickie Beemer's description, principally upon Kessinger's, the sketch is prepared. And down the street, registered in his own name, is Tim McVeigh, in Room 25 of the Dreamland. Sergeant Hertig has already picked up his Ryder truck and headed down to the southeastern part of the United States where he lives.

On April 19, Kathryn Ridley and Trudy Rigney, Katherine Cregan, Charlotte Thomas, Raymond Johnson, and Anita Hightower and Robert Chipman were working outside the Murrah Building; and they, too, were killed. And later in the day, Rebecca Anderson, a nurse who came down to help rescue, was hit on the head by a falling object and died. She lost her life trying to save the others.

Later that day, an alert highway trooper by the name of Charles Hanger is driving on Interstate 35; and he stops an automobile, Mercury Marquis, and he stops it because there is no license tag on the back. He pulls over. The car in front of him pulls off the highway and stops; and he goes up, and there is some conversation. And he notices that Tim McVeigh is carrying a pistol, and so he places him under arrest for the misdemeanor offense of carrying a concealed weapon.

Part of the arrest scene is video taped. Not all of it, but part of it is video taped; and there is a record in the office of the Oklahoma State Patrol at Pawnee, Oklahoma, showing the precise time that Trooper Hanger called in and the precise time that he placed Mr. McVeigh under arrest.

Our proof with respect to that in reference to Oklahoma City will be somewhat different from that of the Government's, but I won't go into that at this time.

Mr. Hanger stopped Mr. McVeigh not because he was speeding, not because of anything that had happened in Oklahoma City, not because he was driving erratically but because he didn't have a license plate on the back of his car. He asked for Mr. McVeigh's driver's license. He noticed the bulge; and Mr. McVeigh, according to Mr. Hanger, told him immediately that he had a gun. Mr. McVeigh cooperated and complied with all of the requests of Mr. Hanger. And the man that the Government says killed 167 people an hour and a half below -- before made no offensive move towards Mr. Hanger, even though he had a number of opportunities to pull the weapon. He was polite and cooperative in every respect. He did not appear scared or nervous.

Mr. McVeigh told Trooper Hanger where he had purchased the car, how much he had paid for it; and Mr. McVeigh further advised Trooper Hanger that he was in the process of moving to Arkansas and had taken one load of his belongings there and was on his way back to pick up another load; and there is evidence that Mr. McVeigh had spent a lot of time in Arkansas over the years and had gone over there to look for real estate in western Arkansas.

Mr. Hanger requested to look at Mr. McVeigh's car, which Mr. McVeigh agreed to. Mr. McVeigh did not have a key, so he told Trooper Hanger to push the button in the glove box and it would open the trunk. Nothing was found in the trunk that was remarkable or illegal.

Trooper Hanger made no connection with the bombing in Oklahoma City and Mr. McVeigh. He put Mr. McVeigh under arrest and drove in to the county seat, which in that county would be Perry, because it's Noble County.

The jail is in the courthouse. When he got down to the jail, because this was a routine misdemeanor arrest, the routine procedure was followed. Mr. McVeigh was booked into the Noble County Jail by Marsha Moritz. Ms. Moritz had Trooper Hanger go into a room adjacent to the booking room in order to change into the usual orange coveralls that Mr. McVeigh had to wear as a prisoner.

Mr. McVeigh's belongings were treated as any other prisoner's belongings. Smaller items go into a canvas bag, and then that is put into a larger paper grocery sack with the prisoner's other items of clothing. Mr. McVeigh was no exception. The usual practice is to reuse the grocery sack and to reuse the paper sack.

His items of personal property were put into this canvas bag. His other clothing was put into a paper grocery sack. His name was written on it, just as other prisoners who had used it before had their name written on it, and it was stored in the property room.

No special care or maintenance was taken with the personal property, because it wasn't considered evidence, because Mr. McVeigh's personal property was irrelevant to the charge for which Mr. Hanger had arrested him on.

This is the testimony that the sheriff and the deputy in the jail will give.

And then on Friday, the FBI became involved for the reasons indicated. Mr. McVeigh was waiting to go to court. He was in the courtroom across the hall, when Sheriff Cook got the call from the FBI that something might be up.

So Sheriff Cook took Mr. McVeigh back up to the jail on top of the courthouse there in Perry. Mr. McVeigh had previously called a local attorney, a man by the name of Royce Hobbs; and he had tried to contact a bondsman about making bond on these misdemeanor charges.

But even though Mr. McVeigh had been in the jail *since Wednesday afternoon* and it was now *Friday*, he had yet to appear before the judge on this *misdemeanor*. No bond had been set, so he couldn't get out of jail.

*The attorney that Mr. McVeigh called, Royce Hobbs, tried to see Mr. McVeigh three or four times but was denied that right. And finally, along in the mid afternoon, got frustrated about it and filed a writ of habeas corpus with the job demanding to see Mr. McVeigh. Of course, at that time, no one knew for sure why he couldn't.*

And then at approximately 4:30 Central Standard Time, Mr. McVeigh walked out with Special Agent Floyd Zimms on one side and -- I've forgotten the name of the gentleman on the other side, surrounded by the Noble County deputies and walked into history.

During the rest of the day, the FBI collected the evidence in the Noble County Jail, the clothing. They went out and took custody of Mr. McVeigh's automobile. The automobile was sent to Washington. And while this is going on, people from the FBI are down in Oklahoma City, same time the rescue effort is going on, same time the recovery of the bodies is going on.

This material is sent to the Federal Bureau of Investigation laboratory to be analyzed and collected and reports written.

Mr. Hartzler indicated there could be some criticism of the Federal Bureau of Investigation laboratory. That is not our proof. Our proof will be evidence concerning contamination at the scene, at the laboratory, lack of skilled analysis, using people who are, shall we say, more law enforcement oriented than scientific oriented. *And just like the Bridges card, just like the eyewitness identification and the other matters that we will present in evidence, instead of it being a scientific inquiry, the evidence, our proof will show, was slanted towards the prosecution's theory.*

Serious consequences for the FBI and our client grow out of that; and at the appropriate place and in the appropriate manner and with the appropriate witnesses, we will discuss with you in detail those scientific tests and personnel and what happened at the Murrah Building and in the transportation and in the FBI laboratory.

The individuals primarily responsible for the supervision and collection will not give evidence of an expert nature in this case; but they handled it, performed examination and tests, and, our evidence is, contaminated it, misstated it, abused it, manipulated it, and *engaged in forensic prostitution.*

And then it was given over to people like Linda Jones; and the Government brings in someone from one of the world's most renowned laboratories, all the way in Europe, Linda Jones. But whatever Linda Jones saw or did or whatever Stephen Burmeister saw or did or examined was a Typhoid Mary before they got it.

Tim McVeigh had earplugs. He was a hunter and a shooter, and he carried a gun with him, just like many hunters and shooters do.

He had nitrates on him because that's found on guns and ammunition. And whether he had PETN or EDGN depends upon the evidence of contamination and the qualifications of the people that reached that conclusion. It also depends on whether PETN and EDGN was found at the scene. If it wasn't, it has no significance.

If Tim McVeigh built the bomb and put it in the truck, our proof will be that his fingernails, his nostrils, his hair, his clothing, his car, his shoes, his socks would have it all over them. They don't.

Out of 7,000 pounds of debris, there is *less than half a dozen pieces of evidence of a forensic nature*; and we will go over each one of them with you. And our evidence will be that they do not prove Mr. McVeigh guilty or a participant in this bombing.

I apologize for the time -- I don't apologize. I take it back. I don't apologize for the time. This is an important case. You know it. It's the only opportunity I will have probably for several weeks, if not several months, before we put on our case. I thank you for your attention, and I believe that you now know what I meant when I said every pancake has two sides.

Thank you.

\* \* \*

Now we have two completely different stories. Which one do you believe? This is what is asked of the average person out there when you serve on a jury.

I am a firm believer that if you're going to solve a problem, you have to go back to the beginning where it all started. The next step is to look at the all important indictment from the grand jury:

Indictment Against McVeigh & Nichols

In the United States District court for the Western District of Oklahoma.

United States of America, Plaintiff, vs. Timothy James McVeigh and Terry Lynn Nichols, Defendants

Filed August 10, 1995

Indictment Count One (Conspiracy to Use a Weapon of Mass Destruction)

The Grand Jury charges:

1. Beginning on or about September 13, 1994 and continuing thereafter until on or about April 19, 1995, at Oklahoma City, Oklahoma, in the Western District of Oklahoma and elsewhere, Timothy James McVeigh and Terry Lynn Nichols, the defendants herein, did knowingly, intentionally, willfully and maliciously conspire, combine and agree together and with others unknown to the Grand Jury to use a weapon of mass destruction, namely an explosive bomb placed in a truck (a "truck bomb"), against persons within the United States and against property that was owned and used by the United States and by a department and agency of the United States, namely, the Alfred P. Murrah Federal Building at 200 N.W. 5th Street, Oklahoma City, Oklahoma, resulting in death, grievous bodily injury and destruction of the building.
2. It was the object of the conspiracy to kill and injure innocent persons and to damage property of the United States.

The Manner and Means Used by the Conspirators to Further the Objects of the Conspiracy

Among the manner and means used by the defendants to further the objects of the conspiracy were the following:

3. McVEIGH and NICHOLS planned an act of violence against persons and property of the United States.
4. McVEIGH and NICHOLS selected the Alfred P. Murrah Federal Building and its occupants as the targets of their act of violence and McVEIGH attempted to recruit others to assist in the act of violence.
5. McVEIGH and NICHOLS obtained and attempted to obtain the components of a truck bomb, including a truck, ammonium nitrate, racing and diesel fuel, detonation cord and other explosive materials.
6. McVEIGH and NICHOLS used storage units to conceal the truck bomb components and stolen property.
7. McVEIGH and NICHOLS used stolen property and its proceeds to help finance their act of violence.

8. McVEIGH and NICHOLS made calls with a telephone calling card that they had acquired in a false name as a means of concealing their true identities and as a means of preventing calls from being traced to them.

9. McVEIGH and NICHOLS used different false names in business transactions as a means of concealing their true identities, their whereabouts and the true intent of their activities.

10. McVeigh and NICHOLS constructed an explosive truck bomb, and McVEIGH placed it outside the Alfred P. Murrah Federal Building in downtown Oklahoma City, where he detonated the bomb.

#### Overt Acts

To further the conspiracy and to achieve its objectives, McVEIGH and NICHOLS committed and caused to be committed the following acts, among others, in the Western District of Oklahoma and elsewhere:

11. On or about September 22, 1994, McVEIGH rented a storage unit in the name of "Shawn Rivers" in Herington, Kansas.

12. On or about September 30, 1994, McVEIGH and NICHOLS purchased forty fifty-pound bags of ammonium nitrate in McPherson, Kansas under the name of "Mike Havens."

13. In or about late September 1994, McVEIGH made telephone calls in an attempt to obtain detonation cord and racing fuel.

14. On or about October 1, 1994, McVEIGH and NICHOLS stole explosives from a storage locker (commonly referred to as a magazine) in Marion, Kansas.

15. On or about October 3, 1994, McVEIGH and NICHOLS transported the stolen explosives to Kingman, Arizona.

16. On or about October 4, 1994, McVEIGH rented a storage unit in Kingman, Arizona for the stolen explosives.

17. On or about October 16, 1994, NICHOLS registered at a motel in Salina, Kansas under the name of "Terry Havens."

18. On or about October 17, 1994, NICHOLS rented storage unit No. 40 in Council Grove, Kansas in the name of "Joe Kyle."

19. On or about October 18, 1994, McVEIGH and NICHOLS purchased forty fifty-pound bags of ammonium nitrate in McPherson, Kansas under the name of "Mike Havens."

20. In or about October 1994, McVEIGH and NICHOLS planned a robbery of a firearms dealer in Arkansas as a means to obtain moneys to help finance their planned act of violence.

21. On or about November 5, 1994, McVEIGH and NICHOLS caused firearms, ammunition, coins, United States currency, precious metals and other property to be stolen from a firearms dealer in Arkansas.

22. On or about November 7, 1994, NICHOLS rented storage unite No. 37 in Council Grove, Kansas in the name of "Ted Parker" and used to unit to conceal property stolen in the Arkansas robbery.

23. On or about November 16, 1994, NICHOLS rented a storage unit in Las Vegas, Nevada and store, among other items, a ski mask.

24. On or about November 21, 1994 and prior to departing for the Philippines, NICHOLS prepared a letter to McVEIGH, to be delivered only in the event of NICHOLS' death, in which he advised McVEIGH, among other matters, that storage unit No. 37 in Council Grove, Kansas had been rented in the name "Parker" and instructed McVEIGH to clear out the contents or extend the lease on No. 37 by February 1, 1995. NICHOLS further instructed McVEIGH to "liquidate" storage unit No. 40.

25. On or about December 16, 1994, while en route to Kansas to take possession of firearms stolen in the Arkansas robbery, McVEIGH drove with Michael Fortier to the Alfred P. Murrah Federal Building and identified the building as the target.

26. In early 1995, following NICHOLS' return from the Philippines, firearms stolen in the Arkansas robbery were sold and McVEIGH, NICHOLS and Michael Fortier obtained currency from those sales.

27. On or about February 9, 1995, NICHOLS, using currency, paid for the continued use of storage unit No. 40 at Council Grove, Kansas in the name of "Joe Kyle."

28. In or about March, 1995, McVEIGH obtained a driver's license in the name of "Robert Kling" bearing a date of birth of April 19, 1972.

29. On or about April 14, 1995, McVeigh, using currency, purchased a 1977 Mercury Marquis in Junction City, Kansas.

30. On or about April 14, 1995, McVEIGH called the NICHOLS residence in Herington, Kansas from Junction City, Kansas.

31. On or about April 14, 1995, McVEIGH called a business in Junction City and, using the name "Bob Kling," inquired about renting a truck capable of carrying 5,000 pounds of cargo.

32. On or about April 14, 1995, McVEIGH, using currency, rented a room at a motel in Junction City, Kansas.
33. On or about April 15, 1995, McVeigh, using currency, placed a deposit for a rental truck, in the name "Robert Kling."
34. On or about April 17, 1995, McVEIGH took possession of a 20-foot rental truck in Junction City, Kansas.
35. On or about April 18, 1995, at Geary Lake State Park in Kansas, McVEIGH and NICHOLS constructed an explosive truck bomb with barrels filled with a mixture of ammonium nitrate, fuel and other explosives placed in the cargo compartment of the rental truck.
36. On April 19, 1995, McVEIGH parked the truck bomb directly outside the Alfred P. Murrah Federal Building, located within the Western District of Oklahoma, during regular business and day-care hours.
37. On April 19, 1995, McVEIGH caused the truck bomb to explode.

#### The Results of the Conspiracy

38. As intended by McVEIGH and NICHOLS, *the truck, bomb explosion resulted in death and personal injury and the destruction of the Alfred P. Murrah Federal Building, located within the Western District of Oklahoma.* The following persons were present at the Alfred P. Murrah Federal Building on April 19, 1995, and were killed as a result of the explosion:

Charles E. Hurlburt, 73; John Karl Vaness III, 67; Anna Jean Hurlburt, 67; Donald Lee Fritzler, 64; Eula Leigh Mitchell, 64; Donald Earl Burns, Sr., 63; Norma Jean Johnson, 62; Calvin C. Battle, 62; Laura Jane Garrison, 61; Olen Burl Bloomer, 61; Luther Hartman Treanor, 61; Rheta Ione Bender Long, 60; Juretta Colleen Guiles, 59; Robert Glen Westberry 57; Carolyn Ann Kreymborg, 57; Leora Lee Sells, 57; Mary Anne Fritzler, 57; Virginia Mae Thompson, 56; Peola, Y. Battle, 56; Peter Robert Avillanoza, 56; Richard Leroy Cummins, 55; Ronald Vernon Harding, 55; LaRue Ann Treanor, 55; Ethel Louise Griffin, 55; Antonio C. Reyes, 55; Thompson Eugene Holdges, Jr., 54; Alvin Junior Justes, 54; Margaret Goodson, 54; Oleta Christine Bidby, 54; David Jack Walker, 54; James Anthony McCarthy, 53; Carol L. Bowers, 53; Linda Coleen Housley, 53; John Albert Youngblood, 52; Robert Nolan Walker, Jr., 52; Thomas Lynn Hawthorne, Sr., 52; Dolores Marie Stratton, 51; Jules Alfonso Valdez, 51; John Thomas Stewart, 51; Mickey Bryant Maroney, 50; John Clayton Moss III, 50; Carole Sue Khalil, 50; Emilio Tapia-Rangel, 50; Jammes Everette Boles, 50; Donald R. Leonard, 50; Castine Deveroux, 49; Clarence Eugene Wilson, 49; Wanda Lee Watkins, 49; Michael Lee Loudenslager, 48; Carrol June Fields, 48; Frances Ann Williams, 48; Claudine Ritter, 48; Ted Leon Allen, 48; Linda Gail Griffin McKinney, 47; Patricia "Trish" Ann Nix, 47; Betsy Janice, McGonnell, 47; David Neil Burkett, 47; Michael George Thompson, 47;

Catherine May Leinen, 47; Ricky Lee Tomlin, 46; Larry James Jones, 46; Richard Arthur Allen, 46; Harley Richard Cottingham, 46; Lanny Lee David Scroggins, 46; George Michael Howard, 45; Lerry Lee Parker, 45; Judy Joann Fisher, 45; Diane Elaine Hollingsworth Althouse, 45; Michael D. Weaver, 45; Robert Lee Luste, Jr., 45; Peter Leslie DeMaster, 44; Katherine Ann Finley, 44; Doris Adele Higginbottom, 44; Steven douglas Curry, 44; Michael Joe Carrillo, 44; Cheryl E. Bradley Hammon, 44; Aurelia Donna Luste, 43; Linda L. Florence, 43; Claudette Meet, 43; William Stephen Williams, 42; Johnny Allen Wade, 42; Larry Laverne Turner, 42; Brenda Faye Daniels, 42; Margaret Louise Clark Spencer, 42; Paul Gregory Boxterman, 42; Paul Douglas Ice, 42; Woodrow Clifford "Woody" Brady, 41; Claude Arthur Medearis, 41; Theresa Lea Lauderdale, 41; Terry Smith Ress, 41; Alan Gerald Whicher, 40; Lola Renee Bolden, 40; Kathy Lynn Seidl, 39; Kimberly Kay Clark, 39; Mary Leasure Rentie, 39; Diana Lynn Day, 38; Robin Ann Huff, 37; Peggy Louise Jenkins Holland, 37; Victoria Jeanette Texter, 37; Susan Jane Ferrell, 37; Kenneth Glenn McCullough, 36; Victoria Lee Sohn, 36; Pamela Denise Argo, 36; Rona Linn Chafey, 35; Jo Ann Whittenberg, 35; Gilbert Xavier Martinez, 35; Wanda Lee Howell, 34; Saundra Gail "Sandy" Avery, 34; James Kenneth Martin, 34; Lucio Aleman, Jr., 33; Valerie Jo Koelsch, 33; Theresa Antionette Alexander, 33; Kim Robin Cousins, 33; Michelle Ann Reeder, 33; Andrea Y. Blanton, 33; Karen Gist Carr, 32; Christi Yolanda Jenkins, 32; Jamie Lee Genzer, 32; Ronota Ann Woodbridge, 31; Benjamin Laranzo Davis, 29; Kimberly Ruth Burgess, 29; Tresia Jo Mathes-Worton, 28; Mark Allen Bolte, 28; Randolph Guzman, 28; Sheila R. Gigger Driver, 28; Karan Denise Shepherd, 27; Sonja Lynn Sanders, 27; Derwin Wade Miller, 27; Jill Diane Randolph, 27; Carrie Ann Lenz, 26; Cynthia Lynn Campbell Brown, 26; Cassandra K. Booker, 25; Shelly Deann (Turner) Bland, 25; Scott Dwain Williams, 24; Dana LeAnne Cooper, 24; Julie Marie Welch, 23; Frankie Ann Merrell, 23; Christine Nichole Rosas, 22; Lakesha Levy, 21; Cartney J. Mcraven, 19; Aaron M. Coverdale, 5; Ashley Megan Eckles, 4; Zackary Taylor Chavez, 3; Kayla Marie Haddock, 3; Peachlyn Bradley, 3; Chase Dalton Smith, 3; Anthony Christopher Cooper II, 2; Colton Smith, 2, Elijah Coverdale, 2; Dominique R. London, 2; Baylee Almon, 1; Jaci Rae Coyne, 1; Blake Ryan Kennedy, 1; Tevin D'Aundreae Garrett, 1; Danielle Nicole Bell, 1; Tylor S. Eaves, 8 months; Antonio Ansara Cooper, Jr., 6 months; Kevin Lee Gottshall II, 6 months; and Gabreon Bruce, 4 months.

All in violation of Title 18, United States Code, Section 2332a.

Count Two (Use of a Weapon of Mass Destruction)

The Grand Jury further charges:

On or about April 19, 1995, at Oklahoma City, Oklahoma, in the Western District of Oklahoma, TIMOTHY JAMES McVEIGH and TERRY LYNN NICHOLS, the defendants herein, *did knowingly, intentionally, willfully, and maliciously use, aid and abet the use of, and cause to be used, a weapon of mass destruction, namely an explosive bomb placed in a truck, against persons within the United States, resulting in death to the persons named in Count One, Paragraph 38 (which is expressly incorporated by reference herein) and personal injury to other persons.*

All in violation of Title 18, United States Code, Sections 2332a and 2 (a) & (b).

Count Three (Destruction by Explosive)

The Grand Jury further charges:

On or about April 19, 1995, at Oklahoma City, Oklahoma, in the Western District of Oklahoma, TIMOTHY JAMES McVEIGH and TERRY LYNN NICHOLS, the defendants herein, *did knowingly, intentionally, willfully and maliciously damage and destroy, aid and abet the damage and destruction of, and cause to be damaged and destroyed, by means of an explosive, namely, an explosive bomb placed in a truck, a building and other personal and real property in whole and in part owned, possessed and used by the United States and departments and agencies of the United States, that is, the Alfred P. Murrah Federal Building, 200 N.W. 5th Street, Oklahoma City, Oklahoma, causing, as a direct and proximate result, the death of the persons named in Count One, Paragraph 38 (which is expressly incorporated by reference herein) and personal injury to other persons.*

All in violation of Title 18, United States Code, Sections 844 (f) and 2 (a) & (b).

Counts Four Through Eleven (First Degree Murder)

The Grand Jury further charges:

On or about April 19, 1995, at Oklahoma City, Oklahoma, in the Western District of Oklahoma, TIMOTHY JAMES McVEIGH and TERRY LYNN NICHOLS, the defendants herein, did unlawfully, willfully, deliberately, maliciously, and with premeditation and malice aforethought, kill, and aid, abet and cause the killing of, the following persons while they were engaged in and on account of the performance of their official duties as law enforcement officers:

Count Four Mickey Bryant Maroney, Special Agent, United States Secret Service

Count Five Donald R. Leonard, Special Agent, United States Secret Service

Count Six Alan Gerald Whicher, Assistant Special Agent in Charge, United States Secret Service

Count Seven Cynthia Lynn Campbell-Brown, Special Agent, United States Secret Service

Count Eight Kenneth Glenn McCullough, Special Agent, United States Drug Enforcement Administration

Count Nine Paul Douglas Ice, Special Agent, United States Customs Service

Count Ten Claude Arthur Medearis, Special Agent, United States Customs Service

Count Eleven Paul G. Broxterman, Special Agent, Department of Housing and Urban Development, Office of Inspector General.

All in violation of Title 18, United States Code, Sections 1114, 1111 and 2 (a) & (b); and Title 28, Code of Federal Regulations, Section 64.2 (h).

A TRUE BILL:

Don Frantz

Foreperson of the Grand Jury

Patrick M. Ryan

United States Attorney

\* \* \*

Larry Becraft, General Counsel for *The Wallace Institute* and a lawyer who has tried dozens of cases in federal courts and read hundreds of federal indictments, has made this observation about the indictment itself:

"The indictment does not state the usual: "together with other persons, both known and unknown." When indictments contain this language defense attorneys always ask who are the others and force the government to reveal. This indictment was careful not to include, for strategy reasons, that language. But then Hartzler claims others in opening. Hmmm!

\* \*\*

Next comes the Motion to Transfer McVeigh's case from Oklahoma to Colorado:

<http://www.lectlaw.com/files/cur16.htm>

\* \* \*

The original foreman of the Grand Jury was Hoppy Heidelberg. Hoppy began asking questions as to why proper procedure wasn't being followed and why the impaneled members of the grand jury could not have badly needed experts in the field of demolitions brought before them. He was told there was no money. Hoppy sent his concerns to the judge, *all backed up by the rules book for the grand jury* and he was promptly dismissed!

Hoppy Heidelberg is an honorable man. A humble man. A man pulled from his life and all he was used to in day-to-day living, to be thrust right smack into the middle of an

investigation into the most horrific act of mass murder in the history of this nation. I would refer the jury to several pieces in order for you to have a better understanding of this special man who was at the head of the original grand jury - a very, very important fact. For those who might think Hoppy did what he did for fame or fortune or a movie deal, they do a great injustice to this man. His life was made hell, not materially enriched by his selection onto a grand jury.

A letter from Grand Juror Hoppy Heidelberg to Judge David L. Russell

<http://www.thecommonman.com/hoppy.htm>

Hoppy's opinion on a possible OKC film

<http://www.4bypass.com/archives/hoppy.htm>

Revealing Interview With Hoppy

With respect to the issue of money for the grand jury, let me give you a recap of how much money this mass murder has cost to investigate and conduct trials: \$82.5 million dollars. Jones' "defense" of McVeigh was a fat \$10 million bucks.

We have now read the opening statements and the grand jury indictment. We still need to back up one step: Why was a grand jury empaneled? Because a crime had occurred. What's the first thing one would want to do when a crime has occurred in order to track down the suspects if none are not immediately known? You look at the crime scene. You look at the crime scene for clues, evidence and hopefully something that will tell you about the perpetrators. At the same time, while things are fresh, you begin to interview witnesses. You want to interview these witnesses right away while events are still in the front of their mind, not dulled by years of time.

The prosecution did not deal with the crime scene when they opened their case. Let me give you a quick example of their first half dozen witnesses. Please forgive me for using rather dry language for these witnesses, but no words I could ever use would make it any better for the witnesses, survivors or their families. Their full testimony may be viewed at:

<http://www.cnn.com/US/9703/okc.trial/transcripts/mcveigh.html>

First Witness: Cynthia Claver was at that time an attorney for the Water Resources Board. Her testimony consisted of explaining how she heard the explosion and the terrifying hours afterwards. The defense did not cross-examine for good reason: Ms. Claver's testimony did not shed any light on their client being anywhere near the building, nor could she observe the "weapon of mass destruction."

Michael Rand Norfleet was in the building that morning. He sold digital test equipment. Mr. Norfleet parked his truck directly in front of the yellow Ryder truck in front of the

Murrah Building. Time: 9:00 am. He testified that these parking spaces were about 30'-40' from the front of the building. He did not see McVeigh anywhere. Mr. Norfleet was severely injured and is now blind in his right eye.

Phil Monahan is a photo journalist from KOCO TV in OKC. He described feeling the blast from his office several blocks away. He described the chaos. He was not cross-examined by the defense for obvious reasons.

Richard Williams worked in the building for GSA. From the 17<sup>th</sup> - 19<sup>th</sup> in his comings and going to and from work, he never saw McVeigh or the yellow Marquis. He never saw a yellow Ryder truck. However, on cross, he did provide some interesting information. The government contended that the yellow Ryder truck contained 13 huge, blue plastic containers which contained the ingredients for a bomb. Here is Mr. Williams testimony under cross-examination:

Q. Didn't see -- strike that. Now, the GSA purchased at some point some large blue plastic trash cans to be used as recycling bins; is that correct?

A. Yes, sir, that's correct.

Q. How many did you purchase? Do you recall?

A. Approximately 80.

Q. And they were placed throughout the Murrah Building; is that correct?

A. They were placed throughout the building for pickup during the week. That's correct.

Q. And there was also a storage room in the Murrah Building where some -- I don't know how many -- but some large blue plastic trash cans were stored; that is correct?

A. There were two to three stored either in the store room down by the rest room or out on the dock.

Q. And they were in the building, strewn around the building on April 19 prior to 9:00 in the morning; isn't that correct?

A. That's correct, yes, sir.

MR. TRITICO: Thank you very much, sir. I have no further questions.

Ladies and gentlemen of the jury - that testimony is so important. These blue plastic trash cans were all around that building. Allegedly, this 20' yellow Ryder truck had 13 of the same kind of barrels packed inside carrying the ingredients for the bomb. The color can only be classified as unknown at this time. The FBI analyzed two pieces of plastic: blue and white. Read the OIG's conclusion about this testing on those pieces of evidence.

I found it astounding that there were so few pieces of forensic evidence studied by the FBI's crime lab considering the size of the crime scene. But, you have all these blue plastic containers blown to bits because of the explosion that were right at the crime scene. We have a load of nothing to *prove* there were any inside the Ryder truck parked outside. Read the FBI OIG's report. Please don't take my word for it and you make up your own mind.

<http://www.usdoj.gov/oig/fbilab1/fbil1toc.htm>

Susan Hunt worked for HUD. She described those, including herself, who were injured and about the dead. Our hearts break for this woman. She was not cross-examined for obvious reasons. She did not see McVeigh or the yellow Ryder truck.

Helena Garrett worked for the Regents for Higher Education at the Journal Record building. Her 16 month old son was killed in the day care center. Her testimony was beyond anything any mom should have to endure. She was not cross examined.

Donna Weaver worked across the street at the Southwestern Bell Building. Her husband worked for HUD inside the Murrah Building. He was killed. Her testimony, again, rips out your guts. She was not cross-examined because she could not be questioned about anything of an evidentiary value.

Sgt. John Avera was with the OCPD, retired at the time of the trial. He heard the explosion. His testimony focused entirely on rescuing babies and digging dead babies out of the rubble. There was no cross. What can you possibly say?

Danny Atchley, OCFD, photographer and former firefighter. His testimony was only about bleeding, dying, hurt kids. There was no cross.

By this time, you can imagine the condition of the first jury. The defense repeatedly objected to this kind of testimony that did not lend anything to evidence or was of probative value. Everyone was aware of the carnage, death and destruction. The prosecution deliberately opened this way in order to make sure the jury would hate McVeigh. If they didn't already, they did by the end of those first witnesses.

### **The Crime Scene**

We've all seen photos of the front of the Alfred P. Murrah Building. They will be burned in our minds forever. At this time, I would like to take you to the crime scene so that you can study photographs you probably haven't seen. This is a series of pieces, so it may take you time to read and study them:

[http://www.devy.com/tim\\_20010513.html](http://www.devy.com/tim_20010513.html) (no photos)

[http://www.devy.com/graham\\_20010526.html](http://www.devy.com/graham_20010526.html)

[http://www.devv.com/keating\\_20010604.html](http://www.devv.com/keating_20010604.html) (one photo)

[http://www.devv.com/medusa\\_20010604.html](http://www.devv.com/medusa_20010604.html) (no photo)

Now that you have seen these photos, let us call as witnesses, electronically, *these qualified experts never called* during the original federal grand jury or the first trial. Brigadier General Benton Partin, U.S.A.F. (Ret), fully expected to testify for the defense. However, Mr. Jones, in possession of Gen. Partin's analysis and fully aware of his position that the building was blown from inside, told Gen. Partin that he would not be testifying because the prosecution wasn't going to bring "it up."

I spoke with Ben on June 14, 2001 so that I would be absolutely certain about these facts. Ben was visited by government representatives as he fully expected to testify. Why did Jones' ignore all the experts who could give testimony on the crime scene? Ben also told me that while Jones put forth the story to the public that he wanted the building to remain intact and not imploded, Ben said this wasn't true. Jones knew there was a lawsuit to keep the building *and* evidence from being destroyed. Jones assured the plaintiff in that lawsuit that he would fight to keep the building up. He went through some weak motions, but basically let it go. Why?

*The crime scene is the key to clues and evidence.* For the defense to ignore every single qualified expert in this country that would refute the junk science presented by the government is beyond the pale. *It smacks of throwing the case.* But, let us continue with the number one question McVeigh's defense attorney should have asked right off the bat since the crime scene has everything to do with the indictment of both suspects for using a weapon of mass destruction.

Could an ANFO truck bomb parked between 30' and 40' feet from the front of the Murrah Building have caused the massive damage sustained? Remember: The columns were recessed even further back into the building from "ground zero" where the truck bomb allegedly exploded.

The following are opinions from individuals who are not on the government's payroll in any form, and to my knowledge, had/have nothing to gain from their expert, qualified opinions. To my knowledge, each of these individuals have sought only to get to the truth as to who murdered 168 Americans on April 19, 1995.

Rodger A. Raubach, Ph.D., **June 28, 1995**, in his letter to Charles Key:

June 28, 995

Dear Rep. Key:

Thank you very much for your call this morning. I will attempt to answer the questions for you posted this morning in as simple terms as possible. As to my qualifications, I have Ph.D. degree in physical chemistry granted in 1972 by the University of Wyoming.

I have been subsequently involved in either chemical/medical research or supervisory positions in industry since that time.

You initially asked whether or not I supported BG Partin's position regarding the tragic bomb blast in Oklahoma City which involved much loss of life and suffering by both the injured and surviving family members. I have no reservations in supporting Gen. Partin, since I would consider him to be an "Expert's Expert" in this field. Gen. Partin's position regarding the use of an ammonium nitrate fertilizer bomb mirrors my views exactly. The possibility of an ammonium nitrate fertilizer bomb, regardless of size, demolishing a reinforced concrete structure at a thirty or thirty foot standoff not only strains the limits of credibility, but exceeds it by a considerable margin."

I am not aware that Dr. Raubach was or is a member of any militia or "right-wing extremist" group.

Let's look at Gen. Partin's letter to an alleged U.S. Senator, Trent Lott:

Benton K. Partin

Brigadier Gen. USAF (Ret.)

Alexandria, Virginia 22308

**July 30, 1995**

Sen. Trent Lott

United States Senate

487 Senate Russell Office Building

Washington, DC 205102403

Dear Sen. Lott:

The attached report contains conclusive proof that the bombing of the Alfred P. Murrah Federal Building, Oklahoma City, Oklahoma, was not caused solely by the truck bomb. Evidence shows that the massive destruction was primarily the result of four demolition charges placed at critical structural points at the third floor level.

Weapons Experience: I do not offer such an analytical conclusion lightly. I have spent 25 years in research, design, development, test and management of weapons development. This included: hands-on work at the Ballistic Research Laboratories; Commander of the Air Force Armament Technology Laboratory, and ultimately management responsibility for almost every non nuclear weapon device in the Air Force (at the Air Force System command, Air Staff and the Office of the Secretary of Defense (OSD) levels). I was also

the first chairman of the OSD joint service Air Munitions Requirements and Development Committee. (A more detailed resume appears at Tab 1.)

Observations in Oklahoma City: To verify earlier analysis, I visited Oklahoma City during the last week of June. There I had the opportunity to view hundreds of photographs taken throughout the cleanup operation as the layers of debris were cleared away. The photos present irrefutable evidence that at least four demolition charges were set off at four critical columns of the reinforced concrete structure at the floor level of the third floor.

Conclusion: Based on my experience in weapons development and bomb damage analysis, and on my review of all evidence available, I can say, with a high level of confidence, that the damage pattern on the reinforced concrete superstructure could not possibly have been attained from the single truck bomb. The total incompatibility of this pattern of destruction with a single truck bomb lies in the simple, incontrovertible fact that some of the columns collapsed that should not have collapsed if the damage were caused solely by a truck bomb, and, conversely, some of the columns were left standing that should have collapsed if the damage had been caused solely by the truck bomb.

It is my hope and request that, as a Member of Congress, you will support a Congressional investigation to determine the true initiators of this bombing, which could not have occurred the way in which it has been portrayed as having happened. Further, it is requested that you defer action and reserve judgment on so-called anti terrorism legislation that has serious civil liberties implications, and which would not be passed except for the Oklahoma City bombing until the causes of the Oklahoma City disaster are determined by independent investigators.

Both the Federal Building in Oklahoma and the Trade Center in New York (See *New York Times*, October 28, 1993, p. A1) show evidence of a counter terrorism sting gone wrong.

No government law enforcement agency should be permitted to demolish, smash and bury evidence of a counter terrorism sting operation, sabotage or terrorist attack without a thorough examination by an independent, technically competent agency.

If an aircraft crashed because of a bomb, or a counter terrorism sting or an FAA Controller error, the FAA would not be permitted to gather and bury the evidence. The National Transportation Safety Board would have been called in to conduct an investigation and where possible every piece of debris would have been collected and arrayed to determine cause of failure.

To remove all ambiguity with respect to the use of supplementary demolition charges, the FBI should be required to release the high quality surveillance color TV camera tape of the Murrah building bombing on April 19, 1995.

It is my observation that the effort required to bomb the A. P. Murrah Federal Building in Oklahoma City pales in comparison with the effort to cover up evidence in Oklahoma and the media's withholding of vital information from the American people.

Sincerely yours,

Benton K. Partin

Brigadier Gen. USAF (Ret.)

BKP:aw

Enclosure

I am proud to call Ben Partin a friend. To my knowledge, he is not nor has he ever been a member of any militia or "right-wing extremist" group or organization. His full resume and report may be viewed at:

<http://www.whatreallyhappened.com/RANCHO/POLITICS/OK/PARTIN/okm.htm>

*The New American* compiled a list of qualified experts, some whom I have spoken with, in their July 20, 1995 issue. Because these are very old magazines, I will quote directly:

"Another celebrated scientist who shares much the same opinion [of Dr. Cohen] is Dr. Frederick Hansen, professor of physics at the University of Oregon. Dr. Hansen's distinguished career includes professorships in engineering, aeronautics, and chemistry at MIT, Nagoya University in Japan, the Indian Institute of Technology in India, and Cheng King University in Taiwan. For 15 years he was head of earth and astro sciences at the General Motors Defense Research Laboratories, and for more than 20 years was a research scientist with NASA, where he became chief of the Fluid Mechanics Branch and, later, chief of the Physical Gas Dynamics Branch. In the latter post, he supervised construction of the world's most powerful research shock tube, where he conducted experiments using high explosives. In a letter to Representative Charles Key earlier this year, Dr. Hansen stated:

'I agree with Gen. Partin that blast through air is a very inefficient coupling mechanism against structure. Only by containing or focusing the blast can extensive damage be inflicted on reinforced structures...Everything considered, it is hard to avoid the conclusion that only an explosive detonated right at the column would have sheared it.'

"Dr. Earnest B. Paxson, an engineer with over 30 years experience in civilian and defense-related projects and a published author in many professional journals, concurs completely. "The damage pattern of any structure will indicate how the loading conditions which caused failure were applied," Dr. Paxson wrote in a letter to *The New American* after reviewing forensic evidence in the Oklahoma bombing. "In the case of

the OKC Murrah Building, the failure pattern demonstrated to me that individual charges were placed on each of the failed columns inside the building,"

"Paxson, who now runs his own engineering company in Utah, says he bases his evaluation on not only his knowledge of physics and engineering, but on training and practical experience he received in the U.S. Army Engineers Corps in the use of explosives to destroy different types of structures. "Based on that training alone," he told The New American, "I would say that a 4,800 pound ANFO truck bomb is an extremely inefficient way to bring down any structure. It might blow a hole in the curtain wall closest to the truck, but it would hardly touch the supporting columns of the building, because air is such a poor coupling agent. In fact, to be assured of destroying any structure, one would have to place the correct amount of explosive charge in intimate contact with the pertinent supporting members."

[My note: This certainly makes sense to me. The company that imploded the Murrah Building didn't use a big, yellow Ryder truck parked outside to blow the rest of the building. They placed charges on the columns and in other strategic locations. Think about it.]

Dr. Samuel Cohen, inventor of the neutron bomb and one of the last remaining scientists who worked on the Manhattan Project and has spent more than 50 years involved in scientific work stated: "I believe that demolition charges in the building placed inside at certain key concrete columns did the primary damage to the Murrah Federal Building." (June 1995) "It would have been absolutely impossible and against the laws of nature for a truck full of fertilizer and fuel oil, no matter how much was used --to bring the building down." Contacted shortly after the third anniversary of the bombing, Dr. Cohen stated, "I have not been following the case closely, but it seems to me that the evidence has gotten much stronger in favor of internal charges, while the ammonium nitrate bomb theory has fallen apart."

Alvin Norberg is another expert in the field of explosives, construction and demolition. As it happens, this kind, very sweet man lives about an hour or so from me. I gave a speech for the California Rifle & Pistol Association on June 11, 2001, the day McVeigh was executed and saw Mr. Norberg there. We had a discussion about the bombing and he told me to stay on the bombs in the building, *they were the key*. Alvin Norberg is a licensed professional engineer in Auburn, California with over 50 years of engineering experience on over 5,000 construction projects, writes that evidence from the ETS data:

"...verifies that the severe structural damage to the Murrah Building was not caused by a truck bomb outside the building," and that "the collapse of the Murrah Federal Building was the result of 'mechanically coupled devices' (bombs) placed locally within the structure adjacent to the critical columns."

Anyone else not on the government payroll who is qualified to give an expert opinion on the damage to the building?

Mike Smith, a civil engineer in Cartersville, Georgia, commissioned to review the Eglin Blast Effects Study, states:

"The results of the Blast Effect Test One on the Eglin Test Structure present strong evidence that a single Ammonium Nitrate and Fuel Oil device of approximately 4800 lbs. placed inside a truck could not have caused the damage to the Murrah federal Building experienced on April 19, 1995.

Even assuming that the building had structural deficiencies and that the ANFO device was constructed with racing fuel, the air-coupled blast produced from this 4800 lb. device would not have damaged the columns and beams of the Murrah Building enough to produce a catastrophic failure. "

Robert Frias, president of Frias Engineering of Arlington, Texas, after examining the EBES, concluded:

"The Murrah Building would still be standing and the upper floors would be intact had the truck loaded with explosives been the only culprit."

Frias, a practicing engineer for over 40 years and a registered engineer in Texas, New Mexico, and Louisiana, stated:

"Explosives had to have been placed near, or on, the structural columns inside the building to cause the collapse that occurred to the Murrah Building."

Kenneth Gow of Whittier, California, with over one-half century of engineering experience in the aerospace industry, writes in his evaluation of the EBES:

"The Eglin Test Structure report ... further reinforces the conclusion that a substantial portion of the Murrah Building damage was by internal explosions."

Three individuals sent faxes to Warden Farley Lappin in an effort to stay McVeigh's execution at least until the truth is uncovered:

Alexander B. Magnus, P.E. (Phone)  
Arlington Heights, IL 60004

June 10, 2001

TO: Warden Harley Lappin  
Federal Penitentiary,  
Terre Haute, Indiana [FAX (812) 238-3304 ]

URGENT

Re: Pending execution of Timothy McVeigh

Dear Warden Lappin:

Kindly be advised that as a licensed professional engineer I am qualified to make engineering evaluations and to analyze the physics of the Murrah Building bombing. Drawing on that expertise together with observations I made of photographs and video tape records taken shortly after the bombing, I conclude that the evidence positively confirms that the April 19, 1995 bombing of the Murrah federal building involved additional bombs other than an ANFO Ryder truck bomb. Indeed, the Murrah Building was not destroyed by a single truck bomb, instead the major damage was the result of the detonation of high explosive bombs strategically placed within the building on support columns.

Moreover, although a large number of top technical experts would have willingly testified at the McVeigh trial that the prosecutions version of the single truck bomb theory was physically impossible, these experts were never permitted to present such testimony. As a result, Timothy McVeigh was "convicted" of committing a physical impossibility.

Consequently, I urge you not to proceed with the execution of Timothy McVeigh since critical exculpatory expert testimony was not presented to the McVeigh jury for consideration. The execution of Timothy McVeigh will constitute additional destruction of "evidence".

The physics is supreme and enduring; accordingly, that the McVeigh trial was a travesty will be widely known. Additionally, if Timothy McVeigh is wrongfully executed, many participants in the crime will likely escape due and rightful punishment.

Sincerely,

Alexander B. Magnus, P.E., M.E.

\* \* \*

FROM: Robert Frias, P.E. (Phone)  
Arlington, TX 76013

And:

Gerard (Jerry) Longspaugh (Phone)  
Fort Worth, Texas 76179

June 09, 2001

TO: Warden Harley Lappin [FAX (812) 238-3304 ]

URGENT

Re: Pending "execution" of Timothy McVeigh

Dear Warden Lappin:

Please be advised that we, the undersigned, have both education and engineering backgrounds that are applicable to analyzing the physics of the Murrah Building bombing. Furthermore, drawing on that expertise together with observations we made of photographs and video tape records taken shortly after the bombing, we conclude that on April 19, 1995:

The Murrah building was not destroyed by a single truck bomb. Instead, the major damage was very apparently the result of the detonation of high explosive bombs strategically placed within the building on four critical support columns.

Moreover, although a number of top technical experts were willing and able to inform the jury in the McVeigh trial that the prosecutions version of the single truck bomb theory was physically impossible, these experts were never permitted to present such testimony. Resultantly, Timothy McVeigh was "convicted" of committing a physical impossibility.

Consequently, we urge you not to proceed with the execution of Timothy McVeigh until such and similar evidence is properly presented to a jury for evaluation. The execution of Timothy McVeigh will constitute additional destruction of "evidence" and make you an accomplice.

The content of this correspondence is being widely circulated, and the physics is supreme and enduring. Accordingly, that the McVeigh trial was a travesty will be widely known. Therefore, we urge you not to defame yourself by being a party to his wrongful execution.

Attached is additional material which includes statements by top technical experts which resonate our technical conclusion and further reveal that the McVeigh trial was a miscarriage of justice.

Sincerely:

Robert Frias, P.E.

And:

Gerard (Jerry) Longspaugh  
BS Aerospace  
Engineering 1965  
MS Astronautics 1966

All of this regarding the impossibility of fertilizer truck bomb blowing off the front of that building was known to Stephen Jones while he was "defending" McVeigh. Gen.

Partin was allowed to testify at the county grand jury brought about through the heroic efforts of former Oklahoma State Representative Charles Key. But, his testimony has never been considered by the feds or "officially" placed in any legal proceedings. They've simply ignored him. How come?

To my knowledge none of the individuals quoted above is or has ever been a member of any militia or "right-wing extremist" organization or group. The nay-sayers will immediately pounce on *The New American* as the publication which brings forth some of the quotes above. This is done for the sole purpose of discrediting these expert opinions and is frankly, quite transparent to anyone whose brain cavity hasn't been evacuated by the nonsense and bald-faced lies pumped by the government's media apparatus. Kill the messenger, kill the message. An old trick.

Could all of these experts in their field, including a retired Brigadier General, want a mass murderer set free? The prosecution trumpeted that they had "supporting" evidence besides the testimony of the Fortier's in their quest to convince the jury that McVeigh had carefully planned this bombing. Recall Mr. Hartzler, the federal prosecutor in his opening statement:

""TNT at \$5 a stick. Need more. Call after May 1."

May 1<sup>st</sup> of what year? Did McVeigh buy dynamite the year before? This was found on the back of an old business card *allegedly* found in McVeigh's car at the time of his arrest by Trooper Hanger. It could mean anything from any year. What goof-ball would dream of using sticks of dynamite to blow up a structure like the Murrah Building? I wish people could see the photos of the Eglin study. You would see the utter ridiculousness of the truck bomb theory blowing the Murrah Building. You can read some very accurate material on this at:

<http://www.myplanet.net/jeffhead/dadmisc/usairokc.htm>

*The New American* also had a number of reproductions of documents crucial to understanding the crime scene and the real "weapon of mass destruction." Of course, the compromised media goes to any lengths to destroy the messenger and keep people away from the message, but Americans are catching on to this duplicitous modus operandi and *they don't like it*. Let us examine verifiable information contained in some of their old issues that deal with this mass murder:

Radio Logs from the Oklahoma Highway Patrol, i.e.

April 19, 1995 1030: Another bomb found on the S. Side of the building/Triag has been moved to 5<sup>th</sup> and Broadway at this time/OKC Fire Dept confirms they did find a second device in the bldg/

1029: Rush TFC/GO There is another bomb on the south side of the bldg/need to get away as far as possible/BB Subflt 3 and LB evacuate the area of the bldg immediately, evacuate the area of the S side of the bldg immediately/

1037: The Fire Dept has located another device/AFF/BB have all units move civilian personnel back one block/TB/all units move civilian personnel back one block/TB

Here's more from a *CNN* feed that morning:

"LEA: All right. We just saw, if you were watching there- there was a white pick-up truck backing a trailer into the scene here. They're trying to move people out of the way so they can get it in. It appears to be the Oklahoma County Bomb Squad. It's their bomb disposal unit, essentially, is what it is. And it is what they would use to- if- if the report that we gave you just a few moments ago turns out to be correct, that they have found a second explosive device of some kind inside this building, they'll back that trailer down there and the bomb squad folks will go in and they will use that- that trailer- you see the bucket on the back there. Sort of- this is how they would transport the explosive device away from this populated area to try to do something with it.

"1st NON-CNN CORRESPONDENT: This was just a few moment ago. People running north, away from the Federal Building. You see them- ...

"LEA: - to the downtown YMCA, just east of the building in the grassy area. Right now, we have Susanne Sealy [sp] who is downtown. Susanne, can you tell us anything new?

"SUSANNE SEALY, Correspondent: Yes, LEA [sp], I can. The Oklahoma City police and the FBI have confirmed there is another bomb in the Federal Building. It's in the east side of the building. They've moved everybody back several blocks. They're trying to- obviously to- to- to unplug it so it won't go off. They're moving everybody back several blocks.

"It- it's a weird scene because at first everybody was running when they gave the word to get everybody back from the scene, but now people are just standing around, kind of staring. It's a very surreal, very strange scene. Now, we want to get some information out to people that if people are in the downtown area and they can hear me, you don't want to stand on the sidewalk. And the reason for that is there are gas mains underneath and they're worried if there's a second explosion that those gas mains could blow. But again, we do have there is a bomb in the building.

"We know it's on the east side. We're not sure what floor, what level, but there is definitely danger of a major second explosion. "They're warning everybody to get as far back as they can because this is something that they are- they're trying to get the- the bomb defused right now. They're in the process of doing it, but this could take some time. They're telling people that this is something to take very seriously. Do not try and slip forward to get a get a look at this because this thing could definitely go off. Lea-

"1st NON-CNN CORRESPONDENT: All right. Again, we're broadcasting live, giving you up to date information about the explosion in downtown Oklahoma City that occurred approximately an hour and 40 minutes ago and there is concern of another explosive."

Was all this some ruse to stoke the flames of conspiracy buffs? I don't think so, do you? The government has floated that these bombs were just training devices. You have read about this in the prior pieces I have submitted for your consideration. The Oklahoma City Fire Department *did not* leave the injured and dying and evacuate the area for "training devices." However, according to Mike Shannon, Chief of Operations for the OCFD, allegedly a "bomb" was found that turned out to be an ornamental clock off the desk of some ATF agent.

*Every ATF agent and FBI agent who worked in that building were absent that day, allegedly away on assignment. After some super-sleuthing, the alibi's of these ATF agents turned out to be provable lies.*

All were gone from the building, yet they "arrived" on-scene in big numbers immediately following the bombing. There is *overwhelming witnesses recollection* of ATF agents after the bombing remarking that they were told not to come to work that day. *This is a fact that can and has been confirmed.* Stephen Jones should have subpoenaed each and every one of them and grilled them under oath. He did not.

Another thoroughly perplexing problem with the truck bomb was the amount of time it took to identify a truck vs. a car. In the prior posts you've read, you will see newspaper after newspaper carried the headlines of a car bomb until the third day after the bombing. Even FEMA reported a car bomb as late as April 23, 1995:

<http://www.fema.gov/okc95/okcudt0.htm>

## OKLAHOMA CITY BOMBING UPDATE

Updated: April 21, 1995

### BACKGROUND

"On April 19,1995, at 9:05 a.m., in Oklahoma City, OK, one car bomb destroyed the Alfred Murrah Federal Building (this building is owned by GSA)."

You would think that an agency like FEMA who was on-site in lickety-split time, would know that the truck bomb theory was jumped on like a June-bug by the FBI. They had the truck axle, they were at the Ryder rental facility in Kansas in record time, yet the ATF and the FBI all continued to confirm it was a car bomb - including Governor Frank Keating on the local news. This statement made by him is forever memorialized on film, even though he denies it. FEMA continues to call it a car bomb, but the FBI has determined it was a truck bomb and the rest is history. How come?

However, as you are the jury, you must consider all evidence and testimony. Right now let us look at the testimony from the first trial of Mike Shannon. Mr. Shannon's face is familiar to many from that first day. Like so many, he put his life on the line repeatedly to try and save lives. Mr. Shannon was Chief Operations for the Oklahoma Fire Department at the time of the bombing and the trial. I am unsure of his status at this date. This testimony can be found at:

<http://www.cnn.com/US/9703/okc.trial/transcripts/may/052197.am.txt>

There are critical parts to Chief Shannon's testimony that need to be examined, so I am going to display them here. This segment of testimony is direct testimony conducted by the prosecution:

"Q. And I'd like to turn to April 19, and I won't go through the details of your receiving -- hearing the explosion, that testimony. Let's just talk about when you arrived at the scene.

A. I parked at the corner of Hudson and 5th and walked the block through the debris to get to the building. My initial thought was the Water Resources Building was the -- was my focal point and ended up looking to my right to the south and seeing the Murrah Building.

Q. Now, how far did you have to come to respond to the Murrah Building?

A. Five blocks.

Q. And I'm going to show you Exhibit 944, which is already in evidence. Can you see that photograph? Tell us what we're looking at here.

A. This is a -- this is myself.

Q. Would you -- okay.

A. Yes, sir.

Q. Okay.

A. With an SCBA on.

Q. What does that mean?

A. Self-contained breathing apparatus. At the time, where I parked, I couldn't see the Murrah Building. All I could see was parts of the Water Resources had -- the smoke led me to believe there was a -- a fire in the area.

Q. Okay. And about what time are we looking at where we see you here in this photograph?

A. Two, three minutes after the explosion.

Q. Okay. And what are you doing?

A. I had put on my mask, the SCBA, and was going up the street. And it was about in this area, someplace here between this line and the intersection, that I was able to see the -- get through the smoke well enough to see the Murrah Building, the damage in the Murrah Building, itself.

Q. All right. Now, if you would, you've got a folder there in front of you, Chief Shannon. If you would -- the very first exhibit in the folder is the one we're looking at here, 944.

Do you see that?

A. Yes, sir.

Q. Now, if you'll turn to the next exhibit, 979.

A. Yes.

Q. And are you looking at it?

A. On the paper?

Q. Yeah. Keep turning the exhibit pages until you come to 979.

A. I see. Yes.

Q. Would you tell us what that is.

A. That's a -- when I was standing right about in the middle of the intersection.

Q. Is this a photograph of what you saw that morning?

A. At this position, that's what it appeared when looking east.

Q. All right. And also while we're looking at these exhibits, would you look at 1001, 1002, and 1000.

A. 1001 . . .

Q. 1002 and 1000.

A. Yes.

Q. Are these all photographs of what you saw the morning of April 19?

A. Yes.

MR. RYAN: Your Honor, 1001 and 944 are in evidence; but the Government would move the admission of 979, 1000 and 1002.

MR. JONES: No objection.

THE COURT: All right. They are received. 979, 1000, 1002.

MR. RYAN: Yes, your Honor.

BY MR. RYAN:

Q. Now, let's turn to Exhibit 979. And tell us what we're looking at here.

A. This is what it looked standing in -- you can see the -- the center stripe in the road here. This gave an idea from across 5th Street. Across 5th Street --

Q. Excuse me. Go ahead.

A. About center of the street, you can see the edge of the Murrah Building here.

Q. And where are you with reference to this photograph?

A. Standing in the middle of the street, of 5th Street, looking east.

Q. Towards the building?

A. Looking straight east. The building is just in partial view.

Q. Okay. And where is the building? Point out actually where the building is.

A. There's a line going down and across. That outlines the edge of the building.

Q. Okay. Now, let's turn to Exhibit 1001. Tell us what we're looking at here.

A. This is looking about where I entered the building, looking to the north of the 50 car fires that are on the north -- in the parking lot.

Q. Now, yesterday, the jury looked at a number of vehicles that were directly north of the -- of the Murrah Building but didn't have all the smoke in the photograph. Is that what we're looking at, that parking lot?

A. Yes. This is the parking lot straight across the street.

Q. And what is -- what are we looking at here on the ground?

A. There's a seat here. We have a -- this is all the debris from the building, all the littered papers.

Q. And where you just circled there, is that the street, itself?

A. Yes, sir. *The street was -- you couldn't tell any marking of the street, whether it had markings of traffic lanes and the like, completely obscured from the debris.*

Q. All right. Now, let's turn to Exhibit 1002. Tell us what we're looking at here.

A. This is a few minutes after -- probably 15 -- around the 15-minute time line of being in the building. Engine 1 had already arrived on scene. Their crew had disembarked. I see the edge of a victim laying in the street here. That -- that tells me the time line that I'm speaking about.

Q. All right. And Exhibit 1000. What time line are we looking at here?

A. This was just before the previous picture, before the crew had -- of Engine 1 had disembarked. Tom Hall is here in the street. I already brought him out, so that puts it a little bit earlier.

I would like you to note that Chief Shannon mentions nothing about a crater in front of the building, but rather the fire trucks are having trouble getting into place because there is so much debris on the street. No where does he state that the debris filled up a 30' x 8' crater. You would think that a small detail like a 30' x 8' deep crater would merit mention. I mean, all that debris. Nothing was said as to whether or not it was filling up the alleged crater. I submit to you there was no crater of this size in the location where the truck was parked. There most certainly was one farther back in the building which was later dubbed "the pit."

Next is a detailed explanation of the condition of the building after the bombs went off inside. I primarily include this section for individuals like Gen. Ben Partin and other experts who dispute the truck bomb theory. Additionally, Chief Shannon testifies that *he was told* there was a bomb scare. *No where did he testify to actually seeing the alleged desk ornament that was mistaken for a bomb.* He also testifies about the *first* bomb scare, but never mentions a second. Why didn't he just say "the" bomb scare instead of the "first" bomb scare? Jones not only didn't pick this up on cross, he tried several times with different witnesses to *reinforce* that there were no bombs found in the building.

"Q. Would you identify the photograph. Don't describe it. Just tell us is that the photograph of you on the 19th in the building?

A. Yes.

MR. RYAN: Your Honor, we'd move the admission of Exhibit 981.

MR. JONES: No objection.

THE COURT: Received.

BY MR. RYAN:

Q. Okay. Chief Shannon, what are we looking at in this photograph?

A. There is a --

Q. First of all, before you do that, what time is this, about?

A. Probably around the area of 9:20 to 9:30.

Q. Okay.

A. I remember looking at my watch before I got out here and kept thinking that I should see the rest of the fire department showing up, but they were being detained in the streets by the injured.

Q. All right. Go ahead and tell us what we're looking at with this photograph.

A. This is Column -- right here, Column 18, and you see the debris up here of the column.

Q. Why don't we stop right there. Explain to the jury, when you talk about columns, what you're talking about, Column 18.

A. The structural members that hold each floor up, the columns; and they are numbered in two numbered sequences like Column 12, 14, 16, 18, 20, 22, so forth.

Q. Okay.

MR. RYAN: Marshal, could I ask you to set up one of the floor plans -- and it doesn't matter which one -- on the easel.

BY MR. RYAN:

Q. All right. Now, when you're talking about Column 18, could you show the jury what you're speaking about.

A. These were the columns that were support columns in the structure, and they were in sequence. They were columns back here also. This is one -- here the G line, E and F.

Q. Would you tell us the order of the columns. I can't quite see it from here.

A. I'm sorry. They are numbered 8 through 28. The area that we're looking at here is just outside of 18 on the G line. G, F and E. And just outside the G line here.

Q. So each one of those numbers that are evenly numbered are columns in the building?

A. It was like an address to us.

Q. Okay. And what is the -- what is the column doing?

A. Holding up the structure above it.

Q. Okay.

A. And in turn, the floors and so forth.

Q. And you talked about G, E and F?

A. The lines that went across -- the front line of the structure is the G line, the center of the structure is the F, and the further south wall is considered the E line.

Q. And what structures were actually in the building at those points? G, E and F?

A. They were columns that -- support columns for the structure, and in between each one of these was a support beam that ran under the floor about 2-foot thick and 4-foot thick -- 4-foot wide.

Q. All right. Now, again -- I'm sorry for that little diversion there -- but now, if you would take us back to the photograph and with -- now that we understand the columns, where are you located in this photograph?

A. The picture is taken of me just outside of this line on the G line right here -- excuse me -- on the F line, right here. This all part is fallen away from 12 in. This is all now debris pile -- about 7,000 square feet of debris pile, and this is -- I'm right here....

Q. Well, let's say during that first morning, how many people -- there's been some *talk* about a bomb scare that occurred -- well, you tell me. Approximately what time was there a bomb scare that people dealt with?

A. The bomb scare came about 10:30 -- the *first* one did, came about 10:30.

Q. And what was that about?

A. It ended up being a desk ornament from an ATF agent that was knocked into the stairwell, a desk clock that has the appearance of a very typical type of what you'd see on TV or a comic strips of a bomb; and it was in the stairwell, and people were real nervous at the time.

Q. *And that came to your attention?*

A. Yes, sir.

Q. And what did you do when you were *told* that there could possibly be another bomb present?

A. In terms of the people in the building, I felt real torn between duty and responsibility...

Q. Because you were going -- what were you doing in the moments after you *heard* about the bomb scare and before you left the building?

Q. Now, if you would, turn to Exhibits that you have before you there, 997, 982, 990, 955 -- or 985, 991, 998, 999, 992, 994, and 995. Faster, please.

A. Every chance I get.

Q. Are those photographs that show the building and show the conditions between April 19 and May 5?

A. Yes.

Q. And can you identify those as the actual scenes from inside the Murrah Building?

A. Yes.

MR. RYAN: Your Honor, we would offer the exhibits I just named. (Next long exchange is just about photo numbers, so I have omitted it)

Q. All right. What I would like to do, Chief Shannon, is to show you these photographs and just have you describe for us what we're looking at in terms of the condition of the building. This is Exhibit 993.

A. Interior collapse of the building. This is the 2d floor that we see up here. In the cave area, cave and pit area.

Q. Okay. 991?

A. This is some makeshift shoring, inadequate shoring; had to be replaced before people would want to dig or work in a particular area like into this bank to be worked. I would go by and inspect their shoring; and in this case, they had to remove this piece of shoring. It was taken to show improper shoring. Take this piece of shore out, and they had to put a foot across it to make a better -- a better -- a better structure there, a better -- safer structure....

Q. All right. Let's turn to 990. What are we looking at here?

A. Affectionately called "the mother slab."

Q. And --

A. Disaffectionate.

Q. -- where is this -- where are we looking at in relationship to the building?

A. We're in the street, looking on -- from the north, looking south. This is part of the roof.

Q. So we're looking at the 9th, 8th, 7th floor?

A. The 9th floor -- this is the roof of the 9th floor here. This area came from here. It's resting on the 9th floor. The 8th floor. It had three points of attachment -- four points of attachment. Excuse me. And it had the rebar on the back side. No. 8 rebar holding this -- about 40,000 pounds of concrete there.

Q. And what was holding this 40,000 pounds of concrete?

A. It had a -- a little -- a slight rest on three floors, a little bit on the 9th, and the rebar there from the back side holding it on.

Q. And was that there the entire time you all were working the building?

A. We worked beneath that for the entire time.

Q. All right. 985. Tell us what we're looking at here.

A. We're looking at the back side of the mother slab, what we just looked at. This is -- this is myself. This is the edge of the 9th floor. This goes across what was called the bite. And this is the other side of the 9th floor on the far side. This is the column that -- this is the -- one of the support beams that was on the back side of the mother slab. I'm pointing to this rebar, what we were just discussing. This rebar here was what was holding the mother slab up to the building, kept it from falling off.....

Q. All right. 991. I think we've already looked at that one. 998.

A. This is going back into the cave area. This is before a lot of the clean out was done. We had to build roads to get above the -- the compression of body fluids and the like that was down in here. We had to build roads to get us up out of the fluid, about 3, 4 inches high. A lot of the cracks you see here, we had problems with the same fluid coming through the cracks, seeping through all the cracks as you were working underneath there.

Q. All right. 999.

A. This is a little further back, shot of that same area. This is a -- myself looking back under some of the slabs that -- that got further back under the 2d floor. And this is a -- typical of the -- the fall hazards that are present. That's in that area that was constantly moving and shaking.

Q. 992? What are we looking at here?

A. This is Column -- this is the -- this -- this and Column 12 brought us a lot of concern structurally. We're looking right here at the air duct on G at 28. 12 and 28 had a lot of structural problems, and we were fearful that we would lose a major portion of the building. If you look here -- I will draw just above this crack there and there. There. Up above. We had several cracks there that we were afraid that that piece would collapse if the wind -- we had a lot of heavy, bad weather during that time, and we were afraid that the stress of the weather, wind force, would -- would cause greater collapse possibility.

Q. Now, do you know where the entrance of the building is, using the 3d floor behind you? I realize we're on the 3d floor here, not the 1st. Approximately what column number?

A. I want to say -- I believe it's between 18 and 20.

Q. All right. Now, what was the condition of the columns of -- of these columns, 18 and 20, in the building, the ones directly in front of the building?

A. They had to be reinforced with epoxies, steel girding and belting, strapping, to hold the rebar inside the column. The concrete had been blown apart from the rebar. Structurally, you want to hold the rebar in place, so we banded it with steel and then started filling it full of high ex -- quick-drying epoxies and cements and then encasing that, trying to lend -- get back the structural integrity.

Q. At which level are you talking about?

A. Well, now we're talking about dealing with these actual columns here.

Q. What line is that?

A. This is on the F line.

Q. What about the E line, Columns 18 and 20?

A. Back here.

Q. Were --

A. These ones back here.

Q. Where were they originally?

A. The E line are the columns that are working here. The F line are these.

Q. All right. What about the Columns 18 and 20 on the G line?

A. They were gone.

Q. Were they in the building?

A. They were laid into the structure.

Q. How far up?

A. They were broke off. They were -- they started bending; and as each floor collapsed, you'll find short sections of them as the floor accordioned them into the pile.

Q. So the entire -- from top to bottom of Columns 18 and 20 were collapsed?

A. All the Columns 22, 20, 18, 16, and 14 were all piled up in -- in part of the rubble pile, and they were -- some of them were kicked out into the street.

Q. All right. So we're talking about 14 and 2 on the front, north level.

A. Yes.

Q. Those columns are gone?

A. Yes.

Q. All right. Now, what about in the middle level there, E level, were any of those columns missing, collapsing?

A. 24 was missing.

Q. Excuse me?

A. 24 was missing. With it being gone is why you saw the bite go back into the building. There was no support for it, causing the loss of all the -- of all the floors all the way back to the E line, passing from the west side to the east side. What was left only was from the 26 line out back here. You had about a foot to 10 inches to walk back and forth across to do the checks, survey checks on this side.

Q. All right. So if you would, with your pointer there, just point to us where the -- where the columns -- or circle the area, if you will, where the columns were completely destroyed.

A. Everything from this line.

Q. What column is that?

A. 26 all the way across to 14. These lines. All of these were missing.

Q. All right.

A. Were in the -- the debris pile.

Q. All right. Now, let's turn to Exhibit 994. And again, if you would, tell us what we're looking at in this exhibit.

A. This is the connection on 2 -- would have been 24. But it was all the way back on the E line. This picture is a shot of the E line with the -- the beam -- the support beam going between E and the F -- what would be F24 and E24. That's the beam that was in the ceiling to support the roof -- roof concrete. That went down to the mother slab, was holding the mother slab on.

Q. All right. 995.

A. This is a section -- this is a part of the carrier beam. The carrier beam was on -- was on the front of the -- was in support of the 3d floor, was at the -- excuse me. I believe the 2d floor level. 3d -- the 2d floor level and all the floors rested on it. The beam is about 45,000 pounds if you come up with the estimate that it's about 5-foot high by 4 feet thick and about 15 feet long. And from the picture, it's around that -- for Mother to pick it up -- the crane, 200-ton crane to pick that up, it would -- it would be that estimate.

Q. All right. And this was the beam that did what now?

A. This was the carrier beam that ran across the front of the structure at the day-care level.

Q. Show us, if you would, where we're talking about.

A. It would have run across -- about there from 26 to 12. One of the earlier pictures depicted just a piece of -- of it sticking out from 12, and it was broke off about 4 feet away from 12. When that caused -- when that fell, that caused this whole third of the building to fall.

Q. And what floors did this particular beam that we're looking at in 995 -- what floors did it support?

A. It supported all the floors from the 2d floor up."

Chief Shannon was then put under cross by the defense and questioned for about one minute on the wind and rain. Off all the witnesses who mentioned the bomb scare, none ever testified to *seeing* bombs nor could they *dispute* that bombs *were or were not* found in the building. This question was very carefully massaged and finessed by both the government and the defense teams.

At the same time, the government tried desperately to counter a huge PR problem that cropped up: A very courageous man by the named of Frederick Whitehurst, who was employed by the FBI, became a federal whistle blower in a very big way. This scandal about the gross incompetence of the FBI lab in Washington, DC was dropped right smack in the public's eye during McVeigh's trial.

Let me give you a few previews of what the Office of the Inspector General for the Federal Bureau of Investigation had to say. The following URL will take you right to the OIG's report and a table of contents to read about how FBI Special Agents used junk science in this case and in the OIG's words, "tailored the evidence to fit the defendants...their conclusions were invalid."

<http://www.usdoj.gov/oig/fbilab1/fbilltoc.htm>

For your convenience, here is a quote from the OIG's report on the bombing and it's conclusions:

In Section G: Oklahoma City bombing, we find the following comments:

(1) "Further, we conclude that Martz improperly deviated from the explosives residue protocol in his examination of some specimens".

(2) Further on in the report is the statement by Agent Williams and his methodology to determine what kind of explosive was used: "...Williams' concluded that the main explosive used at OKC was ANFO. He acknowledged that he reached this conclusion, in part, because Terry Nichols, one of the defendants in the case, purchased ammonia nitrate and diesel oil prior to the bombing. *Without the evidence of these purchases, Williams admitted he would have been unable to conclude that ANFO was used.* Indeed, Williams stated that based on the post-blast scene alone, it could have been dynamite; I'm suggesting that there could have been other things. *We concluded that it was inappropriate for Williams to render a categorical opinion in his report that the main charge was ANFO.*"

Whitehurst's testimony during the trial can be found at:

<http://www.cnn.com/US/9703/okc.trial/transcripts/may/052797.am.txt>

The building was destroyed, buried and remains guarded. Evidence removed from the crime scene. Why the big push to destroy the building? Safety concerns? There's some merit to that. However, the area could have been cordoned off for as long as necessary.

"To bring closure to the families and remove the reminder of the tragedy." While this is a noble sentiment, you simply don't destroy the crime scene to accommodate the feelings of families. The crime scene can solve the crime and bring those responsible for the pain of these families to justice.

The NTSB never goes to a crash site (plane, train or otherwise), collects the wreckage, blows it up and buries it. Do they? No. Has the FBI or ATF ever stepped into one of these investigations (TWA, Gander, Lockerbie, etc.) and suggested that the plane or train be blown up and buried? I've never heard of such a thing. Every single piece of wreckage is a potential clue. Why this huge deviation from standard crime investigation standards? Guess.

How about the FBI lab where evidence was sent for analysis? I have covered this before, but for the sake of anyone who might have missed this critical information, I will repeat it. If you think I'm confining my criticism of the FBI's lab to just this "event," here's another case bungled at the same lab which speaks volumes about the "science" used to convict people:

<http://www.usdoj.gov/oig/fbilab1/06avianca.htm>

## SECTION E: AVIANCA BOMBING

### 1. Contradiction of Confessor, Pitting and Cratering

"In both trials Hahn opined that the pitting and cratering on the fuselage of the aircraft was caused by an extremely or very high explosive but that the DAS Building was damaged by a slower-moving explosive such as dynamite. This testimony contradicted the Confessor's story that the same explosive--a dynamite--was used at the DAS Building and on the aircraft. We conclude that *Hahn's opinions correlating the pitting and cratering to a high velocity explosive were unsound and not justified by his experience or by the scientific literature.* Although a high velocity explosive may have been used on the aircraft, *Hahn's opinions at the trials regarding pitting and cratering were flawed.*

"Finally, Hahn's recent involvement in the Oklahoma City case has broadened his experience. The pitting in that case is similar in size to the pitting in the Avianca case, although the VOD of the explosive in Oklahoma City, according to Hahn, is significantly below 20,000 feet per second. Given the Oklahoma City case, Hahn acknowledged that big pits can be obtained from an explosive with a VOD substantially less than 20,000 feet per second. Based on the Oklahoma City case and our own experience, we conclude that there is no scientific basis for correlating large pits, as in the Avianca and Oklahoma City cases, with a VOD of about 20,000 feet per second or more."

This excerpt is from the section on the World Trade Center Bombing:

<http://www.usdoj.gov/oig/fbilab1/04wtc97.htm>

"We conclude that Williams' trial testimony that the formulas from the manuals were the source from which the FBI manufactured urea nitrate was *incorrect*. The source of the formulas used by the FBI was the Davis book. Moreover, *Williams told us that he did not know or did not have a clue as to what formulas were used before Eglin and that he had no idea as to the source of the Eglin formula*. Williams' testimony concerning the use of the Arabic formulas was seriously flawed.

"Williams also gave *inaccurate testimony* about his role in the FBI's manufacture of urea nitrate. Regarding the batches before Eglin, he had no role other than attempting to dry some of the product and was not even aware of all the batches. Thus, his testimony that I made the early batches of urea nitrate was apparently false.

"Accordingly, we conclude that Williams' trial testimony on direct examination that I made the urea nitrate at Eglin, and his testimony on cross-examination that he supervis[ed] the mixing process, was *incorrect*. The reference in his trial testimony to the other FBI personnel at Eglin as my workers could be interpreted to manifest an intent to downplay the role of the others and to aggrandize his own. *Williams' exaggeration of his role erroneously suggested that Williams was an expert in the manufacture of urea nitrate*, that he was in a position to know how the FBI made its urea nitrate, and that therefore he could say authoritatively that it was manufactured pursuant to the formulas in the blue books. Williams' *flawed testimony* about the manufacture of urea nitrate was the first of numerous errors he committed in the Salameh trial.

"First, Williams *lacked the requisite scientific knowledge to testify competently in this area*. When Jourdan initially discussed the calculation of potential urea nitrate, Williams appeared to Jourdan not to understand the concept of a limiting reagent. *His testimony makes clear that he never learned the concept*.

"The purpose of a criminal trial, of course, is to determine guilt. The issue of guilt is the ultimate question to which all others are directed. In contrast, Williams began with a presumption of guilt as a foundation on which to build inferences. (*As we shall see below, this is not the only time in the Salameh trial that Williams so utilized a presumption of guilt.*) The agent simply *assumed* that the perpetrators produced a 1200 pound bomb at the Trade Center using the urea and nitric acid missing from the defendants' facility, and that yield (the amount used at the bombing divided by the amount missing) informed his testimony about non-laboratory yield, which was presented to the jury as a general number applicable to all non-laboratory environments.

"It appears Williams may have worked backwards --that is, he may have first determined the result he wanted (here, that the defendants could have produced 1200 pounds of urea nitrate, the amount he estimated was used in the bombing) and then tailored his testimony about yield to reach that result. We are deeply troubled by this possibility."

Ladies and gentlemen of the jury - "Deeply troubled?" Our boy, Williams, another FBI cowboy, puffed himself up, lied and tailored his lies to convict the suspects in custody. *This is the same Williams who analyzed the OKC bombing evidence.*

Frederick Whitehurst, deserves a medal for blowing the whistle on this crowd of liars. Next, the Rudolph matter:

<http://www.usdoj.gov/oig/fbilab1/02newrud.htm>

"Since Whitehurst joined the Laboratory in 1986, he has repeatedly complained about SSA Terry Rudolph, who preceded Whitehurst as the Laboratory's senior examiner of explosives residue. Whitehurst alleges that Rudolph was incompetent and that the Laboratory sought to ignore or cover up his deficiencies. In this section, we address allegations that Whitehurst and others have made concerning Rudolph, and we evaluate the Laboratory's actions in response to those allegations.

"Terry Rudolph worked as an explosives residue examiner in the Laboratory from 1979 until 1988, when he began teaching at the FBI Academy in Quantico, Virginia. After Whitehurst joined the Laboratory in 1986, he worked with Rudolph to become qualified to examine explosives residue. Whitehurst soon began complaining to his unit chiefs that Rudolph was sloppy in that he maintained a messy work area and performed inadequate examinations.

"In 1989, Whitehurst voiced his concerns about Rudolph for the first time outside the Laboratory. During the trial in *United States v. Psinakis*, Rudolph was expected to testify about his identification of the explosive PETN on certain evidence. After the prosecutor learned the defense intended to challenge Rudolph's analyses, Whitehurst was asked to re-examine the evidence. Whitehurst also found PETN in his examinations, and he attended the trial prepared to testify. Without first raising his concerns with the prosecutor or Rudolph, Whitehurst approached a defense expert and said he thought the FBI's identification of PETN may have resulted from contamination of the evidence due to Rudolph's sloppy work habits.

"Whitehurst ultimately did not testify at the trial. In Part Four of this Report, we discuss our evaluation of his conduct and his claim that the FBI improperly retaliated against him by suspending him for one week for his actions.

"Rudolph did testify in *Psinakis*. At the end of the trial, the jury acquitted the defendant. In July 1989, the prosecutor, Assistant United States Attorney (AUSA) Charles Ben Burch, wrote to the FBI complaining that Rudolph's analysis was deficient, that the judge had nearly excluded his testimony, and that Rudolph had been seriously impeached by the defense.

"In August 1989, the Laboratory completed two internal reviews of Rudolph's casework. MAU Chief Jerry Butler reviewed 200 cases, found numerous administrative shortcomings, and recommended a further in-depth review. CTU Chief Roger Martz reviewed 95 case files, reported that Rudolph's analyses supported the results and that Martz found no technical errors, and recommended there be no further technical review of Rudolph's cases. The Laboratory concluded that no further action concerning Rudolph was necessary.

"In 1991, the FBI OPR opened an investigation concerning Rudolph after Whitehurst complained not only about his sloppy work but also that Rudolph had perjured himself, lied to an AUSA, and abused annual leave, and that Rudolph and his technician Edward Bender were racists. As a result of Whitehurst's allegations, the Laboratory also initiated a third review of Rudolph's case files, this one by MAU Chief James Corby.

**"After reviewing 200 cases, Corby reported that he found 57 lacking adequate documentation or information to support the stated conclusions.** CTU examiner Lynn Lasswell also reviewed the 57 cases identified by Corby. In April 1992, SAS Chief Kenneth Nimmich advised Laboratory Director John Hicks that Rudolph would be asked to review the 57 cases and, if possible, reconstruct from his personal recollection, diaries, or other personal notes sufficient documentation for the findings reported. Nimmich stated that a memorandum should be prepared for each file describing any additional information.

"Nimmich also recommended in April 1992 that Rudolph be severely reprimanded for his lack of professionalism and inattention to detail. Instead, Hicks admonished Rudolph orally at a meeting in which Hicks also gave Rudolph a cash incentive award. In June 1992, the FBI advised Rudolph that the FBI OPR inquiry had not developed facts warranting administrative action. In March 1993, Nimmich reported to Hicks that Rudolph had reconstructed the 57 files and that Nimmich recommended the matter be closed.

"Within the Laboratory, MAU Chief Corby advocated a further review of Rudolph's case work. In May 1994, after investigating Whitehurst's allegations on several matters, the OGC recommended that Corby review all of Rudolph's cases. After reviewing 654 of Rudolph's cases, Corby reported in November 1995 that 24% contained errors or were administratively or technically incomplete. Rudolph disputed these findings. He retired from the FBI in June 1996.

**"In a substantial number of his cases, Terry Rudolph did not perform his work as an examiner in a manner that would withstand peer review or judicial scrutiny.** In Psinakis, he did not adequately document his case work, he failed to conduct required confirmatory tests, and his stated conclusions lacked a valid scientific basis. The reviews of Rudolph's work conducted by the Laboratory after Psinakis confirm that his lack of competence was not isolated to that case."

How would **you** like to be the one convicted because of Rudolph's work?

[Click here for Part III](#)