

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

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BEFORE THE HONORABLE MORRISON C. ENGLAND, JR., JUDGE

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 2:06-cr-0035

VOLUME IV

ERIC McDAVID,

Pages 687 to 924

Defendant.

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REPORTER'S TRANSCRIPT

COURT PROCEEDINGS

MONDAY, SEPTEMBER 17, 2007

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Reported by: DIANE J. SHEPARD, CSR #6331, RPR

APPEARANCES

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1 SACRAMENTO, CALIFORNIA

2 MONDAY, SEPTEMBER 17, 2007

3 ---oOo---

4 (Jury in.)

5 THE CLERK: Calling case 06-00035, United States v.  
6 Eric McDavid. On for jury trial, day four, Your Honor.

7 THE COURT: Thank you. Good morning, ladies and  
8 gentlemen. Welcome back. Hope you all had a good time off and  
9 weekend. Counsel, are you ready to proceed?

10 MR. LAPHAM: We are, Your Honor.

11 MR. REICHEL: Yes, we are, Your Honor.

12 THE COURT: All right. Thank you. Call your next  
13 witness.

14 MS. ENDRIZZI: Your Honor, the United States calls  
15 Richard Krause.

16 (The witness was sworn by the Clerk.)

17 THE WITNESS: I do.

18 THE CLERK: Please state your full name and spell  
19 your last name for the record.

20 THE WITNESS: Richard D. Krause, K-r-a-u-s-e.

21 RICHARD KRAUSE,

22 a witness called by the Government, having been first duly  
23 sworn by the Clerk to tell the truth, the whole truth, and  
24 nothing but the truth, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. ENDRIZZI:

2 Q. Good morning. Are you a special agent with the FBI?

3 A. Yes, I am.

4 Q. How long have you been with the FBI?

5 A. About four-and-a-half years.

6 Q. And where are you currently posted?

7 A. I'm at the Houston division.

8 Q. Where were you posted in January of 2006?

9 A. Here in Sacramento.

10 Q. Have you always been posted in Sacramento other than  
11 your transfer to Houston?

12 A. Other than training, yes.

13 Q. Now, have you received training regarding the  
14 execution of search warrants?

15 A. Yes, I have.

16 Q. Would you briefly describe that?

17 A. The training entails -- in Quantico everyone goes  
18 through a mock search. We go through the process of writing  
19 the affidavit, the search warrant attachments, and then  
20 actually processing the crime scene, collecting the evidence,  
21 doing the photography, storing the evidence, and then  
22 transporting it back to the mock office of the crime scene.

23 Q. Approximately how many searches have you participated  
24 in prior to January 2006?

25 A. Approximately a dozen.

1 Q. Okay. Now, you mentioned your training and brief  
2 overview of what a search entails.

3 Could you explain the protocol of executing a search  
4 warrant from the time a site is secured?

5 A. Sure. Once we arrive on-site and the site is secure,  
6 the first thing we'll do is do initial photographs, which  
7 involves the photographer going through, photographing the  
8 entire search site as it is, as we find it.

9 And then once that's done, the search team will  
10 review the search warrant and the affidavit to make sure we  
11 have an understanding of what it is that we're authorized to  
12 recover from the scene.

13 We'll assign roles. Everyone is assigned a search  
14 location and a job. We'll go do the search, collect the  
15 evidence. And as we're collecting the evidence, the  
16 photographer will photograph the evidence before it's  
17 collected. We'll collect all the evidence.

18 At the conclusion of the search, we'll do exit  
19 photographs to document and capture the scene as it is before  
20 leaving it, and then we'll turn over the scene to the case  
21 agent or whoever's in charge of the area.

22 Q. And what happens to the evidence that was seized?

23 A. That will be transported back to, in this case, the  
24 Sacramento office and unloaded into the evidence storage site.

25 Q. In January 2006, were you part of a search and

1 evidence recovery team at a cabin in Dutch Flat, California?

2 A. Yes, I was.

3 Q. When did that search occur?

4 A. That was on January 14, 2006.

5 Q. Now, the defendants in this case were arrested on the  
6 morning of January 13th. Do you have an understanding as to  
7 whether or not that cabin was searched on January 13th or  
8 secured?

9 A. My understanding is that the cabin was secured.

10 There was a CHP officer posted in a surveillance site and had  
11 the cabin under video surveillance ever since the arrest. My  
12 understanding was that it wasn't physically searched.

13 Q. Okay. Now, if you would describe the set-up for the  
14 particular search that occurred on January 14th, 2006?

15 A. Okay. The evidence response team met down in Auburn  
16 at approximately 7:00 in the morning. We convoyed up to Dutch  
17 Flats, arriving there at around 9:15 in the morning.

18 We met Special Agent Nasson Walker and Supervisory  
19 Special Agent Joseph Manarang. They had control of the scene  
20 upon our arrival, and that is also when they informed us that a  
21 CHP officer had the place under surveillance the entire night.

22 Steve Groove was the photographer. He initiated the  
23 initial photographs of the entire cabin.

24 Once that was done, Chris Hopkins, who was our team  
25 leader, met with the team, discussed who was going to be



1 assigned what roles, what areas we were going to search. We  
2 read the search warrant and the affidavit, and then proceeded  
3 to commence the search.

4 Q. And what role did you have?

5 A. I was the finder or the custodian of evidence  
6 collected.

7 Q. And what does a finder do?

8 A. The finder is responsible for -- before any evidence  
9 is seized, the finder will come and view the evidence in place,  
10 so that I, in this role, could testify that I saw the evidence  
11 in its location before it was collected. And I sign for all  
12 the evidence, therefore taking responsibility of all the  
13 evidence collected on site.

14 Q. Okay. I'd like to take a moment to show you what's  
15 been marked for identification as Government Exhibits 35-A  
16 through 35-BB.

17 Your Honor, may I approach?

18 THE COURT: You may.

19 Q. BY MS. ENDRIZZI: If you would take a moment to look  
20 through those photographs.

21 A. (Witness reviewing photographs.) Okay.

22 Q. BY MS. ENDRIZZI: Do you recognize those exhibits?

23 A. Yes, I do.

24 Q. How do you recognize them?

25 A. I recognize them from that being the location that

1 was searched on January 14th.

2 Q. Okay. And do those photographs accurately and fairly  
3 depict the locations and the subject matter of that search on  
4 January 14th, 2006?

5 A. Yes, they do.

6 MS. ENDRIZZI: Your Honor, the Government would move  
7 to have Exhibits 35-A through 35-BB admitted into evidence.

8 MR. REICHEL: No objection.

9 THE COURT: Thank you. Government's Exhibit 35-A to  
10 35- --

11 MS. ENDRIZZI: Double B.

12 THE COURT: -- BB, Bravo Bravo, will be admitted into  
13 evidence.

14 (Government Exhibits 35-A to 35-BB, Photographs,  
15 admitted into evidence.)

16 MS. ENDRIZZI: May I publish to the jury, Your Honor?

17 THE COURT: You may.

18 Q. BY MS. ENDRIZZI: We're going to take a look at these  
19 photographs, the first three fairly quickly. 35-A, 35-B and  
20 35-C. What do those photographs depict?

21 A. That's the cabin located in Dutch Flats that we  
22 executed the search warrant on.

23 Q. Now, if you'll notice there is a blue item in the  
24 center of the photograph; do you know what that is?

25 A. That was a -- you're talking about to the right of

1 the door, correct?

2 Q. Yes.

3 A. That was a stand outside the door. There was a jar  
4 of a clear liquid with a cap on it, and there was some other  
5 glass bowls on the stand also.

6 Q. Does this photograph accurately represent that stand?

7 A. Yes.

8 Q. And it is how you found it?

9 A. Yes.

10 Q. What is photograph 35-E?

11 A. That is the kitchen in the cabin.

12 Q. 35-F?

13 A. That is the -- what we identified as the dining room.

14 Q. 35-G?

15 A. That would be the living room.

16 Q. And it is how you found it in the cabin?

17 A. Yes.

18 Q. 35-H?

19 A. That was also part of the living room.

20 Q. 35-I?

21 A. That was one of the two bedrooms in the cabin.

22 Q. 35-J?

23 A. That was the other bedroom that we referred to as the  
24 master bedroom.

25 Q. And Exhibit 35-K, if you would walk us through what

1 you found and what's photographed here?

2 A. These items were -- as you walked in the door into  
3 the dining room, they were right to the right of the door. It  
4 was a case of empty fruit canning jars. That's the farthest  
5 item on the left.

6 Q. Uh-huh.

7 A. And then there were two bottles of bleach. Those  
8 were both full. The five-gallon gas can which was empty. And  
9 the car battery.

10 Q. 35-L?

11 A. That was a burner plate that was located in the  
12 kitchen area.

13 Q. 35-M?

14 A. That was also in the kitchen area. It was three jars  
15 of Vaseline, two boxes of sugar, the box for the burner plate,  
16 and then a can of spray paint.

17 Q. Now, were they lined up this pretty when the picture  
18 was taken when they were found?

19 A. No, those were other parts of the kitchen, which was  
20 also photographed. But then for convenience everything was  
21 brought together for one photograph to display all those items.

22 Q. Is that common protocol for a search?

23 A. We would take -- that is common protocol. We would  
24 take a picture of the items where they lie, and then to provide  
25 a better view of the items they would be positioned to take an

1 overall picture.

2 Q. 35-N?

3 A. That was the other can of spray paint that was  
4 located in the kitchen area.

5 Q. 35-O?

6 A. That was an empty canister of no-salt salt  
7 substitute.

8 Q. And where was that originally found?

9 A. That was originally in the trash can. It was  
10 photographed in the trash can and then set up on the counter  
11 and another photograph was taken.

12 Q. 35-P?

13 A. That was the table in the dining room area with the  
14 contents that we found on top of the table.

15 Q. And were those subsequently photographed  
16 individually?

17 A. Some of the items should have been. Sometimes when  
18 it's a photograph like that, where everything is clearly  
19 evident, there may not be another individual photograph. It  
20 just depends.

21 Q. 35-Q?

22 A. That was a box of shotgun shells that were on the  
23 dining room table.

24 Q. 35-R?

25 A. That's another photograph of the box of shotgun

1 shells and some other items in the background that were also  
2 taken during the search.

3 Q. How many boxes of shotgun shells were found in total?

4 A. There were 23 live shells, and there were also two  
5 empty shells that were taken from the search site.

6 Q. And do these two boxes displayed in 35-R represent  
7 the entirety of the shotgun shell boxes?

8 A. Yes.

9 Q. 35-S?

10 A. That was the laptop computer, a white extension cord,  
11 and the other item was a sifter of some sort.

12 Q. And if you would describe Exhibit 35-T?

13 A. That was the table in the living room section. And  
14 on that table there was the red scale, a flat-top scale. And  
15 there were -- it was kind of like a chemistry kit. There were  
16 glass mixing rods, beakers, vials. I believe there were also  
17 some coffee filters on that table. Some pliers. Miscellaneous  
18 tools.

19 Q. Approximately where are the beakers and the chemistry  
20 set as you described it?

21 A. It's to the right edge of the photograph. You can  
22 see some of the vials.

23 Q. Right here?

24 A. That's some of the vials, yeah, and then there's also  
25 more right there.

1 Q. Exhibit 35-U?

2 A. That was a piece of paper. Looked like ingredients  
3 of some sort. I don't know where it was taken from, but it  
4 was -- looked like chemical ingredients is probably the best  
5 way to describe it.

6 Q. Was that part of what you were searching for that  
7 day?

8 A. Yes.

9 Q. Exhibit 35-V?

10 A. That was one of the many pieces of literature or  
11 brochures or books that were seized during the search warrant.

12 Q. 35-W?

13 A. That's another photograph of some of the literature  
14 that was seized during the search warrant to include a brochure  
15 from the Nimbus Fish Hatchery.

16 Q. Now, the pamphlet that's behind the Nimbus Fish  
17 Hatchery document, did you have an opportunity to look through  
18 that pamphlet?

19 A. Yes, I did.

20 Q. Could you please tell the jury, in summary form, what  
21 that pamphlet contained?

22 A. It was -- just a quick cursory glance through the  
23 document, it had different anarchist thought or ideology.  
24 Naturally, we didn't sit there and read the entire thing.  
25 Flipped through it. Saw items that, you know, lend itself to

1 the anarchy ideology, and that's when we made the decision that  
2 it was includable in the search warrant.

3 Q. Exhibit 35-X?

4 A. That's more of the same type literature that was  
5 seized in the cabin.

6 Q. Did you have an opportunity to look at the pamphlet  
7 that said Without a Trace?

8 A. Yes, I did.

9 Q. And what was the summary of that pamphlet?

10 A. Without a Trace outlined how to basically recognize  
11 law enforcement, how to evade law enforcement, how to go about  
12 your life without leaving evidence behind for whatever purpose  
13 you were doing, whether it be on the Internet, how to avoid  
14 leaving digital evidence of your being there or physical  
15 evidence.

16 Q. Now, you may need to look at the actual Exhibit 35-X,  
17 but can you tell us who the author of the pamphlet Ship of  
18 Fools is?

19 A. Sure. It was Ted Kaczynski.

20 Q. Do you have an understanding as to who Ted Kaczynski  
21 is?

22 A. Yes. He was better known as the Unabomber.

23 Q. Exhibit 35-Y, what is this?

24 A. Those were waterproof matches.

25 Q. I would like to skip to Exhibit 35-AA. During the



1 course of your search, did you find identification?

2 A. Yes, we did.

3 Q. Where did you find identification?

4 A. There was identification in the living room, and then  
5 there was also identification in the master bedroom.

6 Q. I would like you to take a look at Exhibit 35-AA.  
7 Where was this identification found?

8 A. That was in the master bedroom.

9 Q. Exhibit 35-Bravo Bravo?

10 A. That was also in the master bedroom.

11 Q. And Exhibit 35-Z?

12 A. That was also in the master bedroom.

13 Q. I would like you to turn your attention to the Auburn  
14 Journal article. The title there is "Fire Bomb Suspect  
15 Arrested." Did you have an opportunity to review that article  
16 while it was in evidence?

17 A. Yes, I did.

18 Q. And what was the summary of that article?

19 MR. REICHEL: Objection, Your Honor, as to relevance.

20 THE COURT: Overruled.

21 THE WITNESS: The summary of that article was about  
22 Ryan Lewis' arrest and his involvement of the string of fire  
23 bombings and attempted fire bombings up in the Auburn area.

24 Q. And what was the date of that Auburn Journal article?

25 A. It was November 2005.

1 Q. November 2005?

2 MR. REICHEL: Leading, Your Honor.

3 THE COURT: It's a question. Overruled.

4 THE WITNESS: Talking about a more specific date?

5 Q. BY MS. ENDRIZZI: Yes. When was the article  
6 published?

7 A. I believe it was November of 2005.

8 Q. Okay. Why don't you take a look at 35-Z?

9 A. Out of this stack?

10 Q. Yes.

11 A. Okay.

12 Q. November 2005?

13 A. I can't make out the date on this photograph.

14 Q. Well, regardless, was it a recent Auburn Journal  
15 article?

16 A. It was not recent, no.

17 Q. And you found this in the master bedroom?

18 A. Yes.

19 MS. ENDRIZZI: No further questions, Your Honor.

20 THE COURT: Thank you. Cross.

21 CROSS-EXAMINATION

22 BY MR. REICHEL:

23 Q. I would like to draw your attention to the morning  
24 that you conducted the search at this cabin, okay?

25 A. Yes.

1 Q. Now, you testified for us that some items were  
2 actually gathered together and put in a row before they were  
3 photographed, correct?

4 A. Not before they were photographed. They were  
5 photographed as found and then photographed an additional time.

6 Q. And when they were brought together at a later time  
7 for that photograph, that, at least, destroys originally where  
8 they were when you first got there, correct?

9 A. That would have moved where they were originally  
10 were, but, like I said, they were photographed in their  
11 original location also.

12 Q. And the decision on what to put together, the items  
13 to put together for the photograph, you made that decision?

14 A. No, I did not.

15 Q. Who made that decision?

16 A. Whoever was conducting the search in that room.

17 Q. And were you present when they decided which items to  
18 put together in the groupings for photos?

19 A. Not always. I was going around from location to  
20 location, viewing evidence as it was found.

21 Q. But as you sit here today, do you recall who grouped  
22 those items together for that photograph?

23 A. No, I do not.

24 Q. Well, who was with you during the search?

25 A. There was Chris Hopkins, who was the team leader.

1 Steve Groove, who was the photographer, myself, Tommy Reynolds,  
2 Sandra Disney, Sarah Luwand, and then the two evidence  
3 technicians, Barbara Williams and Gabe Smith.

4 Q. Now, let he ask you about the literature that you  
5 found at the cabin?

6 A. Yes.

7 Q. Okay. When you're there doing the search, you have  
8 no way of knowing who brought that literature to the cabin,  
9 correct?

10 A. No.

11 Q. In fact, you have no way of knowing if that  
12 literature was at the cabin before any of the defendants got  
13 there, correct?

14 A. No.

15 Q. You have no way of knowing that, correct?

16 A. Correct.

17 Q. Okay. Now, in your training that you went through on  
18 direct examination, you talked about the proper way to do this  
19 search; do you remember that?

20 A. Yes.

21 Q. Okay. And that is the way you've been trained at the  
22 FBI academy?

23 A. Yes.

24 Q. And that's good police work?

25 A. That's how we're trained.

1 Q. Right. And you're trained to do good police work,  
2 correct?

3 A. Correct.

4 Q. Okay. So that important items of evidentiary value,  
5 you're going to identify those, correct?

6 A. We identify items of evidence or value based on the  
7 affidavit in the search warrant that we read.

8 Q. But when you get there, you also know the substance  
9 of the case and why you're there, correct?

10 A. Based on the search warrant, yes.

11 Q. But you have a discussion or a briefing beforehand  
12 about what you're going to do when you get there, right?

13 A. With our team leader, yes.

14 Q. Okay. My point with you I'd like to ask you about  
15 is, you're going to agree with me that you don't throw away  
16 important evidence, right?

17 A. Correct.

18 Q. Okay. Important evidence you preserve, right?

19 A. Are you talking about us?

20 Q. Yes.

21 A. Yes.

22 Q. As an FBI agent?

23 A. Yes.

24 Q. Okay. And that's your training?

25 A. Correct.

1 Q. And that benefits you in your job, right?

2 A. That benefits the case agent. All this stuff is  
3 turned over to them.

4 Q. Well, it benefits the entire case because you've  
5 identified important evidence and it's not been lost, right?

6 A. Correct.

7 Q. Okay. So when you got there, one of the things you  
8 would have been looking for, by the way, would be notes or  
9 handwritten letters by any of the individuals in the cabin,  
10 correct?

11 A. Sure.

12 Q. Yes?

13 A. Yes.

14 Q. So it's fair to say if you saw handwritten letters  
15 from anyone of the residents of that cabin, you would have  
16 tagged them or you would have seized them, correct?

17 A. The only way we wouldn't have is if it was clearly  
18 something completely unrelated to the case.

19 Q. Okay. Would you think it appropriate in that  
20 situation, if there was a letter from, let's say, Eric McDavid  
21 to the informant in this case, would you think it appropriate  
22 to just --

23 MS. ENDRIZZI: Objection, Your Honor. Speculation.

24 MR. REICHEL: The manner of the search, Your Honor.

25 THE COURT: I know. But give us a factual basis for

1 what you're saying. Overruled at this point.

2 Q. BY MR. REICHEL: When you were there, did you look  
3 for anything that was handwritten by, at least, my client? You  
4 did, correct?

5 A. Yes.

6 Q. Right?

7 A. Yes.

8 Q. And just about everything you saw that was  
9 handwritten by my client you would have seized and identified,  
10 correct?

11 A. Yes.

12 Q. Because he was one of the defendants you were  
13 investigating, right?

14 A. Yes.

15 MS. ENDRIZZI: Objection, Your Honor. Assumes facts  
16 not in evidence. If we're going towards letters, we've already  
17 heard testimony about what form they were in.

18 THE COURT: Are you --

19 MR. REICHEL: Your Honor --

20 THE COURT: Are you specifically going to be talking  
21 about the letters or just the evidence in general terms?

22 MR. REICHEL: I'm going to ask him if he found any  
23 letters there from my client to Anna.

24 THE COURT: Why don't you ask that question first.

25 Q. BY MR. REICHEL: Thank you. Did you find any letters

1 there from my client to the informant?

2 A. There were letters taken. As to the entire content  
3 of the letters, I don't recall. I didn't -- we didn't sit  
4 there and read verbatim the entire literature that was seized.

5 Q. As you sit here today, do you recall seeing any of  
6 those letters that you just described?

7 A. I remember a diary that was seized. I don't know if  
8 these letters were in that diary or not. There were the  
9 handwritten ingredients that we looked at on the photograph.  
10 There were some other papers. Like I said, I don't recall the  
11 specific content of the items now.

12 Q. Okay. Do you think it would have been appropriate if  
13 you found a letter from Mr. McDavid to the informant to throw  
14 that away?

15 A. We wouldn't have thrown anything away. We may have  
16 not taken it. It would have been left there if we didn't take  
17 it. We wouldn't throw anything away.

18 Q. Do you recall discussing with any of the other  
19 agents, love letters they found between Mr. McDavid and the  
20 informant?

21 MS. ENDRIZZI: Objection, Your Honor. Speculation.  
22 Assumes facts --

23 MR. REICHEL: I'm asking if he had the conversation.

24 THE COURT: Overruled.

25 Q. BY MR. REICHEL: Do you remember having any



1 conversation with any of the others that were doing the search  
2 that day, law enforcement executing that search, about them  
3 seeing letters between Eric McDavid and the informant in this  
4 case?

5 A. No, I do not.

6 MR. REICHEL: Okay. Nothing further, Your Honor.

7 THE COURT: Thank you. Redirect.

8 MS. ENDRIZZI: Yes, Your Honor. Briefly.

9 REDIRECT EXAMINATION

10 BY MS. ENDRIZZI:

11 Q. When you are conducting a search, can you seize  
12 anything that is not authorized by the search warrant?

13 A. No, we would not take anything that was outside the  
14 scope of the search warrant.

15 Q. And do the photographs that you looked at,  
16 Government's Exhibits 35-Alpha through 35-Bravo Bravo,  
17 represent all of the evidence that was seized?

18 A. No, it does not.

19 Q. And what happened to the evidence that was seized  
20 during that search?

21 A. As I stated earlier, all evidence would have been  
22 photographed. We would have logged it on an evidence property  
23 receipt, and then it would have been taken to the office and  
24 logged into the system there.

25 Q. Does that evidence remain in the Sacramento office

1 today?

2 A. Yes, it does.

3 Q. Available to be reviewed?

4 A. Yes, it does.

5 MS. ENDRIZZI: Nothing further, Your Honor.

6 THE COURT: Recross.

7 RECCROSS-EXAMINATION

8 BY MR. REICHEL:

9 Q. Do you recall how many photographs you took that day?

10 A. I didn't take any photographs.

11 Q. Right. The photographer, how many photographs did he  
12 take that day?

13 A. There were over 100. I don't know the exact number,  
14 but there were over 100.

15 Q. And your job again that day, you told us on direct  
16 and I apologize I don't recall, what was your specific function  
17 during that search?

18 A. I was the finder or the custodian of the evidence.  
19 It would be pointed out. I would assume responsibility for the  
20 custodianship of the evidence.

21 Q. So you are the final custodian, so to speak?

22 A. Until it got back to the evidence locker, yes.

23 Q. And at the outset, you were one of the main searchers  
24 so to speak or finders?

25 A. I don't understand that question.

1 Q. What's your function at the beginning of this search?

2 A. At the beginning of the search, I started searching,  
3 but it quickly became evident that there was so much stuff that  
4 we were collecting, that I basically stopped searching and was  
5 going around from location to location as people pointed out  
6 evidence.

7 Q. So you became the final custodian, so to speak, of  
8 the evidence?

9 A. At the search scene, yes.

10 Q. And you of course bring it down to the FBI  
11 headquarters?

12 A. Yes.

13 Q. But at the scene, you are the final custodian,  
14 correct?

15 A. Yes.

16 Q. Did you ever see any handwritten letters from Eric  
17 McDavid to the informant in this case, that day, that were  
18 handed to you by someone who found them there?

19 A. Like I said, there were plenty of handwritten items,  
20 but we didn't review the entire contents. I can't say that I  
21 saw the letters from Eric McDavid to the informant.

22 Q. But that day, you made inventory list, correct?

23 A. Yes.

24 Q. And you reviewed that inventory list in this case?

25 A. Yes.

1 Q. Do you recall anywhere on that inventory list listing  
2 letters from Eric McDavid to the informant in this case?

3 A. No. All the letters were listed as miscellaneous  
4 documents.

5 Q. And did you review those before you testified here  
6 today?

7 A. The property sheet or --

8 Q. The property sheet.

9 A. Yes. I reviewed the property sheet.

10 Q. And did you see on there where it listed how many  
11 miscellaneous letters?

12 A. There were several listings of miscellaneous  
13 documents. I don't recall the exact number.

14 Q. Now, but what I'm getting at is you conformed that at  
15 some point -- at the end of the day, that day of the search,  
16 you conformed your list with what you had as the final  
17 custodian, the final accounting, right?

18 A. The property list that we make is more of a receipt  
19 to leave at the search site, so the person, when they come  
20 back, they know what we took. It's not specifically identified  
21 in great detail. Like I said, a lot of the items were  
22 described as miscellaneous documents, pamphlets, brochures. We  
23 didn't go through and list individual titles or anything like  
24 that.

25 Q. Have you actually -- have you reviewed the evidence

1 that's at the FBI warehouse or wherever this material was  
2 brought to?

3 A. I reviewed the evidence that was shown on the  
4 photographs.

5 Q. And that's just what the United States was -- what  
6 Ms. Endrizzi put together for you, correct?

7 A. Correct.

8 Q. Okay. So you and her got together, and she showed  
9 you what exhibits --

10 MS. ENDRIZZI: Objection, Your Honor. Assumes --

11 THE COURT: Sustained.

12 Q. BY MR. REICHEL: You got together with Ms. Endrizzi  
13 to go over what was she was going to show on the overhead  
14 today, correct?

15 A. That's correct.

16 Q. And you prepared for testifying about those exhibits,  
17 correct?

18 A. Yes.

19 Q. Okay. And did she -- she didn't bring out anything  
20 about -- did she show you any letters between Mr. McDavid and  
21 Anna and ask you about those?

22 A. No.

23 MS. ENDRIZZI: Objection, Your Honor. Asked and  
24 answered.

25 THE COURT: Sustained.

1 MR. REICHEL: Nothing further, Your Honor. Thank you  
2 very much.

3 THE COURT: Anything else?

4 MS. ENDRIZZI: Nothing further, Your Honor.

5 THE COURT: Thank you very much. You are excused.  
6 Next witness.

7 MR. LAPHAM: Your Honor, the United States calls  
8 Lauren Weiner.

9 MS. ENDRIZZI: Your Honor, may this witness be  
10 excused?

11 THE COURT: Yes. All witnesses are excused unless  
12 otherwise stated. Previous stipulation.

13 THE CLERK: Could you raise your right hand?

14 THE COURT: Please remain standing. Thank you.

15 (The witness was sworn by the Clerk.)

16 THE WITNESS: Yes.

17 THE CLERK: Please state your full name and spell  
18 your last name for the record.

19 THE WITNESS: Lauren Elizabeth Weiner, W-e-i-n-e-r.

20 LAUREN WEINER,

21 a witness called by the Government, having been first duly  
22 sworn by the Clerk to tell the truth, the whole truth, and  
23 nothing but the truth, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. LAPHAM:

1 Q. Ms. Weiner, I'm going to ask you to pull that  
2 microphone a little closer to you or maybe scoot forward in  
3 your chair. Speak right into it.

4 A. Okay.

5 Q. And also try and keep your voice up. You have kind  
6 of a soft voice. How old are you?

7 A. I'm 21 years old.

8 Q. Were you originally a co-defendant in this case?

9 A. Yes, I was.

10 Q. What were you charged with?

11 A. Conspiracy to commit arson.

12 Q. And did you enter a guilty plea in this case?

13 A. Yes, I entered a guilty plea of conspiracy.

14 Q. And as part of that plea did you agree to testify in  
15 this case?

16 A. Yes, I did.

17 Q. Are you receiving a benefit in return for that plea  
18 of guilty?

19 A. No. I agreed to testify, and I got a lower charge of  
20 just conspiracy of which the maximum sentence was 5 years, when  
21 I was originally looking at 5 to 20.

22 Q. And who will be sentencing you in that case?

23 A. The judge.

24 MR. REICHEL: Objection, Your Honor. Foundation. As  
25 if she knows?

1 Q. BY MR. LAPHAM: Do you know who the sentencing judge  
2 is?

3 A. I believe it's you.

4 Q. This is the Judge with whom you entered the guilty  
5 plea?

6 A. Yes.

7 Q. All right. The conspiracy that you pled guilty to,  
8 what did that consist of, what were you planning on doing?

9 A. We planned on using explosives on different sites.  
10 Sorry.

11 Q. That's okay. Why did you want to do that?

12 A. To make a change. To try to stop things that we  
13 thought were wrong.

14 Q. And why did you want to make this change, what did  
15 you think was going wrong?

16 A. Well, we didn't like the fact that trees were being  
17 genetically modified, cell phone towers were hurting bird  
18 migration, and protesting wasn't working anymore, so.

19 Q. And with whom did you conspire?

20 A. I conspired with Eric McDavid and Zachary Jenson and  
21 the -- Anna. I don't know her real name.

22 Q. Did you later find out that Anna was working for the  
23 FBI?

24 A. Yes.

25 Q. How did you first become involved in this conspiracy?



1 A. Well, talking to Eric and Zach in August 2005.

2 Q. And where was that?

3 A. At a cafe in Philadelphia, down the street from my  
4 apartment.

5 Q. What did the three of you discuss on that occasion?  
6 And I'm going to ask you to look at the jury and tell them.

7 A. We had talked about when we were going to see each  
8 other again in the spring, and I wanted to start an activist  
9 house where we could all live. But then we were going to do  
10 direct actions, and we talked about different direct actions  
11 such as banner dropping, graffiti.

12 We all agreed that protesting wasn't working. We had  
13 been doing that all summer, and it didn't make a difference, so  
14 we were going to try to be more direct and --

15 Q. Let me stop you right there for a second. You used  
16 the phrase "direct action"?

17 A. Yes.

18 Q. What do you mean by that?

19 A. Criminal activities.

20 Q. And criminal activity of the type you were just  
21 discussing?

22 A. Yes.

23 MR. REICHEL: Objection, Your Honor. Leading.

24 THE COURT: Overruled.

25 Q. BY MR. LAPHAM: You can answer the question.

1 A. Can you repeat it, please.

2 Q. Criminal actions of the type you've just been  
3 discussing?

4 A. Yes.

5 Q. And I interrupted your answer. You were talking  
6 about the things you were discussing at this August 2005  
7 meeting?

8 A. Yes. As I was saying, we discussed things that we  
9 were going to do in the spring. I again wanted to get an  
10 activist house. But we also talked about using explosives.  
11 Eric used the word "boom" to describe it. But at that point we  
12 were talking about just doing direct action in Philadelphia.  
13 And I've always said that wouldn't be a good thing to do in the  
14 city because of people, and it just isn't safe.

15 Q. You didn't think what would be a good thing to do in  
16 the city?

17 A. Use explosives.

18 Q. So who first raised the idea of using explosives?

19 A. Eric said he knew how to make boom, and that's how he  
20 said it.

21 Q. And how did you respond to that?

22 A. I said that I didn't want to do that in the city.

23 Q. Did he respond to your comment?

24 A. I don't recall, but I know he must have but I don't  
25 remember what that was.

1 Q. Did he explain to you why he wanted to do direct  
2 actions?

3 A. We all had the same opinion on that. Protesting  
4 wasn't working, and we wanted to make a difference, and we  
5 wanted to make a change, but what else could we do.

6 Q. Now, was there any discussion at this point about  
7 what kind of targets there would be?

8 A. Like I said, we had all met each other at the protest  
9 against genetically-modified organisms, so, I mean, we were  
10 talking about how protesting wasn't working. So we were going  
11 to actually kind of look up our own targets and see what we  
12 would like -- who we would like to -- pick what we would like  
13 to do direct action against. But there was no immediate target  
14 that we had decided on at that time that I remember or recall.

15 Q. But that was something that was specifically  
16 discussed that you would each go out and research your own  
17 targets?

18 A. Yes.

19 Q. Did Mr. McDavid indicate to you whether he had  
20 discussed this idea with anyone else?

21 A. Yes. He said that --

22 MR. REICHEL: Objection, Your Honor. Hearsay as to  
23 Mr. McDavid.

24 THE COURT: Overruled.

25 THE WITNESS: -- that he had talked to Anna, and that

1 I should get in touch with Anna and let her know what we had  
2 talked about.

3 Q. BY MR. LAPHAM: Now following that meeting, did you  
4 see Anna?

5 A. Yes. I called Anna a bunch of times, and then she  
6 came down to visit me from -- came down to visit me in  
7 Philadelphia. She was living in New York at the time.

8 Q. And why did you call Anna a bunch of times?

9 A. To get her to come down, so I can talk to her about  
10 the meeting that we had.

11 Q. Why couldn't you talk to her about it over the phone?

12 A. It wasn't safe to do so. Followed like security  
13 culture, and we don't talk about things like direct action on  
14 the phone.

15 Q. Would you explain that to the jury? What do you mean  
16 by security culture?

17 A. Not using electronics and basically taking our  
18 precautions. It was basically a paranoia that your phone was  
19 tapped, your e-mails would be tapped, and everything was being  
20 listened to, so you didn't use them, and you didn't talk about  
21 anything on them.

22 Q. Approximately how many times did you call Anna before  
23 the two of you were able to get together?

24 A. I can't remember that. I called her a lot.

25 Q. Several?

1 A. Yeah. I kept in touch with her. She was a good  
2 friend.

3 Q. And did you eventually meet?

4 A. Yes.

5 Q. Where did you meet?

6 A. She came by my apartment, and we walked Philadelphia,  
7 and we ended up at a restaurant.

8 Q. And what did you discuss on that occasion?

9 A. I told her about the meeting that me and Eric and  
10 Zach had, and we used the expression "boom," and, I mean, we  
11 talked about other stuff, girl stuff, like what we had been  
12 doing, what was up, like, talked about that conversation, so  
13 mostly.

14 Q. And you talked about using explosives?

15 A. Yeah, I said "boom." I remember saying "boom" to  
16 her.

17 Q. Why do you use that word?

18 A. Because that was the first word used. It wasn't  
19 "explosives." It was just said as "boom."

20 Q. Why not just say explosives?

21 A. It's a scary word.

22 Q. Were you afraid of anyone overhearing you?

23 A. Yeah. We were always meeting in a public place, so.

24 Q. Does this have anything to do with the security  
25 culture that you were just talking about?

1 A. Yes.

2 Q. Explain that to the jury?

3 A. Well, you wouldn't go into a public place where there  
4 are people and then start talking about things without -- like  
5 everything kind of had an undertone, almost slang to it. And  
6 that explosives just came out as "boom." Like a sound effect,  
7 you know, like -- I don't know Anna's real name. I knew Zach  
8 and Eric as "D" and Ollie. And I suppose that was -- you know,  
9 they knew me as Ren.

10 Q. Well, let's talk about that for a minute. Did you  
11 ever know the defendant's full name?

12 A. No.

13 Q. How did you refer to him?

14 A. As "D."

15 Q. Did you know that his first name was Eric?

16 A. No.

17 Q. And how did you refer to Zachary Jenson?

18 A. As Ollie.

19 Q. Okay. Did you ever know his full name?

20 A. Once. He showed me his ID once, and I showed him  
21 mine. He had a personal journal that had Zach on it, so -- and  
22 he went, oh, yeah, that's my name.

23 Q. So you figured it out?

24 A. Uh-huh.

25 Q. How did Anna react when you told her about your

1 meeting with McDavid and Jenson in Philadelphia?

2 A. She was surprised. She had -- she had talked to Eric  
3 about it, but she didn't know that he had talked to me and Zach  
4 about it. She was surprised and shocked but also excited.

5 Q. Did she indicate whether she was aware that anyone  
6 else was involved in this conspiracy?

7 A. Not at that point.

8 Q. Once again, try and keep your voice up.

9 Did you maintain contact with the defendant and  
10 Mr. Jenson after Philadelphia?

11 A. Yes. We talked through my -- I remained in contact  
12 with Zachary through My Space accounts, and Eric through  
13 e-mail, but nothing was discussed because of security culture.  
14 It was just, hey, how are you, miss you.

15 Q. But you maintained contact?

16 A. Yes.

17 Q. All right. Now, after the August 2005 meeting in  
18 Philadelphia, did your circumstances change?

19 A. Yes. I was having trouble with my roommate, and I  
20 didn't want to be in Philadelphia anymore. I was attending art  
21 school, and I felt like I was wasting money there and wasn't  
22 learning anything, so I wanted to leave. And I also missed the  
23 guys, so I wanted to go and continue traveling like we did that  
24 summer.

25 Q. And did you communicate those facts to the defendant?

1 A. Yes.

2 Q. What did you -- how did you communicate that?

3 A. That I wanted to come out and be with them in  
4 California.

5 Q. And how did the defendant respond to that?

6 A. Yes. I mean -- I don't remember the exact e-mail or  
7 -- Zach, but, yeah, he said, it'd be cool.

8 Q. He said it was okay to come out?

9 A. Yeah.

10 Q. Okay. And after that communication with the  
11 defendant, did you have any further conversations with Anna?

12 A. Yes.

13 Q. Would you describe those conversations?

14 A. Well, I knew she was driving out to California in the  
15 winter, and I asked her if I could hitch a ride with her  
16 because I had no other way of getting out there, and she said  
17 yes.

18 Q. How did you know that she was going to be going out  
19 to California?

20 A. I don't recall if I knew it from Anna or from Eric or  
21 Zach, but I just remember knowing that she was going out there.  
22 I don't recall who told me.

23 Q. All right. And how did she respond to your request  
24 to go out to California with her?

25 A. She said that she could drive me. She said okay.



1 Q. Okay. Did you wind up going to California?

2 A. Yes.

3 Q. How did that come about?

4 A. Well, Anna called me about a week before November  
5 20th, and said that she had an extra plane ticket, that she had  
6 to fly out to visit her sick aunt. And her aunt had bought her  
7 a ticket and she had bought a ticket, so she had an extra plane  
8 ticket, and that we could go out and meet with the guys like in  
9 a hotel room or something and, you know, talk about what we  
10 were going to do before we picked up our lives on the East  
11 Coast and drove on out there.

12 Q. And how did you feel about that?

13 A. It was a free plane ticket to California, and I  
14 missed the guys. I was excited. It was a shock to me, but I  
15 didn't see what I had to lose. I thought it was a win/win  
16 situation.

17 Q. When you flew out to California, did you know what  
18 you would be talking about?

19 A. I had some idea. Not exactly. But I had, you know,  
20 continued to look -- after the August conversation, I had  
21 looked up books on explosives. And I had, you know, thought of  
22 different places and researched, I guess, targets. And I  
23 figured we'd be going out there to talk about direct action and  
24 traveling and thus such.

25 Q. All right. So in between the Philadelphia meeting

1 and when you went out to California, you did some research?

2 A. Yes.

3 Q. On books?

4 A. Yes.

5 Q. What kind of books?

6 A. Books that had explosive recipes.

7 Q. And what books would those be?

8 A. I researched, and I found the The Poor Man's James  
9 Bond. And then later, when I went to buy it after the November  
10 meeting, I also found a book called The Survival Chemist.

11 Q. Now, when you flew out to California, did you know  
12 where the group would be meeting?

13 A. No. I had been e-mailed directions by Eric, and I  
14 got -- flew into the Sacramento Airport. And Anna picked me  
15 up, and she already had Zach in the car. I had the directions,  
16 and Zach said that he knew that it was to Eric's parents'  
17 house.

18 Q. All right. Is that where you ultimately went?

19 A. Yes.

20 Q. Why don't you describe what the group did when they  
21 first arrived at the defendant's parents' house?

22 A. Well, we got there, and it was excitement and hugs,  
23 like we were all were together again. And Eric stated that it  
24 was a known house of an activist. But we got to the house, and  
25 we kind of went inside and all and met up, you know, talked and

1 caught up on things. And should I --

2 Q. Well, let me -- I'll stop you right there and ask  
3 another question.

4 When you first came into the house, did everybody  
5 pick the rooms where they were going to set up?

6 A. Eric said I could sleep upstairs, that Ollie was  
7 going to sleep upstairs. It wasn't immediate. I don't  
8 remember that.

9 Q. Well, whether it was immediate or not, which room did  
10 you select?

11 A. I remember selecting a room, but I ended up sleeping  
12 in a room with Zach upstairs.

13 Q. With Zach?

14 A. Yes. And -- at the Forest- -- at Eric's parents'  
15 house.

16 Q. I'm sorry. You're right. You're absolutely right.  
17 I'm the one that's confused here.

18 So you slept upstairs in Zach's room?

19 A. With Zach, yes.

20 Q. With Zach. And where did McDavid --

21 A. Him and Anna slept downstairs, but, I don't know, I  
22 fell asleep first, so.

23 Q. Do you know where each one stayed?

24 A. I believe they both slept downstairs in the living  
25 room.

1 Q. Did the group that night talk about anything about  
2 the conspiracy?

3 A. Yeah. We went down to a fire pit on the lower part  
4 of the deck, and we just talked about everything, ideas, to  
5 justification of the actions, to the ELF. We talked about the  
6 Forest Service, cell phone towers, gas stations.

7 Q. Okay. I want to get into each one of those topics in  
8 a minute. At some point that weekend did the defendant provide  
9 the group with any written material?

10 A. Yeah. He had quoted a Derrick Jenson quote while we  
11 were down at the fire pit, and I know I asked for the article,  
12 if I could read it, and he provided it for me the next day, and  
13 everybody read it.

14 MR. LAPHAM: Your Honor, may I approach?

15 THE COURT: Yes, you may.

16 Q. BY MR. LAPHAM: Showing you Government's Exhibit 21;  
17 do you recognize that?

18 A. Yes, that's the article.

19 Q. It's actually an interview, isn't it?

20 A. Yes.

21 Q. Of Derrick Jenson?

22 A. Uh-huh.

23 THE COURT: Excuse me, Mr. Lapham. You've said  
24 "uh-huh," "huh-uh," a couple times. Please say "yes" or "no"  
25 to make sure we have your correct wording on the record, okay.

1 THE WITNESS: Okay. Sorry.

2 Q. BY MR. LAPHAM: Thank you, Your Honor.

3 You mentioned a comment that the defendant made at  
4 the fire pit regarding that interview. Would you relate that  
5 comment again to the jury?

6 A. It was a quote from the article that basically talked  
7 of the justification of harsh tactics, saying that Derrick  
8 Jensen said that when you're dealing with harsh things being  
9 done by corporations and by -- you know in the destruction of  
10 the planet or destruction of the ecosystem, that you have to  
11 meet those things with harsh tactics because they're both harsh  
12 and extreme things, and, you know, basically backed up what we  
13 were saying about how protest wasn't working, and that we  
14 needed to step it up.

15 Q. Did the group discuss the legality of what you were  
16 doing?

17 A. I recall Eric saying that the conversation we were  
18 having was illegal, and we could go to jail for it, at the fire  
19 pit.

20 Q. And how was that comment received by the rest of the  
21 group?

22 A. There was -- I remember kind of just a moment of  
23 silence almost, and -- but at that point, in my mind,  
24 everything seemed illegal, so I kind of dismissed it in my  
25 mind.

1 Q. You were okay with that?

2 A. Uh-huh. Yes.

3 Q. Now, you indicated previously that you discussed  
4 targets that night?

5 A. Yes.

6 Q. Okay. What targets did you discuss? We'll take them  
7 one at a time.

8 A. Well, we talked about different ideas we had had.  
9 And one idea was going to gas stations and pouring sugar down  
10 the tanks and messing up the gas, or exploding the gas at the  
11 gas station. Another idea was --

12 Q. Let's stop with that one first. Who raised idea  
13 about the gas stations?

14 A. Ollie raised it and said that it was a discussion  
15 that him and Eric had had on their way through Denver, and Eric  
16 explained it, the idea.

17 Q. Okay. Jenson and McDavid had been traveling  
18 together?

19 A. Yes. They had travelled back.

20 Q. Do you know how they were traveling, by the way?

21 A. Hitch-hiking and train-hopping.

22 Q. And so Jenson was the one who raised this idea?

23 A. He raised the idea and -- yes.

24 Q. And what did he say about it?

25 A. Jenson just said, oh, gas stations, like me and D

1 were talking about that, and Eric went on and explained it.

2 Q. And by "Eric" you mean the defendant?

3 A. Yes.

4 Q. Eric McDavid. What did the defendant explain about  
5 that?

6 A. That gas stations had these little manhole covers,  
7 and all the gas is just kind of held right there. And he said  
8 you can just pour something down there, like you can pour sugar  
9 down and mess up all the gas.

10 I brought up that I thought that he was talking about  
11 putting something else down there like an explosive or lit  
12 cigarette, and they told me I watch too much TV. That a lit  
13 cigarette wouldn't do that.

14 But also talking about going on the gas tank trucks,  
15 but that it would be hard because they have nuts and bolts and  
16 crazy ways of locking it.

17 MR. REICHEL: Your Honor, before we have further  
18 questioning. I just have a question. Is she reading?

19 THE COURT: No.

20 THE WITNESS: No. This is the article.

21 MR. LAPHAM: She has the exhibit in front of her.

22 MR. REICHEL: Which exhibit?

23 MR. LAPHAM: Exhibit 21.

24 Q. BY MR. LAPHAM: Why would gas stations be a target?

25 A. Well, global warming, the CO2 that's emitted, and

1 commerce, and, you know, messing up cars so they can't run.  
2 The war was linked to oil or gas. I mean, it had a lot of  
3 connections. That's just what they were to me. And everybody  
4 had their own reasonings.

5 Q. Were you in favor of this idea?

6 A. Yes, I liked it.

7 Q. In fact, were you in favor of attacking a particular  
8 brand of gas station?

9 A. Yes. I thought if we were going to go after gas  
10 station, we should find the one that's doing the most  
11 destruction as far as where they were getting their gas from.  
12 I believe I mentioned Shell. I knew they had a history with  
13 destroying the Rain Forest, so.

14 Q. What other targets did you discuss that night?

15 A. We talked about cell phone towers, and, you know,  
16 where to find them or what they looked like and --

17 Q. What's the problem with cell phone towers?

18 A. They screw up the migration. They kill some birds.  
19 The sound waves from the cell phone towers mess up the birds in  
20 their flight.

21 Q. What type of discussion did you have that night with  
22 the other members of the conspiracy regarding cell phone  
23 towers?

24 A. If we could go and scout some out and see where some  
25 of them were. I said I had pictures of some of them in New



1 York.

2 Q. What other targets did you discuss that night?

3 A. I believe we talked about power outages that night.  
4 I'm not sure. It could have been another conversation, but I  
5 believe we did.

6 About just how the power outages in New York, and how  
7 we could possibly do that. Take down power grids.

8 Q. And I think you also said you talked about the  
9 so-called tree factory?

10 A. Yes.

11 Q. What was that?

12 A. Eric explained it was a -- almost like a Christmas  
13 tree farm where they were genetically modifying trees to grow  
14 faster and to be sterile. And, I mean, I guess that we all had  
15 an issue with genetically-modified organisms because they  
16 cross-pollinate with natural -- natural organisms and, thus,  
17 mess up the natural trees.

18 Q. And whose idea was that to attack the so-called tree  
19 factory?

20 A. It was something that Eric had discussed with Anna  
21 before --

22 MR. REICHEL: Objection, Your Honor.

23 THE WITNESS: -- and Eric explained it.

24 MR. REICHEL: Hearsay. Speculating as to what she  
25 had discussed with Anna prior. No foundation.

1 THE COURT: Foundation. Sustained.

2 Q. BY MR. LAPHAM: My question was, whose idea was that?

3 A. Eric is the one who discussed it, who knew about it  
4 when I asked what it was.

5 Q. All right. And did the defendant provide the group  
6 with any literature pertaining to genetically-modified trees?

7 A. There was an article, but I don't remember it.

8 MR. LAPHAM: Your Honor, may I approach?

9 THE COURT: You may.

10 Q. BY MR. LAPHAM: I'll show you Government's  
11 Exhibit 20. Do you recognize that?

12 A. Yes, I do. But I don't know if that was shown to me  
13 at the cabin or at the Foresthill residence.

14 Q. All right. And -- but you recall seeing it at some  
15 point?

16 A. Yes.

17 Q. And who do you recall presenting that to the group?

18 A. I don't recall. We all had zines. And we all had  
19 different -- I know I brought a lot of zines and books up with  
20 me to the cabin, and also the Foresthill residence. And they  
21 were all kind of scrambled on tables all the time, so I can't  
22 be sure of that.

23 Q. All right. Did you discuss explosives that night?

24 A. Yes.

25 Q. Describe how that topic went? And why don't you tell

1 the jury.

2 A. Eric said that he had had a conversation with  
3 somebody that told him that that person had a friend who had a  
4 book or something that had explosive recipes in it. And that  
5 the guy had told him that if you mix like bleach and ammonia  
6 together, that you can get like a crystalized explosive of some  
7 sort. But it sounded really sketchy and dangerous and more of  
8 a hearsay recipe than anything concrete. That's when I said  
9 I'd get The Poor Man's James Bond book.

10 Q. Did you discuss having to go underground after you  
11 started committing these direct actions?

12 A. Yes. I brought it up that -- you know, I brought it  
13 up by saying that I had to, like, tell my family something when  
14 I went out there to go out to California. And we all kind of  
15 talked. We all talked about how, you know, what kind of -- how  
16 we shouldn't use communication or, you know, shouldn't talk to  
17 people in a certain time before or after.

18 Me and Eric got in a discussion about personal family  
19 issues, and that it was -- it was a loose, topical discussion.  
20 Nothing was ever really decided upon, but we did talk about it.

21 Q. What I'm getting at is, did the group discuss what  
22 they would personally have to do after you started committing  
23 these direct actions?

24 A. Well, obviously, in a security culture we wouldn't  
25 talk to anybody about it.

1 Q. It may be obvious to you, but it may not be obvious  
2 to the jury, so why don't you explain how the security culture  
3 comes in here?

4 A. Well, you never talk to anybody about any illegal  
5 activities.

6 Can you repeat the question, please?

7 Q. Did the group discuss what kind of things each member  
8 would have to do after the group committed these direct  
9 actions?

10 A. I don't recall this was in November or when we were  
11 at the cabin, but we did talk about if we would dress up or  
12 dress down, if we would have a car, how we would travel,  
13 whether it would be by train or hitch-hiking or driving. We  
14 talked about if we should dress up or, you know, dress down.  
15 Used the term crusty gear, so --

16 Q. Did you discuss ways to avoid detection by law  
17 enforcement?

18 A. Well, yeah. That was when we were talking about how  
19 we would travel, if we would travel by hitch-hiking or by  
20 driving.

21 It was a little back-and-forth discussion about  
22 whether it would be better to take a car because we could get  
23 pulled over, whether it would be better to hitch-hike and  
24 train-hop because, yes, we didn't have a car registration, and  
25 we could get pulled over for speeding, but at the same time

1 hitch-hiking was illegal in some states, and train-hopping was  
2 as well. So if we got caught there, we'd probably get in more  
3 trouble than a speeding ticket.

4 Q. Did you discuss how much you'd be able to see your  
5 families after committing these direct actions?

6 A. I know we did. I know I voiced my concern for  
7 leaving my little brother. And that it was going to take me a  
8 while to cut off connection with him, but I don't remember any  
9 further discussion on that.

10 Q. During the -- again, we're still talking about the  
11 November meeting, did the subject of a 60 Minutes episode come  
12 up?

13 A. Yes. I had seen a 60 Minutes episode that was done  
14 on the Earth Liberation Front and I believe also the Animal  
15 Liberation Front, and I talked about it and quoted it.

16 I believe I quoted the phrase where an FBI agent on  
17 the show said -- was asked how many of the crimes had been  
18 committed, and he said thousands. And how many people had been  
19 caught, and he said 40. I believe that's when we were talking  
20 about the ELF and our discussion of November.

21 Q. Did the group discuss how to claim responsibility for  
22 their actions?

23 A. We talked on the subject lightly, and when we rose to  
24 the ELF it became the question of won't that attract the FBI  
25 and law enforcement personnel. We never came to a conclusion

1 on it. It was definitely the guidelines of the ELF fell into  
2 what we thought we -- you know, what we were going to be doing,  
3 so.

4 Q. So the group discussed the ELF guidelines?

5 A. Yes, I believe so.

6 Q. Was it clear to you that everyone knew what those ELF  
7 guidelines were?

8 A. I don't want to speak on behalf everyone there.

9 MR. REICHEL: Objection, Your Honor.

10 THE COURT: Sustained.

11 Q. BY MR. LAPHAM: Based on your conversation --

12 A. Uh-huh.

13 Q. -- that night, was it clear to you that everyone was  
14 aware of the ELF guidelines?

15 A. It seemed so, but, again, I don't want to speak on  
16 everyone's behalf there. Everyone was aware of the ELF and who  
17 they were.

18 Q. All right. So tell us about that discussion, what  
19 was the back and forth that was discussed regarding the Earth  
20 Liberation Front?

21 A. Again, I can't recall the entire conversation, but I  
22 remember it being should-we-or-should-we-not conversation on  
23 claiming responsibility in the name of the Earth Liberation  
24 Front, and -- but we did -- that did turn into a discussion --  
25 the discussion did go forward to say that if we did, it would

1 attract law enforcement and the FBI, so we weren't sure. We  
2 didn't know. It was mainly a we'll-see-when-we-get-there.

3 Q. All right. Where were things left at the end of the  
4 weekend?

5 A. That we'd see each other again in January. I would  
6 get the book, and Anna would find a cabin, and we'd drive out  
7 there after the holidays, after we say bye to our families.

8 Q. And what would happen in January when the group got  
9 back together?

10 A. We'd start training and talk more and really get down  
11 to business, I suppose.

12 Q. What do you mean by "get down to business"?

13 A. Start doing, planning actions.

14 Q. Was there a discussion -- we're still in that  
15 November meeting. Was there a discussion about where you would  
16 meet up?

17 A. Yes. We wanted to find a location that was very  
18 secluded and away from everything. Safe house. And Anna said  
19 she could find a cabin in the woods in Tahoe, something  
20 abandoned or far away from everything.

21 Q. Before that suggestion was made, was there a  
22 discussion about going somewhere else to do this planning?

23 A. There was mention of a farm or commune thing in  
24 Fresno, but there were other people there, so it wouldn't be  
25 possible for us to be alone there.

1 Q. That was something that was discussed among the  
2 group?

3 A. Yes, it was more mentioned, but, yes.

4 Q. All right. Prior to meeting back with the group in  
5 January, did you do the things that you had promised to do with  
6 respect to this conspiracy?

7 A. Yes. I purchased books. The Poor Man's James Bond.  
8 And I also got The Survival Chemist.

9 Q. And how did you purchase those?

10 A. With my credit card, online.

11 MR. LAPHAM: Your Honor, may I approach?

12 THE COURT: You may approach.

13 Q. BY MR. LAPHAM: Showing you what's been marked as  
14 Government's Exhibits 2 and 3. Do you recognize those?

15 A. Yes. Those are the books I purchased online.

16 Q. And there's actually some blue, looks like Magic  
17 Marker on one or both of them; do you see that?

18 A. Yes.

19 Q. Do you know how that got there?

20 A. I put it on there.

21 Q. All right. So you purchased these and brought them  
22 to the group when you reconvened in California in January?

23 A. Yes.

24 MR. LAPHAM: Your Honor, I would move to admit  
25 Exhibits 2 and 3. I don't believe they've been previously



1 admitted.

2 MR. REICHEL: Just briefly, Your Honor. May I look  
3 at -- No objection, Your Honor.

4 THE COURT: Thank you. Exhibits 2 and 3 will be  
5 admitted.

6 (Government Exhibit 2, The Survival Chemist by David  
7 A. Howard, admitted into evidence.)

8 (Government Exhibit 3, The Poor Man's James Bond by  
9 Kurt Saxon, admitted into evidence.)

10 Q. BY MR. LAPHAM: And, incidentally, while we're on the  
11 subject, I'll show you one more exhibit. Government's  
12 Exhibit 4.

13 Your Honor, may I approach?

14 THE COURT: You may.

15 Q. BY MR. LAPHAM: Do you recognize that?

16 A. Yes.

17 Q. What is that?

18 A. It's the Animal Liberation Front primer.

19 Q. Okay. And did you -- is that another --

20 A. Yes.

21 Q. -- document you provided to the group?

22 A. Yes, I did.

23 MR. LAPHAM: Your Honor, I would move to admit  
24 Government's Exhibit 4.

25 MR. REICHEL: No objection.

1 THE COURT: 4 is admitted.

2 (Government Exhibit 4, "As Darkness Falls: Animal  
3 Liberation Front Primer," admitted into evidence.)

4 Q. BY MR. LAPHAM: In fact, I'll give it back to you and  
5 I'm going to ask you some questions about this.

6 Just generally could you describe for the jury what  
7 types of topics are included in that discussion -- in that  
8 exhibit, and you can pull it out and refer to it, if you like.

9 A. Everything from the history and the view of the  
10 Animal Liberation Front, finding people, finding a cell group  
11 to work with and getting started, planning. I mean, it's  
12 everything from preparation, security, targets -- not  
13 specifically, but how to get through places. I mean, it talks  
14 you through everything and gives you a play-by-play like a game  
15 plan. It's a how-to.

16 Q. So it talks about how to form a cell?

17 A. Yes.

18 Q. And it talks about what types of targets would be  
19 consistent with the ALF guidelines?

20 A. It has the guidelines in there.

21 Q. And is there also a discussion in there about  
22 specific types of explosives or incendiaries?

23 A. Yes. There's an arson section and there's a diagram.  
24 And so, yes, it does -- it does talk about incendiary devices.

25 Q. And tells how to make one?

1 A. Yes.

2 Q. You've listened to some of the recordings that were  
3 made in this case?

4 A. Yes.

5 Q. And you've reviewed transcripts as well?

6 A. Yes.

7 Q. Do you recall an episode that occurred in January  
8 where you went out to the car to retrieve something from the  
9 trunk?

10 A. Yes, I believe I was going to get this.

11 Q. Do you recall what was being discussed at the time  
12 you went out to get that ALF primer?

13 A. We were having a more in-depth discussion that we did  
14 in November, but it was on all of the same topics. And I  
15 forget the immediate subject, but it had to do with this. And  
16 I believe Eric hadn't seen this primer before, and I went to  
17 get it to show him. And I know it had recipes in it, so I  
18 wanted to show him the recipe.

19 Q. Were you discussing explosive recipes at the time?

20 A. In -- I know we were in that discussion, so.

21 Q. That's how that came up?

22 A. Uh-huh. Yes.

23 Q. All right. How did you actually travel back to  
24 California for the January reunion?

25 A. Anna picked me and Zach up in Washington D.C. and

1       drove us.

2       Q.           So you drove cross-country?

3       A.           Yes.

4       Q.           What happened when you got to California?

5       A.           We picked up Eric, went to Trader Joes, and drove up  
6       to the cabin.

7       Q.           And now I'll ask a question that I got mixed up on  
8       before.

9                   When you got to the cabin, where did people set up  
10       their belongings?

11       A.           Anna set up on the couch. There were two bedrooms.  
12       One had two small beds in it, and the other had a big bed in  
13       it. And Zach put his stuff in one room. Anna slept on the  
14       couch and -- or took the couch, which I think we made comments  
15       on when there was a bed right there.

16                   And me and Eric took the big bed. I don't know what  
17       kind of size bed it was. It was big. Because I had trouble.  
18       I couldn't sleep alone. It scared me.

19       Q.           Did you have a discussion with Anna in that drive to  
20       California about the defendant's interest in her?

21       A.           Yes. Eric really liked her, and she told me that he  
22       had written her love letters. But we were talking about boys,  
23       and she said she had a boy in New York who was watching her dog  
24       while we were out in California.

25       Q.           Did she indicate what interest she had in the

1 defendant?

2 A. That she didn't want to take things physically. She  
3 wasn't -- you know, we had all talked about not getting  
4 together physically because we would be in a cabin, and it was  
5 boy/girl, boy/girl, but that it would cause stress and  
6 unnecessary conflicts that usually arise with physical.

7 Q. And when was that discussed?

8 A. I know me and -- I know we talked about it in  
9 November.

10 Q. The entire group?

11 A. I recall me and Zach talking about it. I think it  
12 was -- it was a discussion back and forth. I don't remember us  
13 all sitting down and talking about it, but it was decided that  
14 we would all keep it simple.

15 Q. And you definitely remember the defendant being part  
16 of that discussion?

17 A. Not definitely. Like I said, I really just remember  
18 the conversation between me and Zach, and I believe I talked to  
19 Anna about it. Like I said, I don't remember us all sitting  
20 down together and having it, but that was my understanding when  
21 we left.

22 Q. All right. Now, in this cross-country drive, did you  
23 indicate to Anna whether you had an interest in the defendant?

24 A. Yeah. I told Anna that I had a crush on him.

25 Q. How did she respond to that?

1 A. She was -- she said, good, go for it basically.

2 MR. LAPHAM: Your Honor, may I approach?

3 THE COURT: You may.

4 Q. BY MR. LAPHAM: Show you what's marked as  
5 Government's Exhibit 1. Do you recognize that?

6 A. Yes.

7 Q. What's that?

8 A. The black book that everything got written into.

9 Q. When did you first see that black book?

10 A. The day after we got to the cabin. When we were  
11 having a discussion, things were being written down in it.

12 Q. What was your feeling about that, that things were  
13 being written down in the black book?

14 A. Well, it was stated by Eric back in November that  
15 absolutely nothing would be written down, and we all agreed  
16 with that. And then all of a sudden everything was being  
17 written down, and that was obviously very uncomfortable to me.

18 Q. Did you voice that concern?

19 A. Yes, I did. And Anna said the book couldn't survive,  
20 and that it would be burned. And Eric reiterated, said the  
21 same thing right after her.

22 Q. All right. So the decision was made to keep the  
23 book?

24 A. That -- yeah, that things would be written in it, but  
25 that the book wouldn't survive. That it would be destroyed.

1 MR. LAPHAM: Your Honor, may I approach?

2 I'm going to show you a page. In fact, I'll display  
3 it on the overhead, so we can all look at it.

4 Your Honor, I wonder if we could inquire if the jury  
5 is seeing it on their small screens? They seem to be nodding  
6 yes, so we'll go with that for the time being.

7 THE WITNESS: I don't have it on my screen.

8 MR. LAPHAM: The witness can't see it. Okay. Here  
9 it comes.

10 Q. BY MR. LAPHAM: Can you clearly see that page?

11 A. Yes.

12 Q. Okay. Would you explain to the jury what this page  
13 refers to, if you know?

14 A. It was concerns that we all had and then discussed  
15 the second day that we were at the cabin, and we discussed  
16 there are concerns and --

17 Q. All right. The first one, first line is  
18 "surveillance"?

19 A. Yes.

20 Q. What does that refer to?

21 A. If we were being surveilled by law enforcement.

22 Q. And that would be steps you would take?

23 A. That would be what happens or how we would contact  
24 each other after something happened or, you know, we had split  
25 up, and we were being followed or surveilled.

1 Q. How about the next line, "messages," what does that  
2 refer to?

3 A. How we would get messages out after an action or  
4 during an action. We discussed ELF at that point and decided  
5 that we would take it case-by-case. We discussed the  
6 guidelines again and again didn't come to a decision on whether  
7 we would or whether we wouldn't. But it would -- we would deal  
8 with it when it came up.

9 Q. Okay. Depending on what the target was?

10 A. Yes.

11 Q. Was there one member of the group that was designated  
12 as the person who would get that message out?

13 A. Zach was the writer, and so there's talk that, oh, he  
14 could write the message. Just like Anna was a medic, so she  
15 would take care of anyone that got hurt.

16 Q. All right. How about the next line down, "accidental  
17 death of civilians"?

18 A. Yeah. We talked about what if somebody got hurt,  
19 what if somebody died, and what that would mean, and what we  
20 would do. And we all voiced our separate concerns on that.

21 Q. What was your view of that?

22 A. It scared the shit out of me to think about it.  
23 Sorry. My language.

24 Q. What about the defendant?

25 MR. REICHEL: Objection, Your Honor. Speculation as



1 to view -- his view.

2 THE COURT: Overruled. If she knows.

3 Q. BY MR. LAPHAM: I'll firm up the question. Did the  
4 defendant voice an opinion regarding the subject of accidental  
5 death?

6 A. It was, you know, you take all necessary precautions  
7 and make sure it doesn't happen. There was talk about, you  
8 know, what if there's a security guard in a factory, and he is  
9 walking around, how do you let him know, how do you get him  
10 out, and, you know, what happens if you do that.

11 We basically just talked through that. How, you  
12 know, to make sure to get a message or note to the security  
13 guard, or to make sure that everybody is out of the building.  
14 I don't recall him ever saying exactly what he would do if that  
15 happened or how he would feel if that happened.

16 MR. LAPHAM: Your Honor, if this is an appropriate  
17 place to break, that's fine.

18 THE COURT: It is. We'll take our recess. Ladies  
19 and gentlemen, return in 20 minutes. Please don't discuss the  
20 case or form opinions. Court is in recess.

21 (Jury out.)

22 THE COURT: We're outside the presence of the jury  
23 right now. Any matters on the record?

24 MR. LAPHAM: No, Your Honor.

25 THE COURT: Mr. Reichel?

1 MR. REICHEL: Briefly, Your Honor. Let -- may I ask  
2 Mr. Lapham something?

3 (Discussion between counsel.)

4 THE COURT: Is there something, counsel?

5 MR. REICHEL: I don't think so, Your Honor.

6 THE COURT: All right. Fine. Go off the record.

7 (Discussion off the record.)

8 (Jury in.)

9 THE COURT: All right. Proceed, please.

10 MR. LAPHAM: Thank you, Your Honor.

11 Q. BY MR. LAPHAM: Ms. Weiner, when we left off -- could  
12 we have the screen down, please.

13 When we left off, we were talking about the page in  
14 the black book, Government's Exhibit 1, labelled concerns.

15 And now in the middle of the page there's an entry  
16 that says, "select targets." Would you tell the jury briefly  
17 what that refers to?

18 A. The targets that we were going to select were -- that  
19 we wanted to do direct action on, that we were going to try to  
20 go recon all those targets, look for more specific things than  
21 saying power structure.

22 Q. And to the right of the "select targets" entry in  
23 blue ink there is a listing of several things, do you see that?

24 A. Yes, I do.

25 Q. What is that?

1 A. That's all the different targets that we discussed as  
2 possible things.

3 Q. Would you -- the first entry is "WB," do you know  
4 what that refers to?

5 A. The World Bank.

6 Q. And what was discussed with respect to that?

7 A. I don't recall exactly. Only that I know it was an  
8 issue of mine -- or a target of mine.

9 Q. Just something you raised?

10 A. Yes.

11 Q. Would that be something for the immediate planning or  
12 for down the road?

13 A. Down the road.

14 Q. What's the next one, the "B."

15 A. Banks.

16 Q. And what did you have in mind for that?

17 A. We talked about two different things. One was going  
18 in, and instead of robbing a bank, just burning all the money.  
19 And another one was a hold-up where we would glue all of the  
20 locks shut, and the ATM, and just put glue in everything, so  
21 that nobody could get into the bank, and leave a little card  
22 that said "hold-up."

23 Q. Okay. How about power structures, was there a  
24 discussion about that?

25 A. Yeah. That was also the discussion, where we also

1 talked about that November with the blackouts. And just we  
2 discussed maybe if we could get the Bay Area in a blackout for  
3 some time.

4 Q. What about "CDF," what does that refer to?

5 A. I believe that refers to the Forest Service place in  
6 Placerville.

7 Q. That's what you referred to as the tree factory?

8 A. Yes.

9 Q. How about Huntington, what is that?

10 A. Huntington Life Sciences. They do animal testing.

11 Q. Is that a typical target of ELF -- or ALF? I'm  
12 sorry.

13 A. It would be an Animal Liberation Front target.

14 Q. What's the next one below Huntington?

15 A. I believe that's says "gas stations."

16 Q. Gas stations, you're right. Thank you. And you've  
17 discussed gas stations before.

18 A. Yes. And it was just the same as --

19 Q. So this topic came up again in January?

20 A. Yes.

21 Q. Then "tractor trailers," do you see that below "gas  
22 stations"?

23 A. Yes. We talked about how all -- everything was being  
24 put back and forth, the tractor trailers. I know we had talked  
25 about getting to gasoline that way. I believe there was also

1 discussion about getting a jam truck and causing a traffic jam  
2 by putting tons of jam in the road or somehow blocking the road  
3 and blocking traffic.

4 Q. Tons of jam?

5 A. Yeah, like jelly, putting jelly.

6 Q. And how would you do that? Where would you get that?

7 A. We would take a tractor trailer that was from a jam  
8 factory, and I guess hi-jack it, and spill out all of its jam  
9 onto the road.

10 Q. All right. Then we have "cell towers" in the right  
11 column?

12 A. Yes.

13 Q. So you again had a discussion about that?

14 A. Yes.

15 Q. Do you remember any specifics about that discussion  
16 in January?

17 A. That we were going to look for cell phone towers. I  
18 stated that we had -- that I knew of a program on the computer  
19 called Google Earth where we could find cell phone towers. And  
20 to take them down again for, like, the bird migration, and I  
21 liked cell phone towers. That was my target.

22 Q. And did you actually download Google Earth?

23 A. Yes.

24 Q. When did you do that?

25 A. I did that I believe the first time we were able to

1 set up the Internet on the laptops.

2 Q. So that was sometime this week in January?

3 A. Yes.

4 Q. Then we have "freeways" and "bridges," I believe?

5 A. I can't see that.

6 Q. Is that something you discussed?

7 A. Yeah. It is something we discussed.

8 Q. What did you discuss about freeways and bridges?

9 A. Well, we talked about, again, just jamming up roads,  
10 causing traffic jams or like that being a way to stop the  
11 movement of goods and people back from one place to another.  
12 And bridges, but we didn't really decide on that because it  
13 would, you know, damage the water underneath it, so it would be  
14 counter-productive.

15 Q. Now, with respect to freeways and transportation  
16 systems in general, could you explain that to the jury, why is  
17 that part of an anarchist agenda?

18 A. Because it's interstate commerce, and you block the  
19 flow of goods going back and forth. And, I mean, I can't speak  
20 exactly to -- I don't remember exactly why, but -- so I would  
21 only be from my personal belief on it.

22 But you stop the ability for goods to go back and  
23 forth, and then you can -- and it forces people to rely more on  
24 each other and their neighbors and what they have around them  
25 rather than relying on other people.

1 Q. The next one down is "dams." Was there a discussion  
2 about attacking dams?

3 A. Yes.

4 Q. What was the nature of that discussion?

5 A. Well, we talked about -- we had all read it in the  
6 Derrick Jensen article. He talks a lot about the Salmon, and  
7 how if you take down the dams that clog up the river, that the  
8 Salmon could run free again.

9 And so we discussed going after dams so that -- and  
10 just getting rid of them, so that they could -- so that the  
11 rivers could run free again, and they can go back to being  
12 natural. And that that would also go after power structures as  
13 well because dams are used to create energy.

14 Q. And that was something specifically discussed in the  
15 Jensen interview?

16 A. Yeah. It was mentioned in that interview.

17 Q. Can you read the next one down?

18 A. I believe that would be bearing factory.

19 Q. And what does that refer to?

20 A. Well, we had discussed how other -- I'm sorry --  
21 other Earth Liberation Front actions had to do with getting  
22 cars and going after car dealerships. And we said it was --  
23 there was discussion on how that's kind of too late. If you  
24 went to the factory, or even if you went to the bearings  
25 factory and shut that down, then it would in turn form a chain

1 reaction, and, thus, no more cars could be made for a while,  
2 and it would cost the car companies a lot of money.

3 Q. All right. And then finally, the last entry, can you  
4 read that? I think it's Government buildings. Does that sound  
5 right, or do you know?

6 A. Yes. We only talked very, very briefly on that and  
7 how it's an infrastructure. And further down the line that  
8 would become a possibility. But nothing more was discussed on  
9 that.

10 Q. All right. And then finally, the last topic is "what  
11 to do when leave, how travel"?

12 A. Yeah. That was if we would stay together, if we  
13 would split up, if we would travel by car or by train. It was  
14 a discussion that we continued from November. And, I mean, it  
15 was left once again case-by-case. But we also talked about how  
16 we would keep in touch with each other through that and places  
17 we would go and.

18 Q. Was the group planning on going underground?

19 A. Yes. But to different extents. I mean, yeah, that's  
20 why we were at the cabin. The whole point of the cabin was  
21 that nobody knew we were there. It was a big secret.

22 Q. I'll direct your attention now to the next page. It  
23 says, "code, Firefly flying" -- is that "your way" -- is that  
24 an abbreviation for "your way"?

25 A. Yeah. Sure.



1 Q. What does that mean?

2 A. Well, we were talking about while we were traveling  
3 how we were going to keep in touch with one another. And the  
4 -- the code conversation went all the way back to August, and,  
5 you know, keeping with security culture, and how we were going  
6 to stay in contact with one another through the Internet but  
7 without -- innocent -- having our own code so that --

8 Q. Did you have a nickname?

9 A. Yes.

10 Q. What was the nickname?

11 A. Ren and Firefly.

12 Q. So Firefly refers to you --

13 A. Yeah.

14 Q. -- in this passage?

15 I want to just go over the events of that week in  
16 January in kind of broad detail. The black book contains an  
17 entry indicating, "Tuesday, Wednesday and Thursday"; do you see  
18 that?

19 A. Yes.

20 Q. And is that your schedule for the week that the group  
21 was planning on following?

22 A. Yes.

23 Q. Let me just ask you about some things about each of  
24 those days. On Tuesday, it indicates U.S.F.S. That's the  
25 United States Forest Service?

1 A. Yes, it is.

2 Q. All right. Did you conduct surveillance at the  
3 United States Forest Service on that date?

4 A. Yes, we did.

5 Q. And prior to doing that, did you conduct surveillance  
6 at the Nimbus Dam?

7 A. Yes, we did.

8 Q. Okay. Let's talk about those two things. What  
9 happened when you got to the Nimbus Dam?

10 A. Well, first we went to the fish hatchery that was  
11 right by the dam. It was -- I believe it was the Salmon fish  
12 hatchery. And we walked around, and I took pictures, and we  
13 got a few brochures, and we discussed how we would free the  
14 Salmon from the fish hatchery, like what places would need to  
15 be unlocked or what gates would need to be blown for the Salmon  
16 to be able to get out.

17 Q. All right. And when you say what gates needed to be  
18 blown, what were you referring to?

19 A. Using explosives to open the gates.

20 Q. And the gates, is that referring to the fish ladder?

21 A. I don't know what it's called, exactly what that is,  
22 what it's called.

23 Q. Okay. Gates pertaining to the fish hatchery?

24 A. Yeah. They were the gates that held the fish in to  
25 certain quarters, and, eventually, if you followed it, there

1 was an exit to the river. So it was a matter of getting those  
2 gates opened, unlocked somehow.

3 Q. All right. And then using explosives?

4 A. Yes. It was one of the things we talked about.

5 Q. Did you also visit the dam itself?

6 A. Yes. We walked up a bike trail and looked at the dam  
7 from -- I guess it was across a big lake.

8 Q. And what kind of discussion took place there as you  
9 were looking at the dam?

10 A. How we could possibly take it down. I mean, it was a  
11 really, really big dam. We also talked about the power station  
12 that was up there, but also that, you know, if we got the dam  
13 to open up, that it would kind of take care of the Salmon  
14 because the water would over-flow, but then there was -- we  
15 didn't know where the water would actually go to and what was  
16 down the line, so that was an issue that we were going to  
17 research.

18 Q. In conjunction with that conversation, was there a  
19 discussion about testing explosives with respect to concrete?

20 A. Yes. I suggested that since, you know, we really  
21 didn't know what the explosives were going to do when we tested  
22 them, we should pour some concrete and see what they were going  
23 to do to -- how much damage they were going to make.

24 Q. And did the group, in fact, put concrete on their  
25 shopping list?

1 A. I don't recall.

2 Q. I'll show you the next page in the black book. Do  
3 you see that?

4 A. Uh-huh.

5 Q. Do you know who made that entry?

6 I'm sorry. That was a little vague. The page  
7 indicates a laundry list of things, some of which are crossed  
8 out, and about three-quarters of the way down is the word  
9 "concrete"; do you see that?

10 A. Right.

11 Q. Do you know who made that entry for concrete?

12 A. I know I suggested it. I don't know who wrote it. I  
13 can't --

14 Q. You -- who suggested it?

15 A. I suggested it.

16 Q. Yes. But you're not sure that's your handwriting or  
17 not?

18 A. No.

19 Q. All right. And then after visiting the Nimbus Dam,  
20 where did you go?

21 A. We went from the Nimbus Dam, and we drove to the U.S.  
22 Forestry Service.

23 Q. And what did you do there?

24 A. We parked across the street, and we walked up and  
25 decided that we would pose as college students from American

1 River College.

2 And walked in, and they had like a little front  
3 office. We were looking at brochures and stuff. And just like  
4 a really big, happy guy came out and started talking to us.  
5 And Eric was the closest one to him, and Eric kind of stepped  
6 in and had the big old, joyous, kind of like this, "hey, how  
7 are you, yeah, we're checking it out," conversation with him.

8 And then we went -- he said we could just walk around  
9 the place, and, you know, kind of pointed in which way we could  
10 walk. So we walked around there. I tried to take pictures,  
11 but my camera died, and my battery -- my memory was full, so we  
12 pretty just much walked around the premises. Like not very --  
13 We couldn't go -- We weren't allowed to like walk anywhere near  
14 the -- or behind or go into the greenhouses or labs or anything  
15 like that.

16 So we went back in because the guy had said that  
17 there was somebody who could give us a formal tour, but we  
18 couldn't find that person, so we walked around again. I  
19 counted cameras. And we ended up running into the guy, and we  
20 gave him fake names and said we were college students.

21 Q. All right. While you were doing this, taking your  
22 self-guided tour, you were pointing out cameras you said?

23 A. Yes.

24 Q. These are surveillance cameras?

25 A. Yes.

1 Q. The black book --

2 A. Uh-huh.

3 Q. -- did somebody have the black book that day?

4 A. Yes.

5 Q. Who had it?

6 A. Eric.

7 Q. And what was he doing with it? Or was he doing  
8 anything with it that day?

9 A. He wrote down the schematics or the layout of the  
10 Forestry Service.

11 Q. All right. Showing you the Burn Book again on the  
12 overhead. Is that what you are referring to?

13 A. Yes.

14 Q. The diagram of the Institute of Forest Genetics?

15 A. Yes.

16 Q. And who made that drawing?

17 A. Eric.

18 Q. Now the next day, Wednesday, it indicates that the  
19 group is planning on going to San Francisco; is that correct?

20 A. Yes.

21 Q. Why were you going to San Francisco?

22 A. There were a bunch of reasons. One was to see  
23 friends. Another, I never been to San Francisco. And another  
24 was to use the library there and to see if we could come across  
25 any supplies that we would need for making the explosives.

1 Q. Okay. Let's take those last two. What kind of  
2 research were you doing at the library?

3 A. We were looking up stores that might have -- a  
4 chemical supply store, scientific supply stores. We needed to  
5 get a battery hydrometer -- is that what it is?

6 Q. Okay.

7 A. -- and we were looking up where we can get that or  
8 what that even was.

9 Q. Okay. Did any members of the group actually make  
10 phone calls?

11 A. Yes. Eric called the places to see if they had it,  
12 or if it was even a retail store.

13 Q. Did you stop -- did the group stop anywhere on the  
14 way back from San Francisco?

15 A. Yes, I believe it was Walmart. I'm not sure. It was  
16 one of those big chain stores. And we shopped for everything  
17 that we could get there. We weren't able to get everything  
18 that we needed for the recipe explosives, but we had that list,  
19 and we went down the list and got what we could.

20 Q. So the things you bought at Walmart were ingredients  
21 for your explosives?

22 A. Yes.

23 Q. All right. I think that brings me to the next entry  
24 in the book for Thursday, "play with toys"; do you know what  
25 that entry refers to?

1 A. We were going to make explosives that day. We went  
2 out and went shopping in the morning and -- to get, like, stuff  
3 that we didn't have before.

4 Q. Do you recall what you purchased that morning?

5 A. Yeah. We got trick candles, like the trick birthday  
6 candles, salt substitute, shotgun shells, new shoes, some other  
7 stuff that wasn't related to the explosives.

8 Q. All right. And, I'm sorry, what were the trick  
9 candles for?

10 A. To see if we could use those as fuses.

11 Q. And how about the shotgun shells?

12 A. See if the powder in them could be used as fuses.

13 Q. Okay. And then the salt substitute?

14 A. It was part of a recipe.

15 Q. What happened when you got back to the cabin?

16 A. Well, we immediately started making everything,  
17 making the explosives. I guess within -- it must have been  
18 within a half hour everything was set up, and we measured out  
19 the salt, and the salt -- and I think it was salt and bleach  
20 was together in a bowl, on a hot plate outside.

21 And when we were making the explosives, Eric was  
22 trying the trick candle fuse thing. That's what happened when  
23 we got back.

24 Q. Okay. With respect to that last part, what did you  
25 recall him doing with the trick candles?



1 A. He was timing it to see how long it would last, like  
2 it would go for.

3 Q. Had you seen him working with the shotgun shells?

4 A. Yeah. He pulled the shells apart to do the powder  
5 thing, and that's what he was timing, like, to see how long it  
6 took for it to burn through.

7 Q. Did the group ever talk about testing any of their  
8 explosives?

9 A. Yeah. We talked about going up to the desert, and  
10 that's when we talked about, like, pouring the concrete up  
11 there, and seeing what things did and what impacted it before  
12 we went and actually went and put them places.

13 Q. Do you remember any specific location that the group  
14 talked about to do the testing?

15 A. Only the desert. Like, I can't recall anything, any  
16 specific desert, but that we were going to go out to, like, the  
17 middle of nowhere, the desert.

18 Q. Okay. Now, the next day you were arrested, correct?

19 A. Yes.

20 Q. What were you doing -- what was the group doing that  
21 morning before the arrest?

22 A. Well, the day before, the glass broke on the hot  
23 plate, so we had to go out and get the supplies again to try to  
24 do it again.

25 Q. Okay. So you'd had a setback the day before?

1 A. Yes.

2 Q. The glass broke?

3 A. Yes.

4 Q. And that morning that you were arrested, the group  
5 was going out to replace that?

6 A. Yes.

7 Q. And to basically start from scratch?

8 A. Yes.

9 MR. LAPHAM: Thank you. I have nothing further.

10 THE COURT: Excuse me. Thank you. Cross.

11 CROSS-EXAMINATION

12 BY MR. REICHEL:

13 Q. Good morning, Ms. Weiner. How are you?

14 A. It's Weiner.

15 Q. Weiner. Thank you. Okay. You and I have never  
16 actually met or conversed much, right?

17 A. Correct.

18 Q. I think when the arrest happened, I may have saw you  
19 in the courtroom for a moment once?

20 A. Yes.

21 Q. Okay.

22 A. Kind of.

23 Q. You and I never sat down and talked about this case  
24 before?

25 A. No.

1 Q. Okay. You are aware that there were a variety of  
2 undercover videos made of the group in this case, right?

3 A. Yes.

4 Q. And then there were transcripts that were made and  
5 printed out of those?

6 A. Correct. Yes.

7 Q. And then you interviewed with the FBI a couple times  
8 at least?

9 A. Yes, twice.

10 Q. And they gave you a copy of your statement  
11 afterwards?

12 A. Yes.

13 Q. Okay. And did you actually go through and look at  
14 some of these video tapes in this case?

15 A. Yes, I did.

16 Q. Did you look at all of them?

17 A. No. I don't know if I looked at all of them, but I  
18 looked at a few of them.

19 Q. And did you listen to the undercover tapes as well?

20 A. Yes.

21 Q. And did that all help refresh your recollection in  
22 this case?

23 A. Yes.

24 Q. And it enabled you to testify as best you can?

25 A. Yes.

1 Q. Okay. Let me ask you about the first time when you  
2 met Eric McDavid. That was in June of 2005?

3 A. I believe it was June, yes.

4 Q. And it was in Philadelphia?

5 A. Yes, it was.

6 Q. And he was with Zachary Jenson at that time, right?

7 A. Yes.

8 Q. And did you meet them both at the same time?

9 A. Yes, I did.

10 Q. And this was at the biodiversity protest?

11 A. Yes. Actually, I met them outside a bike shop.

12 Q. How did you meet?

13 A. I was fixing bicycles for people to come and borrow  
14 bikes. And they were there to borrow the bikes. And we shared  
15 a few cigarettes and talked for a while, and they were looking  
16 for a place to stay, and I said they could stay at my apartment  
17 while they were in town.

18 Q. And when did you mean Anna, the informant in this  
19 case?

20 A. There was a -- a really, really free market in one of  
21 the parks that week, and the guys knew Anna from, I believe,  
22 the RNC or something from before, and they introduced me to  
23 her.

24 Q. Okay. And did you all hang out then?

25 A. Yeah. She came and stayed at the apartment as well.

1 Q. So she stayed at your apartment?

2 A. Yes.

3 Q. Did -- they slept -- everyone slept in the apartment?

4 A. Yes. Well -- some people slept on the porch, but it  
5 was --

6 Q. Who slept on the porch?

7 A. Zach and other people. Like there was a few other  
8 people that were there as well.

9 Q. I believe the first night everyone kind of slept on  
10 the porch, and there was a night that some people slept  
11 downstairs, and I can't recall where everybody slept.

12 Q. Did you at that point have a feeling that there was  
13 kind of some romantic interest between Anna and Mr. McDavid?

14 MR. LAPHAM: Objection. Calls for speculation.

15 THE COURT: Overruled.

16 THE WITNESS: Can you repeat the question?

17 Q. BY MR. REICHEL: Yes. Did you have some feeling or  
18 some view that there was a romantic interest between  
19 Mr. McDavid and Anna?

20 A. Yes, I did.

21 Q. And that's just by physical appearances, the way they  
22 acted?

23 A. They both slept downstairs the night she arrived.

24 But, yeah, he was -- at first I thought it was Zach who liked  
25 her, but then over time I thought it was Eric. I thought they

1 were dating. I even asked someone if they were together.

2 Q. Okay. And this is just based -- well, at this  
3 particular time in Philadelphia, was it a two-day period,  
4 three-day period?

5 A. It was a whole week that we were all together. Maybe  
6 three or four days that Anna was there. I can't recall  
7 specifically how much, but it was around a week.

8 Q. Okay. And in this three- or four-day period that  
9 Anna was there, you got the feeling that Mr. McDavid and Anna  
10 were dating, right?

11 A. Yes, I forget who I asked, but I remember asking.

12 Q. Okay. Now, at the time, did you find -- you found  
13 Mr. McDavid to be a pleasant person at the time?

14 A. Yes.

15 Q. Okay. You invited him into your house?

16 A. Yes, I did.

17 Q. And Zach Jenson to be a pleasant, easy-going person?

18 A. Yes.

19 Q. And did Mr. McDavid tell you he was from California?

20 A. I don't recall then. They just told me they were  
21 from out West. That's what I remember.

22 Q. Did he advise you that he -- what he was doing out  
23 there, or he was traveling, or what did he say he was doing?

24 A. Well, the first night we all sat on my porch, and  
25 there were other people there, too. And I remember asking, you

1 know, why or how traveling was because I always wanted to do  
2 it. And I kind of asked them, like, what their reasoning was,  
3 and I -- I don't remember the reasonings, but I remember  
4 asking, and it was just -- I don't think there was ever really  
5 a reason other than, you know, kind of see our country.

6 Q. Let me ask you about finances. I mean, you meet him  
7 then in June of 2005, and then there was an arrest January of  
8 2006, right?

9 A. Yes.

10 Q. Okay. So roughly six or seven months that you knew  
11 Eric and Zach?

12 A. Yes.

13 Q. And, specifically, what you first met them, was  
14 Mr. McDavid -- did he appear to be, for all outward purposes,  
15 somebody who really didn't have any money?

16 A. Yeah. He didn't seem like he had any. And there  
17 were occasions where we had to go through dumpsters for food  
18 and ask for money on the streets.

19 Q. Okay. And this is as far back as Philadelphia when  
20 you first met him?

21 A. Yes.

22 Q. And so his dress was with older and kind of used  
23 clothing?

24 A. Yes.

25 Q. And did he say -- in fact, he told you he had

1 hitch-hiked?

2 A. Yes.

3 Q. Right?

4 A. Yes.

5 Q. And he had eaten out of dumpsters?

6 A. Yes. Dumpster-diving. I did it as well.

7 Q. Back in Philadelphia, 2005, did you ever see him with  
8 sums of money?

9 A. No.

10 Q. Okay. Did you ever see him with a credit card?

11 A. No.

12 Q. Okay. So for all outward appearances, you believe  
13 that he didn't have much money?

14 A. The -- no. He didn't have any. The only card I ever  
15 saw him with was a pay phone card.

16 Q. And you saw that later on or --

17 A. I think it was when we were traveling together at  
18 some point.

19 Q. Okay. Now Mr. Jenson, is it fair to say that he was  
20 kind of in the same situation when you first met him in  
21 Philadelphia?

22 A. Yes.

23 Q. As far as finances?

24 A. Yes.

25 Q. He had also been hitch-hiking?



1 A. Yes.

2 Q. And eating out of dumpsters?

3 A. Yes. I bought them cigarettes because they didn't  
4 have money for cigarettes.

5 Q. This is as far back -- I mean, June in Philadelphia?

6 A. Yes.

7 Q. Okay. And what were you doing for money at the time?

8 A. At the time, I had sold some of my art work, but my  
9 dad was paying my way. And that's all I had. My dad was  
10 paying for my apartment, and I had a little bit of money for  
11 food.

12 Q. When you say you had a little bit of money for food  
13 after your dad had been paying for your apartment and so forth,  
14 what do you mean like a month? How much, other than what your  
15 dad was paying for your apartment, did you have? And that  
16 would be June of 2005 at the time of Philadelphia's  
17 biodiversity?

18 A. Probably had about \$100 for the month.

19 Q. So you were living very, very poor also?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. It was?

24 A. It was, yes.

25 Q. Okay. I mean, did you spend alot -- well, you

1 roughly had \$100 to spend a month, right?

2 A. Yes.

3 Q. And did you have conversations about that, or lack of  
4 money with Mr. McDavid and Mr. Jenson back then when you first  
5 met?

6 A. I don't remember conversations. I believe it was  
7 just kind of known that.

8 Q. What I'm getting at is, did they know that you didn't  
9 have a lot of money either, right?

10 A. Right. We traveled together, and I had to scrounge  
11 and ask for money as well.

12 Q. You had to ask for money as well?

13 A. Yeah, when we were traveling that summer.

14 Q. Okay. And right after you met Mr. McDavid and  
15 Mr. Jenson, what was the next event or next time that you spoke  
16 to them, either one of them? You met them in June at the  
17 Philadelphia biodiversity. Was it next that you met them at  
18 the Pointless Festival?

19 A. No.

20 Q. Okay. Where was it next?

21 A. We traveled together that whole summer, on and off.  
22 I met up with Eric at a protest in Richmond, Virginia, and I  
23 had hitch-hiked down there. And from there I went to West  
24 Virginia for another protest, and Eric was there as well. And  
25 then we went from West Virginia to Bloomington, Indiana.

1 Anna picked us up and drove us there for a CrimethInc  
2 convention. Zach was there. And I believe then Eric and Anna  
3 drove up to Chicago after that convention. I hitch-hiked back  
4 to Philadelphia. And I forget where Zach went, but he went  
5 somewhere else as well.

6 Q. Okay. I would like to ask you about that time period  
7 and those travels. Specifically staying with the money  
8 situation, you hitch-hiked most of that time other than the  
9 ride from Anna?

10 A. Correct.

11 Q. And that's because you had to, right?

12 A. Yes.

13 Q. Because you really didn't have any money, right?

14 A. I couldn't afford a bus or train.

15 Q. Or a car?

16 A. Right. I definitely couldn't afford a car.

17 Q. And Mr. McDavid and Zach, they did part of that tour  
18 that you just talked about to Virginia's, and they did that  
19 hitch-hiking, right?

20 A. Yes.

21 Q. And --

22 A. There was some train-hopping involved. I know I  
23 hopped trains at some points, and so did they. I'm not sure  
24 where and when.

25 Q. Okay. Well, that little summer touring that you just

1 told us about, as far as eating, was that again often dumpster  
2 diving?

3 A. Dumpster diving or through, like, soup kitchens and,  
4 you know, friendly people and getting in parks and --

5 Q. Okay. Okay. So it's fair to say you didn't have the  
6 wherewithal to stay in hotel rooms and so forth, right?

7 A. Definitely not. We slept in sleeping bags. We would  
8 roll ourselves in tarps by highway exits.

9 Q. So you lived off of basically what you had with you,  
10 what you carried with you?

11 A. Yes.

12 Q. Sleeping bags?

13 A. Yes.

14 Q. Okay. And then do you recall shortly after -- well  
15 let's say -- withdraw the question. I'm sorry.

16 After Bloomington, you spoke to Anna -- the  
17 informant, Anna -- about some plans to go -- about going out  
18 West; do you recall that?

19 A. After Bloomington?

20 Q. Yes.

21 A. I don't recall that.

22 Q. Was it before Bloomington that you talked to her  
23 about going out West?

24 A. I remember asking her if I could go out to California  
25 with her, but that was way back in, like, October -- September

1 October. That's only one I recall when I asked her.

2 Q. Do you recall talking to her earlier that summer, and  
3 she had been excited that you were now kind of with Zach and  
4 Mr. McDavid?

5 A. Well, we were all traveling together. And at first I  
6 didn't like her that much. Personally, it was like female  
7 quarrel, I guess. And that was at my house. But then we  
8 became really good friends. And she was everywhere, and she  
9 was -- it was just nice to hang out with a girl. And, yeah,  
10 there was like the excitement of being friends, and she was  
11 everywhere I ended up.

12 Q. And she picked you and Zach and Mr. McDavid up in  
13 West Virginia?

14 A. She picked me and Eric up in West Virginia. Zach had  
15 his -- found a different ride. I don't know how he got to  
16 Bloomington, but he did on his own.

17 Q. But the three of you, you, Eric and Anna, drove to  
18 Bloomington together?

19 A. Yes. And another person.

20 Q. Okay. And then you stayed in Bloomington?

21 A. Yes.

22 Q. For how long?

23 A. I believe it was around a week, but I can't be  
24 positive on that.

25 Q. And did you stay pretty much together during that

1 time, all of you?

2 A. Yes.

3 Q. Okay. And you -- again, you continued to just eat  
4 off what you could get your hands on?

5 A. Yes. There was -- we were staying at a convergence,  
6 so there was kind of like this big community of people.

7 Everyone was staying on this lawn. There must have been at  
8 least 50, if not more, people there. So someone -- people were  
9 preparing meals. A lot of the meals were coming from through  
10 donations or dumpsters, to begin with. And we ate what we  
11 could there.

12 Anna also -- like I -- she went shopping. She didn't  
13 like eating dumpster food. She went shopping. She bought us a  
14 tent. She went and got -- took us food shopping.

15 Q. Let -- I'm sorry. When she picked you up -- she  
16 picks you up in her car in West Virginia to take you to  
17 Bloomington, Indiana?

18 A. Yes.

19 Q. Okay. And did you give her any gas money for that  
20 ride?

21 A. I don't recall giving her any then.

22 Q. Okay. Do you recall if anybody gave her any gas  
23 money for that ride, or was that all on her?

24 A. That was all on her. I believe she was coming up  
25 from Florida anyway.

1 Q. And did she say when she came up from Florida that  
2 she had a lot of cash because she was an exotic dancer, a  
3 stripper, so she had a lot of cash?

4 A. Yeah. She said that she had saved money up because  
5 she was a stripper, and that's how she was paying her way  
6 through college and she had money from that.

7 Q. Did she use the phrase, I have a lot of disposable  
8 income?

9 A. The phrase is familiar to me, but I can't be exact on  
10 that saying.

11 Q. That's okay. And then on the way to Bloomington, is  
12 that what you went food shopping, or did you just go food  
13 shopping when you got there?

14 A. I can't recall if it was before or after. I mean,  
15 she bought us, like, vegie subs. But I believe it was Subway  
16 on the way. I mean, she bought us food along the way of going  
17 up there. I remember her buying cereal and some snack foods at  
18 a supermarket once we were there. I think I borrowed 30 bucks  
19 from her that weekend.

20 Q. Okay. And when you got to Bloomington, she bought  
21 tents. How many tents did she buy for Bloomington?

22 A. I believe she bought at least two tents. She had  
23 bought a tent previously, but it wasn't waterproofed, and it  
24 rained. And she went out that night and bought -- I know she  
25 had her own tent. Eric had a little tent. And then me and

1 Zach shared a tent.

2 Q. Okay. And she bought them at a store somewhere near  
3 Bloomington?

4 A. Yeah. I think she went to an all-night Kmart or  
5 something.

6 Q. And she had bought groceries for all of you at  
7 Bloomington as well?

8 A. Yes.

9 Q. And that lasted -- I mean, it's fair to say that  
10 lasted for the whole time that she was there?

11 A. Yes. She, you know, bought what she could when she  
12 needed it. Like, she had bought us food when -- in my  
13 apartment in Philadelphia. She bought us food a lot because  
14 she didn't want to eat out of -- she didn't like dumpster food,  
15 so she would go shopping.

16 Q. Let me ask you, back when she first stays at your  
17 apartment at the bio-div protest in June of 2005. She bought  
18 groceries for the house then?

19 A. Yeah. She brought groceries. And also before the  
20 protest she had gone out and bought goggles, like swimming  
21 goggles, and vinegar because she said they were for the  
22 protest. And she bought us all pairs.

23 And I mean, I had never encountered that before. And  
24 she said it was in case we got teargassed because she was a  
25 medic.



1                   And she bought food, there. I remember her buying  
2 bread and other -- like yogurts or something like that. I  
3 can't be exact as to what. But other than the goggles and the  
4 fact that she bought food.

5                   Q.            Okay. And then after the Bloomington CrimethInc, you  
6 hitch-hiked back to Philadelphia?

7                   A.            Yes. I hitch-hiked to Pittsburgh and then got enough  
8 money from -- borrowed money from a friend and got a ride, took  
9 a bus back to Philadelphia from Pittsburgh.

10                  Q.            Okay. And it was your understanding that Zachary  
11 Jenson was going to go somewhere else at that time?

12                  A.            Yes.

13                  Q.            Where did you believe Mr. Jenson was going to go to?

14                  A.            He was going to, like, a different -- I don't know.  
15 He was traveling with some other kids. I forget where.

16                  Q.            That's all right.

17                  A.            I believe it's starts with an M, but I forget where  
18 it was.

19                  Q.            Was it going to be to the East Coast?

20                  A.            I believe it was in the midwest country, like mid --  
21 center -- it wasn't a coastal state. It might have been a -- I  
22 don't remember the state.

23                  Q.            Somewhere in the middle of America?

24                  A.            Yeah.

25                  Q.            Okay. And did he -- did you have a feeling how long

1 he was going to stay there?

2 A. I had -- I knew that he was going to a Feral Visions.  
3 And at that point, I couldn't travel anymore. I had to go back  
4 to Philadelphia. So I was going back. But I knew he and Eric  
5 were going to be going to Feral Visions.

6 Q. Where was Feral Visions?

7 A. It was back in West Virginia, North Carolina.

8 Q. And this was going to be after Bloomington?

9 A. Yeah. I believe it was a week to two weeks after  
10 Bloomington. Probably two weeks after in time span.

11 Q. How were they going to get there?

12 A. They were going to hitch-hike and train-hop. All I  
13 knew was that Eric was going to Chicago to see his grandmother,  
14 and Anna was driving that way, and she drove him. And Ollie  
15 got a ride with some other kids to wherever -- I think he was  
16 going to Rainbow Gathering first and then going -- then they  
17 were going to be going to Feral Visions.

18 Q. Okay. And you weren't going to go to Feral Visions?

19 A. Not at that time. I didn't think I was going to go.  
20 I did end up going, though.

21 Q. Did you see him after that? Was Pointless Fest after  
22 that?

23 A. Pointless Fest was after Feral Visions. Eric didn't  
24 make it to Feral Visions, but Anna and Zach did.

25 Q. Okay.

1 A. We hung out. And Anna left early. And then me and  
2 Zach hitch-hiked back, and Eric was already in Philadelphia,  
3 waiting, at that point.

4 Q. And this is for Pointless Festival?

5 A. Right. It was just a music festival.

6 Q. Is it in August of 2005?

7 A. Yeah. Somewhere around that period.

8 Q. Well, Feral Visions, you said that Anna was there,  
9 and Zack was there with you?

10 A. Yes.

11 Q. Is it fair to say it was kind of the same MO as  
12 before where you didn't have any money, and Zach didn't have  
13 any money?

14 A. I had gone to a natural food store because at that  
15 point the month had changed, and I had another hundred. So I  
16 had gone to the food store and gotten a whole bunch of bulk  
17 food. Anna had brought her own food. She had a tent. I was  
18 sleeping in a tarp again. Zach -- they were serving. Again,  
19 they had a place like at the other convention. There was food  
20 being served, but it was interesting cuisine that not many  
21 people would like to venture into trying.

22 Q. Okay. But was Anna helping Zach out then?

23 A. I can't say. Like she had food. I had food. We  
24 both shared. I mean, I had like bulk foods that I had bought  
25 cheaply.

1 Q. Okay. And then from there, you went down to  
2 Pointless Festival, right?

3 A. Yes.

4 Q. And did everyone stay at your place?

5 A. Yes.

6 Q. And that's --

7 A. Until my roommate got back.

8 Q. So how many days was Eric and Zach and Anna down  
9 there?

10 A. Anna, I don't remember her -- if she stayed at my  
11 apartment or not. I believe she came down just for like one,  
12 maybe two days of Pointless Fest. But she didn't stay for very  
13 long. I don't -- I don't remember --

14 Q. But you --

15 A. -- her staying for very long.

16 Q. But you were with Zach and Eric at that time?

17 A. Yes. And other friends.

18 Q. And you stayed at your place?

19 A. Yes.

20 Q. And is it fair to say that Zach and Eric still didn't  
21 have any money?

22 A. Yes.

23 Q. Still begging food, so to speak?

24 A. Yeah. We went -- I remember we all went dumpster  
25 diving, and we were able to make like sauce and stuff and then

1 -- from what we could get from grocery store dumpsters. And  
2 just -- I think there were about seven, maybe eight people  
3 sleeping on my floor at that point. And we were all sharing  
4 what we had, trying to pull together for meals and stuff.

5 And then I think between all of us, we maybe had four  
6 or five tickets to the concert, so we would trade bracelets on  
7 and off to go see different bands to go in.

8 Q. Let me ask you about Mr. McDavid at that time that  
9 you knew him. And this would be at Pointless Festival in  
10 Philadelphia, which is, I think, August of 2005?

11 A. Yes.

12 Q. I think it's the latter part of August of 2005?

13 A. I can't recall exactly.

14 Q. Okay. But it's after Bloomington?

15 A. It's after Bloomington.

16 Q. And Feral Vision?

17 A. And after Feral Vision.

18 Q. And but does that sound right, at least the middle or  
19 the latter part of August?

20 A. Yeah. Because school was going to start soon.

21 Q. And you had been traveling around with him for a  
22 while?

23 A. Yes.

24 Q. And Mr. Jenson, right?

25 A. Yes. Both of them, on and off.

1 Q. Okay. Did you feel that you had a good -- a feeling  
2 that you knew what they were like, what kind of people they  
3 were?

4 A. Yes. I felt they were really good people, and I  
5 related to them, like, better than I related to some friends  
6 that I had had for five years, and I felt like they understood  
7 me, and like, feelings, and also like views on the world that I  
8 had that nobody else did.

9 Q. Okay. Were they -- did you find them to be honest  
10 people?

11 A. Yes.

12 Q. Okay. Did you find them to be kind people?

13 A. Yes. They never stole. They always gave what they  
14 could. Like, they were always -- like I found them to be  
15 trustworthy and very kind and --

16 Q. Did you find them to be gentle people?

17 A. I found Eric to be.

18 THE COURT: Excuse me. Was that "yes"?

19 THE WITNESS: Yes.

20 THE COURT: Thank you.

21 THE WITNESS: I found them both to be very feminine  
22 in a gentle way, a gentle feminine way.

23 Q. BY MR. REICHEL: Kind of like peaceful?

24 A. Yes.

25 Q. Okay. And were they generally happy people to be

1 around?

2 A. Yes.

3 Q. Okay. So they were pleasant?

4 A. Yes.

5 Q. At that time, August of 2005, did you still have  
6 thoughts that Mr. McDavid, you know, had strong romantic  
7 feelings for Anna?

8 A. Yes. I always thought that, like, they kind of  
9 always seemed like they had secrets with each other. That's  
10 the only way I can describe it. It just seemed that way.

11 Q. Okay. And were you aware that -- well, withdraw that  
12 question.

13 As of August of 2005, when you reconnected, or you  
14 met again at your place in Philadelphia for this Pointless  
15 Festival, okay, it ended at some point, right?

16 A. Yes.

17 Q. Okay. And you knew that Mr. McDavid had been  
18 traveling around for a while, right?

19 A. Yes.

20 Q. And so had you?

21 A. Yes.

22 Q. And so had Mr. Jenson?

23 A. Yes.

24 Q. Okay. The three of you had spent some time traveling  
25 and just kind of meandering to different protests, right?

1 A. Yes.

2 Q. And, I mean, is it fair to say that at that point as  
3 far as what the future held for any one of you was very hard to  
4 determine, right?

5 A. Yes. Like we didn't even know -- like, I didn't know  
6 if I was going to Feral until a few days before. And just  
7 everything was always kind of up in air and stuff.

8 Q. The reason -- the various reasons is you're young,  
9 right?

10 A. Yes.

11 Q. Correct? I mean, you don't have any money, right?

12 A. Right.

13 Q. You don't have a car?

14 A. No. No car.

15 Q. And, I mean, you don't really have a game plan for  
16 life at that point, right?

17 A. I was a college student in art school, and that was  
18 my game plan at that moment.

19 Q. Okay. And did you continue on in the art school in  
20 the Fall of 2005?

21 A. Yes. I went back to school in the fall, and I didn't  
22 like it anymore.

23 Q. But that was in Philadelphia?

24 A. Yes.

25 Q. Okay. Now, do you remember having a conversation --



1       shortly after Pointless Festival, when all three of you  
2       separate, all right, that time period, did you have a -- what  
3       was going to be the method that you could all keep in contact?  
4       Did you write down, you know, in handwriting like each person's  
5       e-mail or phone number or address or --

6       A.           Yeah. We had e-mail. And we had already had like  
7       e-mail contact. Me and Ollie -- sorry -- me and Zach kept in  
8       touch through My Space. And me and Eric kept in touch through  
9       e-mail.

10      Q.           And what about Anna as well?

11      A.           I had her phone number, and I might have had her  
12      e-mail. I don't recall. Yeah, I did have her e-mail.

13      Q.           Okay. Well, let me ask you about flying on  
14      airplanes. Okay. Is it fair to say that at least at that time  
15      frame, and this would be September/October of 2005, okay, is it  
16      fair to say you didn't like flying on airplanes at that time?

17      A.           I still don't like flying on airplanes, so, no, I  
18      don't like flying on airplanes.

19      Q.           I understand. And so you still don't as of now, but  
20      I mean back then in September of 2005, you did not like flying  
21      on airplanes, right?

22      A.           Right.

23      Q.           And you just find them scary?

24      A.           I have really bad inner ear problems, so I find it  
25      painful. And I was having panic attacks around that time. And

1 crowded -- like really crowded places like an airport really  
2 scared me.

3 Q. And this, again, is September/October of 2005, right?

4 A. Yes.

5 Q. Okay. And these panic attacks, it's an airport and  
6 is it pretty bad?

7 A. My panic attacks?

8 Q. Yeah.

9 A. Yes.

10 Q. If you were in an airport back then, it would make  
11 you pretty scared?

12 A. Yeah. I had -- basically I play with beads to keep  
13 myself from having panic attacks. But, yeah, I would have  
14 really bad nervous panic attacks, like self-medicated to keep  
15 them down.

16 Q. When you say self-medicated, you mean something other  
17 than the beads?

18 A. Yes.

19 Q. What would you do?

20 A. I smoked marijuana.

21 Q. And that would at least calm you down enough?

22 A. Yes.

23 Q. But if you were on the marijuana, would you still,  
24 when you were in the airport -- not on the plane -- but still  
25 in the airport surrounding you, would you still be very

1 nervous?

2 A. Yeah. I was always looking around and kind of felt  
3 like I was followed. I was very paranoid all of time of being  
4 followed. And of my, like, e-mails or anything I said on the  
5 phone, or sent through e-mails was being listened to and  
6 tapped.

7 Q. But actually asking -- I'm interested in the panic  
8 attacks or the anxiety feelings about flying, okay?

9 A. Uh-huh.

10 Q. That's something that's pretty difficult to overcome,  
11 right?

12 A. Uh-huh, yes.

13 Q. Okay. And in -- I'm going to direct you to just  
14 before you -- the first time you flew out to California was in  
15 November of 2005, right?

16 A. Correct.

17 Q. Okay. And roughly around November 18th?

18 A. Yes.

19 Q. Okay. And you remember that?

20 A. Yes.

21 Q. Okay. Did you have the money on your own, assuming  
22 you didn't have the anxiety issues, did you have the money on  
23 your own to fly out to California?

24 A. No. I couldn't afford to do that.

25 Q. Okay. And you are very clear about that, right?

1 A. Yes.

2 Q. That's truth, right?

3 A. I told Anna that I would try to pay her back as much  
4 as I could for the ticket that she gave me, but there was no  
5 point at that time that I could have afforded that.

6 Q. Okay. Now you had dis-enrolled from school; is that  
7 right?

8 A. I finished up the semester, but at that time I had  
9 decided that I didn't want to go back to school for the  
10 semester following.

11 Q. Now, were you still getting the same kind of stipend  
12 from your dad at that time?

13 A. Yes. Yes.

14 Q. So at the end of the month, basically, you would have  
15 \$100 for food?

16 A. Yes.

17 Q. And clothing?

18 A. Yes.

19 Q. And --

20 A. I don't remember the exact amount, but it was.

21 Q. But that wouldn't have got you an airplane ticket out  
22 here, right?

23 A. No.

24 Q. Do you recall that you were going to have trouble  
25 getting to the airport, and you had a small conversation with

1 Anna about that?

2 A. Yes. It turned out a friend of mine ended up driving  
3 me.

4 Q. But do you recall that she had offered to pay for the  
5 cab fare and everything?

6 A. I don't recall that.

7 Q. Okay.

8 A. I just -- I don't remember.

9 Q. I apologize. Did she pick you up at the airport here  
10 in Sacramento when you landed?

11 A. Yes, she did.

12 Q. And that was not -- that was not your car, right?

13 A. No.

14 Q. Did you have an understanding whose car that was?

15 A. I believe she rented it.

16 Q. Okay. And that's because you believe she had already  
17 flown out?

18 A. Yes.

19 Q. And at that time did you give her any money for  
20 gasoline for that car?

21 A. Later on that weekend I gave her the \$30 that I owed  
22 her from the summer.

23 Q. Okay.

24 A. That she had lent me.

25 Q. She had lent you \$30 earlier in the summer?

1 A. Yeah. Around Bloomington time, I believe.

2 Q. And how much did you bring out with you when you  
3 landed in November 18th, how much did you have to your name?

4 A. I can't recall.

5 Q. Okay. Well, do you know did -- do you have a general  
6 feeling, was it more than \$200?

7 A. I don't think so.

8 Q. Okay.

9 A. I can't recall that.

10 Q. Would it be more than -- would it be around \$100?

11 A. Maybe, but I can't say for sure. I don't --

12 Q. But you gave her the \$30 right then?

13 A. Yes.

14 Q. And when you went, you picked up Mr. McDavid and  
15 Mr. Jenson, right, when you arrived at the airport and you got  
16 in Anna's car?

17 A. Zach was already in the car.

18 Q. Okay.

19 A. He actually -- I saw him first in the airport and  
20 then Anna, and so then we drove to Eric's parents' house.

21 Q. And you picked up Eric, though?

22 A. No. We stayed there at Eric's parents' house in  
23 November.

24 Q. Okay. And when you got there, was there -- Let me  
25 ask you, did Anna bring any food or buy any food for that

1 weekend?

2 A. I don't know. I don't know. There was pizza that  
3 was purchased and a bottle of wine. I believe Anna bought the  
4 wine, but I don't know who paid.

5 Q. You bought the wine?

6 A. No. Anna bought the wine.

7 Q. Anna bought the wine?

8 A. Yeah. She had an ID.

9 Q. Okay. And she bought -- she bought it at the store  
10 nearby?

11 A. I believe so when they went out to get pizza. I  
12 mean, I can't recall who paid for it. I don't know. I didn't  
13 go out with them to get it.

14 Anna and Eric went out, and Anna drove to go get the  
15 pizza, and they came back with pizza and wine.

16 Q. Okay. And when you saw Mr. McDavid that weekend, did  
17 his situation seem to have changed, did he appear to now have  
18 money or anything, or did it seem like the same guy?

19 A. He didn't have anything. I believe he was  
20 housesitting for his parents, and they had left him a small  
21 amount of money for groceries, but.

22 Q. That night, the night you got there, the pizza was  
23 brought in and the wine, did everyone drink the wine?

24 A. I think so. I remember drinking it, and I believe  
25 everyone did. I can't...

1 Q. Is it possible that Anna didn't but the rest of you  
2 did?

3 A. It could be possible, but like -- because, like I  
4 said, I don't remember.

5 Q. Okay.

6 A. I think everybody drank it, but I can't say for sure.

7 Q. Is that the night you went outside by the fire pit  
8 and talked?

9 A. No. I think we were at -- that's when we were  
10 sitting in a different part of the house. I believe that was  
11 an entirely different night, if I remember correctly.

12 Q. Okay. Was there marijuana at the -- was there  
13 marijuana that weekend?

14 A. Yes. Zach had a little tiny bit, and I remember  
15 smoking it. I don't remember -- again, I don't remember when.

16 Q. That happens. That's okay. Let me back up a little  
17 bit on marijuana use.

18 When you met in bio-diversity in Philadelphia in June  
19 of 2005, you knew that Mr. McDavid and Mr. Jenson smoked  
20 marijuana, right?

21 A. Yes.

22 Q. And you smoked marijuana back then?

23 A. Yes.

24 Q. And then that summer that you toured around until  
25 after, I think, Bloomington, and then Feral Visions, before you



1 returned to Philly, when you toured around the three of you,  
2 with Anna, they smoked marijuana, and you have smoked marijuana  
3 that summer as well, right?

4 A. Yes. That summer.

5 Q. At a lot of these protests?

6 A. Yes.

7 Q. And on the way there?

8 A. Yeah. At different occasions when we could afford  
9 it.

10 Q. Right.

11 A. Or someone offered it to us.

12 Q. Okay. And it was when you could afford it or  
13 somebody offered it to you, right?

14 A. Right.

15 Q. Because, again, the three of you didn't have --

16 A. Yeah. We couldn't really always afford it.

17 Q. Right. You didn't have the wherewithal to buy a lot  
18 of marijuana at the time, right?

19 A. Right.

20 MR. REICHEL: Okay. Do you want to stop here? Okay.  
21 Thank you, Your Honor.

22 THE COURT: Thank you. We will stop here for the  
23 noon hour, ladies and gentlemen. Return at 1:30 p.m.

24 Please remember your admonitions regarding discussing  
25 the case and forming opinions. Thank you very much. Court's

1 in recess.

2 (Jury out.)

3 (Lunch break taken.)

4 (Jury in.)

5 THE COURT: Mr. Reichel, continue please, with your  
6 cross-examination.

7 MR. REICHEL: Thank you, Your Honor.

8 Q. BY MR. REICHEL: Ms. Weiner?

9 A. Yes.

10 Q. When we left off, I was asking you about how well you  
11 knew both Zach and Eric back in December of 2005. Okay?

12 A. Uh-huh.

13 Q. All right. Now, let me just fast forward a little  
14 bit and ask you about when you were arrested in this case,  
15 okay?

16 A. Okay.

17 Q. And do you remember the day that you were arrested?

18 A. Yes.

19 Q. And you were eventually brought down to the  
20 Sacramento jail?

21 A. Yes.

22 Q. And how soon thereafter did you get a chance to talk  
23 to a lawyer?

24 A. Probably maybe two days after being in there.

25 Q. Okay. Was it your uncle was the first lawyer?

1 A. No. Two lawyers came in first.

2 Q. Okay.

3 A. And then I didn't see my uncle until court.

4 Q. Okay. And when you say court, was that the very  
5 first --

6 A. Oh, can I make a correction? Everyone keeps calling  
7 him my uncle, but he is actually my dad's cousin.

8 Q. Okay. So it was your cousin?

9 A. Yes.

10 Q. And that's Mr. Jeffery Weiner?

11 A. Yes.

12 Q. And he is lawyer -- a criminal defense attorney?

13 A. Yes.

14 Q. And you know him well?

15 A. I hadn't seen him since I was younger, so not too  
16 well. Now much better.

17 Q. Okay. I'd imagine. Well, that's good.

18 And your first court appearance, do you remember that  
19 as well?

20 A. Yes.

21 Q. Okay. Does January 17th of 2006 sound about right?

22 A. Yes. We were arrested on the 13th, and then it was  
23 Martin Luther King weekend.

24 Q. Right. And you came into the courtroom in your very  
25 first court appearance, and you remember the judge, there was a

1 judge up on the bench, and you and the others were on one side  
2 and the prosecution was on the other side?

3 A. Yes.

4 Q. And the judge that day, he had to do his job, which  
5 was to tell you certain things; do you remember that?

6 A. I -- told what we were charged of.

7 Q. Right. He told you what you were charged with?

8 A. Uh-huh.

9 Q. Do you remember that?

10 A. Yes.

11 Q. Now, he told you -- do you remember if it was -- does  
12 Judge Hollows, does that sound familiar to you?

13 A. Yes.

14 Q. And do you have any problem remembering that day  
15 right now?

16 A. Like I don't know. I remember the day.

17 Q. Do you remember that courtroom appearance also,  
18 that's what I'm asking?

19 A. Yes.

20 Q. Okay. Do you remember he told you what you were  
21 charged with? Yes?

22 A. Yes.

23 Q. Okay. Do you remember when he told you the minimum  
24 charge and the maximum sentence you could get?

25 A. Yes. The minimum was 5 years and the maximum was 20.

1 Q. Okay. And you remember hearing that?

2 A. Yes.

3 Q. Now, you went back to the jail that day, right?

4 A. Yes.

5 Q. And let's talk about that. I mean -- and I'm going  
6 to get to why you decided to plead guilty and to testify in  
7 this case, okay?

8 A. Okay.

9 Q. Okay. And you just did not like the jail, right?

10 A. No.

11 Q. It was terrible, right?

12 A. I was in solitary confinement.

13 Q. Okay. Had you ever been in jail before?

14 A. No, I had never been arrested before.

15 Q. And solitary confinement was terrible?

16 A. Yeah. Pretty scary.

17 Q. Okay. And just for all the reasons I'm going to  
18 imagine you're going to say the food they give you, the  
19 conditions you're in, right?

20 A. Yes.

21 Q. And did you get a chance to get out and exercise and  
22 all that?

23 A. I was let outside, I think, it was like 2:00 in the  
24 morning once for maybe five minutes.

25 Q. And that was in January?

1 A. Yeah.

2 Q. Okay.

3 A. Pretty cold.

4 Q. Pretty cold. Did you just go back in right away?

5 A. Yes.

6 Q. Okay. And how many days did you spend in the jail  
7 before you got out?

8 A. I believe I was released in February, so I don't know  
9 the exact number of days.

10 Q. Okay.

11 A. Try not to count because it made it go by longer.

12 Q. Was it absolutely horrible and scary to be there?

13 MR. LAPHAM: Objection. Relevance.

14 THE COURT: Sustained.

15 Q. BY MR. REICHEL: Did you like being in the jail?

16 A. No.

17 MR. LAPHAM: Objection. Relevance.

18 THE COURT: Sustained.

19 Q. BY MR. REICHEL: Getting into her decision to plead.

20 THE COURT: Whether she liked jail or not is  
21 irrelevant, Mr. Reichel. She was there.

22 Q. BY MR. REICHEL: Okay. Now, you -- well, before you  
23 pled guilty, you came back for a bail hearing, and do you  
24 remember having a bail hearing soon thereafter?

25 A. Yes.

1 MR. LAPHAM: Objection. Relevance.

2 THE COURT: Where are we going with this issue?

3 MR. REICHEL: Your Honor, her decision to plead  
4 guilty with the United States and any bias or motive she may  
5 have to testify favorably. Her bias for the United States.  
6 She's arranged a plea agreement for a lesser charge. In  
7 exchange she has to testify, to get that, for the United  
8 States. And I can cite the Court to the case --

9 THE COURT: Why the bail hearing? Why are we going  
10 to the bail hearing?

11 MR. REICHEL: To talk about what was said and what  
12 she heard that day about how long --

13 THE COURT: Mr. Reichel, under 403, we're going to go  
14 into the bail hearing, we're going to be here a lot longer  
15 talking about what Judge Hollows did in the Magistrate Court as  
16 opposed to what the ultimate decision was that led her to  
17 testify here today and to enter her plea that she did some  
18 months ago.

19 MR. REICHEL: May I just ask her about the comments  
20 that were made about her at the bail hearing and what she heard  
21 from the Government?

22 THE COURT: Comments? That's a broad terminology.  
23 At the time of a bail hearing is the initial appearance when  
24 there are many comments, statements that are made, many  
25 accusations, not all of them stick, not all of them are

1 relevant at the time.

2 MR. REICHEL: It's the Government's position about  
3 her, Your Honor, that I want to acknowledge that she heard what  
4 they had to say about her at the bail hearing.

5 THE COURT: Is there an objection?

6 MR. LAPHAM: Your Honor, none of this goes to bias or  
7 motive. There is no relevance to this line of questioning.

8 THE COURT: To say what did she hear the Government  
9 say about her at the bail hearing?

10 MR. REICHEL: Yes, Your Honor. To hear how they  
11 described her, the things they said about her at the bail  
12 hearing, and what she heard and knew of their position about  
13 her at the time. It's going to change somebody's opinion on  
14 what they want to do in their case.

15 THE COURT: I'm going to let you go into it briefly  
16 and out of it because that is one factor of it, but you and I  
17 both know that that's not where the decisions are made after  
18 the bail hearing.

19 MR. REICHEL: Let me just ask her about what she  
20 heard that day. I'll be brief.

21 THE COURT: I don't want to hear what she heard that  
22 day. If it's going to be specific and to the point that you're  
23 trying to get to, I'll allow it. Otherwise, I'm going to  
24 sustain the objection.

25 Q. BY MR. REICHEL: Thank you, Your Honor. Do you



1 remember the bail hearing that you had?

2 A. Yes.

3 Q. Okay. And the United States -- the attorney that was  
4 prosecuting the case at the time I believe was Ms. Endrizzi?

5 A. Yes.

6 Q. And you were there with your lawyer?

7 A. Yes.

8 Q. And there was a judge there?

9 A. Yes.

10 Q. And your attempt was to try to get out on bail,  
11 right?

12 A. Yes.

13 Q. And they were arguing to the Court to keep you in and  
14 not let you out on bail, right?

15 A. Correct.

16 Q. So, I mean, you heard some of the things they said  
17 about you that day, right?

18 A. Yes.

19 Q. I mean unflattering things, right?

20 A. Yes.

21 Q. That you were a flight risk?

22 A. Yes.

23 Q. That you were a danger?

24 A. Yes.

25 Q. And it's fair to say that when you left, you at least

1 had heard how the Government viewed you at that time, correct?

2 A. Correct.

3 Q. In those terms, right?

4 A. Right.

5 Q. Okay. Now, after that, did your attorney start  
6 exploring with you your option in the case, specifically to  
7 plead guilty or to do other things in the case, right?

8 MR. LAPHAM: Objection, Your Honor. This calls for  
9 privileged communications. It's irrelevant to the discussion  
10 here.

11 MR. REICHEL: It's what -- Your Honor, it's waived by  
12 her taking the stand and testifying.

13 THE COURT: Overruled.

14 MR. LAPHAM: Your Honor, with respect to the waiver,  
15 I don't think there's anything -- she does not waive the  
16 attorney/client privilege in all respects simply by taking the  
17 stand. She never opened this door.

18 MR. REICHEL: She testified about receiving a benefit  
19 for her testimony. The Government gave her the benefit. They  
20 gave her the reduced charge.

21 THE COURT: Except that you asked her -- the question  
22 was: Did your attorney start exploring with you the option in  
23 the case, specifically to plead guilty, or to do other things  
24 in the case?

25 That's not getting beyond the fact that she spoke

1 with her attorney. Now, if she goes into areas that may be of  
2 greater detail, I think that we have an issue of privilege.  
3 But at this point in time, the question that I've heard, what  
4 I'm reading, does not go into any attorney/client privilege.

5 It's getting close, but unless you go into that  
6 specifically, I'm going to overrule the objection at this time.

7 MR. REICHEL: Thank you, Your Honor.

8 THE COURT: You got your answer, so now next  
9 question.

10 Q. BY MR. REICHEL: Your attorney explained to you the  
11 minimum sentence you could get and the maximum sentence, right?

12 A. Yes.

13 Q. And that was your cousin, right?

14 A. Yes.

15 Q. And he went through the minimum would be 5 years, but  
16 the maximum could be 20 years, right?

17 A. Yes.

18 Q. And did he then tell you that in sentencing in  
19 federal court that you could get a certain sentence if you went  
20 to trial in this case, right?

21 A. Yes.

22 Q. Okay. And that was very much toward the 20-year top,  
23 right?

24 A. Yes.

25 Q. And you understood that, right?

1 A. Yes.

2 Q. And you believed his advice at that time?

3 A. Yes.

4 Q. So let's say January 27th or so, after you'd spoken  
5 with your cousin, you felt that if you went to trial, you could  
6 get almost 20 years in this case, right?

7 A. Yes.

8 Q. Okay. Now, and you knew the minimum could be five  
9 years, right?

10 A. Yes.

11 Q. Okay. Did he -- and he explained the thing called  
12 the Sentencing Federal Guidelines (sic) for criminal cases,  
13 right?

14 A. Yes. He explained them to me. I don't recall them  
15 at this time.

16 Q. Okay. But he went over them?

17 A. Yes.

18 Q. And when he was done going over them, it was your  
19 understanding that unless you got some great deal with the  
20 Government, if you were found guilty, you could get almost the  
21 20 years, right?

22 A. Yes.

23 Q. Okay. And now that had an effect on you, right?

24 A. Yes. Very much so.

25 Q. It had a big effect on you, right?

1 A. Yes.

2 Q. And that was a big factor in your decision to  
3 actually try to plead guilty and get a break or get a deal from  
4 the Government, right?

5 A. Yes.

6 Q. Because you didn't want to go away for 20 years,  
7 right?

8 A. Correct.

9 Q. You were at the jail at the time, right?

10 A. Yes.

11 Q. And the thought of doing 20 years in a jail didn't  
12 sound good, right?

13 A. No.

14 Q. It sounded horrendous?

15 A. Yes.

16 Q. Now, at that point, your attorney, you believe,  
17 entered into negotiations or discussions with the prosecution  
18 about settling your case, right?

19 A. Yes.

20 Q. And they came up with a resolution for you, right?

21 A. Can you rephrase that?

22 Q. Sure. They came up with an answer to that problem  
23 for you, right?

24 A. Yeah, I was --

25 Q. Want me to ask a better question?

1 A. Yes.

2 Q. Your attorney eventually told you that the way you  
3 could do this was you could plead to a lesser charge, right?

4 A. Correct.

5 Q. And that would have a maximum of five years?

6 A. Correct.

7 Q. Right?

8 A. Yes.

9 Q. And you would agree to cooperate with the Government,  
10 right?

11 A. Correct.

12 Q. Which would mean?

13 A. In my plea bargain it stated that I had to cooperate  
14 with any and all law enforcement personnel.

15 Q. Right. So they could call you at any time or so --  
16 put it this way, you were required to sit down and speak with  
17 them when they wanted to talk --

18 A. Yes.

19 Q. -- about this case, right?

20 A. Correct.

21 Q. And you had to agree to come testify in this case,  
22 right?

23 A. Yes.

24 Q. Okay. And you were aware that they were -- the  
25 prosecution gave you that bargain, right?

1 A. Yes, I mean --

2 Q. I mean, they gave you that bargain, right?

3 A. Yes.

4 Q. It wasn't the Court or something didn't give it to  
5 you?

6 A. No.

7 Q. Okay. That came from them?

8 A. Correct.

9 Q. And when I say "them," I mean Mr. Lapham and  
10 Ms. Endrizzi, right?

11 A. Yes.

12 Q. Okay. And it's fair to say that you knew after you  
13 got that deal that that's like a 75-percent-off sale, so to  
14 speak, right?

15 MR. LAPHAM: Objection, Your Honor.

16 THE COURT: Sustained.

17 Q. BY MR. REICHEL: Well, is it fair to say, you thought  
18 you at least got it down 75 percent of what you could have got,  
19 right?

20 A. Yeah.

21 Q. Because 5 is roughly of 20?

22 A. Yes.

23 Q. Right. Now, the maximum you can get under this deal  
24 is five years, right?

25 A. Five years, seven years supervised probation, and I

1 believe a \$25,000 fine.

2 Q. But the maximum in jail would be five years?

3 A. Correct.

4 Q. And you -- is it fair to say you certainly hope you  
5 don't get the whole five years, right?

6 A. I'm hoping for the best, but I don't know what's  
7 going to happen.

8 Q. I understand. So you're definitely hoping. When you  
9 say you're hoping for the best, clearly the best we can define  
10 that as no jail time, right?

11 A. Correct.

12 Q. And you're not in jail right now, right?

13 A. Right.

14 Q. You got out on bail in February?

15 A. Yes.

16 Q. And that was after you agreed to cooperate with the  
17 prosecution, right?

18 A. I didn't get the plea agreement until later.

19 Q. Okay. But do you remember signing one on -- at least  
20 signing an agreement with the prosecution around January 21st?

21 A. Yes.

22 Q. You do? And that's roughly four days after your  
23 first court appearance, right?

24 A. Right. I'm not specific --

25 Q. Not certain --



1 A. -- of the date.

2 Q. That's okay. I'm going to show -- we'll show you  
3 some of January 21.

4 Okay. Now, you understand how it will work when this  
5 case is over as far as when you come to sentencing, right?

6 A. Right.

7 Q. You have not actually been sentenced yet, right?

8 A. Correct.

9 Q. Now, do you remember you pled guilty back in maybe  
10 February of '06?

11 A. I don't remember the date.

12 Q. Okay. Was it around February or March of '06?

13 A. I believe it was later.

14 Q. How much later, do you think?

15 A. I feel like it was almost Spring.

16 Q. Is it fair to say April of '06?

17 A. Yeah. I don't want to say something that I can't  
18 recall.

19 Q. Is it just roughly around that time is what I'm  
20 asking?

21 A. I know it was '06.

22 Q. And the Spring?

23 A. I believe so, yes, but I don't --

24 Q. Okay.

25 A. -- I'm sure it's on file.

1 Q. Okay. But it was a long time ago, right?

2 A. Yes.

3 Q. And you have not been sentenced yet, right?

4 A. Correct.

5 Q. In fact, has your -- your sentence has been scheduled  
6 several times, right?

7 A. Yes.

8 Q. But then it just gets continued again, right?

9 A. Postponed. Postponed.

10 Q. And it gets postponed until the conclusion of this  
11 jury trial, right?

12 A. That's the impression I'm under, yes.

13 Q. And that's what you've been told?

14 A. Yes.

15 Q. After this jury trial is over, then you will be  
16 sentenced, right?

17 A. Right. Yes. I hope.

18 Q. And at that time you understand that either  
19 Mr. Lapham or Ms. Endrizzi will make a recommendation to His  
20 Honor for your sentence, right?

21 A. Yes.

22 Q. Okay. And your attorney will make a recommendation  
23 to the Judge as to your sentence, right?

24 A. Yes.

25 Q. Okay. And it's fair to say that you definitely want

1 your attorney, which is your cousin, to be happy with your  
2 status in the case and to make a good report to the Judge,  
3 right?

4 A. Yes.

5 Q. And it's very fair to say that you would also like  
6 the same from Mr. Lapham or Ms. Endrizzi, right?

7 A. Yes. But I understand that it's solely the Judge's  
8 decision, and he doesn't have to follow any recommendations or  
9 guidelines.

10 Q. Right. Now, do you recall -- now, you recall in your  
11 bail hearing, of course, where the Government said certain  
12 things about keeping you in jail and all that stuff, right?

13 A. Yes.

14 Q. And let's say they were in a -- they were converse,  
15 they were the opposite of what you wanted at that time, right?

16 A. Correct.

17 Q. Now, when you appear for sentencing, you want them to  
18 be exactly with you at sentencing, right? You want them --

19 A. I would hope so.

20 Q. You would hope so, right?

21 A. Yes.

22 Q. You want them to be for you, right?

23 A. Right.

24 Q. Okay. So you don't want them at the time of  
25 sentencing to be very unhappy with you, right?

1 A. Right.

2 Q. Okay. Thank you.

3 Now, I'm going to ask you to go back to around  
4 September of 2005. Do you remember providing -- this is in  
5 September of 2005, did you go to the World Bank demonstration?

6 A. Yes, I went to a demonstration in D.C.

7 Q. Okay. Against the World Bank?

8 A. Yes.

9 Q. Okay. And there was some vandalism done there?

10 A. Not at the protest.

11 Q. But around that protest?

12 A. Yes.

13 Q. Did a bunch of protestors go to someone's house --

14 A. Yes.

15 Q. -- and throw a brick through it or something?

16 A. Yes.

17 Q. Okay. Do you recall that?

18 A. Yes.

19 Q. All right. Now, shortly thereafter, did you hear --  
20 did you send at that point a communication to Eric McDavid  
21 about any recipes for explosives?

22 A. Other than the books?

23 Q. Yeah, before the books. Before the books.

24 A. I can't remember.

25 Q. Okay. And but do you remember -- let's go to

1 September of 2005, I would like to focus in that area, and  
2 maybe then go to October.

3 At that point, you were starting to think about  
4 recipes for explosives, right?

5 A. Correct.

6 Q. And so was Zach Jenson?

7 A. I can't speculate what he was thinking about. I  
8 wasn't with him.

9 Q. Okay. And Anna was, at the time in September of '05,  
10 when she would interact with you, she was working on recipes  
11 for explosives?

12 A. We were talking about direct-action type activities,  
13 yes.

14 Q. But that would be you and Anna is what I'm trying to  
15 nail down here, talking about explosive recipes?

16 A. We were talking about using explosives back and  
17 forth, but I don't remember specifically talking about it.

18 Q. Okay. Not an exact recipe I'm saying, but just the  
19 concept of them, right?

20 A. I can't recall definitely.

21 Q. Okay. And do you remember in late September, early  
22 October telling Mr. McDavid in some communication that there  
23 were missing ingredients from a recipe, and you had thoughts on  
24 a recipe of your own?

25 A. I recall some sort of communication to that.

1 Q. Okay.

2 A. But I don't remember where it came from. I didn't  
3 have much prior knowledge to any explosive before I got the  
4 book.

5 Q. Okay.

6 A. But I recall some sort of message like that. I  
7 can't --

8 Q. That's okay. Let me ask you this. Right after --  
9 around August and September of 2005, you start looking into  
10 recipes for explosives, right?

11 A. Yes.

12 Q. Okay.

13 A. And to getting a book.

14 Q. Before getting the book, though, because I think  
15 getting the book is in November of 2005, right?

16 A. Well, I purchased the book in November. But I had  
17 researched, like, places to get it, and I heard and found out  
18 about this book.

19 Q. Okay. But what I'm getting at, is you started  
20 looking into recipes at least in August or September of '05?

21 A. Yes.

22 Q. Okay. So Mr. McDavid wasn't the only one involved in  
23 looking at recipes, right?

24 A. No.

25 Q. In fact, Anna was looking at recipes also?

1 MR. LAPHAM: Objection. Calls for speculation.

2 THE COURT: Sustained.

3 Q. BY MR. REICHEL: When you were with or had knowledge  
4 of Anna in September of '05, she was also looking at recipes,  
5 right?

6 A. I cannot confirm --

7 MR. LAPHAM: Again, same question.

8 THE COURT: Sustained.

9 Q. BY MR. REICHEL: If she was with her.

10 THE COURT: Sustained.

11 MR. REICHEL: Thank you, Your Honor.

12 Q. BY MR. REICHEL: Okay. Now, do you remember after  
13 you -- do you remember the first time you spoke to the FBI in  
14 depth about this case?

15 A. Yes. I was still in jail at the time.

16 Q. You still were in the jail?

17 A. Yeah.

18 Q. Do you recall that they prepared a report of that  
19 interview?

20 A. Yes.

21 Q. Okay. And have you read that before?

22 A. I've read it. I read it, I believe, last week.

23 Q. And did it seem to accurately reflect some of the  
24 things that were said in the interview?

25 A. There were a few things that were off.

1 Q. Okay. And do you recall another meeting you had with  
2 the FBI, which would have been in March of 2006?

3 A. Yes.

4 Q. Now, you were out of custody at that time, right?

5 A. Yes.

6 Q. Okay. And they prepared reports of that meeting as  
7 well?

8 A. Yes.

9 Q. And you reviewed those reports?

10 A. Yes. At the same time as I reviewed the other one.

11 Q. Okay. And do they seem to relatively accurately  
12 reflect what was discussed at the time?

13 A. Relatively.

14 Q. Hmm?

15 A. Yes.

16 MR. REICHEL: Okay. Your Honor, permission to  
17 approach the witness and show her what's been marked as  
18 defendant's for identification only as B-6, which is the 302 of  
19 March 27th.

20 Q. Do you see what's been placed before you identified  
21 as B-6?

22 A. Yes.

23 Q. Does that look familiar to you?

24 A. Yes, it does.

25 Q. Okay. Is that the report that the FBI prepared when



1 you met with them?

2 A. Yes.

3 Q. And you've reviewed that?

4 A. Yes.

5 Q. Okay. Let me ask you to take a look at -- it's going  
6 to be, I believe, on the fourth page.

7 MR. LAPHAM: Your Honor, I'm going to object to any  
8 further questioning. If this is to refresh recollection, this  
9 is not the proper way to do it. She hasn't testified --

10 THE COURT: I'm waiting to see what you're going to  
11 do with it.

12 MR. REICHEL: I'm going to ask her if she made these  
13 statements, Your Honor.

14 THE COURT: But you have to ask her first.

15 MR. REICHEL: Sure.

16 THE COURT: I mean, technically, she shouldn't have  
17 the report until after she says she can't remember what your  
18 question is.

19 So if you're going to do this, you should take that  
20 report back right now and wait until -- please turn that report  
21 over.

22 Q. BY MR. REICHEL: Thank you. You can turn that over.

23 A. (Witness complies.)

24 Q. Do you remember telling the FBI that the  
25 November 2005 meeting ended at the McDavid residence with no

1 finality, so to speak, as to any plans?

2 A. Correct.

3 Q. Okay. That there was no real set plan for anything  
4 at the end of November 18, '05?

5 A. Right. We had just talked about different ideas. We  
6 didn't have any set targets, like nothing was defined.

7 Q. Right. And do you recall that at that time, after  
8 you split up, and you were just going to try to stay in contact  
9 and see if you could get together again; is that right?

10 A. Yes.

11 Q. Okay. And you went -- after that, you went back out  
12 to the East Coast?

13 A. Correct.

14 Q. And how did you get back out there, airplane?

15 A. Well, the ticket that Anna had given me was a  
16 roundtrip, and I left. I was only in California for, I  
17 believe, about four days. I left that Tuesday out of  
18 Sacramento Airport.

19 Q. Okay. Now, at that meeting in November of 2005, at  
20 the McDavid home, did you discuss the concept of Flash and  
21 Firefly?

22 A. I don't remember Flash, but Firefly, yes.

23 Q. Firefly was discussed?

24 A. Yes.

25 Q. And your understanding of Firefly would be a theory

1 of different direct actions, right?

2 A. It was a general theory I had that when you're like  
3 looking out at night and there are fireflies, you see like a  
4 green light, green light, green light, and if they are all  
5 over, and there are a lot of fireflies all over, you can't  
6 really tell which one there is. But if it's just one, it's  
7 easy to track its path.

8 Q. So Firefly would mean also direct actions that are  
9 separated by time, geographic distance?

10 A. Yes.

11 Q. By the type of target --

12 A. Right.

13 Q. -- Right? And by what was used to attack the target?

14 A. Correct.

15 Q. And include everything from just vandalism of  
16 billboards to something more serious?

17 A. Correct.

18 Q. Okay. And it could be -- well, let me ask you. You  
19 talked about -- in November of '05 you started talking about  
20 some of the potential targets that you would be involved in?

21 A. Correct.

22 Q. And some were on the East Coast, right?

23 A. Yes.

24 Q. Yeah. I mean, some of the targets were on the East  
25 Coast and some were in the Northwest, correct?

1 A. Correct.

2 Q. Okay. And when you talked about cell phone towers,  
3 you talked about cell phone towers just in general, correct?

4 A. In general. Though I did state that I had photos of  
5 cell phone towers from New York.

6 Q. Okay. And so -- and then there was something about a  
7 power station in San Francisco that was discussed as well?

8 A. I can't speak on clear point about that.

9 Q. Okay.

10 A. Power stations were discussed, and I don't know if it  
11 was the November meeting or a later meeting in which San  
12 Francisco Bay Area power stations were discussed. But not --  
13 it was never, oh, there is a power station on this street. It  
14 was still pretty generalized.

15 Q. Okay. Do you recall Mr. McDavid talking -- was it in  
16 November of 2005 they first discussed Ryan Lewis, the Ryan  
17 Lewis case with you?

18 A. Yes.

19 Q. And he said very clearly that Ryan Lewis, you know,  
20 really had done this wrong because he had done it so close to  
21 home?

22 A. Yes.

23 Q. And that, you know -- and that was in discussions  
24 about, you know, where you were doing direct action, right?

25 A. Correct.

1 Q. And this was at Mr. McDavid's home here in  
2 Foresthill, right?

3 A. Correct.

4 Q. Which is nearby here, right?

5 A. I don't know how far.

6 Q. Okay.

7 A. I'm guessing, yes.

8 Q. So one minute, Your Honor.

9 Now, is it fair to say that -- is it fair to say that  
10 at the end of the November 18, 2005 meeting at the McDavid  
11 house, that there was no agreement from the group as to whether  
12 or not to use the ELF or the ALF tag for anything you may do in  
13 the future, right?

14 A. There was no agreement.

15 Q. Right. And there was no real agreement on exactly  
16 where you were going to meet next, right?

17 A. No. Anna was going to get a cabin out West  
18 somewhere.

19 Q. Okay. And it could have been anywhere, right, out  
20 West?

21 A. Correct.

22 Q. And there was no real agreement as to the exact time  
23 when you were going to reconnect?

24 A. It was left sometime in January, after the holidays.

25 Q. Okay. And it was, you know -- were there tasks that

1 were assigned at that point, when you come back together what  
2 tasks you were going to use -- do?

3 A. Well, there was what me and Anna could bring out when  
4 we drove out, different things like that. And I, you know,  
5 said that I would get the books on how to make explosive  
6 recipes -- like the recipes for explosives.

7 Q. So your task would have been to return with books on  
8 explosive recipes, right?

9 A. Correct.

10 Q. And that was not Mr. McDavid's task, right?

11 A. No.

12 Q. And you and Anna were going to bring those together  
13 to the next meet?

14 A. Well, Anna was going to pick me up, and we were  
15 driving out together. Anna was the one who was going to find a  
16 cabin, a place for us to reside.

17 Q. That November meeting of 2005 at Mr. McDavid's  
18 parents' house, before it happened you knew that Mr. McDavid  
19 had been kind of reluctant or hesitant to meet at that time,  
20 remember?

21 A. Yeah. He -- I didn't have much contact with him at  
22 that point.

23 Q. Okay. Do you remember having conversations with Anna  
24 in late October about basically how do we get ahold of Eric,  
25 where is he?

1 A. Yeah.

2 Q. Do you remember having a conversation with Anna where  
3 it came up that Mr. McDavid was spending some pretty heavy duty  
4 family time?

5 A. Yes. And it came in more conversation at the  
6 November meeting down at the fire pit. You know, me and him  
7 both had a conversation about how we both -- how he was having  
8 some heavy family time, and that's what I was about to go do as  
9 well.

10 Q. Okay. But what I'm getting at is prior to coming to  
11 California, is it fair to say that it almost didn't come  
12 together because Mr. McDavid was too busy with his family?

13 A. I can't say exactly because I don't recall --

14 Q. Okay.

15 A. -- entirely. What I remember from the coming  
16 together of that weekend was a call from Anna about a week  
17 before saying, come out, we'll get a motel or something. And  
18 then I know there was a phone call that Eric called either me  
19 or Anna's phone, and we were together. But I can't recall when  
20 that was. And that might have been when we told him that I was  
21 coming out to California the first time -- or in the winter or  
22 back in November. I can't recall that. But I know there was a  
23 phone call.

24 Q. Do you remember a conversation about it was like  
25 almost he was being selfish, he was not going to spend time

1 with you folks when you came out, that he couldn't get away for  
2 even one day; do you remember that conversation with Anna?

3 A. I remember Anna trying to get ahold of him, but I  
4 can't recall it.

5 Q. So was she telling you that she was having trouble  
6 getting ahold of him?

7 A. I mean, we both were. I didn't really hear from Eric  
8 that much. We kept in touch through e-mail, but it was very  
9 sporadic. So it was always hard to get in touch with him. He  
10 didn't have a cell phone.

11 Q. All right. And when you went -- you went home for  
12 the holidays in 2005 at the end of the year, right?

13 A. Correct.

14 Q. And then you got the phone call from Anna?

15 A. Correct.

16 Q. Okay. And she wanted you to fly out; do you recall  
17 that?

18 A. I only really recall her talking about flying out the  
19 -- when we went out to the November meeting.

20 Q. No. I'm sorry. I'll withdraw the question. I'll  
21 redo a question for you.

22 When you were home, okay, in the end of 2005 -- and  
23 by home, is that New York?

24 A. Yes.

25 Q. Okay -- - or early, you know, January 1 or 2 of 2006,



1 in that timeframe, okay, you spoke to Anna, right?

2 A. Yes.

3 Q. Okay. She called you in fact, right?

4 A. She called me. We were calling each other back and  
5 forth to get out there.

6 Q. Okay. Do you recall whether or not she said she  
7 would fly you out again?

8 A. I don't recall that specifically, but she did tell me  
9 that her car had broken down, and she had to try to get another  
10 car.

11 Q. Okay. But you don't recall if she said she would fly  
12 you out again?

13 A. I don't remember.

14 Q. Okay. Is it fair to say that after the first  
15 experience of flying out, you weren't going to fly out again?

16 A. Yes.

17 Q. Okay. Now, after you flew out the first time, before  
18 you even flew home, let's say, back in November, did you tell  
19 Anna that you weren't flying again anymore?

20 A. I don't know if I told her that directly, but that  
21 was my feeling. I still don't like flying.

22 Q. Okay. But did you tell her how traumatic it was for  
23 you when you landed in California?

24 A. Yeah. I even called her when I was on a layover. I  
25 think it was in Denver. And I was like freaking out in the

1 airport, and I called her.

2 Q. And is that on the way home?

3 A. That's on the way out to California. I called her  
4 both times.

5 Q. Okay. So on the way home in November 2005 you called  
6 Anna and told her how frightening this was?

7 A. Yeah.

8 Q. And the anxiety attacks and all that, right?

9 A. Correct.

10 Q. Okay. So it's fair to say that she would know how  
11 you felt about it by January 1st of 2006, right?

12 A. Yes.

13 Q. Okay. But you don't recall her talking to you again  
14 about flying you out?

15 A. I don't remember.

16 Q. Okay. Now, she picks you up at some point in the  
17 vehicle, right?

18 A. Yes.

19 Q. And you drive out to California?

20 A. Yes.

21 Q. And Zach is with you?

22 A. Yes.

23 Q. Okay. And that's in Anna's car?

24 A. Yes.

25 Q. And how much money had you this time with you, what's

1 the maximum you had this time?

2 A. I had a birthday and Christmas, and I had sold a  
3 whole bunch more art, so I think I had about \$800 with me,  
4 maybe 1,000. I doubt 1,000.

5 Q. How about Zach?

6 A. I don't think he had any money at all.

7 Q. Right. Was he living on Food Stamps? Did he have a  
8 Food Stamp card?

9 A. Yeah. He had a Food Stamp card.

10 Q. And Anna drove the car out, and did you do some of  
11 the driving?

12 A. Yes. I drove.

13 Q. Okay. Did you ever fill up the car with gas?

14 A. Yes.

15 Q. Okay. What about groceries and all that stuff on the  
16 way out?

17 A. It was back and forth. I didn't like -- Anna always  
18 paid for everything, and I had money, and I wanted to  
19 contribute to that, so.

20 Q. When you got out to California, how much did you have  
21 left of your money?

22 A. I'm not a good financial person, so I really don't  
23 know.

24 Q. Okay.

25 A. I don't remember.

1 Q. When you got to California, did Zach have any more  
2 money, or did he have the same amount of money that he kind of  
3 always had as long as you'd known him?

4 A. He had, like, the same amount always. I think he --  
5 when we went to San Francisco he had somebody that was, like,  
6 owed him like 20 bucks or something like that, that he tried to  
7 find.

8 Q. Okay. And when you went to San Francisco, you went  
9 to San Francisco after you got to California in January, right?

10 A. Yes.

11 Q. And then one of the days you drove over there, right?

12 A. Yes.

13 Q. And you bought marijuana there, right?

14 A. Yes.

15 Q. Okay. And you brought it back -- let me ask you  
16 this. Did Anna know you brought the marijuana?

17 A. She knew after we bought it.

18 Q. Okay. And that means -- I mean, in the car ride home  
19 did she know you had the marijuana?

20 A. Yes.

21 Q. And then you got home -- well, home is the cabin in  
22 Dutch Flats, right?

23 A. Yes.

24 Q. And you had the marijuana with you there?

25 A. Yes.

1 Q. Do you recall the night of the 12th, after the big  
2 argument where Anna walked out?

3 A. Yes.

4 Q. Do you remember smoking pot with Eric McDavid that  
5 night?

6 A. Yes.

7 Q. And that was after Anna theft?

8 A. Yes.

9 Q. And you felt the effects of the marijuana?

10 A. Yes.

11 Q. And do you remember doing some planning for the next  
12 day after that?

13 A. Yes.

14 Q. Okay. And was that to make Anna happy, so to speak,  
15 to appease her, right?

16 A. Yes.

17 Q. Because she had stomped out because of a lack  
18 direction?

19 A. Lack of plans.

20 Q. Lack of goals, right?

21 A. Yes.

22 Q. In concrete, so to speak? I mean, fixed goals?

23 A. Yes.

24 Q. Okay. And she was upset about a variety of things  
25 that night when she walked out, right?

1 A. Correct.

2 Q. One would be that there was no fixed target the  
3 entire group agreed on, right?

4 A. Correct.

5 Q. Okay. That she was upset because it seemed like Zach  
6 was getting cold feet, so to speak, right?

7 A. Yeah. Zach was hesitant. He felt things were going  
8 too fast.

9 Q. So he wanted to slow it down?

10 A. Yes.

11 Q. He was reluctant to go faster?

12 A. Yes.

13 Q. And that angered -- or that upset Anna, right?

14 A. Yes.

15 Q. Okay. And is it your recollection that throughout  
16 that whole argument, that the final result was you had you,  
17 Zach, and Mr. McDavid not agreeing on one fixed target, right?

18 A. Correct.

19 Q. Okay. So at the end of that, Anna stomps out. Of  
20 the three of you, Zach, Lauren and Eric, there's not one fixed  
21 target you have agreed on?

22 A. Correct.

23 Q. No meeting of the minds as to one fixed target,  
24 right?

25 A. Correct.

1 Q. Now, is it also fair to say that at the time you were  
2 talking about different recipes for explosives, right?

3 A. Yes.

4 Q. And on the 12th it's fair to say that there was no  
5 one, fixed goal as far as what recipe you would use to yield  
6 something, right?

7 A. Correct.

8 Q. And what the general feeling was that you would have  
9 something small to test with, to make a test out in the desert  
10 with, right?

11 A. Yes.

12 Q. So what I'm trying to zero in on is on the night of  
13 the 12th before Anna left, as far as the recipe goes, it's fair  
14 to say you've been dealing with recipes now, the three of you  
15 and the four of you, for about six months so far, right?

16 A. We've been researching them.

17 Q. Yes?

18 A. Yes.

19 Q. Sorry. Researching them?

20 A. Yes.

21 Q. Okay. And the one you've done that day didn't do  
22 much, right?

23 A. It didn't work. The making it it -- the glass broke.

24 Q. Right. You felt that you had some sufficient  
25 knowledge because of ceramics that you had worked on?

1 A. Well, I knew the reason why the glass broke because  
2 one of majors in school was glass blowing, so I understood why  
3 the glass broke.

4 Q. And why did the glass break?

5 A. Because it cooled down too quickly, and the glass  
6 just shocked, and when glass shocks, it shatters.

7 Q. And prior to that, the days -- the few days before  
8 that, before the test that resulted in the broken glass, you  
9 had said things about, look, I have some knowledge about this  
10 because of my glass blowing and my ceramics and my art studies,  
11 right?

12 A. Yes. I said I knew how to make things.

13 Q. But more than that, I mean did you say that you had  
14 an --

15 A. Oh, yeah. I said we needed to use Pyrex glass  
16 because it is the strongest glass.

17 Q. And yet it still broke, right?

18 A. Yes.

19 Q. And that was because it hadn't been cooled down  
20 properly?

21 A. It cooled down too quickly, and the glass shocked.

22 Q. Do you remember that there were different recipes  
23 that were given on the 12th and discussed, and on the 11th as  
24 well, but none of those talked about cooling it down the proper  
25 way, right?



1 A. Correct. They were all very vague.

2 Q. And you believe that's why the glass broke is because  
3 the recipe -- the instructions didn't have the proper way to  
4 cool it, right?

5 A. Right. Like I said, all the recipes were very vague.  
6 It was --

7 Q. But Mr. McDavid didn't seem to know that about --  
8 when you told him the cooling function, he was surprised,  
9 right?

10 A. Yes.

11 Q. In fact, he was surprised when it -- the glass  
12 cracked, right?

13 A. It cracked it. Just all shattered.

14 Q. That obviously wasn't something that he had planned,  
15 right?

16 A. No. We all went, "ahh"

17 Q. And the result of that was going to be you hoped was  
18 the group's goal was to have something usable that you could  
19 test somewhere, right?

20 A. Yes.

21 Q. And when the, you know, the mixing finally started,  
22 and this bleach and so forth starting getting mixed on the  
23 12th?

24 A. Yes.

25 Q. Okay. And was it in the afternoon of the 12th?

1 A. Yes. It was after we had gone shopping that day.

2 Q. Right. Well, let me ask you about the shopping. Do  
3 you recall who paid -- the first time you bought materials I  
4 think was a day earlier. The first time you bought bleach --

5 A. Right.

6 Q. -- Anna paid for that, right?

7 A. Anna paid for most group things, yes.

8 Q. Okay. And it was -- if it sounds like it's \$97 or  
9 something like that, does that sound about right?

10 A. Yeah. Anna always had -- she had a lot of \$100  
11 bills.

12 Q. Right. And she carried them on her, right?

13 A. Yes.

14 Q. And she said purportedly that came from stripping,  
15 right?

16 A. Yes.

17 Q. So that was her cover for all this cash?

18 A. Well, she also said that she had money from working  
19 in a chemistry lab over the semester while she was at school.  
20 That she had all these jobs.

21 Q. Did she say she was a high school chemistry teacher  
22 over the summer?

23 A. No. She just said she worked at her college  
24 chemistry lab. She was very vague about it.

25 Q. But that gave you the impression that she knew about

1 chemistry at least, right?

2 A. Yes.

3 Q. She was trying to give everybody that impression,  
4 right?

5 A. Yes. She brought a big chemistry set with her.

6 Q. To the cabin, right?

7 A. Yes.

8 Q. And that was on her own, no one had asked her to  
9 bring a chemistry set, right?

10 A. Right.

11 Q. Did it look to be an expensive chemistry set? You  
12 don't know.

13 A. I don't know.

14 Q. Okay. That's okay. The recipes for these  
15 explosives, okay, is it fair to say that by the time you got to  
16 California with Anna and Zach, and arrived, you had no idea  
17 what exact explosives you all were going to try to make at some  
18 point, right?

19 A. True.

20 Q. Right?

21 A. Yes.

22 Q. And it could be as simple as a Molotov Cocktail or  
23 whatever to something more complex, right?

24 A. Correct.

25 Q. And you were going to bring the books, and you all

1 were going to sit down and try to figure that out, right?

2 A. Correct.

3 Q. There was no prior agreement on what exact explosive  
4 you would have before you got to California, right?

5 A. Correct.

6 Q. And it had been awhile that you all had been talking  
7 about making these different types of explosives, right?

8 A. Right.

9 Q. And the day that Mr. McDavid was laying down the  
10 black powder, do you remember that?

11 A. The shotgun shell powder?

12 Q. Yeah. Shotgun powder, right?

13 A. Yes.

14 Q. Do you remember Anna telling him that would be a good  
15 idea to use that?

16 A. As a fuse.

17 Q. As a fuse. Do you remember her telling him about the  
18 candles that don't blow out, to use those as a wick as well?

19 A. Yeah. Trick candles.

20 Q. Right. Now, what I want you to tell us is whether or  
21 not as of the -- when you got to California, did you find -- at  
22 that point, did you believe Mr. McDavid was sophisticated in  
23 the ways of making any types of explosives?

24 A. No.

25 Q. Okay. It's fair to say he was unsophisticated,

1 right?

2 A. Right. That's why I wanted to get the books, the  
3 hearsay recipes just sounded really sketchy and dangerous.

4 Q. Basically, what he repeated to you is what he heard  
5 from someone, it sounded like not going to work, right?

6 A. Right.

7 Q. So very unsophisticated and naive, right?

8 A. Yes.

9 Q. Now, when you said you were going to get the books  
10 back in November, Anna agreed that was a good idea?

11 A. Everyone agreed it was a good idea.

12 Q. Okay. And when you get back in January, and you're  
13 back in California, do you remember that Anna brought the Burn  
14 Book that had all of the recipes listed in there?

15 A. Yes.

16 Q. Okay. And she provided that to the group?

17 A. Yes.

18 Q. And you had felt hesitant about writing things down  
19 in it, right?

20 A. Yes.

21 Q. Yet it was Anna who said we have to write them down?

22 A. Right. It was in the -- before anyone in the group  
23 had even started writing stuff down, it had all these crazy  
24 recipes and stuff in there already. So it was things just kept  
25 getting written down in it.

1 Q. And if you go to the -- if you go to the 12th, the  
2 afternoon of the 12th, when there is the argument in the living  
3 room, okay?

4 A. Yes.

5 Q. Do you remember arguing with Anna?

6 A. Yes.

7 Q. Okay. And you were talking over her and she was  
8 talking over you?

9 A. Yes.

10 Q. And, basically, Mr. McDavid and Mr. Jenson were  
11 saying relax?

12 A. Yes.

13 Q. And you -- she wanted everyone to identify their  
14 targets, right?

15 A. Correct.

16 Q. And she was very, very insistent on that, right?

17 A. Yes.

18 Q. And you didn't know at the time that there was a  
19 video camera taping this, right?

20 A. Right.

21 Q. Okay. And she was -- it's fair to say -- if you were  
22 there, it's fair to say that she was the main person asking  
23 everybody to identify their targets, right?

24 A. She asked multiple times.

25 Q. Right. Right. But it wasn't someone else who

1 instigated asking the others, please identify your targets,  
2 right?

3 A. Right.

4 Q. It was Anna?

5 THE COURT: Answer? Answer, please?

6 THE WITNESS: Can you ask the question again?

7 Q. BY MR. REICHEL: It wasn't someone else in the group  
8 who kept instigating to others, asking them please identify  
9 your targets, right?

10 MR. LAPHAM: Objection as to the word instigating.

11 THE COURT: Sustained.

12 THE WITNESS: Does that mean I answer it?

13 Q. BY MR. REICHEL: It wasn't someone else who was  
14 asking the others, please identify your targets?

15 A. There were questions like, what is your target, what  
16 is your target, but, like, Anna asked a lot of questions that  
17 led to conversations. We all talked about things, but that  
18 night I was very emotional, and everybody said a lot of things.  
19 I don't know.

20 Q. Okay. That's fine. Let me go back just a little bit  
21 to when the mixing took place?

22 A. Yes.

23 Q. Do you remember being in the kitchen saying, I don't  
24 want any part of this, it's scaring the heck out of me?

25 A. Yeah. I decided to make salsa instead.

1 Q. Seemed like the safer thing to be doing with your  
2 time?

3 A. Yeah. Much safer.

4 Q. A little tastier as well, right?

5 Now, do you remember Anna being outside saying things  
6 to you about come on outside?

7 A. Yeah. She was -- she really wanted -- she said she  
8 really wanted everyone to be a part of it. And that we all  
9 needed to do something, and we all needed to be a part of it,  
10 whether it was, okay, you measure the salt, or you stir the  
11 bowl.

12 I mean, I was freaked out to even go out there. I  
13 mean, we didn't know what we were really making. We had a  
14 recipe, but we didn't know what it was going to do.

15 And, you know, kind of getting in the middle. Like  
16 she wanted me to go out and stir it. She wanted me to go out  
17 and get closer to it. I didn't want to go outside.

18 I remember Zach having a panic attack through it all.  
19 It was kind of a little fight there.

20 Q. Is it the same kind of excited feelings you had about  
21 getting on the airplane and so forth?

22 A. Yeah. It was scary.

23 Q. So you didn't want to go out, right?

24 A. No, I didn't want to go out.

25 Q. And Anna was standing there and telling you, you got



1 -- please come out and urging you to come out?

2 A. Yeah. She kept saying everyone needs to be a part of  
3 this. We all need to be a part of this.

4 Q. Zach Jenson was not saying that at the time, correct?

5 A. Excuse me?

6 Q. If Anna was saying, come on out, everybody has got to  
7 be a part of this, come on, Ren, you got to get out, Zach  
8 Jenson wasn't also saying that, was he?

9 A. No.

10 Q. Eric McDavid wasn't say that either, was he?

11 A. Eric actually said to Anna to chill out, and that,  
12 you know, we'd all be comfortable doing what we want to do.

13 Q. That's comfortable doing what we all want to do?

14 A. That's not exact at all.

15 Q. Paraphrasing?

16 A. Yeah.

17 Q. Okay. That's, okay. I mean, you said you were  
18 paraphrasing. I understand that. Okay.

19 Now, as far as the wherewithal, when you were at the  
20 cabin at Dutch Flats on January 9, 10, 11, there, you  
21 understood that Anna rented that cabin, right?

22 A. Correct.

23 Q. And you don't -- Mr. McDavid didn't give her any  
24 money for that cabin, did he?

25 A. No.

1 Q. And Mr. Jenson didn't either, did they?

2 A. No.

3 Q. And they didn't give her any money for the groceries  
4 there, right?

5 A. Zach -- I think Zach paid for some of the groceries  
6 with his Food Stamps, but I don't think he could have paid for  
7 all of them. It was more a matter of using his Food Stamps up.

8 Q. A matter of what?

9 A. Using his Food Stamps up.

10 Q. Okay. But Mr. McDavid didn't buy any of the  
11 provisions for that cabin, right?

12 A. Not that I recall.

13 Q. And Anna had the \$100 bills?

14 A. Yes.

15 Q. Did you see her give him a \$100 bill a few times to  
16 go in to buy things?

17 A. Yes.

18 Q. And I'm talking at Dutch Flats, that time period?

19 A. Yes. That time period.

20 Q. \$100 bill to go into a store to buy things, right?

21 A. Yes.

22 Q. So that when he would go in to buy something in the  
23 store, he would pull the \$100 bill out of his pocket, right?

24 A. Right.

25 Q. But it had just been given to him by Anna, right?

1 A. Correct.

2 Q. Now, on or about the 12th of January there, that day,  
3 if Anna had -- if Anna had left, okay, had just taken off and  
4 not come back, how were you going to get home?

5 A. I don't know.

6 MR. LAPHAM: Objection. That assumes facts not in  
7 evidence. That she wanted to go home.

8 THE COURT: Sustained.

9 MR. REICHEL: I'm asking if she was depending on her.

10 THE COURT: Sustained.

11 Q. BY MR. REICHEL: Would you have been able to get  
12 home?

13 MR. LAPHAM: Objection.

14 MR. REICHEL: May I ask that?

15 MR. LAPHAM: Assumes facts not in evidence.

16 THE COURT: Sustained.

17 Q. BY MR. REICHEL: Okay. If you wanted to go home?  
18 Can I ask her that?

19 MR. LAPHAM: That calls for speculation.

20 THE COURT: You have to ask the question.

21 Q. BY MR. REICHEL: Is it fair to say that you were very  
22 dependent on staying in that cabin, you didn't have another  
23 place to stay at that time, right?

24 A. Correct. I didn't have another place to stay.

25 Q. Did you have a car of your own to get out at that

1 time?

2 A. No.

3 Q. And did you have plane fare to go back?

4 A. No.

5 Q. Okay. And, basically, were you either with Anna or  
6 you were on your own, right?

7 A. Right. And I had more belongings there than I could  
8 carry. I think my snowboard and my snowboard boots, so even if  
9 I decided to hitch-hike out, I couldn't carry all that.

10 Q. Let me harken you back to -- in August of '05 and  
11 September of '05 you re-enrolled -- you enrolled in your art  
12 school, right?

13 A. Can you go back?

14 Q. August of '05 or September of '05, in the Fall of  
15 '05?

16 A. Yes.

17 Q. You started art school again?

18 A. Yes.

19 Q. And you finished one quarter of it?

20 A. Yes.

21 Q. And but it was after that you decided you didn't want  
22 to go to school anymore?

23 A. Right. I had decided through the semester that I was  
24 wasting my money because I wasn't learning anything.

25 Q. But when you started it and first enrolled in the

1 classes, you planned to, what, learn how to be an artist?

2 A. Continue studying ceramics and glass blowing.

3 Q. And this was at an art college?

4 A. Yes.

5 Q. It is because at that time you felt that that was  
6 going to be kind of your career, or that's what you were very  
7 interested in?

8 A. That's what I was good at.

9 Q. But did you think -- I mean were you hoping at some  
10 point -- back in September of '05, when you got into the  
11 classes and you were still taking them, did you think that that  
12 was possibly going to be a career for you?

13 A. Yes.

14 Q. And that had been as an artist?

15 A. Yes.

16 MR. REICHEL: One minute, Your Honor.

17 (Pause.)

18 Q. BY MR. REICHEL: Thank you, Ms. Weiner.

19 The night of the 12th, after Anna came back to the  
20 house, right, and you and Mr. McDavid had smoked pot that  
21 night, right?

22 A. Yes.

23 Q. And then you wrote things down in the Burn Book?

24 A. Yes.

25 Q. And that was kind of like the plans?

1 A. It was a very loose description of like kind of how  
2 we could take our days, so, you know, that we would have time  
3 to be alone, and we would, you know, actually talk things  
4 through with one another and all come to agreements before we  
5 did anything. Things like that.

6 Q. Okay. And was that -- that was not -- would that be  
7 for Mr. Jenson's benefit because he had been demanding that?

8 A. I felt it was for everybody's benefit. Mine as well.  
9 It -- what do you mean by the word "benefit"?

10 Q. Was it for -- to make Mr. Jenson happy, and make Zach  
11 happy? Who was the most concerned about keeping on schedule?

12 A. Anna was most concerned about keeping on schedule.

13 Q. Okay. And she wanted it to move faster rather than  
14 slower, right?

15 A. Correct.

16 Q. In fact, she didn't want to be there the entire month  
17 of January, right, she wanted to speed things up?

18 A. She wanted to speed things up. I don't know how long  
19 she wanted to be there or not.

20 Q. Okay. And do you recall that at the end of the 12th  
21 you thought that there is a possibility you may retest stuff  
22 again in the future, you may retest a device again?

23 A. Yes.

24 Q. And that was just to possibly retest it again in the  
25 future, right?

1 A. That we were --

2 Q. I'll withdraw the question. Okay. Don't worry about  
3 it. All right?

4 A. Okay.

5 Q. Let me ask you about the Nimbus Dam.

6 A. Okay.

7 Q. After you saw the Nimbus Dam and so forth, and you  
8 came back, when you were sitting there on the night of 12th, is  
9 it fair to say that all three of you had agreed -- is it fair  
10 to say that all three of you had agreed that was no longer a  
11 target for your direct actions?

12 A. It was -- yeah, it's fair to say that it was no  
13 longer a target.

14 Q. Now, when we talk about dams in direct actions, and  
15 dams and the Salmon, okay, let me ask you, is it your  
16 understanding that those are the dams that are real close to  
17 the ocean?

18 A. Yes.

19 Q. Well, I don't want it to be my words then.

20 A. It was my understanding that the dams were little  
21 dams that created ponds, and just were, you know, more than  
22 like three-feet high, that kept Salmon from being able to jump  
23 up and go upstream to do their Salmon thing.

24 Q. Along the coast here?

25 A. Yeah.

1 Q. In California and Oregon and so forth?

2 A. Yeah, like all over.

3 Q. But definitely not here in Sacramento, right?

4 A. I don't know the geological area very well. I'm  
5 guessing.

6 Q. But if the ocean is not near Sacramento, then you  
7 didn't mean those dams, right?

8 A. Right.

9 Q. As far as going out to Nimbus Dam, that was Anna's  
10 idea, right?

11 A. I don't know whose idea it was. Anna and Eric had  
12 gone to the library to look up dams that day. And me and Zach  
13 were at a cafe trying to get the Internet to work there, to  
14 look up other things. And so I don't know who did the research  
15 or whose idea it was for the Nimbus Dam. But I just know we  
16 got in the car and drove there.

17 Q. Once you looked at it and came back, it was fair to  
18 say that was off the table?

19 A. Well, we couldn't do it. We didn't know what it  
20 would do if we did.

21 Q. Yeah. You told us on direct that you didn't know the  
22 effect of what it would be?

23 A. Right.

24 Q. Right?

25 A. On like the flood plains or what it would even do.



1 Q. But when you first talked about dams, the concept of  
2 the dams were the small dams by the ocean?

3 A. Yeah. My whole view, whenever we talked about dams,  
4 were like, you know, the possibility of even just hitting them  
5 with a sledgehammer. Like, not big dams. That was my  
6 understanding.

7 Q. Is that your understanding what was being talked  
8 about with the group as well, originally?

9 A. Anytime we talked about dams prior to going to the  
10 Nimbus Dam that was my image of the dams.

11 Q. But did you get that image based on the discussions  
12 that you had with everyone?

13 A. Yeah. That they were little dams that went out to  
14 the ocean. Same thing from reading the interview.

15 Q. Is it your understanding that was Mr. McDavid's  
16 discussions before Nimbus?

17 A. Yes. That was my understanding, but I -- yes.

18 Q. What about -- and Zach Jenson as well?

19 A. Yes.

20 Q. Thank you. Because if you nod your head, I need it  
21 -- for the record it has to be --

22 A. Yes.

23 Q. Let me ask you about cell phone towers, okay?

24 A. Correct.

25 Q. Cell phone towers are something that you had an

1 interest in damaging, right?

2 A. Yes.

3 Q. And you had not scouted out any cell phone towers  
4 around the Sacramento area by January 12th of 2006, right?

5 A. Correct. We had seen some while driving to the dam,  
6 but it was like, oh, that one's by a house so, no, not that  
7 one.

8 Q. Right. But you hadn't fixed -- by January 12th you  
9 hadn't fixed on any area where cell phone towers were, right?

10 A. No.

11 Q. It could have been New York, it could have been  
12 Portland, it could have been New Mexico, right?

13 A. Right.

14 Q. Okay. Well, your understanding also on January 12th  
15 -- and when I say January 12, I mean by the end of the day,  
16 let's say after this argument with the whole group, okay?

17 THE REPORTER: Counsel, she is not answering your  
18 question. I am not hearing an answer.

19 Q. BY MR. REICHEL: Okay. Well, I'll just ask you a  
20 question here.

21 January 12th, after Anna leaves, I'm going to ask you  
22 a few questions about that timeframe, okay?

23 A. Okay.

24 Q. Thank you. Now, by the time she left, did you feel  
25 there was no agreement among you, Eric and Zach as to whether

1 or not the IFG was going to be one of your definite targets?

2 A. That was no agreement on the Forest Service.

3 Q. Okay.

4 A. IFG referring to the Forest Service, correct?

5 Q. Yes.

6 A. Okay.

7 Q. Thank you. You brought The Poor Man's James Bond  
8 book to the group, right?

9 A. Correct.

10 Q. Mr. McDavid didn't?

11 A. No, he didn't.

12 Q. Okay. You also brought a lot of other literature to  
13 the group by January of 2006, right?

14 A. Yes.

15 Q. And Mr. McDavid didn't bring any real literature, did  
16 he?

17 A. Not that I know of.

18 Q. Okay. He just brought himself, so to speak?

19 A. Yes. And Zach Jenson was kind of in the same  
20 situation, he just kind of brought himself, right?

21 A. Correct.

22 Q. It's fair to say that by January 12th of 2006 you did  
23 not think Mr. McDavid was your group leader, right?

24 A. There were -- nobody was leading it. There were no  
25 leaders. Like, we had talked about that in November, like, we

1 were all individuals.

2 MR. REICHEL: Okay. One more minute, Your Honor.

3 (Pause.)

4 Q. BY MR. REICHEL: The night of the 12th, when you went  
5 to sleep -- January 12th, 2006, when you went to sleep, you  
6 went in the bedroom with Mr. McDavid?

7 A. Yes.

8 Q. And slept in the same bed?

9 A. Yes.

10 Q. In two sleeping bags right next to each other?

11 A. Yes.

12 Q. Not intimately sleeping, right?

13 A. Correct.

14 Q. There was no sexual activity, right?

15 A. No.

16 Q. You slept together as two good friends?

17 A. Uh-huh.

18 THE COURT: Is that "yes"?

19 THE WITNESS: Yes.

20 Q. BY MR. REICHEL: And your sleeping bags are right  
21 next to each other?

22 A. Yes.

23 Q. Do you recall that his sleeping bag was -- do you  
24 recall the colors of the sleeping bags that night, what yours  
25 were and what his was?

1 A. I know I have a purple sleeping bag.

2 Q. Do you remember his being -- what I'm saying is, he  
3 was sleeping closer to the wall, is what I'm trying to get at?

4 A. Yeah. He slept closer to the window, where I slept  
5 to the door.

6 Q. Right. So if he wanted to get up or get out, he  
7 would have to crawl over you?

8 A. Right.

9 Q. Okay. Do you remember him crawling over you the  
10 night of the 12th and leaving?

11 A. No.

12 MR. REICHEL: I have nothing further at this time,  
13 Your Honor.

14 THE COURT: Thank you. Redirect.

15 REDIRECT EXAMINATION

16 BY MR. LAPHAM:

17 Q. Ms. Weiner, when you first talked to Eric McDavid and  
18 Zach Jenson about this conspiracy in Philadelphia in 2005, did  
19 you have any doubt it concerned possibly using explosives?

20 A. No. I knew that it possibly concerned using  
21 explosives.

22 Q. And when you came out to California in November, did  
23 you know you were going to be discussing the use of explosives?

24 A. Yes.

25 Q. And that's why you got those recipes that you've told

1 us about?

2 A. Yes.

3 Q. And when you started actually procuring the  
4 ingredients for those explosives and mixing them together, you  
5 knew that the group was trying to make an explosive device?

6 MR. REICHEL: Objection, Your Honor. Leading  
7 question.

8 THE COURT: Sustained.

9 Q. BY MR. LAPHAM: Did you know that?

10 A. Can you repeat that? I'm sorry.

11 Q. When you procured various ingredients, did you know  
12 you were getting them for the purpose of trying to build an  
13 explosive?

14 A. When we were buying the ingredients?

15 Q. Yes.

16 A. Yes.

17 Q. When the group was mixing the ingredients together,  
18 did you know that you were trying to build an explosive?

19 A. Yes.

20 Q. And, in fact, you were kind of afraid of that,  
21 correct?

22 A. Yes.

23 Q. This was your -- in January, when the bowl broke, was  
24 that your first attempt at trying to build an explosive?

25 A. Yes.

1 Q. Did you think that the group would try again?

2 A. Yes.

3 Q. All right. So as of the date of the arrest, did you  
4 think that this conspiracy was still going on?

5 A. Yes.

6 Q. Did you think that the group would try again until  
7 they were successful in building an explosive?

8 MR. REICHEL: Objection, Your Honor. Speculation  
9 about the future.

10 THE COURT: Overruled.

11 THE WITNESS: Can you repeat the question?

12 Q. BY MR. LAPHAM: Did you think that the group would  
13 try again until they succeeded in building an explosive?

14 MR. REICHEL: Same objection.

15 THE COURT: Overruled.

16 Q. BY MR. LAPHAM: Your answer?

17 A. That's what we -- that's why we went out to buy  
18 another bowl, to try again.

19 Q. Right. And that night before you went out to buy  
20 that other bowl, had the group had a discussion about the  
21 conspiracy?

22 A. Yes.

23 Q. And in that discussion, did you have any doubt that  
24 the conspiracy was going to be going forward?

25 A. I'm sorry? Can you rephrase that question?

1 Q. In that discussion the night before the arrest, did  
2 you have any discussion -- or I'm sorry -- did you have any  
3 doubt that the conspiracy was going to go forward?

4 A. Personally, it seemed like everybody was really mad  
5 at each other, and everything definitely needed to slow down.  
6 It almost felt like we had to reboot, like, start over in a  
7 sense.

8 Q. All right. Start over, okay, take it slower?

9 A. Yes.

10 MR. REICHEL: Objection, Your Honor. He is leading  
11 the witness.

12 THE COURT: Overruled.

13 Q. BY MR. LAPHAM: Now, you told us about the argument  
14 that went on that night, and Anna going off by herself for a  
15 while.

16 During that period of time, you and the others smoked  
17 some pot?

18 A. Me and Eric smoked. Zach didn't smoke.

19 Q. And during Anna's absence, did you and the defendant  
20 and Zachary Jenson talk about what should be done?

21 A. I remember -- I have to say this. I -- it was very  
22 good marijuana, and I was not in a very good state of mind, so  
23 I don't remember very much --

24 Q. Okay.

25 A. -- from it. But we did talk about how Anna was



1 really upset, and how -- what we could do to, like, make her  
2 less upset.

3 Q. And you had that discussion outside of Anna's  
4 presence?

5 A. Right.

6 Q. All right. And so the things you decided on that  
7 night to present to Anna, when she returned, was decided among  
8 the three of you?

9 A. Yes.

10 Q. Without any input from Anna?

11 MR. REICHEL: Objection, Your Honor. Leading.

12 THE COURT: Sustained.

13 Q. BY MR. LAPHAM: Was there any input from Anna?

14 A. Anna wasn't there, but it was what Anna was upset  
15 about. She was upset that there were no plans, and we were  
16 upset because we felt that -- or I know I was upset because I  
17 felt like I didn't know where these plans were coming from. So  
18 it -- the whole thing that we had decided was, basically, like,  
19 we're going to, you know, talk about everything in the morning,  
20 and then talk about everything here, and then talk about, like,  
21 what -- like really plan our day collectively.

22 Q. And that's what the three of you decided outside of  
23 Anna's presence?

24 A. Yes. She said she wanted a plan, so.

25 Q. All right. Now, let's talk about that concept of a

1 plan.

2 Mr. Reichel asked you if at the end of November --  
3 let me see how he phrased it -- you said there was no set plan  
4 after the November meeting; do you recall that?

5 A. Yes.

6 Q. And he was asking you about what you had said in your  
7 proffer, correct?

8 A. What?

9 Q. Whether you had made that statement in your proffer,  
10 correct?

11 A. Right?

12 MR. LAPHAM: Your Honor, may I approach?

13 THE COURT: Yes.

14 Q. BY MR. LAPHAM: I'm going to show you page six of  
15 your proffer. Do you recognize that as being your proffer?

16 A. Yes.

17 Q. All right. And directing your attention to the first  
18 two sentences in the first full paragraph of that sentence,  
19 could you just read that to yourself?

20 MR. REICHEL: Objection, Your Honor. It's the same  
21 objection that was made to my attempt to identify this  
22 document. Specifically, she hasn't testified that she doesn't  
23 have a recollection. If it's being used to refresh her  
24 recollection --

25 THE COURT: I'll wait to see. Can you ask the

1 questions first, please?

2 Q. BY MR. LAPHAM: So I'm going to ask you first to read  
3 those two sentences in the paragraph to yourself.

4 MR. REICHEL: It's the same thing, Your Honor.

5 THE COURT: But did she say that she could not  
6 recall?

7 MR. LAPHAM: Well, I'm going to ask her to -- if that  
8 -- having read that, if she wants to change her prior answer.

9 MR. REICHEL: It would be the same objection I have,  
10 Your Honor.

11 THE COURT: Objection is overruled. Go ahead.

12 THE WITNESS: (Witness reviewing document.) Yes,  
13 that we were going to go and look for targets.

14 THE COURT: The question was: Would that change your  
15 prior answer?

16 Q. BY MR. LAPHAM: Do you remember what your prior  
17 answer was?

18 A. Right. Yes. That there was no exact --

19 Q. You said there were no set plans after the November  
20 meeting?

21 A. Right. There was no --

22 Q. Was that correct? Was that a correct answer?

23 MR. REICHEL: Objection, Your Honor. Is he leading?

24 THE COURT: Overruled.

25 THE WITNESS: There were no set targets.

1 Q. BY MR. LAPHAM: Okay. Is it a correct statement to  
2 say there were no set plans after the November meeting?

3 A. No. It would be correct to say that there were no  
4 set targets.

5 Q. In fact, what had the group decided upon after the  
6 November meeting?

7 A. That we were going to meet again in January and talk  
8 about and do the direct action stuff then. And, I mean, the  
9 November meeting was really just ideas and seeing what we  
10 needed.

11 Q. Okay. Well, that's right, isn't it, you -- November  
12 was just intended to be a talking meeting?

13 A. Correct.

14 Q. And at the end of that November meeting, did you have  
15 a specific date in which you would get back together again?

16 A. No. There wasn't a specific date. It was just some  
17 time in January.

18 Q. Right. A timeframe?

19 A. Yeah. After the holidays.

20 Q. Okay. And was there a reason you couldn't select a  
21 specific date?

22 A. Everything to -- you know, personally to go that far  
23 ahead, but we didn't even know if we had a place to stay. We  
24 didn't know how long it was going to take to get out there.

25 Didn't know when we were leaving to go out there. There were

1 tons of unknowns, so to select a specific date would have  
2 been --

3 Q. So there were some variables?

4 A. Yes.

5 Q. But was there any doubt in your mind that you were  
6 going to get back together in January?

7 A. Yeah, we were going, and that's what we were all  
8 shooting for.

9 Q. Okay. Let me just ask you a question about coming to  
10 California. Was that your decision or --

11 A. The first time or the second time?

12 Q. The first time, I'm sorry. The first decision to  
13 come out -- well, let me back up then.

14 A. There were lots of --

15 Q. Right. I see what your confusion might be.

16 All right. You talked to the defendant and Zachary  
17 Jenson about this conspiracy in August of 2005; do you recall  
18 that?

19 A. Right. Yes.

20 Q. All right. Let's mark it from there and move  
21 forward. What were you initially planning on doing in the Fall  
22 of 2005?

23 A. Attending college.

24 Q. And did that plan change?

25 A. Yes.

1 Q. And when that plan changed, what did you decide to  
2 do?

3 A. Go out to California.

4 Q. And did you make that decision on your own?

5 A. Yes.

6 Q. All right. With no input from Anna or anyone else?

7 A. No. The guys were out there. Wanted to go.

8 Q. All right. And when you came out to California, I  
9 recall in your testimony just a minute ago you said you had  
10 your snowboard?

11 A. Yes.

12 Q. Why did you bring your snowboard?

13 A. I used to be a snowboard instructor on the East  
14 Coast, and I knew we were getting a cabin around the Tahoe  
15 area, so I thought I could be a snowboard instructor again to  
16 help pay for rent.

17 Q. Okay. So you were going to try and earn some money  
18 while you were out here?

19 A. Yes.

20 Q. And how long did you think you would be out here with  
21 respect to this conspiracy?

22 A. I was thinking, like, two, three months in the cabin.

23 Q. And when it turned out that in the very first week  
24 that you were out here that you did all these things, you went  
25 to San Francisco, you did reconnaissance on some places, you

1 started mixing chemicals, what did you think about all that?

2 A. It was all going by pretty fast.

3 Q. And that Thursday night when everybody had the  
4 argument, what was your thinking then?

5 A. In pertaining to?

6 Q. Pertaining to how fast this conspiracy was moving  
7 forward?

8 A. Well, I felt like it was too big, too much, too fast,  
9 like, in all the ways it could be.

10 Q. I'm sorry. Go ahead.

11 A. No. I'm done.

12 Q. And what did you think should be done about that?

13 A. I wanted to slow down.

14 Q. Did you want to quit the whole thing?

15 A. No. I personally had, like, thoughts, but I couldn't  
16 leave. I didn't want to leave. I didn't want to quit it, but  
17 I wanted to kind of slow down and think about it more.

18 Q. All right. What about Zach, what did he want to do?

19 A. He wanted to slow down. He wanted the targets. He  
20 didn't like the idea of going after all these targets. And he  
21 had had a panic attack that day.

22 Q. All right. So, in fact, you've listened to some of  
23 the recordings, right?

24 A. Yes.

25 Q. And what specifically did Zach say regarding the

1 targets?

2 A. Well, he actually started off the conversation that  
3 we were having saying that he didn't like that we were talking  
4 about all -- like going after four targets. It wasn't safe,  
5 and it was too much.

6 Q. Okay. So the original plan was to go after more than  
7 one target?

8 A. Well, we were talking about going after more than one  
9 target.

10 Q. And Zach's view that night was that we should -- you  
11 should focus on just one target?

12 A. Yeah. We should focus on one thing at a time.

13 Q. So at that point, is the conspiracy getting more  
14 narrowly focused?

15 A. Well, we never picked one.

16 Q. Right.

17 A. We couldn't decide.

18 Q. Right.

19 A. So that turned into a conflict as well.

20 Q. You each had proposals?

21 A. Right.

22 Q. Is there any doubt in your mind that at some point  
23 the group would have made a decision as to a target?

24 MR. REICHEL: Objection. Speculation, Your Honor.

25 THE COURT: Sustained.



1 Q. BY MR. LAPHAM: Was the group planning on attacking a  
2 target?

3 A. Yes.

4 Q. Now, cell phone towers. In response to one of  
5 Mr. Reichel's questions you said you hadn't done any  
6 surveillance on cell phone towers?

7 A. That I had taken pictures of them in New York.

8 Q. In New York. All right. Did you talk about specific  
9 cell phone towers in the Sacramento area?

10 A. Well, we were driving somewhere I remember we -- we  
11 -- like every time we saw one, we pointed it out. But there  
12 was always a reason not to. Like, one was close to a house,  
13 another was -- I don't know. Never found one.

14 Q. So when you're driving, the group is keeping their  
15 eye out for cell phone towers --

16 A. Yes.

17 Q. -- correct?

18 And Mr. Reichel said, you could have -- you could  
19 have done a cell phone tower in Portland or New Mexico, and you  
20 said "yes"?

21 A. Yes.

22 Q. Do you recall that?

23 A. Yes.

24 Q. Really?

25 A. Yes.

1 Q. Did you ever talk about doing any cell phone towers  
2 in Portland?

3 A. No. We did talk about using Google Earth to look at  
4 things in other places.

5 Q. Did you ever talk about doing cell phone towers in  
6 New Mexico?

7 A. No.

8 Q. Was that kind of a careless answer you gave  
9 Mr. Reichel?

10 MR. REICHEL: Objection, Your Honor.

11 THE COURT: Overruled.

12 MR. REICHEL: He's badgering his own witness.

13 THE COURT: Overruled.

14 THE WITNESS: No. But we could have done it  
15 anywhere. We didn't have a select place.

16 Q. BY MR. LAPHAM: Is that what you meant when you  
17 answered his question?

18 A. Yeah. Not that we were going to go to New Mexico and  
19 Portland.

20 Q. Your father's cousin, Jeff Weiner?

21 A. Yes.

22 Q. That's the lawyer who represented you in this case?

23 A. Yes.

24 Q. And approximately how old is he?

25 A. I don't know.

1 Q. Old guy like me?

2 A. I think he would be mad if I say he's too old.

3 Q. Has he been practicing criminal defense law for quite  
4 some time?

5 A. Yes.

6 Q. He is an accomplished attorney?

7 A. Yes.

8 MR. REICHEL: Objection as to relevance, Your Honor.

9 THE COURT: Overruled.

10 Q. BY MR. LAPHAM: Yes?

11 A. Yes.

12 Q. And his office is in Florida?

13 A. Yes.

14 Q. Miami?

15 A. Yes.

16 Q. And he came out to represent you?

17 A. Yes.

18 Q. And he was representing you at the time you made the  
19 decision to enter your guilty plea?

20 A. Yes.

21 Q. Now, with respect to your sentencing in this case, do  
22 you have any understanding as to whether the Government is  
23 required to make any particular recommendation with respect to  
24 your sentence?

25 A. No.

1 Q. What's your understanding?

2 A. That the judge is the only person who can decide,  
3 and, like, that the People can make recommendations, but they  
4 are not held -- or there are no promises with any  
5 recommendations that are going to be made.

6 MR. LAPHAM: Your Honor, may I have one moment?

7 THE COURT: Yes.

8 MR. LAPHAM: Nothing further. Thank you.

9 THE COURT: Recross.

10 MR. REICHEL: Thank you, Your Honor.

11 RECROSS-EXAMINATION

12 BY MR. REICHEL:

13 Q. In regard to the night of 12th that we talked about  
14 before Anna came back? Okay?

15 A. Okay. Uh-huh. Yes.

16 Q. Do you recall -- I think it's in January -- it's in  
17 California -- there is a time where -- I mean, you liked Anna a  
18 lot, right?

19 A. Yes.

20 Q. Okay. And there is water there, if you'd like.

21 A. I would.

22 Q. Okay. We're going to take a break in a minute  
23 anyway.

24 What I'm getting at is you liked Anna a lot, right?

25 A. Yeah, she was a big sister to me.

1 Q. Right. And there was a period in January in Dutch  
2 Flats where you were acting to make her happy, right?

3 A. Excuse me?

4 Q. You were acting at times to make her happy? You  
5 would -- when I say acting, I mean doing something different  
6 than what you really felt or meant?

7 A. Yes.

8 Q. Is that right?

9 A. Yes.

10 Q. So when I say acting to make Anna happy, I mean you  
11 would do and say things that the real reason was just so that  
12 you wouldn't make your friend unhappy, right?

13 A. Yes.

14 Q. Because you wanted to keep her happy, right?

15 A. Yes.

16 Q. And acting -- when I say you were acting for her,  
17 which you agree with me, it means that, you know, what -- your  
18 real desires aren't what's being shown, right?

19 A. Yes.

20 Q. Okay. So you may say, yes, I'm willing to do this,  
21 Anna, but in reality inside you're thinking I don't want to do  
22 that, but I'm going to make her happy by doing this?

23 A. Well, specifically the going and mixing the  
24 explosives.

25 Q. Okay. Going and mixing explosives?

1 A. Yeah. She wanted me to come outside and mix the  
2 explosives, and I really didn't want to do that.

3 Q. I understand. But, you know, any interactions with  
4 Anna, in your, you know, dealings with her in January at Dutch  
5 Flats --

6 A. I was always trying to impress her.

7 Q. Right. Because she's someone you looked up to?

8 A. Yes.

9 Q. And you wanted to have her think better about you,  
10 right?

11 A. Yes.

12 Q. So you wanted to come off smarter, right?

13 A. Yes, I did.

14 Q. Okay. You have to say "yes" audibly.

15 A. I don't know when your questions end. I'm sorry.

16 Q. Who does? I agree. I think we need a big question  
17 mark I'll hold up at the end.

18 Because you wanted her to think that you were smart,  
19 right?

20 A. Yes.

21 Q. And you wanted her to think that you were really  
22 dedicated and interested in what you were doing, right?

23 A. Yes.

24 Q. And you did not want to let her down, right?

25 A. I didn't want to let anybody down at that point.

1 Q. I understand.

2 A. So, yes.

3 Q. Okay. And you liked her a lot, right?

4 A. Yes.

5 MR. REICHEL: One minute, Your Honor. Nothing  
6 further for Ms. Weiner, Your Honor.

7 THE COURT: Anything else?

8 MR. LAPHAM: No, Your Honor.

9 THE COURT: You are excused.

10 THE WITNESS: I can go back to New York now?

11 THE COURT: You are free to go.

12 Ladies and gentlemen, we're going to take our  
13 afternoon recess. We'll return at 3:20 p.m.

14 Please do not discuss the case or form any opinions  
15 during the interim period. Thank you. Court's in recess.

16 (Jury out.)

17 THE COURT: Anything else on the record outside the  
18 presence of the jury, counsel?

19 MR. LAPHAM: No, Your Honor.

20 MS. ENDRIZZI: Well, Your Honor, actually, I have  
21 shown Mr. Reichel and given your Deputy a copy of the article  
22 from Auburn Journal, so we can take judicial notice of the  
23 correct date of the publication.

24 MR. REICHEL: There's no objection. She's not going  
25 to submit the article.

1 THE COURT: Right. What date did you say before?  
2 February --

3 MR. REICHEL: He said November, and it's February.

4 MS. ENDRIZZI: He is off by about eight months, so it  
5 was February '05 instead of November '05, so that article was  
6 in somebody's possession in January of '06.

7 THE COURT: So will you stipulate to that being the  
8 date then, February 11th, '05.

9 MR. REICHEL: Yes.

10 MS. ENDRIZZI: Yes, Your Honor.

11 THE COURT: Thank you. That will be the stipulation.  
12 The Court will take judicial notice of auburnjournal.com  
13 article. Thank you.

14 Did you wish to have the jury instructed as to that?

15 MS. ENDRIZZI: Yes, Your Honor, please.

16 THE COURT: All right. Thank you. We'll do that  
17 when we return from the break. We're in recess.

18 (Break taken.)

19 (Jury in.)

20 THE COURT: Next witness, please.

21 MS. ENDRIZZI: Your Honor, instructions or next  
22 witness?

23 THE COURT: I'm sorry?

24 MS. ENDRIZZI: The instruction.

25 THE COURT: Excuse me. Earlier today there was a



1 time when an article in the Auburn Journal was referred to by  
2 the first witness, and I believe the date that was referred to  
3 was November of 2005. It has been determined since that time  
4 by review of an Internet article that we were looking at that  
5 the actual date was February 11, 2005, not November 2005.

6 Both the Government and the defense have agreed and  
7 stipulated that the correct date would be February 11th, 2005  
8 and not November. So you are to consider that to be proven,  
9 and I've taken judicial notice of that fact, so that is the  
10 actual date. Thank you. Ms. Endrizzi.

11 MS. ENDRIZZI: Thank you, Your Honor. United States  
12 calls Steven J. Fowler.

13 (The witness was sworn by the Clerk.)

14 THE WITNESS: Yes, I do.

15 THE CLERK: Please state your full name and spell  
16 your last name for the record.

17 THE WITNESS: Steven Fowler, F-o-w-l-e-r.

18 STEVEN FOWLER,

19 a witness called by the Government, having been first duly  
20 sworn by the Clerk to tell the truth, the whole truth, and  
21 nothing but the truth, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. ENDRIZZI:

24 Q. By whom are you employed, Mr. Fowler?

25 A. By the City of Vallejo Police Department.

1 Q. And in what position?

2 A. I've been a detective with them since 1995.

3 Q. Do you have a current assignment with the FBI?

4 A. Yes, I do.

5 Q. What is that assignment?

6 A. It's on the Joint Terrorism Task Force as a task  
7 force member.

8 Q. How long have you been on the Joint Terrorism Task  
9 Force?

10 A. For six years.

11 Q. And you're still on it today?

12 A. That's correct.

13 Q. Did you conduct the computer forensic examination of  
14 the laptop computer seized on January 14 from the cabin in  
15 Dutch Flat, California?

16 A. Yes, I did.

17 Q. Now, are you a computer forensic examiner by trade?

18 A. No. Not at all.

19 Q. Would you please describe to the jury how you came  
20 about to do the computer forensics?

21 A. Sure. I'm part of the -- at the time I was part of  
22 the Domestic Terrorism Squad, Squad Five. We have a limited  
23 number of people assigned to the squad, and it fell upon me to  
24 participate in every and any way possible. That just so  
25 happened to be an assignment that -- I don't know whether I

1 either raised my hand for was selected to do.

2 Q. And with whom did you work on the computer forensics?

3 A. A computer tech by the name of Art Dorl.

4 Q. And did he give you instructions, if you could walk  
5 through how he gave you what you needed to do in terms of doing  
6 the computer forensics examination?

7 A. That's correct. I sat with Mr. Dorl, who has since  
8 retired from the FBI -- sat with him for roughly 30 minutes as  
9 he described at length how I was to examine, and how I was to  
10 identify key words, strings of words, certain logs, if you  
11 will, computer logs, searches, things of that nature.

12 Q. Was this a difficult assignment?

13 A. No. It was fairly easy to do.

14 Q. Now, during part of the examination of the imaged  
15 hard drive, did you search the Internet history aspect of that  
16 hard drive?

17 A. Yes, I did.

18 Q. And what is the Internet history if you have an  
19 understanding of it?

20 A. I do. It's limited. But I have an understanding of  
21 it. Every hard drive copies down basically everywhere you go.  
22 I know you've all heard that before.

23 In this case, everything that was on that hard drive  
24 reflected a path, if you will. If someone were to go on the  
25 Internet, it would direct me, the viewer of the imaged hard

1 drive, with the software, the forensic software that I was  
2 provided to use, it would tell me exactly where that person  
3 went on the Internet.

4 Q. So you could reconstruct those Internet searches?

5 A. Yes. And did. Or the software did, but I assisted  
6 in identifying key words or Internet sites that we, as the  
7 investigative body, were interested in finding.

8 Q. And what were some of those key words and what were  
9 you interested in?

10 A. Well, locations, chemicals, for example. Companies  
11 that sold chemicals. Google Maps of areas within the region  
12 where we were both surveilling and working the case.

13 Q. And in your research did you find evidence of this on  
14 the hard drive?

15 A. Yes.

16 Q. Okay. I'd like to show you what's been marked as  
17 Government's Exhibit 40-A through J.

18 Your Honor, may I approach?

19 THE COURT: You may.

20 Q. BY MS. ENDRIZZI: Take a moment to look through those  
21 exhibits, please.

22 A. (Witness reviewing documents.) Okay, I recognize  
23 these.

24 Q. How do you recognize them?

25 A. These are the strings -- the Internet strings that we

1 were talking about earlier, the pathways that I located on the  
2 hard drive.

3 Then I identified them on the software, then turned  
4 over the software that was identified back to Art Dorl, who  
5 printed five disks, I believe, evidence copies for me, and  
6 that's what is basically is on here.

7 Q. And are Exhibits 40-A through J essentially reports  
8 of what you found?

9 A. Yes. For each website or each identifying piece of  
10 information that was on the hard drive.

11 MS. ENDRIZZI: Your Honor, Government would move to  
12 have Exhibits 40-Alpha through Juliette admitted into evidence.

13 MR. REICHEL: I would like the ability to  
14 cross-examine him about them and voir dire him about whether  
15 it's a result of his expert -- -

16 MS. ENDRIZZI: He is not proffered as expert, Your  
17 Honor.

18 THE COURT: Is there an objection to the exhibits  
19 being admitted?

20 MR. REICHEL: Yes, Your Honor.

21 THE COURT: A through J. Objection is overruled.  
22 Exhibits A through J will be admitted. I don't find that the  
23 this witness is being offered as an expert at this time.

24 MS. ENDRIZZI: Excuse me?

25 THE COURT: I do not find that this witness is being

1 offered as an expert.

2 MS. ENDRIZZI: Thank you, Your Honor. May I publish?

3 THE COURT: Yes.

4 (Government Exhibit 40-A to 40-J, Reports of  
5 identifying information found on imaged hard drive, admitted  
6 into evidence.)

7 Q. BY MS. ENDRIZZI: Direct your attention -- this is  
8 Government Exhibit 40-A -- what is this first page?

9 A. The -- basically it's the identifier of the path that  
10 the information that is contained in then pages -- the next two  
11 attached pages -- basically, it signifies the name that I've  
12 given it, my initials, the amount of files I discovered having  
13 to do with that, and --

14 Q. I'm going to interrupt you.

15 So does this cover page appear on every Exhibit A, B,  
16 C...just as an introductory page?

17 A. That's correct.

18 Q. Let's go through what each one has on it.

19 Now, you were mentioning a name. Here, the name is  
20 "science," what does that mean for you?

21 A. For me, that meant that that was a key word that I  
22 entered into the forensic software for it to search the hard  
23 drive and pick out those words.

24 Q. Okay. And right below it it says "comment," would  
25 you read what the comment is?

1 A. Comment is SJF 2806. SJF is my initials, and that  
2 was the date that I did the search.

3 Q. Okay. Skipping down to where it says "full path," if  
4 you would, walk us through that path, and let us know what each  
5 part is. We can start with that 1B31?

6 A. That would be identifying the hard drive as a piece  
7 of evidence.

8 Q. And is 1B31 the evidence number given to it at the  
9 FBI?

10 A. That's correct.

11 Q. Now, going through the rest of the full path, these  
12 two lines here, what does that tell you?

13 A. It tells me that what's contained in this 40-A piece  
14 of evidence took that many steps within the hard drive beside  
15 the, you know, the 1B31 that was identified -- that it took it  
16 that amount of steps. And each hash mark, each slash is  
17 another step with inside the hard drive until you get to the  
18 very end, or, you know, the cache is the -- what I know it to  
19 be as a stored bit of information at one point in time on that  
20 hard drive identified it as the AFD, the long numbers and  
21 letters at the end.

22 Q. So would it be fair to say that if we had to go back  
23 to find what's contained in Exhibit A, this is what we would  
24 follow to find it?

25 A. That's correct.

1 Q. All right. Now, looking at the line that says  
2 "created," what's there?

3 A. 1-11-2006 at 1:33:08 p.m.

4 Q. And that 1-11-2006, how you do you recognize that,  
5 what is it?

6 A. It's a date that during the investigation that was  
7 part of the investigation, that date.

8 Q. So when it says created here on January 11, 2006, at  
9 1:33 p.m. in the afternoon, does that tell you -- what was  
10 created at that point?

11 A. The full path. The bold black all the way through,  
12 all the way to the end, what we just described, that was  
13 created on the hard drive at 1:33:08 p.m. on the 11th of  
14 January.

15 Q. So that was when the search occurred?

16 A. Not when I did the search, but when the computer's  
17 hard drive was instructed to make that search.

18 Q. Can you tell us who actually was typing on the  
19 computer from there?

20 A. No.

21 Q. Ask you to take a look at the second page of 40-A.  
22 Does that continue all the way down to the bottom?

23 A. It does, yes.

24 Q. Okay. We have half of an ELMO here.

25 I would like to direct your attention to midway down



1 the page. What does this search -- what were people searching  
2 for during this search on the web?

3 A. Well, if you can move it? Yeah, right there.

4 On the top line, VWR Scientific Products in the  
5 Google search line, and then what follows are 1 of 10 of about  
6 148,000 for those key search words. That whoever was on the  
7 computer typed in, Google came back with that many results.

8 Q. Now, if you'd look at the VWR at the very bottom of  
9 the page here, Scientific Products, information at  
10 business.com.

11 According to this search what did VWR do or  
12 distribute?

13 A. Lab supplies and chemicals and equipment to  
14 organizations throughout the U.S. and Canada. Is that the one  
15 you are asking for?

16 Q. Yes.

17 A. Okay.

18 Q. Turning your attention to Exhibit 40-B -- actually  
19 take a look at 40-C, please. When was this file created?

20 A. On 1-11-2006 at 1:42:19 p.m.

21 Q. Taking a look at Exhibit C, what does this search  
22 show or where -- what file or Internet website does the  
23 forensic evaluation show you?

24 A. It's vwr.com.

25 Q. Okay. Now, looking at the bottom of that page --

1       sorry -- looking to the left-hand side of the page, do they  
2       make available chemicals?

3       A.           Yes.

4       Q.           Okay.  And calibration and meteorology services?

5       A.           Correct.

6       Q.           And lab set-up and resource center?

7       A.           Yes.

8       Q.           And also production supplies?

9       A.           Yes.

10      Q.           Reviewing that page, is there a location for VWR in  
11      San Francisco, California, reviewing page one?

12      A.           In Brisbane there is, correct.  That's the San  
13      Francisco Regional Distribution Center.

14      Q.           So seeing this web page come up in the Internet  
15      history, would the person on January 11, looking at this  
16      website, have seen that address?

17                 MR. REICHEL:  Objection, Your Honor.  Speculation as  
18      to what they would have seen when they opened the page.

19                 THE COURT:  Sustained.

20      Q.           BY MS. ENDRIZZI:  Is this an accurate representation  
21      of what the website page would have looked like?

22      A.           Yes.

23      Q.           Taking a look at Government's Exhibit B, can you tell  
24      what site was visited in Government's Exhibit B?

25      A.           Mapquest.

1 Q. And on that first page, can you tell what address was  
2 looked up?

3 A. Yes. 3745 Bay Shore Boulevard. The city says  
4 Briban, B-r-i-b-a-n, in California. I'm assuming it's  
5 Brisbane.

6 Q. If you would take a look at the second page of  
7 Government's Exhibit B.

8 And what was posted on the Mapquest site after that  
9 entry? Is there a correction?

10 A. There is a suggestion, is that what you mean, at the  
11 bottom?

12 Q. Yes.

13 A. Suggestions, yes. 3745 Bay Shore Boulevard,  
14 Brisbane, California.

15 Q. Now, is that the same address as VWR in San  
16 Francisco?

17 A. I believe it is.

18 Q. Ask you to take a look at Government's Exhibit 40-D.  
19 Is there a search engine being used here?

20 A. Yeah. Yes. Yahoo.

21 Q. And what is being searched for?

22 A. Hydrometer equivalency chart.

23 Q. And reviewing the web results, are they getting any  
24 sort of responses?

25 A. Yes. There were 83 responses, and this is -- it says

1 results 1 through 10.

2 Q. Ask you to take a look at Government's Exhibit E.

3 Let's go back to that first page. When was this file  
4 created?

5 A. On 1-11-2006 at 1:55:01 p.m.

6 Q. What search engine is being looked at here?

7 A. Yahoo.

8 Q. And what is being looked for?

9 A. Potassium Chlorate.

10 Q. Now, the web results, what do they direct you to?

11 A. The web results direct me -- or direct whoever is  
12 looking at this to Wikipedia and several other -- State of New  
13 Jersey, NRDC, India, etcetera. There's several of them,  
14 actually.

15 Q. Are you familiar with Wikipedia?

16 A. Yes, I am.

17 Q. What's your understanding of what Wikipedia is?

18 A. It's an online encyclopedia for anything and  
19 everything you can think of.

20 Q. If you would take a look at 40-F. And what is this?

21 A. This is a page from Wikipedia, the Wikipedia website,  
22 with Potassium Chlorate identified in the search.

23 Q. And if you would just briefly summarize what this  
24 page is?

25 A. It basically identifies what Potassium Chlorate is

1 and its chemical makeup.

2 Q. If you would please take a look at 40-G. What search  
3 engine are we in?

4 A. Yahoo.

5 Q. And what was searched for? What were the key terms  
6 put in?

7 A. Making Potassium Chlorate (sic).

8 Q. And the web results, if you would just give an  
9 overview of what came up with that search?

10 A. Well, there were 60,000 -- over 60,000 results for  
11 those search terms, and then there were a number of  
12 identifiers.

13 Q. How about you identify number four for me?

14 A. Number four?

15 Q. Uh-huh.

16 A. (Reading): Making plastic explosives from bleach by  
17 the Jolly Roger. Potassium Chlorate is an extremal.

18 Q. So that's one title. What about number one?

19 A. Article 9, making Potassium chlorate?

20 (Reading): The following is an excerpt from the  
21 Jolly Roger's book on bleach by the Jolly Roger. Potassium  
22 Chlorate is an extremely volatile explosive.

23 Q. And then it goes to the website?

24 A. Correct.

25 textfiles.com/anarchy/incendiaries/explode9.txt

1 Q. Do you have an understanding how Yahoo works when  
2 these web results come up in the sense of could you go to those  
3 websites from there?

4 A. Yes. I could click on number one, the http -- it  
5 would be a hyperlink. I'm sure everyone is familiar with what  
6 a hyperlink is.

7 Q. Where would that hyperlink take you?

8 A. It would take you to the website that's identified at  
9 the very bottom. It's also identified at the top, too. The  
10 text files.

11 Q. Now, are Exhibits 40-A through J all of the files  
12 that you recovered during the search, or were they a few of  
13 them?

14 A. I believe they are just a few of them. I found a lot  
15 more than this.

16 Q. If you would, 40-H, when was this created?

17 A. 1-11-2006 at 1:57:34 p.m.

18 Q. And what is being searched for here?

19 A. A battery hydrometer.

20 Q. Now, if you'd look at number three, what's that  
21 reference to?

22 A. How to use a hydrometer.

23 Q. And it's to check your battery?

24 A. Correct.

25 Q. Now, looking at number fifty, bottom of the page,

1 what's the website referenced there?

2 A. autozone.com.

3 Q. And what specific part of autozone.com does it look  
4 at or does it reference?

5 A. Repair info for battery, how to instructions.

6 Q. 40-I? What website are we on at the moment with  
7 40-I?

8 A. shop.com.

9 Q. Can you tell from this website or this web image what  
10 was being looked for?

11 A. A hydrometer. The first one says "battery," but the  
12 next two are hydrometers.

13 Q. And under the plain "hydrometer," does it list a  
14 company?

15 A. vwrlabshop.com.

16 Q. And then once it goes down, it offers to narrow your  
17 search results. What type of stores are those, generally?

18 A. They appear to be auto supply.

19 Q. And finally, 40-J, at what time was this file  
20 created?

21 A. What time? 1:59:49 p.m.

22 Q. On what date?

23 A. On January 11, 2006.

24 Q. What is being searched for here?

25 A. Napa Auto Parts in Dutch Flat, California.

1 Q. And if you review the rest of Exhibit 40-J, what does  
2 -- what information does it give you?

3 A. Well, it gives you a Napa Auto Parts store in Colfax.  
4 There is a Napa Auto Parts store in Grass Valley.

5 Q. And are the remaining pages continuing lists of Napa  
6 Auto Part stores?

7 A. Correct.

8 Q. Now, following the completion -- following the  
9 completion of the forensic examinations for the key search  
10 terms, do you have any reason to believe that these reports are  
11 not accurate?

12 A. No.

13 MS. ENDRIZZI: Thank you, Your Honor. No further  
14 questions.

15 THE COURT: Thank you. Cross.

16 CROSS-EXAMINATION

17 BY MR. REICHEL:

18 Q. Mr. Fowler, regarding what you've just spoken about,  
19 any reason to believe these are not accurate, what was the name  
20 of the FBI agent that you were working with?

21 A. He was not an agent. He was a CART specialist,  
22 computer forensic specialist, Art Dorl.

23 Q. So you and Mr. Dorl got together in February of '06  
24 on this case?

25 A. Correct.



1 Q. And he showed you how the software works?

2 A. Yes.

3 Q. And you loaded it onto the laptop?

4 A. No. And I know this just from working in the Bureau  
5 for six years and working a lot with the CART people, the  
6 computer forensic people. They will image the hard drive first  
7 to preserve all the evidence as to not corrupt the hard drive.  
8 Then the hard drive is actually connected to the forensic  
9 computer where the software is already. So each hard drive  
10 that's imaged is its own separate entity, if you will. If --  
11 it's like a stand-alone computer to just examine that one hard  
12 drive. So nothing was loaded onto your client's laptop. It  
13 was all imaged first and then looked at separately.

14 Q. Okay. Now, so this took place at some FBI building  
15 somewhere?

16 A. At the headquarters building, correct.

17 Q. Do you have any idea -- were you involved in the  
18 investigation of the case prior to February of '06?

19 A. Yes.

20 Q. Were you involved in the execution of the search  
21 warrant?

22 A. At what location?

23 Q. Dutch Flats in '06 -- in January of '06?

24 A. At the cabin?

25 Q. Yeah.

1 A. I don't believe so, no.

2 Q. Were you aware of this investigation prior to the  
3 arrest on January 13th?

4 A. Oh, yeah. Yes, I was involved.

5 Q. Well, you were aware, though, that these laptops were  
6 actually provided by the FBI, correct?

7 A. Yes. I believe I did.

8 Q. Yeah. No. I mean, this laptop that you examined was  
9 seized in this case, but it had been provided by Anna, the  
10 informant, to the group?

11 MS. ENDRIZZI: Objection, Your Honor. Relevance.

12 MR. REICHEL: He examined this laptop, Your Honor.

13 THE COURT: Overruled.

14 MR. REICHEL: Thank you.

15 THE WITNESS: I don't know.

16 Q. BY MR. REICHEL: You don't know whether or not it had  
17 been provided by the FBI to the group?

18 A. No, I don't.

19 Q. Okay. So you and this individual, when you did the  
20 examination of it, who -- I mean, let me ask you who had asked  
21 you to look into these specific terms and to look for this  
22 stuff?

23 A. I believe we, together, the investigative body,  
24 looked at a number of words to look at, and this is by far not  
25 all of them. But a lot of the terms that were coming up during

1 the investigation, especially how incendiary devices are made.  
2 I can't tell you exactly who told me right now, sitting here.  
3 But I know, myself, I would have come up with a host of search  
4 words myself and probably did at the time.

5 Q. Let me ask you then, this endeavor was to try to  
6 determine what this laptop contained as far as an Internet  
7 history of trying to research incendiary devices, correct?

8 A. One aspect of it.

9 Q. I mean, what was the other aspect then?

10 A. Well, there are map searches, and there were other  
11 key-word term searches where chemicals are -- or companies -- I  
12 mean, it wasn't specifically like The Anarchist's Cookbook. I  
13 wasn't looking just for that. I was looking for anything that  
14 would be reasonable for someone who was going to plant an  
15 incendiary device, after making it, at a location. So I was  
16 looking for target locations as well.

17 Q. Okay. And the learning process, as well, for the  
18 person on the computer as far as how to use devices like this,  
19 incendiary devices?

20 A. That would have been something, correct.

21 Q. That you were looking for?

22 A. Sure.

23 Q. So if somebody had this laptop and wanted to start  
24 with trying to learn how to make explosives, you were looking  
25 for evidence of that, right?

1 A. Correct.

2 Q. Okay. And then targets as well?

3 A. Correct.

4 Q. Potential targets, I mean?

5 A. Potential targets, correct.

6 Q. And did you look in there for any activity visiting  
7 the websites like for the ELF?

8 A. I might have. I can't recall right now.

9 Q. What about for the ALF websites, Internet history  
10 where this laptop had looked at the Internet sites for ALF?

11 A. Again, I probably might have.

12 Q. But as you sit here today you don't recall?

13 A. No, I just recall what was put in front of me here.

14 Q. And again -- but your search of the computer would  
15 not reveal in any way who was the person -- the original person  
16 doing the searching using the computer for these searches,  
17 right?

18 A. On the laptop?

19 Q. Yes.

20 A. No.

21 Q. The Internet history search that you looked at is for  
22 an unknown user of the laptop, right?

23 A. It's for the laptop, not the person.

24 Q. Right. And we agreed that there is no way you can  
25 tell who used it?

1 A. That's correct.

2 MR. REICHEL: Okay.

3 MS. ENDRIZZI: No redirect, Your Honor.

4 THE COURT: Thank you very much. You may step down.

5 And you are excused, thank you. Next witness.

6 MS. ENDRIZZI: Your Honor, the United States calls  
7 Zachary Jenson.

8 (The witness was sworn by the Clerk.)

9 THE WITNESS: Yes.

10 THE CLERK: Please state your full name and spell  
11 your last name for the record.

12 THE WITNESS: Zachary Jenson, J-e-n-s-o-n.

13 ZACHARY JENSON,

14 a witness called by the Government, having been first duly  
15 sworn by the Clerk to tell the truth, the whole truth, and  
16 nothing but the truth, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. ENDRIZZI:

19 Q. Now, how are you doing?

20 A. Good.

21 Q. Between 2004 and 2006 did you use any nicknames?

22 A. I went by the name Ollie.

23 Q. Okay. And when did you get that nickname?

24 A. When I was in jail in Brunswick, Georgia. I was  
25 arrested for protesting against the G8 Summit.

1 Q. And why did you pick Ollie then?

2 A. It's short for Oliver. My nick- -- or my middle name  
3 is Oliver, so I just always wanted to go by Ollie.

4 Q. Did you give your real name when you were in jail?

5 A. Eventually, to get out, yes.

6 Q. Why were you arrested at the G8 Summit in Georgia?

7 A. Disorderly conduct, refusing to disperse.

8 Q. Was that part of a break-away march?

9 A. Yes.

10 Q. Now, do you have any other arrests or citations other  
11 than the G8 arrest and the arrest in this case?

12 A. No.

13 Q. Have you ever been detained or cited for any minimal  
14 amount of marijuana possession?

15 A. Yes, I have.

16 Q. And when was that?

17 A. When I was 17. And there was another time right  
18 after I turned 18.

19 Q. And when we say -- when I said a minimal amount,  
20 could you give an approximation of how much marijuana that was?

21 A. Half a gram or less.

22 Q. Okay. And how much would that have been worth?

23 A. Less than \$5.

24 Q. Okay. Do you have any other citations since then or  
25 arrests?

1 A. No.

2 Q. How old are you now?

3 A. I'm 22.

4 Q. How old were you during the period of November 2005  
5 to January 2006?

6 A. I was 20.

7 Q. Are you working now?

8 A. Yes, I am.

9 Q. Where are you working?

10 A. I'm working at Round Table Pizza in Issaquah,  
11 Washington.

12 Q. And what do you do for them?

13 A. I deliver pizzas full time.

14 Q. How many hours a week?

15 A. 40 to 45 sometimes.

16 Q. Are you a defendant in this case?

17 A. Yes, I am.

18 Q. And did you plead guilty pursuant to a plea  
19 agreement?

20 A. Yes.

21 Q. Are you currently on pretrial release?

22 A. Yes, I am.

23 Q. And when were you placed on pretrial release?

24 A. The date of July 21st, 2006.

25 Q. Okay. Now, while you're on pretrial release there

1 are certain conditions or restrictions you must follow,  
2 correct?

3 A. Yeah.

4 Q. If you would, tell the jury what some of these  
5 restrictions are?

6 A. I'm on electronic monitoring.

7 Q. What does that mean?

8 A. It means I have an ankle bracelet. I'm supposed to  
9 stay in my home most of the time unless I'm approved to leave  
10 by my supervision officer. I'm required to drug test randomly.

11 Q. Are you allowed to have any drugs or alcohol at all?

12 A. Not at all.

13 Q. And when you drug test, do you meet with anyone after  
14 that?

15 A. Sometimes I do.

16 Q. And who would that be?

17 A. Either my pretrial officer or my supervision officer.

18 Q. What are some other restrictions?

19 A. I'm not allowed to have any contact with my  
20 co-defendants or anybody associated with the ELF. I'm allowed  
21 to work 50 hours a week. I'm not allowed to use the Internet,  
22 but I am allowed to have a computer.

23 Q. Was that a change in your restrictions?

24 A. Yes, it was.

25 Q. We'll discuss that a little bit later. Do you meet



1 with anybody else as part of your pretrial release?

2 A. I meet with T.C. Prichett. He is a family friend.  
3 He is also my third-party custodian.

4 Q. What do you do when you meet with Mr. Prichett?

5 A. Usually go out for lunch or go out for dinner. Do  
6 anything else I need to get done. If I need to get books or  
7 clothes.

8 Q. Is he someone you can talk to?

9 A. Yes.

10 Q. And if you are having troubling, could you also talk  
11 to your pretrial release officer?

12 A. Yes.

13 Q. And are you allowed to break the law at all while you  
14 are on pretrial release?

15 A. Not at all.

16 Q. Have you ever failed a drug test while on pretrial  
17 release?

18 A. No.

19 Q. Have you ever violated any of your conditions while  
20 on pretrial release?

21 A. No.

22 Q. You mentioned before that you now have a computer but  
23 you don't have Internet access?

24 A. Yes.

25 Q. Would you tell the jury why you have a computer?

1 A. I have a computer right now just to write a book that  
2 I'm working on.

3 Q. And what's the book about?

4 A. It's basically an account of my experiences while  
5 traveling.

6 Q. Have you finished the book?

7 A. No. I've only got about 40 pages into it.

8 Q. Now, while you're here in Sacramento, are your  
9 pretrial restrictions still in place?

10 A. Yes, they are.

11 Q. And what do you have to do?

12 A. I have to call my pretrial officer in Sacramento,  
13 Sandy Hall, every time I leave my hotel.

14 Q. Okay. And when you leave your hotel, what are those  
15 reasons for?

16 A. Only for food, to go out to eat, or to come here to  
17 meet with my attorney.

18 Q. Now, have you had much contact with Sandy Hall during  
19 the time that you've been here?

20 A. I've called her every time I left the hotel.

21 Q. Now, while you've been on pretrial release, have you  
22 seen Eric McDavid?

23 A. Not at all.

24 Q. Lauren Weiner?

25 A. Nope.

1 Q. What about Anna?

2 A. I saw her once.

3 Q. Okay. And would you describe that?

4 A. I got to the courthouse a little early for a meeting,  
5 saw her crossing the street. She walked by me.

6 Q. Okay. How did you feel when you saw Anna?

7 A. Just looked at her. Thought it was kind of awkward.

8 Q. Did you have any harsh feelings towards her?

9 A. No.

10 Q. Other than working, what have you been doing during  
11 your pretrial release?

12 A. Pretty much just been reading, learning a lot.

13 Q. What are you reading?

14 A. I've been reading some books about quantum physics,  
15 how it relates to spirituality, especially Eastern  
16 Spirituality.

17 Q. Have you learned anything about yourself while you've  
18 been on pretrial release?

19 MR. REICHEL: Objection, Your Honor, as to relevance.

20 THE COURT: Overruled.

21 THE WITNESS: I have leaned a bit about myself.

22 Basically learned that anarchist politics aren't really for me  
23 anymore.

24 Q. BY MS. ENDRIZZI: Why is that?

25 A. Anarchist politics kind of pales in comparison when

1 -- pales in -- sorry -- pales in compare -- wow, I have to have  
2 a drink of water.

3 It sort of pales in comparison to the higher meanings  
4 of life, especially experiences of life, exploring the essence  
5 of the spirit, and just loving other people.

6 Q. Do you consider yourself an anarchist now?

7 A. No.

8 Q. Did you consider yourself an anarchist during the  
9 time period of 2004 to early 2006?

10 A. Yes.

11 Q. And would you describe for the jury what it meant for  
12 you to be an anarchist, what are some of the policies that you  
13 followed or --

14 A. Being an anarchist basically means that you see the  
15 Government as exploitative, usually against capitalism, usually  
16 against authoritarianism, and it seeks to replace the current  
17 Government with a non-hierarchal society.

18 Q. So if you were an anarchist, you wouldn't expect the  
19 anarchist movement to have a leadership chain?

20 A. Not necessarily, no.

21 Q. Okay. Now, as part of your anarchist lifestyle and  
22 not being a part of the capitalist movement, how did you get  
23 around the country?

24 A. Hitch-hiked and train-hopped.

25 Q. And how did you eat?

1 A. Shoplifted, dumpster dive for food, sometimes  
2 panhandled for some money.

3 Q. Why didn't you just go to a store and buy food?

4 A. I didn't usually have money.

5 Q. And would it have been against kind of an anarchist  
6 theory to go in and support such stores?

7 A. I suppose so, yes.

8 Q. I'd like to turn to your plea agreement.

9 On July 18th, 2006, did you enter a plea of guilty to  
10 general conspiracy?

11 A. Yes.

12 Q. Okay. Now, what were you originally charged with?

13 A. Originally charged with conspiracy to commit arson.

14 Q. Okay. Now, when you plead guilty, what did you have  
15 to admit to Judge England?

16 A. I did have to admit my guilt.

17 Q. Okay. And specifically?

18 A. That I -- that we did conspire to set fire to  
19 Government building or property.

20 Q. Right. And did you name any targets in your plea  
21 agreement?

22 A. There was the Institute of Forest Genetics, cell  
23 phone towers, Nimbus Dam and possibly the fish hatchery nearby.

24 Q. Okay. And when you entered your plea of guilty, were  
25 you telling the truth?

1 A. Yes.

2 Q. And as part of your guilty plea, did you agree to  
3 cooperate with the United States?

4 A. Yes.

5 Q. And what's your understanding about what was required  
6 under that cooperation agreement?

7 A. I was required to tell the truth whenever I was posed  
8 a question. I was required to attend all meetings when I was  
9 required to. And I was also required to not commit a crime  
10 while cooperating.

11 Q. What about testifying here today?

12 A. Still required to tell the truth.

13 Q. Right. And testify?

14 A. Uh-huh. Yes.

15 Q. Now, what happens if you don't tell the truth?

16 A. If I don't tell the truth, my original charges can be  
17 reinstated. I can be charged with either obstruction of  
18 justice or perjury and also be charged with -- or I can also be  
19 charged according to any information I've given to the  
20 Government so far.

21 Q. So if you've given any information to the United  
22 States, can they use that against you?

23 A. Yes, they can.

24 Q. Now, who is going to sentence you once the trial is  
25 over?

1 A. Judge England.

2 Q. Is that Judge England?

3 A. Yes, it is.

4 Q. Can the Government make a recommendation about your  
5 sentence?

6 A. No. They can afterwards, as far as I know.

7 Q. Okay. Let me ask it again. Judge England is going  
8 to sentence you. Can the Government make a recommendation  
9 about what that sentence should be?

10 A. They can.

11 Q. Does the Court have to follow that recommendation?

12 A. No.

13 Q. Does the Government have to make a recommendation  
14 that you get a lower sentence because you cooperated?

15 A. No.

16 Q. But are you hoping that the Government will make such  
17 a recommendation?

18 A. Yes.

19 Q. Now, let's talk about your preparation for testimony.  
20 Have you ever testified before?

21 A. Nope.

22 Q. Are you a little nervous?

23 A. A little.

24 Q. Did you meet with anyone in preparation for your  
25 testimony today?

1 A. Not today, no.

2 Q. Okay. Over the course, prior to trial, did you meet  
3 with anybody to prepare for testimony?

4 A. Yes, I did.

5 Q. Who did you meet with?

6 A. I met with you.

7 Q. And?

8 A. And my attorney and my investigator.

9 Q. Okay. Were we all present at the same time?

10 A. Yes.

11 Q. And about how many times did we meet?

12 A. I'd say about four times.

13 Q. Okay. And how long were those meetings?

14 A. Three hours, about, maybe more.

15 Q. Okay. And what did we talk about during those  
16 meetings?

17 A. Usually went over the details of the case.

18 Q. The facts of the case?

19 A. Yes. The facts of case.

20 Q. Did you get particular questions you were going to be  
21 asked today?

22 A. No.

23 Q. What other topics did we talk about?

24 A. We went over my plea agreement. We went over the  
25 conditions of my pretrial release. And also remember going



1 over the details about me.

2 Q. Okay. Did you read or listen to anything to prepare  
3 for your testimony today?

4 A. Not today, no.

5 Q. Okay. Prior to today? I'm sorry.

6 A. Yes.

7 Q. That's a poorly-worded question.

8 For your testimony today, did you at any time read or  
9 listen to anything in order to prepare for this testimony?

10 A. Yes, I did.

11 Q. What did you read and/or listen to?

12 A. I listened to some excerpts from the audio clips, and  
13 I read over some transcripts. I read over my 302 report and  
14 read over my plea agreement.

15 Q. Okay. And what did you have to do specifically with  
16 your plea agreement?

17 A. I had to highlight the parts that I thought were  
18 important to me.

19 Q. With a highlighter?

20 A. Yes.

21 Q. What's the number one rule about testifying?

22 A. Always tell the truth.

23 Q. And what is the only way you can get in more trouble  
24 when testifying?

25 A. If I tell a lie.

1 Q. Okay. Now, during the period from Summer 2004  
2 through your arrest on January 13, 2006, did you smoke  
3 marijuana regularly?

4 A. Yes, I did.

5 Q. And what about the Summer of 2004, was it regularly  
6 or not as often?

7 A. Somewhere between not as often and regularly, I would  
8 say.

9 Q. And during the period of September 2004 through  
10 May 2005, were you living in Seattle, Washington?

11 A. Yes.

12 Q. How often did you smoke marijuana during that time  
13 period?

14 A. Quite regularly.

15 Q. Which would mean?

16 A. At least once a day.

17 Q. After May 2005 were you smoking the same amount?

18 A. No. I cut back a little bit.

19 Q. Okay. How would you categorize how much you smoked?

20 A. Once or twice a week.

21 Q. Okay. During that period are you also going to  
22 protests and events around the country?

23 A. Yes.

24 Q. Would you smoke more or less when you were at those  
25 events?

1 A. Usually smoked less.

2 Q. Was there a point when you tried to quit smoking  
3 marijuana?

4 A. There was a couple in there, yes.

5 Q. What was the most recent time?

6 A. January 12th, 2006.

7 Q. Okay. What day was that?

8 A. The day before I got arrested.

9 Q. Okay. Why did you want to quit smoking on that day  
10 on January 12th, 2006?

11 A. I felt that my senses were a little bit clouded. I  
12 just wanted to clear my mind a little bit, think a little bit  
13 clearer, felt a little unsociable around my friends, so I  
14 wanted to be more talkative around them.

15 Q. Now, you said you wanted to be a little clearheaded.  
16 What was going on in the cabin on January 12th, 2006?

17 A. We were talking about setting fire to a building.

18 Q. And what was going on in terms of creating any  
19 explosives?

20 A. We were also talking about creating explosives, yes.

21 Q. Were you just talking about it on January 12th?

22 A. We were also trying to put one together.

23 Q. How was that?

24 A. We had a glass bowl on a hot plate, and we were  
25 trying to boil it.

1 Q. And what happened to that bowl?

2 A. The bowl broke.

3 Q. During the week that you spent in Dutch Flat, did you  
4 smoke any marijuana?

5 A. I did not. I did have a pot brownie, though.

6 Q. And did anyone buy marijuana during the week that you  
7 were in Dutch Flat?

8 A. Yes.

9 Q. Who was that?

10 A. It was Lauren.

11 Q. And where did she buy her marijuana?

12 A. She bought it in San Francisco.

13 Q. Do you have any more specific information?

14 A. She bought it from a friend of mine who happened to  
15 have a cannabis club card, so she asked him to buy it for her.

16 Q. Did you buy marijuana during the week while you were  
17 in Dutch Flat?

18 A. No.

19 Q. I would like to turn your attention to June 2004.  
20 Did you go to a protest at that time?

21 A. Yes, I did.

22 Q. And what protest was that?

23 A. It was a protest against the G8 Summit.

24 Q. And, approximately, how many people were at that  
25 protest?

1 A. Somewhere around 300.

2 Q. To your knowledge, was Eric McDavid at the G8  
3 protest?

4 A. No, he wasn't.

5 Q. Was Anna at the G8 protest?

6 A. Yes, she was.

7 Q. Had you met Anna before that protest?

8 A. No.

9 Q. Would you just describe how you met Anna while at the  
10 G8 protest?

11 A. I just ran into her a couple of times, asked her for  
12 a cigarette once. Didn't really talk to her that much.

13 Q. Did she follow you at all?

14 A. No.

15 Q. Now, I would like to turn your attention to August  
16 2004. And was there a CrimethInc convergence held in Des  
17 Moines, Iowa, during that month?

18 A. Yes, there was.

19 Q. Did you attend the CrimethInc convergence?

20 A. Yes.

21 Q. Approximately how many people attended that  
22 convergence?

23 A. Somewhere around 40.

24 Q. How was that convergence set up? Was it all at one  
25 campsite, or was it split up?

1 A. It was mainly at a campsite outside of town, but  
2 there was some people in town at a house where some of the  
3 organizers lived.

4 Q. I'm going to ask you to keep your voice up. Okay?  
5 Approximately how many people were staying at that  
6 house?

7 A. About 15.

8 Q. Okay. Was Eric McDavid at the Iowa convergence?

9 A. Yes, he was.

10 Q. And was that the first time you met Eric McDavid?

11 A. Yes.

12 Q. Describe how you met him?

13 A. Just ran into him one day, just having a cup of  
14 coffee, came up to me said hi.

15 Q. Was he there with anyone else?

16 A. He came there to meet his friend, Fritz.

17 Q. Now, while you were at the Iowa convergence, did you  
18 and Eric McDavid immediately hit it off and become friends?

19 A. Not immediately.

20 Q. How would you describe it?

21 A. We were just sort of on the acquaintance level, just  
22 sort of getting to know each other, bumped into each other a  
23 few times, hung out a little bit, not much.

24 Q. How would you describe his personality while at the  
25 Iowa convergence?

1 A. He was pretty friendly. He had a good energy. You  
2 could go up and talk to him.

3 I would have to say he was kind of charismatic, you  
4 know, just magnetic. You'd gravitate towards him.

5 Q. Is that how you felt?

6 A. Yeah.

7 Q. Was Anna at the convergence?

8 A. Yes, she was.

9 Q. Was she there with anyone?

10 A. No. She wasn't there with anyone.

11 Q. Now, where did you see Anna?

12 A. I saw her at the house in town.

13 Q. How did you feel when you saw her?

14 A. Surprised.

15 Q. Why is that?

16 A. Didn't expect her to be there.

17 Q. Okay. And when you did see her, were you pleased to  
18 see her, were you upset to see her?

19 A. I was excited to see her.

20 Q. And why was that?

21 A. I recognized someone I knew from a protest in the  
22 past.

23 Q. Did you stay at the house in Iowa?

24 A. Most of the time, yeah.

25 Q. Did Anna?

1 A. Yes.

2 Q. Did Eric McDavid stay at the house in Iowa?

3 A. Yes.

4 Q. Was Jenny Esquevel at the Des Moines convergence as  
5 well?

6 A. She was.

7 Q. Do you have an understanding of who Jenny Esquevel  
8 is?

9 A. Yes.

10 Q. Would you please identify her or describe her?

11 A. At the time, she had short, pink hair.

12 Q. Okay. Poor question. Who is Jenny Esquevel in  
13 relation to Eric McDavid?

14 A. I know her to be his girlfriend.

15 Q. Currently or then?

16 A. Currently.

17 Q. Now, to your knowledge, did Esquevel stay in touch  
18 with McDavid from 2004 to the present?

19 MR. REICHEL: Objection, Your Honor. Foundation.

20 THE COURT: Sustained.

21 Q. BY MS. ENDRIZZI: Jenny Esquevel was at the Iowa  
22 convergence in 2004, correct?

23 MR. REICHEL: Objection. It's a leading question,  
24 Your Honor

25 THE COURT: Sustained.



1 Q. BY MS. ENDRIZZI: Was Jenny Esquevel at the Iowa  
2 convergence?

3 MR. REICHEL: Asked and answered, Your Honor.

4 THE COURT: Overruled.

5 Q. BY MS. ENDRIZZI: Was Jenny Esquevel --

6 A. Yes, she was.

7 Q. To your understanding, to your knowledge, did Eric  
8 McDavid see Jenny Esquevel between the Iowa convergence and his  
9 arrest in January of 2006?

10 A. Yes, he did.

11 Q. Where were some of the places that he saw her?

12 A. I've heard at his own house, in San Francisco, in  
13 Springfield, Missouri, where she lived.

14 Q. Do you have an understanding of where she is living  
15 now?

16 A. I believe she's living with Eric McDavid's parents.

17 Q. Now, did Jenny Esquevel have Eric McDavid's cell  
18 phone number?

19 A. I'm sorry. Could you repeat the question?

20 MR. REICHEL: Objection, Your Honor, as to  
21 speculation as to Jenny Esquevel.

22 THE COURT: First of all, he didn't hear the  
23 question, nor did I. Objection overruled. Please reask the  
24 question.

25 Q. BY MS. ENDRIZZI: Did Jenny Esquevel have a means of

1 contacting Eric McDavid by phone?

2 MR. REICHEL: Objection, Your Honor.

3 THE COURT: Overruled.

4 THE WITNESS: Yes, she did.

5 Q. BY MS. ENDRIZZI: Okay. Did you have that same way  
6 of contacting Eric McDavid?

7 A. No.

8 Q. I would like to turn your attention to the Republican  
9 National Convention held in August 2004. How did you get to  
10 New York for the RNC?

11 A. I caught a ride with some of the kids from Des  
12 Moines, Iowa at the CrimethInc convergence.

13 Q. Was Eric McDavid in that group?

14 A. Yes.

15 Q. Where did you stay when you were in New York for the  
16 RNC?

17 A. Stayed at a church in the area of Dobbs Ferry.

18 Q. Now, is Dobbs Ferry in Manhattan?

19 A. No, it's not.

20 Q. So how did you get back and forth to the city?

21 A. We drove.

22 Q. With whom?

23 A. Jenny Esquevel.

24 Q. Okay. She had a car?

25 A. Yes, she did.

1 Q. Okay. What was your relationship like at that time  
2 with Eric McDavid?

3 A. It was just starting to get to the friendship level,  
4 starting to hang out more.

5 Q. How often were you hanging out?

6 A. It was pretty much every day.

7 Q. Okay. Did Anna attend the RNC?

8 A. She got there eventually.

9 Q. What do you mean eventually?

10 A. She got there about halfway through it.

11 Q. At the church in Dobbs Ferry was there a discussion  
12 about protest tactics?

13 A. Yes, there was.

14 Q. And during that discussion did someone mention  
15 Molotov Cocktails?

16 A. Yes.

17 Q. Do you know who mentioned Molotov Cocktails?

18 A. I don't remember exactly who.

19 Q. Okay. Could it have been you?

20 A. It could have been me.

21 Q. Could it have been Eric McDavid?

22 A. It could have been him, too.

23 MR. REICHEL: Objection, Your Honor. I would ask it  
24 be stricken.

25 THE COURT: Sustained.

1 MR. REICHEL: Both answers be stricken.

2 THE COURT: "It could be" doesn't tell me anything.

3 The actual responses were, "it could have been me, it  
4 could have been him, too" are stricken.

5 MR. REICHEL: Part of that he said, I don't recall.

6 THE COURT: I'm sorry?

7 MR. REICHEL: Prior to that he said he didn't recall.

8 THE COURT: Correct. And I didn't strike that.

9 MR. REICHEL: Okay.

10 MS. ENDRIZZI: Your Honor, this is probably a good  
11 time to stop before getting into a long segment.

12 THE COURT: All right. That's fine. Thank you for  
13 letting me know. All right.

14 We'll take our adjournment about five minutes early  
15 today, return tomorrow morning at 9:00 a.m.

16 Are there any matters that I need to address  
17 concerning timing or anything else with the jury?

18 If not, please remember your admonitions regarding  
19 discussing the case and forming opinions. Thank you very much.  
20 You are excused. And court is adjourned.

21 (Jury out.)

22 THE COURT: All right. We're outside the presence of  
23 the jury. Anything on the record now, counsel?

24 MR. REICHEL: No.

25 THE COURT: Thank you.

1           MR. LAPHAM: Except, Your Honor, that we expect to  
2 conclude our case tomorrow.

3           THE COURT: Excuse me. Thank you. Tomorrow morning  
4 or afternoon, do you think?

5           MS. ENDRIZZI: Most likely afternoon. We have to  
6 finish with Zachary Jenson, and then there is one more witness  
7 that I would anticipate taking at max half an hour with myself.

8           MR. REICHEL: What witness is it?

9           MS. ENDRIZZI: Randy Meyer from the IFG.

10          MR. REICHEL: Okay.

11          MS. ENDRIZZI: So depending how long the cross goes  
12 tomorrow, Zachary Jenson could be done by noon, or I would say  
13 maybe by 2:00 latest.

14          THE COURT: Okay. Both or just Jenson?

15          MS. ENDRIZZI: Both.

16          MR. REICHEL: We'll have some argument, Your Honor,  
17 I'm sure. There would be probably three defense witnesses  
18 tomorrow.

19          THE COURT: And that takes us through Tuesday. How  
20 are we looking on Wednesday?

21          MR. REICHEL: We may have one more at that point. It  
22 depends. Mr. Lapham, I think, will probably agree about  
23 something. I was going to call back Anna just to introduce  
24 some exhibits, but I think we will be able to agree on them.

25          THE COURT: If you can, that would be better, so that

1 we can possibly get instructions in on Wednesday and possibly  
2 close on Wednesday, and let them start deliberating Thursday as  
3 opposed to waiting.

4 And I don't want -- if I can avoid this, so that you  
5 plan yourselves accordingly, not to have a gap between the  
6 evidence and the instructions and the argument. I will do  
7 everything I can to make sure we don't do that. So let's keep  
8 track of that, and I will stay on you with that tomorrow.  
9 Okay.

10 MS. ENDRIZZI: Thank you, Your Honor.

11 THE COURT: Thank you.

12 (Court adjourned.)

13  
14 CERTIFICATION

15  
16 I, Diane J. Shepard, certify that the foregoing is a  
17 correct transcript from the record of proceedings in the  
18 above-entitled matter.

19  
20  
21 /S/ DIANE J. SHEPARD  
22 DIANE J. SHEPARD, CSR #6331, RPR  
23 Official Court Reporter  
24 United States District Court  
25