

Unabomber Investigation and Trial

C-SPAN

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Contents

C-SPAN Transcript	4
Introduction	4
Terry Turchie	6
Gary Wright	9
Terry Turchie Followup	10
Steven Lapham	15
Quin Denvir	19
Final Thoughts	31
Automatic Transcript	35
Introduction	35

Synopsis

The prosecutor and lead defense attorney in the trial of the Unabomber, Ted Kaczynski, talked about the case. Ted Kaczynski pled guilty to killing 3 people and injuring 23 others with home-made bombs between 1978 and 1995.

People in this video

William Shubb

Chief Judge

U.S. District Court -> Eastern District of California

Terry Turchie

Agent (Former)

Federal Bureau of Investigation

Gary Wright

Survivor

Steven Lapham

Judge

Sacramento County, Ca -> Superior Court

Quin Denvir

Attorney

Hosting organization

- Federal Bar Association Sacramento
- Historical Society for the United States District Court for the Eastern District of California

C-SPAN Transcript

Transcript taken from “closed captioning performed by the national captioning institute which is responsible for its caption content and accuracy.” Plus improved by comparing with the automatic transcript which can be found at the end. There are some sentences missing and other errors, but this is the best version for marking speakers names and accurate sentence spacing.

Introduction

Text on Screen: Tonight [on] C-SPAN

NEXT 9:55pm	The Case Against the Unabomber Impact of Legalized Marijuana
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The Unabomber Investigation & Trial
Eastern District of California
Historical Society – Sacramento

C-Span Voice-over: Known as the Unabomber, after that, a Colorado panel looks at the law that legalized recreational marijuana use. Ted Kaczynski, known as the Unabomber, pled guilty to killing three people and injuring 23 others with homemade bombs between 1978 and 1995. Live in November, the prosecutor and lead defense attorney discussed the case. They were joined by the head of the FBI’s Unabomb Task Force and one of the Unabombers victims from the US District Courthouse in Sacramento, CA, where the court proceedings took place. This is an hour and 50 minutes.

William Shubb: It was in May of 1978, when a professor at the University of Illinois in Chicago found a mysterious package in the parking lot. When a campus policeman attempted to open the package, it exploded injuring the officer. This was just the first of 16 bombs delivered over a span of the next 17 years to individuals in various locations across the United States. All but two of them caused serious injuries. Three resulted in death. Law enforcement shortly came to the conclusion that the bombs were all being sent by the same person, whom they doubt the Unabomber. Understandably, the public was struck with fear, not knowing when or where the Unabomber which strike next.

The investigation came to a head in 1995 when the Unabomber sent a 35,000 word essay to the New York times, the New York post, penthouse magazine, and other publications. It contains his so-called manifesto. It offered to cease the bombings if they would publish it. With the approval of law enforcement, the times and the post published the manifesto. When David Kaczynski read the contents of it, he began to think the unthinkable. That it was written by his brother, ted. Working with the information provided by David Kaczynski, law enforcement was able to obtain a search warrant for a cabin occupied by ted Kaczynski and an area near Lincoln, Montana. With what they found in that search, law enforcement had enough to arrest Ted Kaczynski, and the decision was made by the United States department of justice to bring the prosecution here in the eastern district of California. The decision was also made to ask for the death penalty.

The defendant was indicted in April of 1996, and the trial began in the courtroom of the United States District in 1997, with Judge Garland E Burrell Junior presiding. After a lengthy jury process in January 1998, the defendant simply – suddenly agreed to plead guilty in exchange for a sentence of life in prison without parole.

In our panel discussion this evening, we hope to discuss among other things how the FBI managed the investigation of such series crimes, expanding over such a lengthy. Of time and such a vast geographical area. We were also discussed the effect that those crimes had on their victims. One of particular. We will talk about why and how the decision was made to allow the publication of the Unabomber's manifesto. We also hope to discuss what was involved in seeking and obtaining a search warrant. And, how the decision was made to bring the prosecution here in the eastern district of California. We hope to learn about the prosecution strategy, including a decision to seek the death penalty. We were also in the defense strategy. Finally, how the agreement was ultimately reached to the defendant to plead guilty in exchange for a life sentence.

We have a distinguished panel with us this evening to discuss the subject. Therefore resumes are found in your program.

First to my immediate left, Terry Turchie was a special agent for the FBI for 35 years. Between 1994-19 98, he was the assistant special agent in charge of the UNABOM task force. He is co-author of four books, one of them is entitled, hunting the American terrorist, the FBI's war on homegrown terror. The most recent one, which has the most relevance to this discussion, is entitled, Unabomber, how the FBI broke its own rules to capture the terrorist ted Kaczynski.

Our next panelist, to his left, is Gary wright. He was a computer store operator in Salt Lake City and was the victim, he prefers to say survivor, of the Unabomber's 12th bomb attack on February 20, 1987. He has since developed a friendship with the defendant's brother, David Kaczynski.

To his left, Judge Robert Stephen. Lapham is a California Superior Court Judge presently presiding over juvenile court proceedings in Sacramento. He was an assistant United States attorney for the Eastern District of California, handling several high-

profile cases between 1984-2013. He was a member of the prosecution team in the Kaczynski case.

Finally, to his left, Quin Denvir is a Sacramento attorney who served as the California State public defender from 1977-1984, and at the time of the Unabomber trial, he was the federal defender for this district. He was lead counsel on ted Kaczynski's defense team.

I would be remiss if I did not introduce one other individual who is present, but not on the panel, the judge who presided over the Kaczynski proceedings, Judge Garland Burrell, Junior.

Now to get off the discussion, Terry, why don't you tell us how you got involved in the Unabomber investigation and how that came about?

Terry Turchie

Terry Turchie: Sure, like most FBI agents, for us, it was kind of a reluctant involvement. For myself, on April 1, 1994, at about 12:35 P.M., I could probably give you the seconds, down in the Palo Alto resident agency, where I was a very, very, happy Judge, working national security cases.

I received a call from our Assistant Special Agent at the time of counterintelligence at... Well, and he said, Terry, I... He said that he just got off the phone with Jim Freeman, he was our special agent in charge at the time, and here is what I have to ask you; 'how would you like to come up to San Francisco and take over the UNABOM task force?' Which had been established a year earlier, after the 1993 simultaneous bombings, both of those were mailed from here in Sacramento to different parts of the country.

I smiled to myself and said, that's a nice offer, ed, I'm good here. I love palo alto. I love being around Stanford, so I'm good. Thank you. There is a pause and he said it was not a multiple-choice question. [applause] I would like you to consider coming up here as soon as you can. I said, ok, how about one month. That will give me time to wrap up everything here and we can find a new active supervisor and I will head of December cisco. He said, how about in a couple of hours. Most of us because of the length of the case, and I will use the words sheer hopelessness, that's how we thought about it, we all try to avoid that corridor that house the UNABOM task force. That's how I got started.

William Shubb: The investigation has been going on for a number of years. Can you summarize what the FBI had learned before you got involved?

Terry Turchie: The investigation had gone since May, 1978, and even though they were, up to this time, 14 bombings, there would be two more bombings while we were assembled. We did not know a lot, but we knew certain factual details where we had questions, but we had no answers. In looking back, particularly at the first three crimes,

they became very important to us as we try to look at a new way to put this case together. The first bombing, one that happened in May, 1978, the main question was this, there was a package found at the university of Illinois campus in the scientific and technology building parking lot. It had \$10 and I'm canceled stamps. Somebody went to pick it up and eventually got it to the police and was harmlessly exploded, but we were never able to answer the question as to why we had a package with the return address of northwestern university in Chicago and \$10 and I'm canceled stamps. Why wasn't this package mailed question -? Great in May, 1979, another bomb was found, only this was found inside northwestern university. That struck us is very interesting because the first one we had with the turn - return address with northwestern, and now we had a bomb at northwestern. So, we thought a lot about that and we tried to look at what possibly could be a connection between the two bombs. Then the bombing in November, 1979, which got everyone's attention. A bomb was laced on American airlines flight 444, headed out of Chicago O'Hare Airport, headed for Washington National. There was a bomb placed on the plane via the mail that had been ill with a barometer and fashioned as an altimeter. It was under a lot of luggage, and it was set to go off at a certain altitude, and when it did go off because it was under a lot of cargo and luggage in the cargo hold, it started a fire than rather explode as it was supposed to. But by the time this plane did an emergency landing at Dulles Airport and the pilots were able to get down and take a look at the damage when the fire was out, they were prepared to say that years later had this fire burned just a couple more inches closer to the main hydraulic line, this plane would have crashed and there would've been nothing we could have done to stop it. So, at that point, the FBI expert looked at this bomb and the parts and thought that it's very strange that we have not seen any other bombs built by someone who would do this. He sent out a bulletin and an alert to all kinds of agencies. He got a call from the ATF. They reference the first two bombings in 1978 and 1979, brought all this together, and then we realized in November of 1979 that we now have a serial bombing case.

William Shubb: How did the name Unabomber get point?

Terry Turchie: The first two bombings were involved at universities, northwestern university and rpi. The first bomb with a return address of northwestern. The second bomb in the graduate student room in May, 93 night at northwestern gave us universities as targets. At the time this bomb was placed on the American airlines flight, we have universities and airlines. So, this became - the FBI are asked to attach fancy names to its cases, and they certainly did. University and airlines bombings, Unabomber.

William Shubb: We have a chart of the bombings. What was the sequence of events after the first three?

Terry Turchie: After the first three bombings, we would eventually have 13 more bombings, for a total of 16. In 1980, the airline aspect of this got another boost. Percy Wood, the president of United Airlines in his Lake Forest, Illinois home, received a package in the mail. A week before he received the package, he received a letter, and the letter

was written to him by someone named who signed the letter. He said, you are going to be getting a package from you, a present. You don't know me, but anybody like you, president of united airlines, who makes decisions affecting the public welfare needs to read the book that I'm sending you. The book turned out to be a novel that was written at the time, even the author really did not have social significance, so I don't know whether talking about. I just came up with a one-day. Percy would receive that package the next week. When he went open it, the book had been carved out and it was a bomb built into the book. He suffered significant injuries when he opened this book in his house. That was the fourth event. All of those had the nexus to Chicago. Then, no more nexus to Chicago, we are done with Chicago.

And by 1981 we move on to Salt Lake City. In 1981, a bomb was left in a hallway at the University of Utah business building. It exploded in the bathroom harmlessly because somebody had noticed it and the police to get in there. They detonated. – detonated it. A few months later, we had another bombing. This bomb was mailed from Brigham young university and ended up with a professor at Vanderbilt university Tennessee. The next bomb in 1982 was at Berkeley. That became a very important bombing. The victim, the person who fortunately was able to survive his injuries, had gone into another regiment student room on the fourth floor of the university of California at Berkeley and Corey Hall worried when you go and does it that and look at that area, you realize that someone who came up and had the presence of mind and was not anxious about coming to this location on the fourth floor to leave this on here, very similar to what happened in northwestern with bombing number two. They really made a start to think about that. Then, no more bombs between 1982-1985. We then started calling 1985 the year of the Unabomber. There were four bombs in 1985. One was a going corporation, addressed to the Boeing Fabrication Division in Seattle, Washington. All of the evidence from that bombing was gone, never to be seen again because it was detonated harmlessly in a kind of tar pit up there. We could never get anything back from that bombing. After that, another bomb at Corey Hall at the university of California Berkeley, this time as you walk off the street onto the street level and go down a very narrow corridor that was occupied by graduate students. Again, just like the bombing in 1979 at North-Western. By the fall of 1979, we had a bomb going to Professor James McConnell. Finally, in December of 19 85 – 1985, Unabomber had his first success with one of his bombs. That was right here in Sacramento, California, how here at the old century plaza strip mall, a place called red tech computer store. A gentleman there named Hugh Scotten, who was the owner of that store came out from the door into the back parking lot one-day around noon and he saw on the ground lying by a cart what appeared to be a road hazard. In his mind, it was kind of a combination of Douglas Fir and Redwood two by fours nailed together. There was nails protruding. Unbeknownst to him, inside these pieces of wood, the bomber had carved into the insides and built a bomb. When he went over to move this so it wouldn't cause problems for any harmless passerby, as soon as he reached

over to break the contact between that the device and the ground, it was a passive device and it exploded and it killed Mr. Scruton almost instantly on that morning.

Gary Wright

William Shubb: The next bomb was in Salt Lake City, and that involved our next panels, Gary Wright. Why don't you tell us what happened.

Gary Wright: Sure. Similar to what Terry was saying with the structure of the bombs in 1987, I owned a computer company in Salt Lake City. My family worked there with me. I had been out on calls working from route 6:00 in the morning and got back to the old is around 10:30 am And pulled in the rear parking lot of our building at that time. As I pulled into the parking lot, I looked down and next to my secretary's car, so I pulled in next to her's. There was a piece of wood that was similar to what you say, but different. It was two 'two by fours' put together and had four nails sticking out of it. Those four nails have always stuck in my mind, because I can always remember one in particular that was on the right-hand corner. It was bent just a little bit. They were also the shiniest nails I had ever seen. They looked like chrome, something handmade. I walked out of my car and went over and said there is something I need to get out of the road. When I went over and went to pick it up, there was something really quiet wrong. There was an immediate feeling of huge pressure, and the sound of a jet fighter going over, a screaming sound, if you will. Instantly, I had moved a long way. I did not know how I got there. I realized that I was jumping up and down like was on a pogo stick. I was following for my family. Everybody worked for me. My mom, my dad, my brothers. They came out the back of the door. As I'm jumping around back there, the only way I can describe the next thing I would saw was like the matrix. Everything went into slow motion. You hear this at times. I continue it is true. I was looking at the power and the telephone lines that went into the building and they were moving in a slow wave. I was watching pieces of things drift down around me. There was a piece of red tape that was spinning around like confetti. I was thinking this is the weirdest thing I've ever seen. What happened. At that second, I really thought well, I'm not going to make it. I thought Cindy had come around the corner of the building and shot me with a shotgun for some reason. My family came out at that point and I could see my dad was trying to say something to me. I was reading his lips because it was like being underwater in the swimming pull. You kind of here, but not really here. He had been a state trooper in salt lake and had seen lots of things. I could tell he was pretty upset. I was thinking that my dad is upset, maybe this is bad. Slowly he and my brothers took me over and sat me on the edge of the tailgate of one of the trucks and sat there for a few minutes and I started to get shock coming at that point. While I was sitting there, I was just nicely with a dresser on, and I saw my pants were gone from the knees down. I had on a white dresser and there were these things I couldn't

figure out what they were in the beginning, they were just like threaded through my shirt like needles. I thought, what the heck. I kept trying to put my head down to look, but I was having trouble understanding what it was good when the bomb exploded, it was in situ before spending been hollowed out. It was all of the slivers. They had, been impaled themselves for the doctors later told me that you look like a porcupine. That is something where they say life changes in a minute, but it changes in a millisecond. You just never know. We walked into the building. I got really calm and took everything off, my hat, give it to my mom, and laid there. I guess I really realized it was pretty serious because the next thing I see coming to the back door was like 25 police officers, and the ambulance crew comes in there's five of them. I don't know how you fit five guys into an ambulance, but they were pretty successful and I thought well, this might be worse and I thought. I guess the real moral of the story is that it's not fun when they cut your clothes off and your mom is sitting there. [laughter] It is probably the most humbling thing you will run into. I was asking my mom to leave. This is not so good right now. Ultimately, that day, they took me up to the hospital and I waited about – I got there at 10:30 am At the hospital – and they started surgery at 6 pm, no painkillers at that point. Morphine is a pretty amazing thing. If you get hit, it really doesn't hurt. That was a good thing for me to know. I went through three surgeries. The first night they basically went in and found that I had severed a nerve in my left arm when the bomb exploded. When some of that metal came apart, it was actually liquefied , and when it went into my arm, cauterized the artery, so I didn't bleed. It just went in there. The metal was there. I was pretty lucky in that regard. That night they did a bunch of the face stuff to cut about 200 pieces of shrapnel from my legs and things like that. That was on a Friday, Friday the 20th of February. I went home Sunday. I decided to cover it home. Two weeks later, I went back into the hospital for another surgery to try to graph – graph the nerve on my left arm together. They had to take the funny bone out and move it to the top of my arm. I tell people now that there are things that don't work, but I'm probably the fastest typist you will note. I'm good with that. Finally, a surgery later had to transfer tendons and things in my hand, and it was really strange when the doctor got in here – there. I have three tendons of my thumb. It was funny, because I needed to graph one of them to my index figure. His little weird, strange – I don't know why those things happen – that's a morning that probably changes your family's life in ways you don't know.

Terry Turchie Followup

William Shubb: Terry, how much time passed between the bombing that killed Hugh Scrutton that you described and the bombing that Gary just described.

Terry Turchie: Well, we had six years go by.

William Shubb: Between the time of the bombing before his and gary's, six years in between those?

Terry Turchie: Run that I me again?

William Shubb: How much time between the bombing and the bombing that Gary just described.

Terry Turchie: We had about a year and a half.

William Shubb: How much time between the bombing very just described and the next bombing.

Terry Turchie: There we had six years, 1993.

William Shubb: Do have an idea why it was so much more time after this when the net was before?

Terry Turchie: The topic of why we had all this time was widely debated. When we finally have the right guy and found a number of Theodore Kaczynski's writings, we found that during that time he was actually experiment in to build smaller, more compact bombs, and more lethal bombs.

That's why when we start talking about the latter series of these bombings, instead of boxes and packages and two by fours, you literally had something the size of a videocassette that was placed in the mail to these future victims.

William Shubb: In other words, he had one work and the next one was a failure. He did not kill Gary.

Terry Turchie: That's right, that's right.

William Shubb: You have any idea why Gary was not killed in the bombing?

Terry Turchie: Gary and I talked about that. First of all, there's a lot of gratefulness that it didn't work out that way, but some of it is the way to carry approach that bomb. We feel that Mr. Stretton walked over to pick up would from your best vantage point, to pick it up coming to weight coming get it out of the way. Gary when he took that full blast of the explosion, when you walked up, you kind of had the as you told me, had the inclination to reach to the edge and moved it, and so, when you moved it slightly, exploded and the force went in a different direction.

William Shubb: The final two bombs did result in deaths, is that right?

Terry Turchie: They did. The last two bombs, 15 and 16.

Thomas Moser was an advertising executive in Caldwell, new jersey. He got one of those bombs in the mail. It was just a week or two before Christmas, and the kids, they had little kids running around the kitchen. They were getting ready to go to the Christmas tree. The mom called them at the last minute. Moser had been out of town, he had been over in London. The kids went off to get their pajamas on and get ready to go, and the was a lot of mail that had stacked up. He started going to the mail. The first thing he took was this package that had a San Francisco return address on it. His wife heard this terrible noise. By the time she got to the kitchen, there was smoke everywhere. This bomb was so powerful in this videocassette type of container that – and it had shrapnel, just as Gary's bomb did – when it went off, have those copper skillet hanging on a rack, and it actually went through – some of the shrapnel went through those thick skillet. That was the power of the blast. He was killed almost instantly. Finally, in April 24, 1995, again, right here in Sacramento at the California

for a streak, a bomb had been set in the mail addressed to the president of the CFA. He had left. He had been replaced by Mr. Gilbert Murray. Mr. Murray was going to take this package to him in northern California, but when he opened it to see what was in it since it was addressed to the CFA, the same kind of bomb, the same kind with all the power and the destructive power just had no chance as he was sitting at his desk and opened the package.

William Shubb: Can you talk a little bit about what the Unabomber was doing to avoid the text and? – to avoid detection?

Terry Turchie: I can. He was certainly too smart to leave a trail. We had no idea how smart he was. It turns out that Theodore Kaczynski was a genius. He went to a great deal of work and effort to make sure he did not leave a trail behind. Or example, all of these bombs, they were all handmade. Gary mentioned something shiny like a chrome mail. It was probably something that was fashioned from chrome. He would start with the bombs. He would build them all from scratch. Normally when we try to trace things back from a bomb scene forensically, we could not trace these things back to anything. He would take casings off of batteries so that you could not go back to the batch number and find out where battery was bought or something like that. It started with his bombs. He took sand paper and send it all of his devices carefully to make sure that when those bombs were placed in the mail, they did not had any of his finger prints on them. E-work loves when he was carefully putting his bombs together. In one instance, he actually went to the newsroom at the bus station in Montana. He got down on the floor and gathered here from the floor of the bathroom. He took that hair back and then he started putting it in between layers of tape on some of the future bombs he built. He would later write that he did this because if the FBI found hair at a crime scene, they would think that hair came from the person who built the bomb. Really it was something he found in the bathroom. When he would go buy things, like all pieces of pipe or anything he might use to create a bomb, he would disguise himself. In one instance, he talks about going to a junk store in salt lake city. He had stuck – stuffed his nose with content and he had trimmed his hair, died of black, and then he had on these really weird glasses that he it put on. He went in there and figured that if anybody sees me, they were not recognize me the way a look today. He did all these things in an effort to make sure he concealed his identity. And it helped him later if we started looking at him as a serious suspect.

William Shubb: There was a famous composite picture of the Unabomber that was circulated and everybody was familiar with that, how did that come about?

Terry Turchie: Well, Gary was part of a major turning point in what we call Unabomb history and that is on February 20th, 1987, you all saw the Unabomber, Tammy. Three who worked inside camps was literally looking out the window 4 feet from where he was kneeling on the ground to arm the bond that you would. Eventually come across. And she noticed right away something was wrong. And so she's calling your dad calling Mr. Wright, and she's watching all this. She's watching, literally, Theodore Kaczynski set this bomb in motion for when somebody walks along, and

then her attention is taken off of him and then he leaves. He walks around the corner of the building, he's gone and went almost immediately. You just happened to pull her in at that point, but she described him, and this was the first time we knew that the Unabomber could say for sure. It really appears to be Unabomber series, a male, because we kept getting that question. I mean, Are you sure it's a? Well, and you're sure it's one person and all these kinds of things, but she described me. Very, very well. And this becomes also one of the more embarrassing parts of this case for us. This of course happened in 1987, and she described this man perfectly and subsequently A composite was put together. And that composite was distributed between 1987 and the time of our task force in 1994. The tending was never happy with that. And so something dramatic had happened here in the Bay Area during that time frame. You're familiar with the case of Richard Allen Davis and the kidnapping and murder of Polly Klass. Well, if you've seen the picture of the actual photograph of Richard Allen Davis, and you've seen it this a composite put together by Jimmy Boylan, who was an artist. That is. After the fact, you see the similarity in these two, the composite and the photograph. So we started thinking as we were looking for different ideas and different things to apply to unabomb. Why did we go back and redo the composite? And why don't we use genie boiling? And so Max Noll, who was our one of our case agents and supervisors on Unabomb, actually got on the plane and flew out and met Tammy and her young daughter was there. and Jude Welling is going to sit down with Tammy and go through the painstaking detail. To putting together. This new composite that we ultimately distributed and Max likes to make sure people know that you think that an FBI agent doing something like this has has a really climate side do need Bryan and. And Tamar, Tamar fluid were in the other room doing the composite Max was trying to entertain the kids and watch multiple showings of The Lion King to keep them really busy. But it turned out that that composite, the Grand Fletcher, the angular sunglasses we brought. That out in 1990. Tour and we put it out with a message. By this time we were also telling the public they could unibot and think of four devices in night in the 1978 to 1980 period in the Chicago area. Then think of the middle of between 1981 and 1982 in Salt Lake City taking two bombings. Cory Hall and Berkeley and from about 82 on, think of the Nexus with the Bay Area and look at this composite. Those are the things we were dealing with as we were trying to bring the public into this big mystery and. We had one other small detail, the original composite because you. Can't everything and please everybody all the time, the original composite the artist mother got really mad that we pulled that and put out put out a new one. So we got a number of calls that she was very, very upset that and then very disappointed that we. Do that so. You never know what you're. Going to get on the next. Phone call, but those are some. Of the things that happened along the way.

William Shubb: The real break came when you received the manifesto, can you tell us about that?

Terry Turchie: We wanted the piece that would bring all this together and we would have pulled out most of our hair to do it. In fact, I think I did. And finally, the

Unabomber. After the murder of Mr. Murray, we also keep in mind. April 24th, 1995 just days earlier we'd had the bombing of the moral federal building. In Oklahoma, so all of this is on the news. And what do we get? We get letters flooding out from the Unabomber to the New York Times. All kinds of different places. The Washington Post and to us, indirectly, that the Unabomber group, which he called the terrorist organization. Is preparing A manifesto and they want that manifesto to be published and we'll eventually get a copy if we agree to their terms. And so the idea was that the New York Times would published the manifesto, possibly the Washington Post, but if they didn't. Published this manifesto that again, we hadn't seen yet in April of. In fact, we would end up seeing more bombings. And yet if they published it, the terrorist group FC would desist from any more bombings. So in September of 1995, we actually get two things happening. One is. The San Francisco Chronicle gets a letter one afternoon saying this is the terrorist capacity. I put a bomb on an airliner out of LAX. Of course, that's fun, will sell up and everybody's command post is lit up everywhere and we're trying to figure out how to deal with this the next day. The manifesto starts flooding into these various places. Seven people got copies of. And it was accompanied by a short letter that said, hey, just one last joke from the. Terrorist group FC. Here's the manifesto. And so once we got it and started reading it and we had our profiler, Catherine Puckett, really dive into this, it did two good things. Is it really for some of us seem to be the piece that can really bring this all together? For many people, they thought it might be a red herring. This has no relevance to this case at all. So we had to decide how we're going to deal with it and how we're going to fit it into this. But we also had to decide something else and we this became our biggest decision. What kind of recommendation are we going to make to the Attorney General, Janet Reno, and to the FBI Director, Louis Free, because essentially what we're doing here, no matter what we go, if we decide to recommend that you publish for that, the post and the times. Published the manifesto the big thing was, are we giving in to terrorism? Are we basically involved in extortion and transaction with the? And isn't it against U.S. government policy to negotiate with terrorists and to give into extortion? That was the big issue, that kind of permeated our entire thinking between the time we got the manifesto in September or in in April and the time that it was published in September.

William Shubb: And ultimately you decided that it would be published?

Terry Turchie: Yes, we did.

William Shubb: What conclusions went into that?

Terry Turchie: Well, we threw this around and we came to a conclusion and there were about six of us, Jim Freeman, the special agent in charge of the San Francisco Office Max Noel, who eventually would put together the arrest plan for the Unabomber, Cathy Puckett. I'd mentioned and myself and. we threw this around back and forth and went into another room and decided OK, our recommendation should be that we don't publish it and we don't recommend publication. So we took off to write up how we were going to write this and present it to the attorney general and at the adapter,

and we all started looking at each other we had. Tony Moyat in there with us, who is actually a Sacramento resident, U.S. Postal inspector, was on our task force. We all look at each other and it's like quiet and we decide we made the wrong decision in there with the special agent. So we had to go back in or I had to go back in and say I've got some news here. We said we had to change our mind and so we had the discussion all over again and for one primary reason we felt that publication was the way to go and that is it was our missing piece. It was so detailed 35,000 words. Passionate and so specific that we felt that represented the lifelong thinking of the person we were looking for, and that if we could take this piece now and put it with us two other pieces, the composite, the geographical kind of sequencing and then read the manifesto, put it all together and call us if you know, anyone like this. That's what we saw to the New York Times, Washington Post, the AG and the FBI director. They decided to do. And the manifesto was published on September 19. And between September 19th and April 3rd, or actually the middle of February of 96, we received over 55,000 phone calls on the Unabomb tip line. We had wives wanting to turn in their husbands. We had real friends, gladly wanting to turn in their boyfriend. their boyfriends and that yet none of those people were the Unabomber until that call. In the middle of February, from a fellow named David Bedley. And he represent, I mean, Tony, blessedly in Washington, DC, and he was representing them. At the at the time an unknown. Client and they wanted to talk to us about some information. The client had.

William Shubb: Steve, you were in the US Attorney's office all this time, when did you become involved in the universe unibody investigation?

Steven Lapham

Steven Lapham: I became involved in April 1993. I had just finished a fairly prominent arson trial with the ATF. I was doing a lot of their cases. An agent named Gregg Barnett brought me this case that had long been dormant, the Unabomber had not been heard from and about six years at that point. He said, here, take a look at this. So the reason he brought that to me was because there are typically a five-year statute of limitations on all federal offenses. The statute that we had 12 bombings of to that point, the statute of limitations at all expired with the exception of one. There is no statute of limitations on capital murder cases. He was killed in Sacramento in 1995. That was the one case there was still subject to any kind of federal jurisdiction. The venue was appropriate in Sacramento. The bottom line was that it was the only case – the only place where the case could be investigated.

William Shubb: Did you start to work on the case at this time?

Steven Lapham: I actually did. It seemed an important enough case. There were some working theories, not very good working theories, about who the Unabomber might be, some of which have been developed by ATF agents in Chicago. I was not

aware at this point there was such a thing as a UNABOM task force. I dived into the case and started mastering the facts.

William Shubb: Did you eventually get involved with the task force?

Steven Lapham: Yes, it was shortly after that. I was say it was in for-six weeks after that that I started attending task force meetings. You weren't there at that point. Very shortly after that, June of 1993, we heard from the Unabomber again. He mailed to bombs from Sacramento, one went to a yale university professor in new haven, and the other one went to a professor at uc San Francisco. Now we are off and running again. We've now heard from the Unabomber again...

William Shubb: Were you on the task force of the time the decision was made to publish the manifesto?

Steven Lapham: Yes.

William Shubb: Did you participate in that decision question mark – decision?

Steven Lapham: The decision was essentially made by the FBI, but there were several discussions we had. Why we, I mean Steve, the northern district task force at the time. I was certainly very strongly in favor of publishing. I think Steve was also. It was basically a 35,000 word writing sample.

William Shubb: How did you learn about David Kaczynski and his involvement?

Steven Lapham: We... I think Terry or Max probably notified me that we had been contacted by an attorney. If I'm not mistaken, that occurred in the fall of 1995.

Terry Turchie: February of 1996.

Steven Lapham: That's when we put agents in Montana.

Terry Turchie: It happened really fast. It was December 15 when we first heard to them.

Steven Lapham: It's interesting have you compress time. I remembered it as occurring earlier than that I'm a but the bottom line is we were contacted by this attorney, and he recounted how he had a client he was representing anonymously at that point who believed he knew who the Unabomber was. This client had hired a private investigator to check it out. The private investigator had come back with the conclusion that there was a 60% chance that ted Kaczynski was the Unabomber. With that information, David Kaczynski authorized the attorney to go to the department of justice and relay his information. It came with a price. David Kaczynski was asking that in return for the bulging through this individual was, he wanted the department of justice to forgo seeking the death penalty.

William Shubb: Did they do that?

Steven Lapham: No, the department of justice rejected that offer.

William Shubb: Nevertheless, you received information from David Kaczynski.

Steven Lapham: Yes, he came forward and gave us the information. I think one of the reasons that he did is that if you look at some of the diaries and journals for Kaczynski, he had been estranged for – from David for quite some time. But, he reached out to David uncharacteristically in 19... initially in 1994 and asked for a \$1000 loan. And David, being a compassionate person, of course agreed instantly. Sent Ted the

money, thought Ted was probably in declining health, thought maybe he needed it for that. Later, Ted is back asking for another loan from David. This time, \$2000. David once again gave the money. And then when David started feeling that his brother might be the Unabomber, he started connecting the dots and came to believe that his loans to his brother had actually financed the last two murders, bombs 15 and 16. That actually turned out to be correct. I think out of just that sheer knowledge, David understood that he could not sit on this information and he divulged it.

William Shubb: Along with the other information, you learned where ted Kaczynski was living?

Steven Lapham: Yes.

William Shubb: How was the decision made to get a search warrant for that cabin?

Steven Lapham: We had had a search warrant in various stages of preparation all along, because it was a very massive search warrant. There was a lot of information that we could include before even knew who the Unabomber was. You have to put in information about each one of the 16 devices, including the various components of the devices, so that you know which are searching for when you execute the warrant. You have to put in the basic facts, connect all 16 devices. A lot of that was already done.

William Shubb: By the team? Who did that?

Steven Lapham: By various members of the team. Steve took the lead on that. In the final preparation, when we knew who the warrant was good to be executed against, Steve, max, terry, and probably some others and 24 inch pizzas spent an all nighter drafting the final version of the warrant and faxed it off to the district of Montana in the early morning hours.

William Shubb: So, a judge in the district of Montana issued the warrant?

Steven Lapham: Correct.

William Shubb: What did you learn when the warrant was executed?

Steven Lapham: The search lasted over nine days. People wonder why does it take nine days to search a 10 by 12 foot cabin. The working assumption was that when we went into this place, it would be a bomb factory. Protocols were in place to x-ray everything in place before they were moved. And in fact, on day two of the search, we found a fully functional bomb under Ted Kaczynski's bed. And so everything stopped at that point, we got a tractor... what do you call them...

Terry Turchie: We had a bomb disposal... We had a particular piece of equipment that had been designed by Santiago National Lab, that was geared for Unabom devices, because Unabom devices had multiple triggering devices, so this was ready and was flown up from riverside California and avoid to bring the bomb out of the cabin.

Steven Lapham: So, everything comes to a screeching halt at that point. The agents are cleared out of the cabin. The bomb is removed. The search continues. We found some broad categories of evidence, about 40,000 pages of Kaczynski's writings, which included admissions to almost all of his bombs, if not all. We found diaries, entries that expand his motivations for killing. We found binders containing 240 experiments

that Kaczynski had done over the years trying to perfect his bomb making techniques. We found physical items in the cabin relating back to bonds UNABOM bonds. In particular, there was a very specific signature piece of Kaczynski's bombs, which we call the flip switch. It was the mechanism that basically completes the electrical circuit, brings two pieces of metal together. Or to complete the electrical circuit to detonate the bomb. Very unusual design characteristic of the UNABOM devices. The flip switch itself was made of a piece of wood Hickory. I think it was fashion probably out of an axe handle or a hammer handle. We found an oatmeal canister that contained, I think, 17 of. Those flip switches, and they were virtually you put them side by side, they're virtually identical to ones that we found in UNABOM devices. One of the most important pieces of evidence we found that we all said if we want anything in the world, this is the thing. We want. ALC Smith Corona typewriter. Since 1982, the Unabomber had used an LC Smith Corona typewriter that the FBI lab estimated had been manufactured in 1934-1935 with 2.54 spacing, which is the centimeters between the letters we were looking for. Very specific object. This is the typewriter that the Unabomber had used. To not only type the manifesto, but to type everything from envelopes that accompanied his bombs to Terry talked about the letter that preceded the Percy Wood device. That letter was typed on this typewriter. If we found that typewriter. That would connect Kaczynski to all of the devices we found one old typewriter in the cabin. Experts took a look at it wasn't the one found a second one? Not the one, according to the experts on the on the last day of the. We found in a ammo canister, ammo box, LC Smith Corona typewriter, manufactured in approximately 1935 with 2.54 spacing. That was the typewriter.

William Shubb: So I take it with all the information you found you had no doubt that you would be able to prove a case against Ted Kaczynski.

Steven Lapham: We felt that you could parse out the evidence 10 different ways and convict Ted 10 different times. It was not a case that we thought was lacking in proof.

William Shubb: The decision to prosecute is interesting. Can you tell us how that came about and why the decision was ultimately made to prosecute the case here?

Steven Lapham: I indicated previously that the statute of limitations is five years for most federal offenses. By the time we got to 1996, when the Unabomber is captured, we had a valid statute of limitations on only five devices. Three murders, and then the devices in 1983 that were mailed from Sacramento of that went to separate parts of the country. So, as of 1996, Sacramento, the Eastern District of California, had venue over four of the five devices. Two of them because the bombs are going off here. Two of them because the bombs of been mailed here. The only devised we did not have been you over was the one that was sent from San Francisco to new jersey. That was separately indicted in new jersey.

William Shubb: Who actually made the decision to prosecute here?

Steven Lapham: Attorney General Janet Reno was the one who ultimately made the decision. We went back to Washington, D.C. And made a presentation to her. And

by we I mean Steve Fuchero was part of that discussion from San Francisco. I believe Bob Cleary, the first assistant from New Jersey was there and we basically laid out the case for her, the competing concerns. Where the case should be prosecuted.

William Shubb: Was there any disagreement?

Steven Lapham: There wasn't. There was actually quite a bit of harmony here. It was an easy decision to make for the reasons I stated. We have the choice of prosecuting the case into locales or four, with four of them being in one location. So it was really... From a lawyer standpoint, a pretty easy decision to make.

William Shubb: How was the decision made on whether to seek the death penalty?

Steven Lapham: That was made through the department of justice is normal operating protocols. There was a death penalty review committee that is convened in all cases where the U.S. Attorney wants to seek the death penalty. That committee is composed of high-level department of justice officials.

The prosecution is required to submit a package to that death penalty committee setting forth all the information you would expect, the basic facts of the case, the aggravating and mitigating factors that would warrant seeking the death penalty, of course the statutory basis for seeking the death penalty, such as the laying in wait or deliberation, planning things like that.

The defense was also invited to make their submission stating whatever mitigating factors they believe.

And in this particular case, David Kaczynski was invited to participate in the death penalty review committee.

William Shubb: And what position did he take?

Steven Lapham: Surprisingly, he was asking for his brother to be saved. Spared the death penalty. His position, I think as I recall, was twofold. He basically said, look, and his view, these crimes had been motivated by his brothers mental illness. And not by true criminal behavior.

And he also made a pitch that if the department of justice sought the death penalty, the blood would be on his hands. David's hands, because he is come for to provide information necessary to find his brother, and David felt a great deal of responsibility, as any brother would.

Quin Denvir

William Shubb: Quin Denvir, were you actually the federal defendant or this district when Ted Kaczynski was arrested?

Quin Denvir: No, I had been selected, but it had not yet taken. @@@

William Shubb: And how did you learn that he had been arrested?

Quin Denvir: I got the Sacramento Bee and read about him.

William Shubb: Now, did you take any steps even though you are not the federal defender yet?

Quin Denvir: Yeah, I contacted the federal defender and told them that I would like to be appointed under the criminal justice act to represent Ted since he had been arrested. He approached the court. I was appointed and took it up from there.

William Shubb: What were your thought process about the decision to represent yourself?

Quin Denvir: I felt that if the case did come to Sacramento, that the federal defender's office should take the lead on it. There had been a case of couple of years early, the Oklahoma city bombing, where the local office had deferred and had private attorneys handle the case. I had been a county public defender, the state public defender, was now going to be the federal defender. I felt the defender offices should do the hardest cases.

William Shubb: Did you go back to Montana to interview Ted Kaczynski? Of the.

Quin Denvir: There was an early meeting where it was unclear where the case would be brought and where the federal defender from San Francisco, the federal defender from New Jersey, the federal defender up from Montana and myself all met together there to talk about where things go and things of that nature and met with Ted at that point for a short time period.

William Shubb: Did you participate in the proceedings to determine whether the government would seek the death penalty?

Quin Denvir: We did. The question of whether the government would seek the death penalty was not decided at the time of the arrest or the time when it was decided where would be prosecuted. It was months beyond that. The department of justice allows time to put together a case for mitigation and we went back and presented that case to this capital review committee or whatever it is called. I should say that one – David Kaczynski made two other points why there should not be a death penalty. He said if you execute my brother after I was the one that brought him in no one will ever bring any one in again. And the second is when Tony first approached the government about an agreement no death penalty if David cooperates that was turned down but David said later he was told in the course of this or somewhere in there it would be a good thing for there to be – for Ted to be arrested and brought in because he would not do other damage which I think really worried David more than maybe guilt about he helped on two earlier ones. He was afraid that he had information about who was doing this and the pen might continue to – person might continue to do it but also told something to the effect of it will be better off for him. He took that to mean there was some agreement. We made a presentation all cases where death penalty is even possible goes to the committee with a recommendation from the local U.S. Attorney one way or another. This one there was a recommendation for it. The committee recommended that attorney general Reno approve the authorization of the death penalty and that is what happened.

William Shubb: What steps did you take to put together the defense team – to put together the defense team?

Quin Denvir: We put it together as soon as we found out the case was coming here. I wanted people to be involved in the presentation of the mitigation to the capital review committee. I felt that in the office I was the most qualified to be the lead counsel though I had not tried a capital case I had been involved in a number of capital cases in various roles and I wasn'ted to get another attorney so we would have two of us working together. I felt again that we should look within the federal defender system for the second attorney. There wasn't a need to go out. We had the resources there. I had several, three, four, six months earlier been at a degree penalty conference in houston and one of the people there was judy clark who at that time was the federal defender for eastern washington and idaho. And she had taken part in this and I was quite impressed what she said and we went out to the airport together and had a couple of beers together and flew to denver together and didn't see each other again. I knew she was well thought of for her trial work and legal skills and she had recently handled her own capital case. Took a leave of absence from her job to cocounsel a case in south carolina, I believe or north north carolina. Susan smith case. The woman who had driven the car into the lake and the children had died. She had done that with with David bruce. I approached her. I knew she was a tireless worker literally tireless. I'm not tireless. And so I approached her and she said she would be willing to do it.

William Shubb: Who else was on the team?

Quin Denvir: We want the an attorney to take over the role of developing the mitigation themes. In the normal case noncapital case you have a trial where the only question is did he do it and what did he do? And then it goes to a judge to hear evidence or something along those lines to it make a decision as to what the step sentence would be. In a – sentence would be in a capital case a separate penalty phase where the same jury who decided guilt will decide the penalty. The penalty was going to be either the death penalty or life without the possibility of parole is the federal phrase – possibility of release is the federal phrase, not parole. What developed over time in the capital defense community was the idea that the government is going to have the whole guilt phase focused on the offense and prove offense and who did it and then the jury will know all about that and then you will shift over to the penalty phase where the defense has to bring a case on the offender, the person who has been convicted of the crime and to present to the jury every possible theme, pack, prediction, hope, as a reason why they would say we can let this person live and die in prison rather than being executed by the government and there are number of people who have worked in those areas, have a lot of experience in the areas and one of them was a lawyer by the name of Gary Sowards, who was in San Francisco, he had formerly been with the California Pellet project, and we asked him to come on as the mitigation attorney. And there's also these specialized investigators who have a lot of experiences and we've got a lot of death penalty cases in this country and a lot of people learn a lovely afternoon

and they become what we call mitigation specialists. Investigators who specialize in presenting the mitigation teams, first of all, searching everywhere about the person's background, everything you can to find the themes that you can present to the jury and one of the before best and probably the one who started the whole craft was a woman by the name of Charlotte Holdman. She also is in San Francisco. We hired her. And then in order – they needed people to go out to talk to everybody who ever knew ted and go up to Lincoln, go to harvard. Go to michigan, berkeley. Everything. Talked to everybody you can to found out more about the person that you can then present to the jury so they will see who this person is, not just "The offender." because one of the themes is in these cases for the defense is no one is the worst thing they have done. There is always more to it and that is true of every person on the jury, true of eastbound. Everybody. You are never effort only the worst thing you have ever done there is always more to it and you want to show that here. We decided then to – we retained some law students who took time off and they worked under charlotte being the kind of the people on the grown on the ground going out and talking to eastbound and writing reports.

William Shubb: Steve, you also had a team. Whose on your team?

Steven Lapham: Bob cleary was the head of the team. The first assistant in new jersey. Steve had been on the UNABOM task force for quite some time. He was from the northern district of California and then I represented the eastern district. So we basically had 15 U.S. Attorneys from the three involved districts. We also had a very able prosecutor from Montana, Bernie Hubley, and an extremely able writer an assistant U.S. Attorney named Douglas Wilson, who came on to basically be our brief writer because we knew this was a case that was going to involve a lot of briefing on a lot of different issues.

Quin Denvir: It wouldn't be brief.

William Shubb: Speaking of briefing, Quin, it sounds like there was a lot of evidence obtained as a result of that search. Did you make any effort to quash that search for any reason?

Quin Denvir: We did. One of the jobs of the defense attorney is to look at the search warrants and see whether you think that they are lawful and if they are not whether the evidence that is seized pursuant to the warrant can be suppressed. And we looked at that search warrant, affidavit actually, about 100 pages I recall. And the F.B.I. Was hustling to put that affidavit together with good reason because they were afraid there might be another crime. And they compiled a lot of things. We felt that in the end it wasn't sufficient. You have to understand basically until David Kaczynski contacted the F.B.I. No one in the government had ever heard of ted Kaczynski. He was not on the radar. In fact, later on they found his name in a big databank of people who graduated from the university of Michigan. When David then came in and said he thought his brother could be and I don't think he ever sid said he was but he thought he could be. He was concerned about this for reasons that both Steve and I have explaineddion gave the information and then the government put a lot of folks

out working very hard to put together the search warrant. We he felt that it didn't show probable cause to believe the facts in there were not sufficient to show probable cause that ted Kaczynski was the Unabomber. We filed a motion to suppress. The government responded. We replied. It went to the judge and he felt that there was sufficient probable cause. I have to say two things about that. One is I'm convinced to this day if they had gone into the cabin and found nothing about the Unabomber but found a pound of marijuana and charged him with marijuana we would have had the warrant thrown out. There is something that just is a mat are of reality. – a party of matter of reality. I believe in the law and the law has got the to go where it has to go and where it has to be driven. There is something counter intuitive to say that these facts don't show probable cause that he is the Unabomber when inside the cabin after the search there is endless evidence that he is. I think that is kind of a head change that would be very hard to make.

William Shubb: Did you just argue ha that there was not probable cause or present some evidence to the court to persuade the court?

Quin Denvir: We always present evidence, no just arguing, you know that.

William Shubb: Tell us about it.

Quin Denvir: We went through every fact that was stated in there other than the nature of the crimes and that they were linked together which was irrelevant about whether there was probable cause to believe ted was there and tried to show that it didn't have the significance that they attributed to it. One of the big things that was done, there was a large – there was a substantial part of the affidavit was devoted to the Unabomber man man fess he was tow manifesto and there was a detailed analysis trying to show that words in there and concepts this there were – could be attributed to ted Kaczynski. And we went through and tried to show why that was not true. One of the ones that was the most striking was the UNABOM manifesto said you can't... I always get this wrong. You can't have your cake, and eat it too.

Steven Lapham: No, you can't eat your cake and have it, too.

Quin Denvir: No, it's... We always say... The normal way we say it is 'you can't eat your cake and have it, too'. That's the normal one, right?

Steven Lapham: No, Ted Kaczynski has you convinced.

Quin Denvir: No, no, I'm trying to remember the phraseology. 'You can't eat your cake and have it too.' 'You can't have your cake and eat it too.' You got it backwards. We hired a linguist and one of the things interesting about that the phrase 'you can't have your kick and eat it too', which is really literally correct... 'you can't have your cake and eat it too' is the correct one and also goes back to the bible from the book of proverbs. And it has been used in literature and a number of different praises. So, it was not some unusual phrase that only ted Kaczynski ever used. Though the affidavit did point out he had used that phrase in a letter to his mother. So, it was not foreign to him. But, it wasn't like this curious phrase that he is the only buy guy who has ever said that he must have done this. And then we went through the rest. They made a point of fact that the manifesto spelled installment with one l instead of two l's and

our linguist said that is a common thing. The number of times certain words were used and the linguist said that didn't mean anything if you looked at it. And then point out things that cut the other way. Ted split his infinitives and the manifesto didn't and vice versa. There is a lot of facts connected... collected about his movements and we tried to explain that none of them ever linked to any particular bombs. But there was – you have a hundred pages of which probably 80 pages are facts that are supposed to show the probable cause and we tried to take those on across the board.

William Shubb: Given the court's ruling denying your hoax to suppress, what was your – your motion to suppress, what was the trial strategy?

Quin Denvir: It was clear if we didn't win the motion to suppress and the evidence from the cabin came this there would be a guilty verdict. Steve has given you a little bit of what it was. I mean ted had written thousands of pages of journals and he discussed all of the stuff that Steve talked about. It was clear that he was going to be convicted. The only question is what would the penalty be and would it be life or death businessically. – basically and so our goal from then on was to having lost the suppression motion that might have changed the guilt question in fact it would have eliminated the guilt trial because there wasn't enough of without that then we had to start dealing when would the penalty be when the jury would convict him.

William Shubb: Steve, what was your trial strategy?

Steven Lapham: To win. We knew – there were two cases going on that was catching national prominence. The Oklahoma city bombing case and ours and I kind of viewed those as flipside of of the coin. In Oklahoma city, I thought they might have a difficult time proving guilt but once they proved that who is not going to give the death penalty to someone who has killed 368 Americans. I viewed ours as the evidence was overwhelming, I had very little doubt that we were going to get a conviction but we knew that a mental defense was coming or – defense was coming or probably would be coming and that that was going to be battleground.

William Shubb: What did you do to protect against that?

Steven Lapham: We prepared to meet the defense whether it came in the guilt phase or the penalty phase. We had amassed a lot of evidence with respect to Kaczynski's desire to kill, when that was formed, his lack of remorse, his struggling with his conscience as to whether or not killing was an appropriate way to go. And we felt this he was his own worst enemy. He had written so much on those subjects that we were just going to display that for the jury.

William Shubb: Did you make any effort to get a mental examination of ted Kaczynski?

Steven Lapham: Well, we did. That came up because the defense in June of 1997 the trial commenced in November of 1997. In June of 197, 1997, the defense filed a motion setting forth their intention to put forth a mental defense short of insanity. That triggers certain rights on behalf of the prosecution. We can seek to have our experts then do a psychiatric examination of the defendant.

William Shubb: Did you ever get that examination?

Steven Lapham: We did not. We spent the better part of the summer briefing that issue back and forth issues like how many psychiatrists for the government are going to going to able to do that. What is the setting. What kind of questions can they ask? That briefing continued throughout the summer and into the start of jury selection. We were still arguing about it when Kaczynski finally indicated he simply wasn't going to submit to a mental examination. Then the briefing switched from well, what is the consequence of that refusal? And the government's position was there are all sorts of sanctions that could be imposed including preventing him from raising a mental defense or barring expert testimony or variations on the theme.

William Shubb: Quin, notice that receive referred to was a 12.2B notice.

Quin Denvir: Correct.

William Shubb: Why did you give such a notice of intent to use a mental defense?

Quin Denvir: of all, I want to clarify something. That is the – a notice that you are going to present a mental defense through expert witnesses in the guilt phase. Or present that kind of evidence. And recently been amended to say if you going to rely on your experts who have talked to the defendant then the prosecution has a route to have right to have someone talk to him, too. That was the setting for that. Our thought was that the jury was going to hear everything as I say about the offenses throughout the guilt phase which is going to be quite prolonged. I mean the government was going all out with all of their evidence, although I don't know that they needed it all but that was going to be their decision. And then we were going to come in and say by the way, here is ted Kaczynski, you to know something about him. We thought it was important this they get an early sense about who ted was and his history and his mental illness and so we wanted to present that evidence not with any hope that it would defeat the convictions but that it would at least introduce those kind of thoughts to the jury before we made a fuller presentation.

William Shubb: Did you intend to call experts on his mental condition during the guilt phase?

Quin Denvir: We originally did.

William Shubb: And what changed your mind?

Quin Denvir: What really changed our mind – well, actually what changed our mind was, first of all, there was a point where ted became very upset about that idea. And was very upset about it and we had some conferences in camera with the judge and developed it a lot and we finally agreed that we would not present those which necessities witnesses in the guilt phase, expert witness barkeep open the fact that we would – kept oh the fact that we would (other witnesses and physical evidence like the cabin in the guilt phase and expert and other evidence in the penalty phase.

William Shubb: All right.

Quin Denvir: So that is esectionly where it was at the time – essentially where it was at the time.

William Shubb: Let's get to the trial. How difficult was it to select a jury? Steve?

Steven Lapham: We called in about 600 people in the jury pool for the reason that there wasn't anybody who wasn't going to know about this case. And so they filled out about 100 page questionnaires and the procedure that the judge had set up was to call six jurors in the morning and six jurors in the afternoon. Each side would be given 15 minutes to voir dire. That is a half hour times six jurors. Three hours in the morning and three hours in the afternoon and they have to be death qualified to have to be examined as to whether they have any serious objections to the death penalty. And things like that. It was a challenge to find people who had not already formed an opinion about the case.

William Shubb: Wasn't part of the proceedings conducted at the fairgrounds at Cal Expo?

Steven Lapham: The initial 600 jury pool was brought out to Cal Expo to fill out the questionnaires.

William Shubb: How long did that take to get a panel?

Steven Lapham: I believe, I just looked at this the other day. To my surprise it only took 16 days but that was from November 12 is when we started and impaneled the jury a couple of days before Christmas.

William Shubb: After you finally got a jury selected did anything unusual happen?

Steven Lapham: Oh, yes. [laughter] Quin has already referenced the fact that Ted had tried to fire his attorneys or express some dissatisfaction with their pursuing a mental defense. The trial was set to begin January 5 and the court had thought I think justifiably that he had brokered a deal with Kaczynski to keep the attorneys on if they would agree not to present a mental defense. And Quin can tell the story better than I can but Judy Clarke apparently premiered her opening statement to Kaczynski the night before trial was set to commence so January 4th and he was very upset allegedly about her mentioning mental issues in her opening statement.

William Shubb: If Quin can tell it be, let's hear it.

Quin Denvir: I will deal with the allegedly maybe a little bit. Let me go back to jury selection.

One of the things that was very interesting about that was the big question for us was not whether people thought Ted was guilty or not it was could they keep an open mind on the two penalties. We spent a lot of time, both sides, asking those questions. Early on what Judge Burrell did, as Steve explains we would have 15 minutes each for three jurors, morning and afternoon and then get a transcript that night of the voir dire and then we could make challenges for cause the next day. And so that we would deal with just kind of systematic like that which I thought was a good way to do it. Orillon in the voir tier and I think Judge Burrell does not remember this. I was sitting there and we would voir dire some jurors and we would say do you believe that someone intentionally kills someone they should get the death penalty and they would say oh, yeah, and we are like okay we go the a cause problem here. The judge would say as judges always do in this thing to make sure that you understand what they are saying would say but if I told you that the law requires you to consider both

penalties would you consider it? The jurors would all say well, yeah. So there would go the cause challenge potentially. The judge could look at it. I had realized that the jurors are sitting about closer than we are right now. Below Judge Burrell who is quite big and has a deep voice and he would ask in a way that wasn't men to intimidate them but impress them I tell you this you are going to do it. I realized everybody is going to say sure, Judge, I will follow the law, whatever it is. We wanted them to be on honest about where are you coming from on this. That is the key thing. I had the temerity or rashness to say Judge could we approach you for a bench conference and I explained the problem as you saw it. He said 'well I don't mean to intimidate them or influence them'. I said 'I understand it has the same effect.' He said 'well, how about if I came down to the lectern where the lawyers stand' and that is what he did for the ref of the selection. I don't think it has ever been done before. I thought in the end the jury selection went very well. I'm not sure I was happy with the jury or stove Steve was but given the pools and everything it went well. That kind of stood out to me. It just changed the die ma'am dynamics. When he was fur away I think people felt more easier to kind of say what they were realing think,ing. That is my diversion. What was your question?

William Shubb: What happened when Judy Clarke went over her opening statement with ted Kaczynski.

Quin Denvir: You have to understand, first of all, that ted is a diagnosed paranoid schizophrenic. He has written forever about the evils of mental health professionals and what they do in the way of mind control. He is a genius and his – he kind of – his core is his mind and his brain and his thinking. And the idea that someone would say that he had mental health problems would be like stabbing him, right? He was not – he didn't want that at all. I mean that is not something in public to have that and he also felt it would denigrate from the ideas in the manifesto which I would recommend you read. It is about 30 pages and it's really quite good. And it is not violent. His views about what technology will do to your society, some a lot better now than they did back in 1997 or 1996 and also about mind control and those kinds of problems.

So, when he had agreed to this arrangement, first of all, the big thing that it came up early on was who makes the decision as to what a defense has put on when a person is represented by counsel? Our position was it is clear you cannot – there is certain things that a defendant with counsel decides for themselves. One of them is what plea to make. They also decide whether there will be an insanity plea because that in effect is a plea of guilty and by reason of insanity. One reason that was not raised here. Whether it will take – whether they will take the stand and address the judge. Four or five of them. Our position was that and we thought the case law supported it, was other than that, it is up to the attorneys to determine how to proceed in support of the not guilty plea. And we thought the law supportd that and I think it did. But it isen wasn't by the U.S. Supreme core. Judgesupreme court. Judge Burrell agreed on that. As long as we were his lawyers we would decide what witnesses to call and how it pick and jury and do all of the things that lawyers do. Early on there was this brokered deal

when he was upset again about the idea of his mental health coming in that we would drop the ex-perts ex-perts experts from the guilt phase. Later we had to drop them even from the penalty phase because he refused to see the government's psychiatrist. The reason he didn't want to see the government's eye kye trust was he was afraid, hard to believe, that the government psychiatrist would find him mentally ill, his big fear. In any case, he did not want us to put on that testimony about – and what we were going to do is we were going to try to explain his mental illness through other evidence. His lifestyle and where he had started from and gone to and how he ended up being a whiz kid who skipped two years in high school and went to harvard on a scholarship and got a phd in no time from michigan and then end up living this this cabin in this kind of crazy lie. We brought the cabin down from Montana and stored it at the air force base and we were going to have jury see it. You cannot imagine – calling it a cabin sounds like it is an a-frame. This was like 10 by. Two windows and a big pot Steve. No running water. No toilet. It was more like a cell than anything else. And for him to voluntarily go there we thought would help them understand his mental problems which I think fed his schizophrenia. Sitting there in the dark in Montana from 3 till until 10:00 in the morning morning with no electricity or anything. But he we wanted to put this on and he did not want that. There was some back and forth on it in meetings and attempts to see if there is some way we could fulfill our obligation and try to save his life and he would be satisfied with that. And there is even talk about another attorney coming in, Kevin Klimo who was an experienced defense attorney came in to counsel ted and give him advice independent of us where we weren't involved and in the end he declared after backs and forths that couldn't believe seemed like it was resolved it is not resolved, he decided that he wanted to represent himself. He declared a faretta right that says you can represent yourself in a criminal trial. Carry from there or stop at that point?

William Shubb: In context this takes place at the jury selection?

Quin Denvir: Yes, correct.

William Shubb: And after you had the discussion with judy clarke telling him what she plans to say in the opening statement.

Quin Denvir: That is what triggers his first durn in addressing the – concern in addressing the judge about it. Further proceedings and he seems to be mollified with other changes made and expresses his concern again and then finally I think maybe on the third time he says I want to represent myself I'm asking to do it which is the f and retta request. We felt we had to declare a reasonable doubt about his competency to make that decision. Usually if the lawyers declare and there is basis for it and we certainly had enough basis to it the judge will order an evaluation of the defendant and hold a competency hearing and decide for him st. Louis whether the person is competent or not. And that is what happened here.

William Shubb: What did judge Burrell rule?

Quin Denvir: The first thing that happened was he agreed that ted had to be examined and eval evaluated for competency. It was agreed after some back and forth

between the government and the defense that rather than send him off to a federal medical center and because of the time problems with the jury coming in we would ask to have someone come out to evaluate him and the government or may have been Judge Burrell arranged for dr. Sally Johnson the chief of the federal medical complex in Butner, South Carolina, and would handle a lot of these competency cases, including Hinckley and other ones that come out here. Look into the cause and read whatever she needed and talk to Ted and make a decision as to his competency. She did all that and heard from the government and heard from us. She came back with a report that said that he was a paranoid schizophrenic but she did not feel that because of that he was unable to assist his lawyers in his defense. That is the standard for competency and therefore that he was competent to make the decision to represent himself. Then the question was whether Judge Burrell would grant the motion and the judge denied it on two grounds. One was that it should have been made before the jury had been impaneled, and secondly, that it was being made for purposes of delay and therefore said you cannot represent yourself you will stay with these tones and attorneys and then I can talk about what happened after that or you can see what Steve has to say.

William Shubb: I would like to see what Steve has to say. What, what did the government think of Judge Burrell's Rulings on those issues?

Steven Lapham: That this was a snake pit. This was Terra incognita. We were dealing with issues that were fact bound and the government was flying in the blind to a certain extent because a lot of hearings had been conducted in camera. So as they should have been. And so we at any time know exactly what was taking place. We were concerned about the issue because if anything is going to get you reversed it will be an issue like *Faretta* which involves a defendant's constitutional right. And we were concerned about the findings that it was for purposes of delay bearing in mind that Kaczynski had first raised concerns as early as November 25. The judge very meticulously went back and looked at the jury selection proceedings and determined, picked apart the record and determined that Kaczynski must have knowned at that early stage that a – that there was a mental defense and so that was the basis for the judge's conclusion that his later request to represent himself which occurred I think it must have been six weeks later was untimely and that what he was presently engaged in was for purposes of delay. We didn't see it necessarily that way. I felt that Kaczynski being a lay person was wrapped up in issues that he was only gradually coming to understand. And Judge Burrell did address those issues and whether or not a lay person would be expected to know how these things were unfolding so he is not unaware of the issue either. From our standpoint we were very concerned that that was a live issue.

William Shubb: How did that issue or that concern affect your desire to continue to go ahead and seek the death penalty?

Steven Lapham: Well, we were fully prepared to start trial on January 5 and then afterwards the next day, January 22, I think when all of the proceedings were finished we were fully prepared to go forward with the trial. We had had some discussions

with the defense in December I believe it was and they made some demands which we couldn't accede to so those discussions were cut off.

William Shubb: Quin, what happened next?

Quin Denvir: Have to go back to with happened in December. Ima' not sure of the timing of it. We went back to Washington again and presented further mitigation evidence to the capital review committee or whatever they are called asking them to remove the death penalty from the case and they declined to do so.

We then approached, later in the fall, maybe December is right, we approached the local prosecutors Steve and his team to see if they would entertain an offer to plead guilty and remove the death penalty with two conditions. One condition would be normally if you plead guilty you wave your right to challenge rulings like the suppression motion. We wanted to know we wanted to be able to preserve the right to appeal the suppression motion which there is a procedure for doing but the government has to agree to it and at the time we wanted to know whether they would agree that he would not be sent to a mental institution. And as opposed to any other place, bureau of prisons had under its control or the department of justice and they declined to do that.

William Shubb: So what happened afterward then?

Quin Denvir: What happened afterward then is we were on maybe the 22nd of January Ted has been found mentally ill but competent and also denied the right to represent himself so he has us as his lawyers. Knows that we will put on in terms of evidence to try to save his life. And at that time actually right after Judge Burrell's ruling I approached the bench and said we wanted to plead guilty to all of the crimes here and new jersey for no death penalty and without those other two conditions.

William Shubb: And the got accepted this a?

Steven Lapham: We did.

William Shubb: Did you have to consult with the attorney general?

Steven Lapham: Yes, we did. And she gave her approval.

William Shubb: What were some of the considerations?

Steven Lapham: I had had some discussions with the solicitor general in the interim about the twin rulings that we had been talking about that the denial of the fareta request and the ruling that Kaczynski was not in charge of his own defense. We discussed that with the solicitor general and acknowledged that there wasn't very much case law on it and that we are dealing with really some very cutting edge issues. The solicitor general indicated that he thought that there was litigation risk there, that if we had – if we went through with the entire trial it is possible it could be reversed and we communicated that fact to the attorney general and the attorney general received that information as well as other information. She had already been apprised, of course, of the December negotiations regarding their offer to plead, so it is not like she wasn't prepared for to receive that type of offer now.

William Shubb: How many bombings did he plead guilty to?

Steven Lapham: He plead to all five of the charged bombings including the one that was charged in new jersey. But we took a factual basis to all 16 of the bombs so he admitted to all 16.

William Shubb: In the rule 11 proceedings the judge usually asks the defendant some questions. When the judge asked him his occupation do you recall what his answer was?

Steven Lapham: He said something ‘I suppose I’m an inmate’ or something like that.

William Shubb: Prison inmate.

Steven Lapham: Yes.

William Shubb: What sentence did he receive?

Steven Lapham: Four consecutive life sentences.

William Shubb: As an epilogue, what happened to the land upon which the cabin was situated?

Steven Lapham: A couple years after the criminal proceedings came to a conclusion, a woman stepped forward asking to purchase the land unlike other possessions pretty much you have to sell the land to somebody. You can’t just sit there titleless. So we did some investigation of her and finally decided that we would not stand in the way of that purchase and the judge signed off of the purchase of the one and a quarter acre parcel that the cabin sat on.

William Shubb: What happened to the cabin itself?

Steven Lapham: It remained at the air force base for a number of years. I think just reesently in just recently in the last couple of years, maybe five years was transported to the museum in washington, d.C. Which is where it is now.

Quin Denvir: Actually, I think the F.B.I. Took it and held it for awhile and then moved it to the museum as part of an exhibit there about this case.

William Shubb: How about all of contents of the cabin? What happened to them?

Quin Denvir: Well, after a bunch of litigation there was an order made that they – that the contents should be sold by the marshalls and the proceeds should be given to the victims as part of – in payment of restitution.

Final Thoughts

William Shubb: That essentially closes the book. We are running a little late but I want to ask each of the panelists if they could close with a one or two minute statement about what you learned as a result of this whole experience and what it means to you.

Terry Turchie: Thank you, judge. I learned and had reiterated a lesson that there is no way whether it is the F.B.I., federal, state, local agencies that we could ever come close to solving these kinds of crimes especially the ones involving lone actors without help from the public and I think many times when you look at how something

comes together you don't realize that in many of these in fact recent terrorist cases or acts of terror where they are prevented by someone all right in the public deciding to do something about it and take the information they have or out hear observation of someone in many other cases the case is solved and people arrested it takes tremendous courage and conviction and decency to come forward and then to begin the work with us of trying to pull things together and when I look back at this and I think of all of those qualities that David possessed, people such as the victims who like Gary who were always constantly there for us even and showed such great courage with the things that happened to them, I think it touches you deeply and maybes you realize why you got in law enforcement. But it serves as a constant reminder we have to go to the public and give them as much as we can give them to use their support and help to bring these cases to a conclusion.

William Shubb: Gary?

Gary Wright: Wow, I could probably talk about that for a long time.

Squeezing that into a couple of minutes, I guess the couple of things I learned would be that I don't think anybody knows what they are going to do with something like this until you are actually in it. You learn a lot about that. A lot about yourself. A lot about people. You learn a lot about the people sitting at this table. Lots and lots of people that I dealt with through a lot of years. Especially not knowing for nine years who it was. A lot of friendships developed on all sides of law enforcement and prosecution, defense. I have a lot of friends that way. Kind of echoing a little bit what Terry said. I felt like it was my job to get out and do what I could as a victim if you will because I don't really like the word as the judge mentioned I'm a survivor. Paris Hilton is a victim. Just thought I would put that out there. But, yeah, in my world I mean I was approached to go out and do things like unsolved mysteries and America's most wanted and there is a certain amount of risk that goes with that, when somebody is coming back at you or not but that is the way in my world things worked. My dad was a state trooper so I grew up that way so I more or less appreciated a lot around the system. I appreciated what it offered me and the ability that I actually had a voice. When you are in the middle of that I think it is – well, in my world the job to get up and say you have a voice. So I continue to do that.

William Shubb: Thank you. Quin? No, excuse me, Steve.

Quin Denvir: I was going going to say –

Steven Lapham: All right. Well, I don't know if these are great insights or anything but I came away from the experience with a couple of thoughts.

One is in – I think Terry would agree with this entirely. You to constantly reexamine your assumptions. There were so many many false leads in this case. Instances where we thought we had the Unabomber on the line this has to be the guy. There are coincidences that can't be explained away. And they were explained away. And so constantly when I hold that with me when I was conducting investigations after that. I would continue to reexamine the assumptions.

The other one has nothing to do with law. It has more to do with the fickleness of fate. There were several of these instances that could easily have resulted in the death of more individuals. Gil Murray, the victim of bomb number 16, which occurred just about five blocks from this building, the package was delivered in a big, one of those white mail tubs to the business. The bomb was actually sitting on top. The mail was late that day. So, all of the employees of the timber association were kind of congregating around the reception area to get their mail. Gil Murray was called out to receive his package which wasn't even addressed to him. It was addressed to the prior president. It was a very tightly wrapped package with brown packing paper. It was designed to detonate when the tension on that packing paper was released. So if you just released the tape that is enough to explode the device. The F.B.I. Still doesn't know how that was possible.

Gil Murray comes out and there are about eight people standing around the counter leafing through mail and having discussions when Gil Murray is trying to open this package. He is having difficulty because it so tightly wrapped he can't do it with his fingers so he asks the receptionist for a pair of scissors, as this is going on – scissors. People are filtering away. One gets a phone call and has to go back to his office and another called a coworker aside to a hallway to talk about some point. Other people are simply getting their mail and going back. As he is handing – as the reception I have is handing scissors to Gil Murray she gets a phone call. The caller wants to know the number of another person. It is not on the rolodex at the reception desk. The receptionist who is just filling in for the real receptionist for the lunch hour says the caller on hold goes back to her office to retrieve the information. She gets about 10 steps outside the hall when the bomb explodes. Gil Murray is the only one killed because he is the only one left in the reception area at that time. Had the bomb exploded 30 seconds earlier there probably would have been a half a dozen fatalities.

The same story repeats itself with Thomas Mosier the victim of bomb 15. His wife and 1 1/2-year-old daughter come into the kitchen just as he is starting to open the package. The daughter needs a diaper changed. The wife does a 180 and leaves the area and goes back to do the diaper change. The bomb explodes and Thomas Mosier is killed instantly. There are other examples of that. But I just hold on to that thought that you know as you say but for the grace of God we could have had a lot of – a lot more fatalities.

Quin Denvir: Thank you. I guess what I take away from it is a great admiration or respect for David Kaczynski. He and his mom were estranged interested because of ted's mental illness but they were very supportive of him and when actually I think as Gary says it was David's wife who started saying could that be ted and then when he realized he thought it could be and he was just torn between this, on the one hand, this is my brother and if I turn him in what will they do to him and if I don't and he is really the Unabomber, more people will be killed. And he went through that horrible back and forth and then with the help of this wonderful lawyer from Washington, D.C., Tony, came forward and it was the key to this case. I don't know if the task force

would have got there sooner or later but would have been awhile I think. And David was given a reward a million dollars I think and he dedicated it to helping other victims. He was going to use it solely for that. He and Gary have become friends I think is a fair statement and have gone together to talk to victims' groups and to... Gary can speak more of that but he has continued in that area and the death penalty area and also has come together with a – the brother of a fellow by the name of Manny Babbitt who was a California state capital defendant and the brother of Manny Babbitt turned him in and the state executed him. So the two of them go out and talk about victims and responsibility. So I think they are wonderful. And I think Gary is wonderful. He has been much more giving, whatever words, than any – than I ever would have been.

Gary Wright: Aw, thank you Quin.

William Shubb: Thank you. This concludes the presentation. We want to invite all of you to attend the reception in the Anthony m. Kennedy learning center downstairs where there will not only be refreshments, but the panelists will be available to talk with you and answer any questions that you might have. And there is an exhibit there of photographs and evidence of that would have been used at the trial of the United States versus Theodore Kaczynski had the trial actually gone forward. Thank you very much. [applause]

Automatic Transcript

Generated by Word Online. This transcript includes less speakers names and incorrect sentence structure. But, it does include a few sentences that were missing from the transcript above, which can be used to add them back in if any archivists feel they have the time and desire to do a text comparison.

Introduction

Text on Screen: Tonight [on] C-SPAN

NEXT 9:55pm	The Case Against the Unabomber Impact of Legalized Marijuana
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The Unabomber Investigation & Trial
Eastern District of California
Historical Society – Sacramento

C-Span Voice-over: Known as the Unabomber, after that, a Colorado panel looks at the law that legalized recreational marijuana use. Ted Kaczynski, known as the Unabomber, pled guilty to killing three people and injuring 23 others with homemade bombs between 1978 and 1995. Live in November, the prosecutor and lead defense attorney discussed the case. They were joined by the head of the FBI's Unabomb Task Force and one of the Unabombers victims from the US District Courthouse in Sacramento, CA, where the court proceedings took place. This is an hour and 50 minutes.

William Shubb: It was in May of 1978, when a professor at the University of Illinois in Chicago found a mysterious package in the parking lot. When a campus policeman attempted to open the package, it exploded. Injuring the officer. This was just the first of 16 bombs delivered over a span of the next 17 years to individuals in various locations across the United States, all but two of them caused serious injuries, 3 resulted in death. Law enforcement shortly came to the conclusion that the bombs were all being sent by the same person. Whom they dubbed The unabomber. Understandably, the public was struck with fear not knowing when or where the Unabomber would strike next. The investigation came to a head in 1995, when the Unabomber sent a 35,000 word essay to the New York Times, the New York Post, Penthouse Magazine and other publications. Containing his so-called manifesto and offering to cease his

bombings if. They would publish it. With the approval of law enforcement, the times and the post published the manifesto. And when David Kaczynski read the contents of it, he began to think the unthinkable. That it was written by his brother Ted. Working with the information provided by David Kaczynski, law enforcement was able to. Obtain a search warrant. For a cabin occupied by Ted Kaczynski in an authorized area near Lincoln, Mt. With what they found in that search, law enforcement had enough to arrest Ted Kaczynski, and the decision was made by the United States Department of Justice to bring the prosecution here in the Eastern District of California. The decision was also made to ask for the death penalty. The defendant was indicted in April of 1996 and the trial began in the courtroom of the United States District Judge Garland E Burrell Junior in late 1997. After a lengthy jury selection process. In January of 1998 the defendant suddenly agreed to plead guilty. In exchange for a sentence of life in prison without parole. In our panel discussion here this evening, we hope to discuss, among other things, how the FBI managed the investigation of such serious crimes extending over such a lengthy period of time, and such a vast geographical area. We'll also discuss the effect that those crimes had on their victims. One in particular. We'll talk about why and how the decision was made to allow the publication of the Unabombers Manifesto. We also hope to discuss what was involved in seeking and obtaining the search warrant. And how the decision was made to bring the prosecution here in the Eastern District of California. We hope to learn about the prosecution strategy, including the decision to seek the death penalty while also learn the defense strategy. Finally, how the agreement was ultimately reached for the defendant to plead guilty in exchange for. A life sentence. We have a distinguished panel with us this evening to discuss these subjects. Their full resumes are found in your program. 1st to my immediate left, Terry Turchi was a special agent for the FBI for 35 years. Between 1994 and 1998, he. Was the assistant special agent in. Charge of the Unabomb task force. He's co-author of four books. One of them. Is entitled hunting the American terrorist the FBI's War on homegrown terror? And the most recent one, which has the most relevance to this discussion, is entitled Unabomber. How the FBI broke its own rules to capture the terrorist Ted Kaczynski. Our next panelist to his left is Gary Wright. He was a computer store operator in Salt Lake City and was the victim. He prefers to say survivor. Of the Unabomber's 12th Bomb attack on February 20th, 1987. He has since developed a friendship with the defendants brother David Kaczynski. Tears left. Judge Robert Stephen Lapham is a California Superior Court judge presently presiding over juvenile court proceedings in Sacramento. He was an assistant United States Attorney for the Eastern District of California, handling several high profile cases in Sacramento between 1984 and 2013, and he was a member of the prosecution team in the Kaczynski case. Finally, to his left, Glenn Denver is a Sacramento attorney who served as the California State public defender from 1977 to 1984. And at the time of the Unabomber trial, he was the federal defender for this district and lead counsel on Ted Kaczynski's defense team. I would be remiss if I did not introduce one other individual who is present, but not on the panel. The judge who

presided over the Kaczynski proceedings, a Judge, Garland Burrell, Junior. To get off the discussion, Terry, why don't you tell us how you got involved in the Unabomber investigation and how that how that came about? Sure. Like most FBI agents, for us, it was kind of a reluctant involvement for myself on April 1st of 1994 at about 12:35 PM and I could probably give you the seconds down in the Palo Alto resident agency where I was very. Very happy judge. Worked in national security cases, I received a call from our Assistant special agent at the time of counterintelligence at. Well, and he said, Terry, I just got off the phone with Jim. Freeman, he's he. Was our special agent charged at the time? And here's what I have to ask you. How would you like to come up to San Francisco and take over the inbound task force which had been established a year earlier after the 1993 simultaneous bombings 1? Both of those mail from here in Sacramento. To different parts of the coast. And I smiled to myself. Kind of. I said, well, that's a nice offer head and I'm good here. I love Palo Alto. I love being around Stanford, so I'm good. But thank you. And there was a pause. And he said, well, there wasn't a multiple choice question so. I'd like you to consider coming on up here as soon as you can. So I said, well, OK, how about a month that will give me time to kind of wrap everything up here and we can find a new acting supervisor and I'll head up to San Francisco, he said. How about in a couple of hours and that's how many of us got into unabomb in fact. Most of us, because of the length of this case. And I will use the words almost sheer hopelessness. And that's kind of how we thought about it. We all tried to avoid that corridor in the federal building in San Francisco that you walk down that house the year round task force. So that's how I got started where? The investigation had been ongoing for a number of years. Can you summarize what the FBI had learned before you got involved? Again, the investigation had, as the judge said, had gone since May of 1978, and even though there were up to this time, there were 14 bombings, there would be two more bombings while we were assembled as the UTC for the latest iteration of the UTF. we didn't know a lot, but we knew certain factual details where we had questions, but we had no answers and in looking back, particularly at the 1st 3 crimes, they became very important to us as we tried to look at a new way to put. This case together. The first bombing, the one that. It happened in May of 1978. The main question was this. There was a package found at the University of Illinois Chicago Circle campus out on the scientific and Technology building parking lot. It had \$10 in Uncancelled. And somebody went to pick it up and eventually got it to the police. And it was harmlessly explained it. But we never were able to answer that question all of those years of why do we have a package that had a return address of Northwestern University in Chicago, an actual addressee, and then \$10 and then cancel? Perhaps why wasn't this package mailed? So that was one of things we needed to focus on by a year later May of 1979. Time another bomb was found, only this time it was found inside Northwestern University that struck. This is very interesting because first bomb, we had a return address of Northwestern. Now we have a bomb actually at Northwestern, and so we thought a lot about that and we again tried to look at. What possibly could be a connection between those two bombs

and then the third bombing in November of 1979, which got everyone's attention? A bomb was placed on American Airlines Flight 444, headed out of Chicago O'Hare Airport, headed for Washington. No, there was a bomb placed on the plane via the mail that had been built with a barometer and fashioned as an altimeter, and it was set to go off at a certain altitude, and when it did go off because it was under a lot of cargo and luggage in the cargo hold, it started to fire rather than actually exploded. Other than that. As it was supposed to be. By the time this plane did an emergency landing at Dulles Airport and the pilots were able to get down and take a look at the damage when? The fire was out. They were prepared to say that that years later that had this fire burned just a couple more inches closer to the main hydraulic line. This plane would have crashed. There would be nothing we could have done to stop it. So at that point, the FBI lab expert, Chris Rodda, looked at this bomb and in the parts and thought it's very strange that we haven't seen any other bombs built by. Someone who would do this? So he sent out a bulletin and an alert to all kinds of agencies, and he got a call from the ATF. And they referenced the 1st 2 bombings in 1978. Nineteen 79. Brought all this together and then we realized in November of 1979, we now have a serial bombing case. How did the name Unabomber or Unabomb get coined? The first two bombings were at or involved universities, Northwestern University and RPI up in Troy, NY. The first bond with the with the return address of Northwestern, the second bond in the graduate student Room in May 1979 at Northwestern gave US universities as targets by the time that this bomb was placed on the American Airlines flight, we now have universities and airlines, so this became, as you know, the FBI likes to attach these fancy names to its cases, mostly get public attention. And this certainly did universities and airline. Bombings bomb. We have a. Chart behind us of all of the bombings, without getting into all of the details, what was the sequence of events after the first three? After the first three bombings, we would eventually have 13 more bombings for a total of 16. It's the judge earlier mentioned. In 1980, the airline. Aspect of this got another. Percy Wood, the president of United Airlines in his Lake Forest home at Lake Forest, IL, received a package in the mail, but about a week before he received the package, he received a letter and the letter was written to him by someone named who signed the letter Enoch Fisher. And in this letter he said you're going to be getting in the mail. A package for me. And you don't know me, but anybody like you, president of United Airlines, who makes decisions affecting the public welfare, needs to read the book that I'm sending you. And the book turned out to be a novel that was written at the time, even the author, Sloan Wilson, really said. I didn't really have any social significance to my book, so I don't really know what they're talking about. I just kind of came up with. One day, but the person would actually receive that package that next week when he went to open it, the book had been carved out and there was a bomb built into the book, and he suffered significant injuries. When he opened this book in his house, so that was the 4th event and all of those had the Nexus to Chicago. Then no more Nexus to Chicago. We're done with Chicago, and by 1981 we move on to Salt Lake City. In 1981, a bomb was placed left

in the hallway at the University of Utah business building exploded in the bathroom harmlessly because somebody had noticed it, and the police took it in there. And detonated it, but we weren't able to do much with that just a few months later, we had yet another bombing. This bomb was mailed from Brigham Young University and ended up with a professor at Vanderbilt University in Tennessee. After that, the next bomb, 1982, was at Cory Hall at the University of California at Berkeley. That became a very important bombing. The victim there, the person who fortunately was able to survive his injuries, had gone into another graduate student room on the 4th floor of the University of California at Berkeley at Clary Hall. And when you go and visit that and you look at that area, you realize or it hits you that someone who came up here and had the presence of mind and was not anxious about coming to this location on the 4th floor to leave this bomb here. Very similar to what happened in Northwestern with bombing #2. So they really made us start to think about that and then no more bombs between 1982 and 1985. We then sadly started calling 1985 the year of the Unabomber. There were 4 bombs in 1985. One was at Boeing Corporation, addressed to the Boeing Fabrication Division in Seattle, WA. All of the evidence from that bombing gone never to be seen again because it was detonated harmlessly in a. Kind of a tar pit up there and so we could never get anything back from that bombing. After that, another bombing at Cory Hall at the University of California at Berkeley, this time on the as you walk in off the street on the street level and then go down a very, very near corridor that was occupied by graduate students again, just like the bombing in 1979 at Northwestern by the. By the fall of 1979. We have a bomb going to Professor James McConnell again. Another come on to Professor McConnell, which I'll describe a little bit more in a minute. And then finally. In December of 19 in 1985, the. The Unabomber had. His first, as he called it, later a success with one of his moms. And that was right here in Sacramento, CA out here at. Century, the Old Century Plaza strip mall, a place called Rentech Computer Store. A gentleman there named Hugh Scotton, who was the owner of that store, came out from the door into the back parking lot 1 day around noon. And he saw on the ground lying by a car what appeared to be a road hazard. I'm sure, in his mind it was kind of a combination of Douglas fir and two by fours and a Redwood 2 by fours nailed together out of the two by fours above us four there were there was some nails. Intruding and unbeknownst to him, inside these pieces of wood, the bomber had called in to the insides and built the bomb, and when Mr. Scruton went over to move this so, it wouldn't cause problems for any honest passerby. As soon as he. Reached over to kind of break the contact. Between that device and the ground, it was a passive device and it exploded and it killed Mr. Scotton almost instantly on that morning. The next bomb, I believe, was in Salt Lake City and that that involved our next panelist, Gary Wright. Gary, why don't you tell us what happened?

Gary Wright: So yeah, just really similar to what Terry was just saying with the structure of the bomb. So 1987, I owned a computer company in Salt Lake City. My family worked there with me. I'd been out on calls, just working from about 6:00 in

the morning. Got back to the office around 10:30. And pulled into the rear parking lot of our building at that time I owned the building. And as I pulled into the parking lot, I looked down and next to my secretary's car. So I pulled in next to hers. There was a piece of wood. It was kind of similar like you say, but different. It was 22 by fours put together and had four nails sticking out of it. Those four nails have always stuck in my mind. Because I can always remember one in particular, he was up on the right hand corner and it was bent just a little bit, but they were also the shiniest nails I'd ever seen. They look like Chrome, like something handmade. If you will, but I walked out of my car, went over that same thing. There's something in the road I need to get rid of it. Somebody run over it, step on it, whatever. But when I went over and went to pick it up, there was something really quite wrong. I mean, there was an immediate feeling of huge pressure and. The sound of like a jet fighter going over so like a screaming sound, if you will, and instantly I'd moved a long way. I didn't. I didn't know how I got there, but I realized I was jumping up and down like. I was on a Pogo stick. And I was hollering for my family. Everyone worked for me, my mom, my dad, my brothers. And they came out the back of the door. But as I'm jumping around back there, the only way I can describe the next thing I saw was kind of like the matrix. So everything went into slow motion, if you will. You hear this at times and I can tell you it's true. But I was looking at the. Power and the telephone lines that went into the building and they were moving in a slow sign wave, you know, very slow moving. And I was watching pieces of things drift down around me, and there was a piece of red tape just kind of spinning around and like confetti. I'm thinking, God, man, that's the weirdest thing I've ever seen. And what happened? And at that second, though, I really thought, well, I'm not going to make it. I thought somebody had come around the corner of the building and shot me with a shotgun. For some reason my family came out at that point and I could see my dad was trying to say something to me. I was reading his lips pretty much because it was like being underwater in a swimming pool. You kind of here, but not really here. And so he had been a state trooper in Salt Lake and seen lots of things. And then I could tell he was pretty upset. I'm going. OK, dad's upset me this. Is bad, so. Slowly, he and my brothers, they took me over. Got me on the edge of the tailgate of one of the truck. And sat there for a few minutes and I started to get. I knew it was shock coming at that point, but while I was sitting there, I looked down and I was dressed really nicely, had a dress shirt on, and I saw that my pants were gone from about the knees down. I had on a white dress shirt and there was these things I couldn't figure out what they were in the. In the beginning they were just like threaded through my shirt like new. And I thought, what the heck, and I kept trying to put my head down to look, but I was. I was running into trouble. What it was when the bomb exploded. It was inside of two by fours that had been hauled out. But it was all the slivers so they had come up and impaled themselves and the doctor later told me. He said, yeah, you look like a porcupine. I said, well, OK, that's something where they say life changes in a minute, but it's really life changes in a millisecond. you just never know. We walked into the building my I laid down. I got

really calm and took everything off. I had gave it to my mom and just, you know, laid there. And I guess I really realized it was pretty serious because the next thing I see coming through the. Back door so. You think maybe a police officer was like 25 police officers and then? When the ambulance crew comes in, there's five of them and I don't know how you fit five guys into an ambulance, but they were pretty successful and. Excuse me? I said. Well, this this might be worse than I thought. And I guess the real moral of the story of all of this is it's not really fun. When they cut your clothes off and. Your mom's sitting there. It's. Probably the most humbling thing you're going. To run into.

William Shubb: so mom.

Gary Wright: Can you just please leave you know? This is this is not so, so good right now, but ultimately that day they took me up to the hospital. And waited about. I got there at 10:30 at the hospital. Pretty close and. They started surgery. At 6:00 PM had no painkillers or anything till that point, and I can tell you the bodies natural morphine is a pretty amazing thing. It's if you get hit, you really it really doesn't hurt. So that was a good thing for me to know. I went through three surgeries. The first night, they basically went in and found that I had severed a nerve in my left arm when the bomb exploded, it was moving very rapidly, and when some of that metal came apart, it was actually liquefied. And when it went into my arm, it actually cauterized the artery, so I didn't bleed. It just went in there. The metal was there so I was pretty lucky in that regard. So that night they did a bunch of the face stuff took out about 200 pieces of shrapnel from my legs and things like that. The that was on Friday, Friday the 20th of February I went home Sunday. I don't want to be in the hospital anymore and decided to recover a little bit at home. 2 weeks later, I went back into the hospital for another surgery to try and graph the nerve in my left arm back together and they had to ultimately, if you have a funny. And we all do, right? They had to take it out and move it to the top of my arm. And I tell people now, I said, you know, there's things that don't work, but I'm probably the fastest 9 finger typist you're going to know. So you know I'm good with that. Finally, a surgery later had to transfer tendons and things in my. and it was really strange when the doctor got in there, most people had two tendons in their thumb. I actually had three and it was funny because I needed to graft one into my my index finger. So kind of like a weird strange then why those things happen. But that's that's a morning that probably changes your families lives and. Ways you don't know.

William Shubb: Terry, how much time passed between? The bombing that. Killed Hugh Scrutton that you've described and the bombing that Gary has just described. And we had six years go by. No, no, no. Between the time of the bombing before his and Garry's six years in between those. Rhonda, baby. How much time between the bombing that killed Hugh Scrutton and the bombing that Garry's just? The bombing that killed Hugh Scotton was in 1985, and Garry's bombing was in 1987. So we. Had about a year and a half, 18 months. How much time between the bombing? Terry did Gary just described in? The next bombing. And there we had six years. 93. Now do. Do

you have a theory as to why there was so? Much more time after. This one than there was before the topic of why do we have all this time was widely debated. And then when we finally had the right guy and found a number of Theodore Kaczynski's writings. We found that during that time he was actually experimenting to build smaller, more compact bombs and more lethal bombs. And that's why when we start talking about the latter series of these bombings instead of boxes and packages and two by fours. You literally had something the size of the video. Cassette. That was. Placed in the mail to the future victims. In other words, he had one death and the next one was a failure. He didn't. He did not kill Gary. Do you have any theory as to why Gary was not killed in that bombing? Well, Gary and I have actually talked about that, first of all. There's just a lot of gratefulness there that it worked out that. But I think some of it is the way that Gary actually approached that mom. We feel that Mister Scotton walked over as any. Would probably do to pick up wood from your best vantage point to pick it. Up and get the weight and. Get it out of the way. Gary, when he walked and then he took that full ball to that explosion. When Gary walked up, you kind of had the as you told me, the inclination to kind of reach to the edge and you had. Moved it. And so when you moved it slightly, it exploded and the force went in a different direction rather than. Do you pick it? Up in a different way. Final two bombs did result in death, is that? They did the last two bombs, 15 and 16. Thomas Moser was an advertising executive in Caldwell, NJ he got one of those bombs in the mail. It was just a week or two before Christmas and the kids, they had little kids running around the kitchen. They were getting ready to go get a Christmas. And the mom called him almost at the last minute. Moser had been out of town, had been over in London. And so the kids went off to get their pajamas off and get ready to go. And there was a lot of mail that had stacked up. So he started going to the mail in the first thing he took was this package that had a San. Francisco return address on it. And his wife heard this terrible, terrible noise, and by the time she got down towards the kitchen, there was smoke everywhere and this bomb was so powerful. In this video cassette type of container. That and it had. Practical Justice Garry's Bomb did, but when it went off, they had those copper skilletes above the stove hanging on a rack, and it actually went through some of this shrapnel went through. Some of those really thick skilletes. That was the power of this blast. And Mr. Moser was killed. As well, almost instantly, just as Mr. Scrutton had been in 1985. Finally, in April, April 24. Of 1995, again right here in Sacramento at the California Forestry Association, a bomb had been sent in the mail, actually addressed to Mr. William Dennison, who was the President of the CFA, and he left, and he had been replaced by Mr. Gilbert Murray. And Mr. Murray was going to. I guess take this package up to Mr. Dennison up in Northern California, but when I had to open it to see what was in it since it was addressed to the CF as well and again the same kind of bomb, the same kind of bomb that Mister Moser received with all the power and all the destructive power and. Just had no chance as he was sitting at his desk and opened that package. Can you talk a little bit? About what the Unabomber was doing to avoid detection. I can at the time, of course we realized

we were after somebody that knew a lot and was certainly too smart to leave a trail for himself. We had no idea how smart he was. Turns out, the other Kaczynski was a genius. But he went to a great deal of work and effort. To make sure he didn't leave a trail behind, for example, all these bonds, they were all hand made. Gary mentioned seeing something shiny that looked like maybe a Chrome mall probably was something that was fashioned from Chrome on an old junked car up in back of Musinski's cabin. He would he would start with the bombs. And he would build them all from scratch. So normally when we try to trace things back from a bombing crime scene forensically in this case, we couldn't trace many of these things back to anything. He would take casings off of batteries, so you couldn't go back to the batch number or find out where the battery had been bought or something like. So it started with these bombs. He took sandpaper and sanded all of his devices very, very carefully to make sure that when those bombs were placed in the mail, they didn't have any of his fingerprints on them. He wore gloves when he was carefully putting these bombs together. In one instance, he actually went to the men's room at the bus station in Missoula, Mt. He got down on the floor and he. Gathered hair from the floor of the bar. Bathroom and he took that hair back and then he started putting it in between layers of tape on some of the future bombs he built. He would later write that I did this because if the FBI found hair at a crime scene, they would think the hair came from the person who built the bomb. But really it was just something I saw at the bathroom when he would. Go out to. Buy things like little pieces of pipe. Or anything you might use to create a bomb, he would disguise himself. In one instance, he reports or talks about when he's riding, going to a junk store in salt. And he had stuffed his nose with cotton, and he had trimmed his hair. He had dyed it black, and then he had on these really weird glasses that that he put on and he went in there and he figured if anybody sees me, they're certainly not going to recognize me the way I looked today. And he did all these things. In an effort to make sure he conceal his identity and helped him later, if we started looking at him seriously.

There was a famous composite picture of the Unabomber that was circulated and everybody was familiar with that. How did that come? About

I became involved in April of 1993 and I had just finished a fairly prominent arson trial with ATF and I was very much associated with ATF. At the time, doing a lot of their cases and an agent named Greg Barnett brought me this case that. Had long been dormant, the Unabomber hadn't been heard from in about 6 years at that point. And he. Said here, take a look at this. And so the reason reason he brought that to me was because there's typically A5 year statute of limitations on all federal offenses. The statute we had had twelve bombings up to this point. The statute of limitations had run on all twelve of those bombs, with the exception of 1. There's no statute of limitations on capital murder cases, so he's scrutton was killed in Sacramento. In 1995. That was the one case that was still subject to any kind of federal jurisdiction and the venue was appropriate in Sacramento. So the bottom line was it was the only case where the. Case only place where the case could be investigated. Did you start to work

on the? Case at that time I actually did. It seemed an important enough case there. There were some working theories, not very good working theories about or who the Unabomber might be, some of which have been developed by ATF agents in Chicago. I wasn't aware at this point. But there was such a thing. As the unabom task. And so I dived into the case and started. Mastering the facts. Did you eventually get involved with the task force? Yes, it was actually very shortly after that, I'd say within four to six weeks after that that I started attending task force meetings. And I think Terry made. May have a better route. Well, you weren't there at that point, but very shortly after that June of 1993, we heard from the Unabomber again. He mailed 2 bombs from Sacramento. One went to a Yale University professor in New Haven, and the other one went to a professor at. UC San Francisco and Tiburon. So that we're off and running again, we've. Now heard from the Unabomber again. Were you on the task force at the time that the decision was made to publish the manifesto? Did you participate in that decision? Recall, I mean we informally, yes, the decision was made essentially by the FBI, but there were. Several discussions we had and by we, I mean Steve Acherio, an AUSA from. The Northern District was on the task with it at the time and we were, as I recall, I was certainly very strongly in favor of publishing and I. Think Steve was also. It was basically a 35,000 word writing sample. How did you learn about David Kazinski and his involvement? We I think Terry or Max probably. Notified me that we had been contacted by an attorney, Tony, the Sedgley, and Terry, if I'm not mistaken, that occurred in fall. The contact with February of 90 with 20, the second was in February. Of 90. That's where we put agents in. Right. It was just it. It all happened very fast. It was about it was February 15th when we first heard. Well, it's interesting how you compress time, but because I had remembered it as as occurring earlier now. The bottom line is. We were contacted by Tony Basaglia and he recounted how he had a client. He was representing the client anonymously at that point, who believed he knew who the Unabomber was. He this client had hired a private investigator to check it out, the private investigator. Had come back with the conclusion that there was a 60% chance that Ted Kaczynski was the Unabomber, and with that information, David Kaczynski authorized Tony Basaglia to go to the Department of Justice relate his. And it came with a price. The David Kaczynski was asking that in return for divulging who this individual was, he wanted the Department of Justice to forego seeking. The death penalty. Did they do that? No, the Department of Justice rejected that offer, but nevertheless, did you receive information from David Kaczynski? Yes, he came forward. He gave us the information and I think one of the reasons he did. Is if you, if you look at. Some of the Diaries and journals for Kaczynski, he had been estranged from David for quite some time. But he reached out to David uncharacteristically in 19. I think initially in 1994 asked for \$1000 loan. And David, being compassionate person, of course, agreed instantly sent Ted the money. Thought Ted was probably in declining health. Maybe he needed it for that later. Ted is back asking for another loan from David this time. \$2000 David once again gave the money. And then when David started feeling that his brother might be the Unabomber, he

started connecting the dot. And came to believe that his loans to his brother had actually financed the last two murders, bombs 15 and 16. And that actually turned out to be correct and I think out of just that's your knowledge, David understood that he couldn't sit on this information and. he divulged it. Along with the other information he divulged, you learned where Ted Kaczynski was living. Now, how was the decision made to get a search warrant? For that cabin. We had had a search warrant in various stages of preparation all along because it was a very a massive search warrant. And there was a lot of information we could. Include in the war before we even know. Knew who. The Unabomber was. You have to put in information about each one of the 16. Places including the various components of the devices so that you know what you're searching for when you execute the warrant. You have to put in the basic facts that connect all 16 devices, so a lot of that was already done. By the team, who who? Who did that? By various members of the team, Steve Rancho took. The lead on that. And in the final preparation when? Who the law was going to be executed against Steve Rancho, Max Terry and probably others in a couple of 24 inch pizzas spending all night or drafting the final version of the warrant and faxed it off to district of Montana in the. Early morning hours, so the judge in the district of Montana issued the warrant correct. And what did you learn when the? Warrant was executed. Well, you're asking about the search results of the search. The search lasted over 9 days and people wonder, why does it take nine days to search a 10 by 12 foot cabin? That the working assumption was that when we went into this place, it would be a. Bomb factory and protocols were in place to X-ray. Everything in place before they're moved, and in fact on. Day two of the search we found a fully functional. Bomb under Ted Kaczynski's bed. And so that everything stopped. At that point, we got to a tractor. What do you call them? We had a bomb disposal. We had a particular piece of equipment that been designed for sand by Sandia National Lab that was geared to Univar devices. Because Unibond devices had multiple triggering devices. So this was ready and was flown up from Riverside. California and deployed to bring the bomb out of the cabin. So everything comes to a screeching halt. At that point, the agents are cleared out of the cabin and the. Bomb is remove. the search continues and basically. What we found are are some broad categories of evidence, up about 40,000 pages of Kaczynski's writings, which included admissions to almost all of his bombs, if not all. We found diary entries. That explained his motivations for killing. We found experiment binders containing 240 experiments that Kaczynski had done over. Years trying to perfect his bomb making techniques. We found physical items in the cabin.

The decision to prosecute in this district is interesting. Can you tell us how that came about and why the decision was ultimately made to prosecute the case here? so I indicated previously that the statute of limitations is five years for most federal offenses. By the time we got to 1996, when the Unabomber. That's captured, we have a valid statute of limitations on only five devices. 3 murders. And then the devices in 1993 that were mailed from Sacramento that went to separate parts of the country.

So as of 1996, Sacramento, the Eastern District of California, had venue over four of the five devices. Two of them, because the bombs had gone off here, two of them, because the bombs had been mailed here. The only device that we didn't have venue over was the one that was sent from San Francisco to New Jersey. And that was separately indicted in New Jersey. Who actually made the decision to prosecute here? Attorney General Reno was the one who. Ultimately made the decision, we went back to Washington DC and made a presentation to her and by we I mean Steve Mitchell was part of that discussion from San Francisco. I believe Bob, clearly from New Jersey, the first assistant from New Jersey was there and we basically laid out the case for her, the competing concerns. Where the case should be prosecuted. Was there any disagreement? There was actually quite a bit of harmony here. It was an easy decision to make for the reasons. I've stated. We had the choice of prosecuting the case in two locales, or four with, with four of them being in one location, so it it was really from a. The lawyer standpoint a pretty easy decision to make. How was the decision made whether to? Seek the death penalty.

Steven Lapham: The that was made through the Department of Justice's normal operating protocols. There's a death Penalty review committee that is convened in all cases where the US attorney wants to seek the death penalty. That committee is composed of high level. Department of Justice officials. Prosecution is required to submit a package to that death Penalty committee setting forth. All the information you would expect the basic facts of the case, the aggravating and mitigating factors that would warrant seeking the death penalty. Of course, the statutory basis for seeking the death penalty such as. The laying in wait or deliberation, planning things like that. The defense is also invited to make their submission, stating whatever mitigating factors they believe, and in this particular case, David Kaczynski was invited to participate in the death.

William Shubb: Penalty Review Committee and what position did he take?

Steven Lapham: Surprisingly, he was asking for his brother to be saved spared. The death penalty. His position, I think as I recall, was twofold, he, he basically. Said look. In his view, these crimes have been motivated by his brother's mental illness and not by true criminal behavior. And he also made a pitch that if. The Department of Justice sought the death penalty. The blood would really be on his hands David's hands because David had come forward. Provided the information necessary to find his brother.

William Shubb: And David felt a great deal of responsibility, as any brother would. Queen Denver, were you actually the federal defender for this district when Ted Kaczynski was arrested?

Quin Denvir: No, I had been selected, but it had not yet taken.

William Shubb: And how did you learn that he had been arrested?

Quin Denvir: I'm sure I picked up the Sacramento Bee and. Read about it.

William Shubb: Now, did you take any steps to be appointed to represent him even though you were not actually the federal defender yet?

Quin Denvir: Yeah, I contacted the federal defender, Ruth, and back and told him that I would like to be appointed on the criminal justice. Back to represent Ted, since he had been arrested even though he had not been brought to this district, we didn't know whether he was coming this district or not, and he approached the court and I was appointed. And took it up from there.

William Shubb: What are your thought processes in making the decision to ask to be appointed to representing yourself?

Quin Denvir: Well, I felt that if the case did come to Sacramento, that the Federal Defenders Office should take the lead on it. There have been a case couple of years earlier, the Oklahoma City bombing where the local office had deferred and had private attorneys offices should do. The hardest case is the biggest cases and thought that our office should take care of it.

William Shubb: Did you go back to Montana to interview Ted Kaczynski?

Quin Denvir: There was an early meeting where when it was unclear where this case would be brought, where the federal defender from San Francisco. The federal defender from New Jersey federal defender up from Montana and myself all met together there to kind of talk about where things might go and things of that nature. And we actually met with Ted at that point for a. Short time period.

William Shubb: Did you participate in the proceedings to determine whether the government would seek the death penalty?

Quin Denvir: We did the question of whether the government would seek the death penalty was not decided at the time of the arrest or the time of when it was decided where it. Would be prosecuted. It was. Months beyond that, the Department of Justice allows the defense time to put together a case for mitigation, and that we took advantage of that for some amount of time and went back and presented that case to this capital Review committee or whatever was called. I should say that 11 David. Izki made two other points where there should not be a. One was, he said. If you execute my brother after I was the one that brought him in, no one will ever bring anybody in again. And the second thing he said is that Steve was right, I guess because I was in there that that when Tony Bisceglie first approached the government about an agreement, no death penalty if David cooperate. That was turned down, but David said that that later he was told during the course of this or somewhere in there that it would be a good thing for there to... for Ted to be arrested and brought in because he would not do other damage, which I think really, really worried, David, more than maybe guilt about he had helped him too earlier. Once he was afraid that he had information about who was doing this, and the person might continue to do it. But he also was told. Probing the effect of and it will be better. Off for him. And he Took that to mean that there would be some consideration there. There was an agreement so that that he made a presentation. We made a presentation the all cases where they death penalty is even possible goes to that committee with a recommendation from the local US Attorney, One Way or another, this one there's recommendation.

Recommendation for it. The committee recommended that Attorney General Reno approve the authorization of the death penalty, and that's what.

William Shubb: What steps did you take to put together a defense team after you learned the government was going to seek the? Death penalty.

Quin Denvir: Well, we put the defense team together as soon as we found out the case was coming here. I mean, I wanted people to be involved in this presentation of the mitigation of the Capital Review Committee. I knew we needed. I felt that in the office, I was the one that was the most qualified. to be the lead counsel, though I had had not tried a capital case. I've been involved. In a number of capital cases in various. Various roles and I wanted to get another attorney to be so we would have two of us work. Being together, I felt again that we should look within the federal defender system for the for the second attorney, there wasn't a need to go out to. You know, we had the resources there. I had several 3-4 or six months earlier, been at a death penalty conference down in Houston and one of. The people there was Judy. Clark, who at that time was the federal defender. For Eastern Washington and Idaho, and. She's taking part in this. I was quite impressed to what she what she said and everything. We later went out to the airport together. We had a couple of beers together. We flew to Denver together and when we see each other again and I knew she was very well thought of both for her trial work and for her legal skills, and she had recently. Handled her First Capital case. She had gone back on their own time, taking a leave of absence from her job to a Co Counsel, a case in South Carolina. I believe or North Carolina, Susan Smith case a woman who had driven the car into the lake and the and the children who died. She had done that with David Brock, who's one of the best, definitely the defense attorneys in the country. And so I know she had that experience. I approached her. I knew she was a tireless worker, literally tireless. I'm not tireless. And so I approached her. She said she'd be wanting.

William Shubb: To do it, who else was on the team?

Quin Denvir: Well, we wanted. We wanted someone to. We want an attorney to take. Over the role of developing the. The mitigation themes. In a in a in a. Normal case a non capital case you have a trial where the only question is did he do it and what did he do. And then it goes to a judge to hear evidence or something along those lines to make a decision as to what the sentence would be in a capital case. You have a separate penalty phase. With the same jury who decided guilt will then decide the penalty penalty here was going. To be. The death penalty or life without possibility of release? That's actually the federal phrase, not parole. And what it developed over time in the in the capital defense community was the idea that. the government is going to have the whole guilt phase focused on the offense and they're going to prove the offense and who and who did it. And then you're going to shift over, and the jury is going to know all about that, and then you're going to shift over to the penalty phase where? The defense has to. Bring the focus on the offender. The person who's been convicted of the crime and to present to the jury. Every possible theme fact prediction hope as a reason why they would say we could let this person live and die in prison

rather than being executed by the government and there are number of people who have worked in those areas, have a lot of experience in the areas and one of them was a lawyer. By the name of Gary Sowards, who was in San Francisco, he had formerly been with the California Pellet project and we asked him to come on as the mitigation attorney. And there's also a. There are these specialized investigators who have a lot of experiences and we've got a lot of death penalty cases this country. A lot of people. Learn a lot and they become basically what we call mitigation specialists, really investigators who specialize in presenting these mitigation things, first of all. Searching everywhere about the person's background, everything you can do to then to find the things that you can present to the jury. And one of the best and the probably the one who. Started that that. Whole craft was is a woman by name is. Charlotte Holdman she. Also was in San Francisco, so we hired her. And then and then in order they need people then to go out to talk to everybody. Ever knew Ted, go up to Lincoln, go to go to, go to Harvard, go to Michigan, Berkeley everything. Talk to everybody you can to find out more. About the person that you can then present to the jury, so they'll see who this person is. Not just. The offender, because one of one of the themes is. In these cases, for the defense is. No one is the worst thing they've done. There's always more to it, and then that's true of every person on the jury is true of everybody. You're you're never only the worst thing you've ever done. There's always more to it. And you want to show that. Here and so. We rather we decided then to we we. Retain some college or law students who took time off and they worked under Charlotte as being the kind of the people on the ground going out and talking to everybody and writing reports.

William Shubb: Steve, you also had a team. Who was on your team?

Steven Lapham: Bob Cleary was the head of the team. He was the first assistant in New Jersey. Steve Rancho had been on the Unabom task force for quite some time. At that point, he was from the Northern District of California, and then I represented the Eastern District. So we basically we had assisting you as attorneys from the three involved. We also had a very able prosecutor from Montana, Bernie Hubley. And an extremely able writer and assistant was turning named Douglas Wilson, who came on to basically be our brief writer because we knew this is a case that was going to involve a lot of briefing on. A lot of different issues.

Quin Denvir: Wouldn't be brief, wouldn't be brief.

William Shubb: Speaking of briefing Quinn, it sounds like there was a lot of evidence obtained as a result of that search. Did you make any effort to? Crash that search for well reason. Where were you?

Quin Denvir: We did. I mean, one of the jobs of the defense attorney is, is to look at search warrants and see whether they you think that they. Are are lawful, and if they're not, whether the evidence is seized pursuant to the warrant can be suppressed and we looked at that search warrant affidavit actually about 100 pages I recall and. And the and the FBI was, was hustling to put that affidavit together with good reason because they're afraid there might be another crime. And it compiled a lot of things,

but we felt that in the end it it wasn't sufficient. You have to understand that that that basically until David Kaczynski through Tony Basaglia contacted the FBI. No one the government had ever heard of Ted Kaczynski. He was, and he was not on the radar. In fact, later on they found his name in a in a big data Bank of people who graduated from the University of Michigan. So so. And when David then came in and said he thought his brother could be and I don't think he ever said he was. But I think he thought he could be. He was really concerned about this for reasons that both Steve and I have explained the information in that the government put a lot of folks out working very, very hard to put together the search. We felt that that it didn't show probable cause to believe the facts in there were not sufficient to show probable cause that Ted. Kaczynski was a unit. Summer, we filed a motion to suppress government responded. We replied it went to Judge Burrell and Judge Burrell felt that there was sufficient. Probable cause I have to say two things about that. One is. I'm convinced of this day that if they've gone into that cabin and found nothing about the Unabomber, but found a pound of marijuana and charged him with marijuana, they would, we would have the the, the warrant thrown out. But there's something that just as a matter of reality, it's very though. I believe in the law and I believe the law has got to. Go where? It's got to go. And where it's going to be driven? There is something that's very kind of counterintuitive to say that these facts don't show probable cause, that he is the Unabomber, went inside the cabin after the search. There's endless evidence that he was. I mean, it's just I think, I think it's kind of a head change. It would be very hard to make, but.

William Shubb: Did you just argue that there was not probable cause, or did you present some evidence to the court? To persuade the judge that there.

Quin Denvir: Yeah, we always present evidence.

William Shubb: Was not trouble due cause.

Quin Denvir: We don't. We just arguing you know that.

William Shubb: Tell us about it.

Quin Denvir: We went through every bit everything. That was every fact that was stated in there other than the nature of the crimes that they were linked together, which was irrelevant to the question about whether it's probable cause to believe Ted was there and try to show that. That it it didn't have the significance that they attributed to it. And part of 1 of. The big things that was done. There was a large. There was a substantial part of the affidavit was devoted to the Unabomber manifesto, and a number there was a detailed analysis of it trying to show that. Words in there and concepts in there were could be attributed to Ted Kaczynski, and we went through and tried to show why that was not true. One of the one of the most striking, I think, was the Unabomber manifesto, said. You can't. I was get this wrong you. Can't have your. Cake and eat it, that was.

William Shubb: No, you can't eat your cake and have it too. The other way around.

Quin Denvir: No, we always say what is the normal way we say is you can't eat your cake and have it. Too, that's not normal one, right? No, no.

William Shubb: Ted Kaczynski has you convinced?

Quin Denvir: No, no, no. I I'm trying to remember what, what? The phraseology. You can't eat your cake and have it too. You can't have your cake and eat it. Too, you got it backwards. OK.

Quin Denvir: And the interesting thing is and we. And we hired A linguist to go through and look at everything that was in there. And but one of the things interesting about that is. The phrase you can't have your cake and eat. It too, which is. Is really literally correct. You know you can't. You can't have your cake and eat. It too. Is the correct one. It also goes back to the Bible from the from the Book of Proverbs, and it's been used in literature and number of different places, so it was not some. Unusual phrase that only Ted Kaczynski ever used, though the affidavit did point out he had used that phrase in the letter to his mother, so it was not formed him. But it wasn't. Like this, this curious phrase that that, Gee, he's the only guy who's ever said that he must have. And then and. Then we went through all the rest of it. They made a. Big point of the. Fact that the manifesto spelled installment with 1L instead of 2L's and our linguist said that's a very common thing.

Steven Lapham: they the.

Quin Denvir: Number of times certain words were used. The linguists said that that didn't mean anything. If you looked at it and then we. Point out things that. That that cut the other way, for instance the. As I recall, Ted split his infinitives and the and the manifesto didn't, or vice versa. So there we put on a lot of that and then and then there were a lot of. There's a lot of facts connected, collected about his, his movements, and we tried to explain that none of them ever were linked to any particular. But there was. 100 pages of which probably 80 pages are faxes supposed to show the probable cause, and we try to take those out across the board.

William Shubb: Given the courts ruling denying your motion. To suppress what was your trial. Well, I mean it.

Quin Denvir: It was clear that that if we didn't win the motions, the press and the evidence from the from the cabin came in, that there would be. A guilty verdict? I mean that. Steve's giving you a little bit of what that would what have what it was. I mean, Ted had had written. Thousands of pages of journals and he discussed this. There were, you know, all the stuff that he's talked about. So it was clear that he was going to be convicted. The only question then was what would the penalty? Be and would it be life or death? Basically, and so our our, our. Our goal from then on was to having. Must the suppression motion that might have changed the whole guilt question. In fact, it would have eliminated A guilt trial because there wasn't enough evidence. Without that, then we had to start dealing with the question. Of what the penalty would be. When the jury did convict him.

William Shubb: Steve, what was your trial strategy to win?

Steven Lapham: we knew you know that there were two cases going on at this time that we was catching national prominence. The Oklahoma City bombing case and ours and I, I kind of view those as the flip side of the coin in. In Oklahoma City, I thought they might have a difficult time proving guilt, but once they prove that, who's not going to give the death penalty to someone who's killed 368 Americans? I viewed ours as the evidence was overwhelming. I had very little doubt that we were going to get a conviction, but we knew that a mental defense was coming or probably would be coming, and that that was going to be the battleground. So what did you do?

William Shubb: To protect against that.

Steven Lapham: Well, we prepared to meet the defense whether it came in the guilt phase or the penalty. We had amassed a lot of evidence with respect to Kaczynski's desire to kill when that was formed. His lack of remorse, his struggling with his conscience as to whether or not killing was an appropriate way to go. and we felt that he was his own worst. Enemy he had. Written so much on those subjects that we were. Just going to display that for the.

William Shubb: Jury, did you make any effort to get a mental examination of Ted Kaczynski?

Steven Lapham: What we did that came up because the defense in June of 1997, the trial commenced in November of 97 in June of 97, the defense filed a motion. Setting forth their intention to put forth a mental defense short of insanity that triggers certain rights on behalf of the prosecution, we can seek to have our experts then do a psychiatric examination of the defendant. Did you ever get that examination? We did not. We spent the better part of the summer briefing. That issue back and. Fourth, issues like. How many psychiatrists for the government are going to be able to do that? What's going to be the setting? What kind of questions can they ask? That briefing continued throughout the summer and into the start of jury selection. We were still arguing about it when Kaczynski finally indicated. He simply wasn't going to submit to a mental examination. Then the briefing switched from, well, what's the consequence of that refusal? And the government's position was there are all sorts of sanctions that could be imposed, including preventing him from. Raising the mental defense or barring expert testimony or. Variations on the theme.

William Shubb: Queen the notice that Steve has referred to was a 12.2 B notice correct. Why did you give such a notice of intent to use a mental defense?

Quin Denvir: First, let me just I want to clarify something that is that is the A notice you're going to present a mental defense through expert witnesses. In in the guilt phase or you represent that kind of evidence and really recently been amended to say if you're going to rely on your experts who've talked to the defendant and the prosecution is right to have someone talk to them to that. So that was the. Setting for that. our thought was that that. The jury is going to hear everything as I say, about the offenses throughout the throughout the guilt phase, which is going. To be quite prolonged, I mean. The government was going all out with all their evidence, although I don't know they needed it all. But that's that. Was there going to be their decision?

And then we're going to come in suddenly and. Say oh, by the way, and here's Ted Kaczynski. You got to know something about him. So we thought it was important that they get an early sense about who Ted was in his history and his mental illness. And so we wanted to. Present that evidence. Not with any hope that it would defeat the convictions, but that it. Would at least. Introduce those those kind of thoughts to the jury before we made a further presentation.

William Shubb: Did you intend to call experts on his mental condition during the guilt phase?

Quin Denvir: We originally did and what changed your mind or what? What changed your mind? We're actually. Would would would. We changed our mind was first of all, there was a point where where Ted became very upset about that idea and very upset about it. And we had. Some conferences in in, in the in camera with Judge Burrell developed it a lot and we finally we finally agreed that we would not present. Those witnesses in the in the in the guilt phase, expert witness. but we kept open the fact that we would present. Other witnesses and physical evidence like the cabin in the Guild phase and both expert and other evidence in the in the penalty phase. So that's essentially where it was at.

William Shubb: The time. Let's get to the trial. How difficult was it to select a jury, Steve?

Steven Lapham: The we called in about. 600 people in the jury pool for the reason that there wasn't anybody who wasn't going to know about this case. And so they filled out about 100 Page questionnaire and the procedure that the judge had had set up was to call 6 jurors in in the morning. 6 jurors in the afternoon, each side would be given approximately 15 minutes to board the hour. Each of the jurors. That's 1/2 an hour's time, 6 jurors we get 3 hours in the morning, 3 hours in the afternoon. And the jury has to be death qualified. So they have to be examined as to whether they have any serious objections to the death penalty and things, things like that. And it was obviously a challenge to find people who had not already formed an opinion. About the case.

William Shubb: Wasn't part of these proceedings actually conducted out at the State Fairgrounds at Cal Expo?

Steven Lapham: The initial 600 person jury pool was brought out to Cal Expo to fill out the questionnaires. How long did it take to actually get a panel? I believe I just looked at this the other day to my surprise and it only took 16 days, but that that went from November. I think 12th is when we started we impaneled the jury. A couple of days before Christmas.

William Shubb: After you finally got a jury selected, did anything unusual happen?

Steven Lapham: Oh yes. Quinn has already referenced the fact that Ted had. Tried to fire his attorneys or expressed some dissatisfaction with their pursuing a mental defense. The trial was set to begin January 5th and the court had thought I think justifiably, that he had brokered a deal with Kaczynski. To keep the attorneys

on if they would agree not to present a mental defense, and Quinn can tell the story better than I can. But Judy Clark apparently premiered her opening statement to Kaczynski the night before trial was set to commence, so January 4th. And he was very upset. Allegedly about or mentioning mental issues in in buildings.

Quin Denvir: Because I think there was very interesting about that was. The big question for us was not whether people thought Ted was guilty or not. It was what? How could they keep an open mind on the two penalties? And so we spent a lot of time, both sides asking those questions and early on. What Judge Burrell did, he is, as Steve explains, we would have 15 minutes each for three jurors, morning out and then then we would get a transcript that night of the of the. The water deer.

William Shubb: And then we.

Quin Denvir: Could make challenges for cause the next day. and so we would deal with just kind of systematic like that which I think was. A very good. Way to do it. But early on in the work here and I. And I think Judge Pharrell does. Not remember this. I was sitting there and we would do some of these jurors and we. Would say now. Do you believe that someone intentionally killed? Someone they should get the death. And they say, Oh yeah. You know, and we're like, OK, we got. A cause problem here. The judge will say his judges always who in this thing to make sure that that you understand what they're saying would say. But if I told you that the law requires you to consider both penalties, would you consider it? The jurors would all say, well, yeah, so there would go. The cause challenge potentially, I mean, even the judge could could. Look at it. But I had realized. That that the. The chairs are sitting about as far closer than we are right now, below Judge Burrell, who's? A deep voice and he would ask that question in a way that wasn't meant to intimidate them, but it was to impress them with what you know. If I tell you this, you're going to. Do it and I realize this. This is we're going to. This is not going to work, I mean everybody's going to say. Just to say, I don't want to get in trouble, I'll. Follow the law, whatever it is, and we, and we want them to be. Honest about where? Where you coming from? And this and that's the. Key thing that. So I had the temerity Arash, as to call to say judge, can we approach you for a bench conference? And said if. I went up there and I explained the problem as I saw. And he said. Well, I don't mean to intimidate him or, you know, influence him. And I said, well, I understand that. I'm not saying that I'm saying it has the same effect. And then he said well. How about if I came down? To the lectern where. The lawyer stand when I asked my questions and asked the same questions. All that and that's what he did for the rest of this selection. And I don't think I don't think it's ever been done before. I thought I thought in the end the jury selection went very well. I'm not sure I was happy. With the jury where Steve was, but I think given the pools and everything, it went very well. But I but I that kind of stood out to me. I don't. Know if anyone has. Ever done before, but it it just changed. The dynamics you know. When when he was over further. Away and everything. I think people felt. More easier to kind of say what they're really thinking.

William Shubb: No, no, no.

Quin Denvir: So I know what? So that's my diversion. What was your question? OK, it happened when Judy Clark went over her opening statement with Ted Kaczynski. Well, you have to understand, first of all that, that, that Ted is a diagnosed paranoid schizophrenic. He has written forever about the evils of the of mental health professionals and what they do in the way of mind control. He he's he is a genius and his he. He kind of. His core is his mind and his brain and his thinking, and the idea that someone would say that he had mental health problems was anathema to him. It would be. Like stabbing him. Right. So he was not. You didn't want that at all. I mean, that is not something in in public to have that. And he also felt that it would denigrate from the ideas in the in the manifesto which. But I would recommend you read it's about 30 pages and it's really quite good and it's not violent. It's not you. Know it's not like it is his views about what technology will do to our society. Some a lot better now than they did back in 97 or 96 and also about mind control and those kinds of problems. So. So when when he had agreed to this this arrangement, first of all the big thing. That it came up early on was. Who makes the decision as to what the defense is put on when the person is represented by a Council? Our position was it was clear, you cannot. There's certain things that a defend with Council decides for themselves. One of them is what plea to make. They also decide whether there be an insanity plea because that in effect. Is the plea of guilty and. By reason and. One reason that. Was not raised here. Whether it will. Take the stand. Or they'll address the judges. Four of them. Or five of them. Our position was that and we thought the case law supported. It was other than that, it's it's up to the attorneys. To determine how. To proceed in support of the not guilty plea and we thought the law supported that and I think it did. But it wasn't. It wasn't by the US Supreme Court or something that Judge Burrell agreed on that. And so it was understood that that as long as we were his lawyers, we would we would decide what witnesses to call, what you know, how to pick the jury, how to do all the things that lawyers. So, so, so, early on and there was this, this broker deal when he was upset again about the idea of his mental health coming in that we would drop the experts from the from. The guilt phase. Later on, we would have to drop the experts, even from the penalty phase, because. He refused to see. A The government psychiatrist and the sanction. Would have been. We couldn't present our experts in either face. The reason to want. To see the government psychiatrist was he was. Hard to believe that the government psychiatrist park deeds would find him mentally ill, his big fear. But in any case, he did not want us to put on that, that that testimony about and what we're going to do is we're going to try to explain. His mental illness, through other evidence, his lifestyle where where he had started, from where he had gone to, how he had ended up being a, you know, a whiz kid you skipped 2 years in in high school, went to Harvard on a scholarship, got a PhD in no time for mission. Again and then ended up living in this cabin and in this kind of crazy life. In fact, we brought the cabin down from Montana. We started out at the Air Force Base. We were going to have the jury go see it. I mean, you had. You could not. Imagine this, this calling it a cabin sounds like it's going to be an A-frame. This was, Steve

says. Like a 10 by 8. Two windows about that big. A big pot stove there. No running water, no toilet. I mean, it was. It was more like a cell than anything else. And for him to voluntarily go there. We thought would would. Help them understand his mental problems, which which I think fed his his schizophrenia. You know you're sitting there in the dark in February, Montana from three until 10 in the morning, you know, with with no electricity and everything. But we wanted to put that on. He did not want that. So there was some back and forth and back and forth. On in meetings and attempts to. to see if there was some way we could fulfill our obligation to try to save his life and he would be satisfied with that. And there was even talk about another attorney coming in, Kevin Klimo, who was an experienced defense attorney here, came into Council Ted and give him advice on on this independent of us, you know, where we were. and in the end, he declared after some back and forth and everything that Steve was couldn't believe, these things get seem. Like it was resolved was. He decided that he wanted to represent himself. He declared. What they what they call a faretta, right? It's a case Faretta versus California that says you can. You can represent yourself in a criminal trial. Do you want me to carry from? There or do.

William Shubb: You want to stop at that point for in context, this takes place after the jury selection. And after he's had this discussion. With Judy Clark telling him. What she plans to say in her opening statement.

Quin Denvir: Right, that that's what triggers his first. Concern in addressing the judge about it, there's some further proceedings. He seems to be mollified with some other changes that were made. He expresses his concern again, and then finally I think maybe on the third time, he says, I want to represent myself. I'm asking to do it, which is the Freda request at that point, Judy and I. Felt that we had to declare a reasonable doubt about his competency to make that decision and. And then usually if the lawyers declare that and there's some basis for it, we certainly have the basis for it, then the judge will order an evaluation of the defendant and then we'll hold a compensate hearing and decide for himself whether the person is competent or not. What happened here?

William Shubb: And what did Judge Burrell rule?

Quin Denvir: Well, the first first thing happened was he agreed that that, that Ted had to be examined and evaluated for his competency. And the IT was agreed after some back and forth between the government and the defense, said rather than send them off to some federal Medical Center and because of the time problems with the jury coming in, we would ask to have someone come out and evaluate them. And the government range or actually maybe been judged for arranged for a doctor Sally Johnson. He was the. Chief of the of the of the Federal Medical complex in Buckner, South Carolina, and would handle a lot of these cases. Competency cases, including Hinckley and other ones that come out here. Look into the case. Read whatever she needed. Talk to Ted and make a decision as to his competency, and she must take four or five days. She got out here and did all that and she heard from the government. She heard from. Us she came back with a report that said that he was a paranoid

schizophrenic. But you did not feel that he was because of that he was unable to assist his lawyers in his defense. That's the standard for competency. And therefore that he was competent to make the decision to represent himself. Then the question was whether Judge Burrell would grant that motion that Ferretti motion. And the judge denied it on 2 grounds 1. Was that it was. Untimely because it should have been made before the jury had been impaneled, and secondly, that it was it was. Being made for purposes. Of delay. I think that's the word and and therefore. Said that, you cannot represent yourself, you're going to stay with these attorneys, and then I can talk about whatever after that or if you want to see what. Steve has to.

William Shubb: Say I would like to see what Steve has to say. What, what did the government think of Judge Burrell's? Rulings on those.

Steven Lapham: That this was a snake pit. This was Terra incognita. We were dealing with issues that were very fact bound and the government was flying in the blind to a certain extent because a lot of these hearings had been conducted in camera, so as they should have been and so we didn't know exactly what was taking place, we were concerned. About the Ferretti issue because if anything is going to get you reversed, it's going to be an issue like porretta which involves A defendants constitutional, right? We were concerned about. the findings that it was for purposes of delay. Bearing in mind that Kaczynski had first raised concerns as early as November 25th, the judge very meticulously went back and looked at the jury selection proceedings and determined pick picked apart the record and determined that. Kaczynski must have known, at that early stage that. That a mental that there was a mental defense and so that that was the basis for the judges conclusion that. Later request to represent himself which which occurred. I think must have been six weeks later was untimely and that what he was presently engaged in was for purposes of delay. We didn't. We didn't see it necessarily that way, I. I felt that Kaczynski. Being a layperson was wrapped up in issues that. He was only gradually coming to understand and Judge Burrell did address those issues and whether or not a layperson would be expected to know how these things are unfolding. So he was not unaware of the issue either, but from our standpoint. We were very concerned that. That was a live issue.

William Shubb: How how did that issue or that concern affect your desire to continue to go ahead and seek the death penalty?

Steven Lapham: Well, we were fully prepared to start trial on January 5th and then? Afterwards, the next day, January 22nd, I think when all the proceedings were finished. Fully prepared to go forward with the. Trial. We had had some. Discussions with the defense in December, I believe it was in, they made some demands. Which we couldn't. Exceed to so those discussions were cut off Queen.

William Shubb: What happened next?

Quin Denvir: Well, I think you have to go back to what happened in December? I'm not sure that the timing, but we approached the we went back to Washington again and presented further mitigation evidence to the to the Capital Review Committee whatever their call asking them to remove the death penalty from the case and they

and they declined to do so. We then approached it later. In the fall, maybe. December is right. We approached, we approached the. The local prosecutors. Steve and his team. To see if they would entertain a an offer to plead guilty. And remove the death penalty with only with two conditions, one condition would be normally if you plead guilty, you waive your right to challenge rulings like the suppression motion. We wanted to know we wanted to be able to preserve the right to appeal the suppression motion, which there's a procedure for doing, but the government has agreed to it. And at the time, we wanted to know whether they would agree that he would not be sent to a mental institution and as opposed to any, any other place, Bureau of Prisons had under its control or Department of Justice and they and they declined to do that.

William Shubb: Right. So what happened after the?

Quin Denvir: Well, what happened afterward, then is. And so we're on, but maybe the 22nd of January, Ted has been found been mentally ill, but competent. He's also been denied his right to represent himself, so he has us as his lawyers. He knows what we're going to put on in terms. of of. Evidence in order to try to save his life. And at that time. Right after actually right after Judge Burrell's ruling, I approached the bench and said we wanted to. Plead guilty of. To all the crimes here and New Jersey for no death penalty and without those other two conditions.

William Shubb: And the government accepted that.

Steven Lapham: Read it.

William Shubb: Did you have to consult with the attorney general? We can. Yes, we did. And she gave her approval. What were some of the considerations?

Steven Lapham: I had had some discussions with the Solicitor general in the in the interim about the twin rulings that we've been talking about the denial of. The Floretta request and the ruling that Kaczynski was not in charge of his own defense, we discussed that with this little solicitor general, we acknowledged that there wasn't, wasn't very much case law on it, and that we're dealing with really some very cutting edge. Issues the solicitor general indicated that he thought that there was litigation risk there that. If we had, if we went through with the entire trial, it's possible it could be reversed and. We communicated that fact to the Attorney General, the Attorney General. Receive that information as well as other information. She had already. Been apprised, of course, of the December negotiations. Regarding their offer to plead. So it's not like she was. Prepared for to receive that type of offer now.

William Shubb: How many bombings did he plead guilty to?

Steven Lapham: Well, he played, played to all five of the charged bombings, including the one that was charged in New Jersey. But we took a factual basis to all 16 of the bombs, so he admitted to all 16 in the Rule 11 proceedings. The judge usually asks.

William Shubb: The defendant some questions. When the judge asked in his occupation to recall what his answer was.

Steven Lapham: he said something. I suppose I'm an inmate, something like that.

William Shubb: Yes, prison inmate, yes. What sentence did he receive?

Steven Lapham: 4 consecutive life sentences.

William Shubb: As a as a epilogue, what happened to the land upon which the cabin was situated?

Steven Lapham: A couple of years after the criminal proceedings came to a conclusion, the woman stepped forward asking to purchase the land. Unlike other possessions, pretty much you have to sell the land to somebody. You can't just sit there. Title This so we. Did some investigation of her and finally decided to. Would not stand in the way of that purchase, and Judge Hollies signed off on the purchase of the one and a quarter acre parcel that the cabin sat on. What happened to the cabin itself? The cabin that remained at major Air Force Base for a number of years, I think. Just recently in the last couple of years, maybe five years was. Transported to the museum in Washington, DC, which is where it is now.

Quin Denvir: Actually, I think it went to the. FBI took it and then held it for. A while and then and then. Moved it to the museum as part of an exhibit there about this case.

William Shubb: How about all the contents of the cabin? What happened to them?

Quin Denvir: Well, after a bunch bunch of litigation, there was an order made that they that the content should be sold by the Marshals and the proceeds should be given to the victims as part of the payment of restitution.

William Shubb: And essentially closes the book. We're running a little late, but I want to ask each of our panelists if they could close with a one or two-minute statement about what you learned as a result of this whole experience and what it means to you, Terry.

Steven Lapham: Thank you, judge. I learned and had reiterated a lesson that there's no way whether it's the FBI, federal, state, local agency, that we could ever come close to solving these kinds of crimes, especially the ones involving lone actors without help from the public. And I think that many times when you look at how something comes together, you don't realize that in many of these in fact. In recent terrorist cases, cases where there are acts of terror where they're prevented by someone alert in the public deciding to do something about it and take the information they have or their observation to someone. And in many other instances the case is solved and the people are arrested. It takes tremendous courage and conviction and decency to come forward and then to begin to work with us, of trying to pull things together. And when I look back at this and I think of all those qualities that David possessed. People such as the victims who are like Gary. And we're always constantly there for us even and showed such great courage with all the things that happened to them. I think it touches you deeply. It makes you realize why you got involved in law enforcement, but it serves as a constant reminder that we have to go to the public and give them as much as we can give them so that we can use their support and their health to find out how to bring these cases to a conclusion.

Gary Wright: Yeah, that's. I'd probably talk about that for a long time. But squeezing that into a couple minutes, I guess the couple of things I learned would be that I don't think anybody knows what they're going to do with something like this until you're actually in it. You learn a lot about that a lot about yourself, a lot about people. You learn a lot about the people. Sitting at this table, lots and lots of people that I dealt with through a lot of years, especially not knowing for nine years who. Was a lot of friendships developed on all sides of law enforcement and prosecution? Defense had a lot of friends that way, kind of echoing a little bit what Terry said. I felt like it was my job to get out and do what I could as a victim. If you will, because I don't really like that word, as the judge had mentioned. I'm a survivor. Paris Hilton's a victim. So just just thought I'd put that out there. But yeah, in my, in my world, I mean, I was approached to go out and do things like unsolved mysteries. America's Most Wanted things like that would have never been done, and there's a certain amount of risk that goes with that. I mean, whether or not somebody's coming back at you or not, but that's the way. In my world, things worked. My dad was a state trooper, so I grew up that way. So I just really more or less appreciated a lot around the system. I appreciated what it offered me and the ability that I actually have voice. So when you are in the middle of that, I think it's. In my world, the job to get up and say you have a voice, so I continue to do that.

Steven Lapham: Thank you, Glenn. Excuse me, Steve.

Quin Denvir: I know.

Steven Lapham: All right, well, I don't know if these are great insights or anything, but I came away from the experience with a couple of thoughts. One is and I think Terry would agree with this entirely. You have to constantly re-examine your assumptions. There were so many false leads in this case instances where we thought we had. The Unabomber on the line? This has to be the guy. There are coincidences. Coincidences that just can't be explained away. And they were explained away. And so constantly. When I hold that with me whenever I was conducting investigations after that. Continue to re-examine the assumptions the other one has nothing to do with law. It has more to do with the fickleness of fate. There were several of these instances that could easily have resulted in the death of more individuals. Gilmore, the victim of bond #16. Which occurred just about five blocks from this building. the package was delivered in a big one of those white mail tubs to the business. The bomb was actually sitting on top. The mail was. Late that day. So all the employees of the Timber Association were kind of congregating around the reception area to get their mail. Gil Murray was called out to receive his package, which actually wasn't even addressed to him. It was addressed. To the prior press. It was a very tightly wrapped package with brown packing paper. It was designed to detonate when the tension on that packing paper was released. So if you just release the tape, that's enough to explode the device. FBI still doesn't know. How that was possible in any event? Gill Murray comes out there are about eight people standing around the counter, leaping through their mail, having discussions. When Bill Murray

is trying to open this package, he's having difficulty because it's so tightly wrapped. He can't do it with his fingers, so he asks the receptionist for a pair of scissors. As this is going on. One by one, people were filtering away. One person gets a phone call, has to go back to his office, another person calls a coworker aside to the hallway to talk about some point. Other people are simply getting their mail and going back. As he's handing as the receptionist is handing the scissors to Gill Murray, she gets a phone call. The caller wants to know the number of another person. It's not on the rolodex at the reception desk. The receptionist, who's just filling in for the real receptionist for the lunch hour, says, puts the caller on hold, goes back to her office to retrieve the information. She gets about 10 steps outside the hall when the bomb explodes. Bill Murray is the only one killed because he's the only one left in the reception area at that time. Had the bomb exploded 30 seconds earlier, they probably would have been a half a dozen fatalities. The same story repeats itself with Thomas Mercer, the victim of Bond 15, his wife and daughter. 1 1/2 year old daughter. I think come into the kitchen. Just as he's starting to open the package, the daughter needs a diaper change. The wife does a 180 leaves. The area goes back to do the diaper change, the bomb explodes and Thomas Mercer was killed. Killed instantly. There are other examples of that, but I just hold on to that thought that you know. As they say, but for the grace of God, we could have had a lot of. Lot more fatalities. Thank you.

Quin Denvir: Excuse me, I guess what I take away from it is a great admiration and respect for David Kaczynski. he and his his mom were estranged from Ted because of Ted's mental illness. but he was they were very supportive of him and when actually I think I think as Gary says, it was David's wife who really serves him. Could that be Ted? And then when he realized, he thought it could be and he was just torn between this and the. This is my brother and. What if what? If I turn him in, what will they do to him? On the other hand, if I don't, he's really, you know, Bomber will be more people be killed and he and he went through that, that horrible back and forth and then with the help of this, this wonderful lawyer from Washington, DC, Tony Bisceglie came forward and. And it was. It was the key to this case. I don't know if the task force would have got there sooner or later, but it would have been a while I think. and David was given a reward \$1,000,000 I think and he dedicated to helping other victims. He was going to use it solely. For that, he's. He and Gary Gary could speak out more, have become friends, I think as a statement, fair statement and they have gone together to talk to victims groups. and to. I hear he can speak for more of that, but he's continued in that area in the death penalty area and he also has come together with a the brother of a fellow by named Manny Babbitt, who was a. California State capital defendant and the brother of Manny Babbitt turned him in and the state executed him. So the two of them run and talk about victims and responsibility. So I just think they're wonderful. And I think. Garry's wonderful. He's been much more. Giving whatever words and then any than I ever. Would have been.

Gary Wright: Now, thank you.

William Shubb: Thank you. This concludes the presentation we want. To invite all. Of you to attend the reception in the Anthony and Kennedy Learning Center downstairs, where there will not only be refreshments, but the panelists will be there. Available to talk with you and answer any questions that. You might have. And there is an exhibit. There of of. Photographs and the evidence that would have been used at the trial of the United States versus Theodore Kaczynski had that trial actually going forward. You very much.

A critique of his ideas & actions.



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