

1 MR. KELLY: Your Honor, before we call our next
2 witness, the United States would like to offer a stipulation
3 which has been agreed to by the parties which we would like to
4 mark as Government's Exhibit 67 if I could pass it up to the
5 Court for your review first.

6 (Pause.)

7 THE COURT: If you agree, I agree.

8 MR. KELLY: I would request the Court's permission to
9 read it to the jury.

10 For the record I'm reading Government's Exhibit 67.

11 "The parties to this action hereby stipulate as
12 follows: The defendant Alfred Trenkler was indicted on
13 Wednesday, December 16th, 1992 and arrested later the same
14 day, agreed and stipulated by counsel."

15 We would offer this.

16 And the United States calls as its next witness David
17 Lindholm.

18 William David Lindholm, sworn

19 Direct Examination by Mr. Kelly

20 THE CLERK: Please be seated and spell your name for
21 the reporter.

22 THE WITNESS: My name is William David Lindholm,
23 L I N D H O L M.

24 Q Good morning. How old a person are you, Mr. Lindholm?

25 A I'm 43 years old.

1 THE COURT: Would you speak up a little bit and move
2 closer to the microphone, please.

3 Q Again, sir, how old are you?

4 A I'm 43 years old.

5 Q And what is your current marital status, sir?

6 A I'm divorced.

7 Q What is your educational background, Mr. Lindholm?

8 A I graduated Milton High School in 1968 and I attended
9 college in Charlestown, Boston University and Suffolk
10 University for approximately four years, from 1968 to
11 approximately 1972.

12 Q Were you raised in Milton, Mr. Lindholm?

13 A Yes, I was.

14 Q Mr. Lindholm, are you incarcerated at the present time,
15 sir?

16 A Yes, I am.

17 Q And what offenses were you convicted of that led to your
18 incarceration?

19 A I was convicted of a marijuana conspiracy charge and in
20 1983 a tax evasion charge.

21 Q And when you say that, for failure to file an income tax
22 return for the year 1983?

23 A Yes.

24 Q You weren't convicted in 1983?

25 A No, I wasn't.

1 Q Please keep your voice up as much as possible, sir.

2 A Right.

3 Q When were you convicted of the marijuana and tax offense,
4 sir?

5 A In December of 1990.

6 Q And what sentence was imposed upon you at that time?

7 A I received a 97-month sentence.

8 Q And what is your approximate release date, if you know?

9 A Approximately some time in 1997.

10 Q Mr. Lindholm, how long were you in the marijuana
11 business, sir?

12 A From approximately 1969 until 1988.

13 Q And would you describe for us the general nature of your
14 activities in this regard?

15 A I was a wholesaler and I traveled to Florida and the
16 southwest, in Texas and Arizona.

17 Q You brought in wholesale quantities of marijuana to be
18 resold in New England; is that fair to say?

19 A Yes, I did.

20 Q Were you ever involved in selling cocaine?

21 A Never.

22 Q Or heroin?

23 A Never.

24 Q Or any other substance besides marijuana?

25 A Never.

1 Q Other than the convictions that you've just described,
2 have you been convicted of any other crimes, Mr. Lindholm?

3 A No.

4 Q Have you ever been involved in any crimes of violence?

5 A No.

6 Q Mr. Lindholm, between 1969 and 1988, while you were in
7 the marijuana business, did you have any other outside form of
8 employment?

9 A No.

10 Q And how, if at all, was your conviction for failure to
11 file an income tax return in 1983 related to your marijuana
12 dealings, sir?

13 A Would you repeat that question, please?

14 Q How, if at all, was your conviction for failure to file
15 an income tax return related to your marijuana dealings?

16 A Well, I couldn't report the income I made from selling
17 marijuana to the IRS or that would have triggered an
18 investigation, so --

19 Q Is it fair to state that the majority, if not all of your
20 income, for the year of 1983 was from the sale of marijuana?

21 A Yes.

22 Q And you didn't declare that to the IRS?

23 A I did not.

24 Q And during the same time frame 1969 to 1988 did you have
25 any business dealings with banks or mortgage companies, sir?

1 A Yes, I did.

2 Q And in these dealings did you declare to these financial
3 institutions that the primary source of your income was the
4 sale of marijuana?

5 A No, I did not disclose that.

6 Q And in those instances when you had financial
7 transactions with such entities, what would you tell them, for
8 example, when you were applying for a loan?

9 A I told them I was a fine art broker.

10 Q As of 1992, Mr. Lindholm, where were you serving the
11 prison sentence that was imposed upon you, sir?

12 A At the beginning of 1992 I was Big Spring, Texas, FCI.

13 Q This is a federal penitentiary, sir?

14 A No, it's a federal correctional institute.

15 Q Okay. And is it fair to state that sometime in that year
16 1992 you were brought back from Texas to Massachusetts to be
17 questioned about other matters relating to or arising out of
18 your own conviction; is that fair to say?

19 A Yes.

20 Q I want to direct your attention to the date of Thursday,
21 December 17th, 1992, and ask you whether you were brought into
22 this courthouse on that particular day?

23 A Yes, I was.

24 Q And after you were finished with your commitments that
25 day, where were you taken that evening?

1 A To Plymouth County Jail.

2 Q And is that also known as the Plymouth House of
3 Correction?

4 A Yes.

5 Q And had you ever been to that location prior to December
6 17th, 1992?

7 A No.

8 Q Where were you placed when you first arrived at that
9 institution?

10 A I initially went into the intake area and I was there
11 until approximately midnight getting processed.

12 Q And were you moved after that to some other location
13 within the facility?

14 A Yes, I was.

15 Q Where were you moved to, sir?

16 A To the orientation unit.

17 Q And that was at about midnight?

18 A Yes.

19 Q Would you describe this orientation unit for us, please?

20 A It's one general dormitory study type living area in
21 approximately -- I would say approximately 22 bunk beds in
22 this area, and a shower area and a bathroom area at one end of
23 the living unit.

24 When I initially went there, it was very
25 overcrowded. It was very noisy. The lights are on 24 hours a

1 day. There are two different sets of lights. They would turn
2 one set down late in the night. There would be always one set
3 that was on, so it's not a comfortable environment.

4 Q What was the noise level in that particular room?

5 A It was pretty excessive.

6 Q And how large a room are we talking about in relation to
7 this courtroom, sir?

8 A It was -- the whole area was probably the length between
9 this wall and this wall. And width wise, it was maybe from
10 this wall to approximately here (indicating) in that
11 direction.

12 MR. KELLY: And for the record, we're in Judge
13 Zobel's courtroom. You first pointed to the long walls, one
14 of which was on the window side, and in the second description
15 you were pointing to the back wall behind your Honor and out
16 to a location just in front of your clerk.

17 Q How many inmates were in this area, Mr. Lindholm, when
18 you first arrived on Thursday night, December 17 or the early
19 morning hours of December 18th?

20 A Probably around 44. It was fully occupied, all the beds
21 was occupied at that time.

22 Q What was the breakdown of this group of inmates in terms
23 of race or ethnic background?

24 A It was generally divided between Hispanic and black
25 individuals. There was probably approximately four Caucasian

1 males, me included in that number.

2 Q Now, how were you feeling physically when you arrived at
3 that location that evening in the orientation unit?

4 A I had a cold and a sore throat and a temperature.

5 Q Now, during the course of that first evening, did you
6 meet an individual by the name of Alfred Trenkler?

7 A Yes, I did.

8 Q And do you see the Alfred Trenkler that you met at that
9 time in the courtroom here this morning, sir?

10 A Yes, I do.

11 Q Would you point him out for us, please?

12 A He's seated next to the woman with a navy blue sportscoat
13 on.

14 MR. KELLY: Your Honor, may the record reflect that
15 the witness identified the defendant?

16 THE COURT: Yes.

17 Q Mr. Lindholm, tell us what happened that evening and how
18 you first met the defendant?

19 A I was having a difficult time sleeping that evening. And
20 I couldn't sleep at all because of the noise and being in a
21 new environment and not feeling very well. And I got up and I
22 went to the bathroom end of the unit and moistened a towel to
23 put on my forehead because I wasn't feeling very well.

24 After that, I still couldn't sleep and I observed
25 Alfred Trenkler sitting at a, picnic table which would be the

1 best characterization. It was a table with four seats around,
2 and they're welded in each position.

3 Q And where was this table located within the room?

4 A At the entrance end of the unit. And he was sitting
5 there by himself.

6 Q And did you go over to the table?

7 A Yes, I did.

8 Q And what, if any, conversation was there at that time
9 between you and the defendant that evening?

10 A Nothing noteworthy. It could best be characterized as
11 just incidental conversation.

12 Q Small talk?

13 A Right.

14 Q Now, did you remain in the orientation unit the following
15 day, Friday, December 18th?

16 A Yes, I did.

17 Q By the way, how long did you remain in this unit until
18 you were transferred out?

19 A Until the following Monday at 12 o'clock noontime.

20 Q And how many other inmates remained in that unit for the
21 entire weekend?

22 A To the best of my recollection I would say -- well, most
23 definitely 6 or 7.

24 Q So the large number of 40 or so somehow filtered out?

25 A Into the general population where they were released on

1 bail.

2 Q Now, what about the defendant? Was the defendant around
3 the orientation unit during the daytime hours on Friday,
4 December 18th?

5 A No, he wasn't.

6 Q And what was your understanding of where he was?

7 A That he came back to Boston for a bail hearing or an
8 arraignment hearing, some type of hearing in front of a
9 magistrate.

10 Q And he returned later that day?

11 A Yes, he did.

12 Q And did the defendant remain in this orientation unit
13 with you throughout the weekend, sir?

14 A Yes, he did.

15 Q What, if any, contact or conversation with the defendant
16 did you have that evening, Friday night, December 18th, sir?

17 A I spoke to him again that evening.

18 Q Was it again pretty much small talk, sir?

19 A Yes, it was.

20 Q On this time on Friday night did you make any
21 observations about how the defendant was getting along in the
22 unit?

23 A He was having some slight difficulty with some of the
24 other inmates.

25 MR. SEGAL: Objection to the relevance of that, your

1 Honor.

2 THE COURT: I don't know if it's relevant or not.
3 I'll take it de bene.

4 Q Go ahead, sir. Had you finished your answer?

5 A Yes. Some of the inmates were asking him to clean
6 himself up a little bit.

7 Q I want to direct your attention to the following day,
8 sir, Saturday, December 19th, did you have contact or
9 conversation with the defendant on that day?

10 A Yes, I did.

11 Q Would you tell us what you first recall that day, sir?

12 A Well, the unit went down for breakfast Saturday morning,
13 and the Hispanic inmates tend to sit with themselves and the
14 black inmates tend to sit with themselves, and I sat with
15 Mr. Trenkler and ate breakfast.

16 Q Did you have a conversation at breakfast, sir?

17 A Yes, I did.

18 Q What did you discuss?

19 A We -- it came to my attention that he was from Milton,
20 the Town of Milton and I also was from the Town of Milton. I
21 grew up in Milton and we discussed being from Milton.

22 Q And based on these discussions what, if anything, did it
23 appear that you and the defendant have in common, sir?

24 A Well, he informed me that he attended Thayer Academy and
25 Milton Academy. And my father when he was a young man

1 attended Thayer Academy and Milton Academy and Brown and Brown
2 University. And we talked, you know, about Thayer Academy and
3 Milton Academy. And we also, he also brought to my attention
4 that he lived on White Lawn Avenue, and I lived on White Lawn
5 Avenue approximately 1961 to 1962, for one year.

6 Q Did you discuss that fact?

7 A We discussed that, and I asked him about what happened to
8 the people that owned the property that my mother and I lived
9 at. He told me that, to the best of his recollection he then,
10 Mrs. Dunning and son (ph.) were both deceased at that time.

11 Q What, if any, relationship did you have with the
12 defendant at this time on Saturday, December 19th?

13 A We started to -- I characterize -- we started becoming
14 more familiar with each other. It was sort of like a male
15 bonding process.

16 Q Was there any discussion between you and he about your
17 own experience with the criminal justice system?

18 A Yes, there was.

19 Q Is it fair to state, Mr. Lindholm, that you offered the
20 defendant some free advice on a number of matters based on
21 your own experience and your own understanding of the law?

22 A Yes, I did.

23 Q Now, had you gone through a full trial of your own
24 charges?

25 A Yes, I did.

1 Q And the discussions that you had with the defendant
2 reflect some of your own opinions or feelings about the trial
3 process?

4 A Yes.

5 Q Can you give us an example, give us an example of what
6 you discussed in this regard?

7 A Well, we discussed how it's beneficial for a defendant to
8 actively participate in his own defense strategy during the
9 trial.

10 Q And things of that nature?

11 A Correct.

12 Q Selection of counsel?

13 A Correct.

14 Q Now, in this regard, sir, what if any questions, did you
15 ask the defendant about the evidence or about the case against
16 him?

17 A We talked about the fact that -- well, he actually
18 related to me that he felt that this was a somewhat
19 circumstantial case against him.

20 Q Was there any discussion of electronic surveillance, for
21 example?

22 A Yes, there was.

23 Q What was the discussion, as you recall it?

24 A I asked him if he thought there was a wire tap or filming
25 or any kind of electronic surveillance of him relating to this

1 indictment.

2 Q And how did he respond?

3 A He felt pretty assured that there was not.

4 Q Now, at this point on Saturday the 19th of December, did
5 the defendant tell you that he was not guilty of the charges,
6 that he was innocent of the charges?

7 A Yes, he did.

8 Q Let's turn to the following day, Sunday, December 20th,
9 did you have continued contact with the defendant on Sunday?

10 A Yes, I did.

11 Q And what, if any, conversation do you recall having on
12 sun about a person by the name of Thomas Shay, Jr.?

13 A Well, he, Mr. Trenkler stated to me that he couldn't
14 understand why Mr. Shay would be implicating him in this case.

15 Q What else did he say? Did you ask him any questions, for
16 example? Did you ask him any questions about whether or not
17 Mr. Shay would testify?

18 A Yes, I did.

19 Q And how did you respond, sir?

20 A He stated that he did not think that Mr. Shay would
21 testify against him or on behalf of the Government, and I told
22 him that I was most fortunate that that would be very damaging
23 to his position if Mr. Shay did testify.

24 Q Did the defendant tell you how or where he met this
25 Mr. Shay?

1 A Yes, he stated that he met Mr. Shay at a bus stop across
2 from WBCN studio near the Fenway Park Drive area in Boston.

3 Q Did he say how long he had known him?

4 A He stated that he knew him approximately two years.

5 Q At some point in this conversation, Mr. Lindholm, did you
6 become aware of the defendant's sexual orientation?

7 A Yes.

8 Q And what was your understanding, sir?

9 A I believe that Mr. Trenkler was gay.

10 Q And what was your understanding based upon?

11 A His conversations with me about his relationship with
12 Mr. Shay.

13 Q And what, if anything, else did the defendant tell you
14 about himself during the course of your conversations on
15 Sunday during the day, hobbies, interests, and the like?

16 A He told me that he was -- well, he informed me that he
17 graduated from Wentworth Institute, and he was very
18 technically oriented, engineering oriented, that he was in the
19 process of receiving a contract at the time for an electronic
20 project. I mean he was -- he was pretty up beat about that.

21 Q Was there any discussion about surveillance equipment?

22 A Yes. We talked about surveillance equipment, and me
23 being in the business I was once in, and there was something
24 about that.

25 Q Again, you have to keep your voice up, sir?

1 A I'm sorry, being in the business that I was once in, I
2 knew something about surveillance equipment and we spoke about
3 how it is easier to require antisurveillance equipment in
4 Europe and in the United States.

5 Q And this is something that he said?

6 A Yes.

7 Q Now, where were these conversations that you had been
8 describing taking place?

9 A Some of these conversations were taking place during
10 breakfast lunch and dinner and other conversations were taking
11 place during the day in our housing unit.

12 Q And were there other people around during the course of
13 these conversations?

14 A There were people in the unit, but there weren't other
15 people privy to our conversations.

16 Q And how would you be able to segregate yourself from the
17 other four or five inmates that were there in the unit?

18 A We would walk towards the end of the unit where there was
19 a wall approximately four or five feet in height that
20 segregated the bathroom end of the unit from the living end of
21 the unit, and there wasn't anybody really around that area.

22 Q Now, was there further discussion with the defendant on
23 Sunday, about the charges or the evidence charges against him?

24 A Yes.

25 Q And what, if anything, did the defendant say to you about

1 Radio Shack?

2 A He stated that it was -- the Government had knowledge
3 that some components were purchased from a local Radio Shack
4 distributor, a retailer.

5 Q And what was the conversation about that as best you
6 recall?

7 A I stated that it was rather careless that anybody that
8 might be involved in building a device such as this would go
9 to their local Radio Shack retailer and purchase this type of
10 equipment as opposed to going out of state or out of New
11 England.

12 Q And how did the defendant respond?

13 A He mentioned the fact, yes, that was an accurate
14 observation, and it was regrettable.

15 Q Now, was there any conversation at this time on Sunday
16 about the defendant's involvement with an earlier explosive
17 device in 1986?

18 A Yes, there was.

19 Q What do you recall him saying?

20 A He talked about this event that took place in 1986, and
21 he stated that the device that he built in 1986 was by no
22 means as powerful as the device that was built when this later
23 event took place.

24 Q When was this discussion about the 1986 bomb. When on
25 Sunday was this raised, if you know?

1 A This was raised in the late afternoon, early evening.

2 Q And directing your attention to that evening, Sunday
3 night, December 20th, did you continue to have conversation
4 with the defendant at that time?

5 A Yes, I did.

6 Q And did that conversation continue to touch on this
7 incident of the 1986 bomb?

8 A Yes, it did.

9 Q Can you describe the setting of the conversation on
10 Sunday night, December 20th, where were the two of you?

11 A We were at the end of the orientation unit near the
12 bathroom and --

13 Q And was anyone else around?

14 A No.

15 Q Were you speaking in loud audible voices?

16 A No, we weren't.

17 Q And what do you recall about the conversation on Sunday
18 night?

19 A He was very cool towards, you know, what we were talking
20 about.

21 MR. SEGAL: I object to characterization. I think he
22 can say what he said, but --

23 THE COURT: Tell us what he said, please.

24 THE WITNESS: All right.

25 A He ... He was very concerned and --

1 MR. SEGAL: I object.

2 THE COURT: As best as you can, Mr. I

3 what he said, please.

4 THE WITNESS: All right.

5 A At one point he stated, well, even if I did build a bomb,
6 I did not place it on the car.

7 Q What happened next?

8 A Then he paused for a moment and said, so, I built the
9 bomb. I built the bomb. I don't deserve to die or spend the
10 rest of my life in prison for building this device.

11 Q Were those the defendant's words as best as you can
12 recall them?

13 A Yes.

14 Q What else were you discussing at or about the same time
15 you made those statements. For example, was there any
16 conversation of the two Boston bomb squad officers that you
17 recall?

18 A Yes, there was, after he made those statements.

19 Q Tell us what he said?

20 A He stated that the two bomb squad officers were foolish
21 and negligent for not wearing body armor at the time that they
22 were examining this device, and in essence that it served them
23 right for what happened to them. It wasn't his fault.

24 Q Did he display any sadness or remorse?

25 A None.

1 Q What was his demeanor at the time, sir?

2 A He was very cold, calculating and disparaging towards the
3 officers.

4 Q Now, after he made the statement about "I built the bomb,
5 but I don't deserve to die for that," what, if any, advice did
6 you offer him, sir?

7 A I told him that he should not repeat that statement to
8 anybody else he might encounter. It could potentially be very
9 damaging to him.

10 Q What, if any, further discussion did you have on Sunday
11 night about the topic of remote control, as I remember?

12 A We talked about C 4 explosives and mercury switches and
13 remote control devices. We -- he stated, I asked him what he
14 thought the distance would be for a remote control switch in
15 terms of activating the device, and he thought it would be
16 approximately be 50 yards in distance.

17 Q 50 yards?

18 A Correct.

19 Q What, if any, conversation did you have Sunday night
20 about this fellow Shay, Jr. Did you have any further
21 conversation about him?

22 A Yes. Yes, he did.

23 Q And what do you recall?

24 A At one point he stated that he thought that Mr. Shay was
25 HIV positive, and --

1 Q What else do you remember him saying?

2 A He was, he made a number of remarks about Mr. Shay in a
3 jealous vein.

4 Q What was his demeanor during this part of the
5 conversation?

6 A He would get slightly emotional at times when he
7 discussed Mr. Shay, and his relationship with Mr. Shay.

8 Q Did he express any observations about Mr. Shay's
9 technical capabilities that you recall?

10 A Well, I was in a -- on Thursday, December 17th, I was in
11 a lockup with Mr. Shay in this courthouse, and I was with him,
12 with some other people for I would say about -- well, I would
13 say one hour in time. And after observing him, I stated to
14 Mr. Trenkler that I didn't think that Mr. Shay was capable of
15 putting batteries in a flashlight. And he agreed with me in
16 terms of his lack of technical ability.

17 Q The defendant agreed with your statement?

18 A Yes.

19 Q Now, during this conversation on Sunday night, did you
20 offer the defendant any further advice or insights about the
21 trial of his case?

22 A Yes, I did.

23 Q What was the conversation, if you recall it, sir?

24 A I spoke to Mr. Trenkler about the result of
25 President-elect Clinton's forthcoming administration, and I

1 made the observation to him that I thought that a new Attorney
2 General would replace a number of U.S. attorneys around the
3 country and that this U.S. Attorney's office would be one of
4 them that would have a new U.S. Attorney. And with that, I
5 also stated that I thought that some assistant U.S. attorneys
6 here, and in other offices around the country, probably would
7 be leaving for other positions in private practice.

8 Q What did Mr. Trenkler say, if anything, at that time?

9 A He stated to me that he had some information that you,
10 Assistant Attorney Paul Kelly, would be leaving this office to
11 pursue some other legal career, since you had been practicing
12 as an U.S. Attorney here.

13 Q What else did he say?

14 A He had a definite dislike for you.

15 MR. SEGAL: Well, I'm going to object, your Honor.
16 It seems to me what he said, we're into opinion now, aren't
17 we?

18 THE COURT: That's what he said.

19 Q Tell us what he said?

20 A He stated that you were an insidious prosecutor, and that
21 you -- that he had an enormous dislike for you personally.

22 Q Mr. Lindholm, what if any agreements do you have with the
23 United States Government?

24 A None whatsoever.

25 Q Has anyone offered you any promises, rewards, or

1 inducements for testifying or providing information in this
2 case, sir?

3 A No.

4 Q Have you and I ever discussed that subject?

5 A No.

6 Q Have you discussed that subject with any federal agents
7 or officers?

8 A No, I have not.

9 Q Is it fair to state, Mr. Lindholm, that you would have
10 preferred not to have been involved in this matter?

11 A Yes.

12 Q So, tell us, sir, why are you here, what are your reasons
13 for testifying?

14 MR. SEGAL: Objection.

15 THE COURT: What's the objection?

16 MR. SEGAL: I don't see why it's relevant.

17 THE COURT: Well, it may go to the issue of
18 credibility, and I'll allow it on that.

19 Q What are your reasons for testifying, sir?

20 A Well, I think that this was a tragic event that happened
21 here; and I think that Mr. Trenkler related to me that he had
22 absolutely no remorse at all for having hurt two police
23 officers that were involved.

24 Since I have been incarcerated, I have come to
25 realize that the sole function of prison is not just

1 punishment. I think rehabilitation is important for an
2 individual. And I think, when I talk about rehabilitation, I
3 mean rehabilitation of a person's values in terms of how they
4 live one's life and the decisions they make, knowing the
5 difference between what's wrong and what's right, what's
6 illegal and legal.

7 And I thought, think, I've determined that I think I
8 am correct in doing what I'm doing today, and I think there's
9 a correct -- it was a correct thing for me to do to be here to
10 relate to the Court what I know about what happened and what
11 statements he made to me about what happened.

12 Q When is the last time you saw or had any contact with the
13 defendant Alfred Trenkler?

14 A The last time I saw Alfred Trenkler was that Monday that
15 I left the orientation unit at approximately at noon.

16 Q December 21st, 1992?

17 A Correct.

18 MR. KELLY: Nothing further.

19 THE COURT: You may stretch.

20 (Pause.)

21 Cross-examination by Mr. Segal

22 Q Good afternoon, Mr. Lindholm. My name is Terry Segal. I
23 represent Mr. Trenkler.

24 Let me give you a copy of what I marked Defendant's
25 Exhibit 109 D for identification which is the statement that

1 was taken by the Government from you in this case.

2 Can you recognize that document as the statement
3 describing the events you've just testified to?

4 A Yes.

5 THE COURT: This is the 302 or his statement?

6 MR. SEGAL: No --

7 MR. KELLY: It's an investigative report. It's not a
8 302, but it's a 3270, the equivalent of it.

9 Q If you want to refer to this statement at any time in
10 answering questions, that's fine.

11 THE COURT: Well, why don't we have some questions
12 and why don't you put that thing down for the moment, Mr.
13 Lindholm, and we will proceed.

14 (Witness complies.)

15 Q Let's go to Friday evening, Mr. Lindholm. That's when
16 you first -- I think you told us you started talking with
17 Mr. Trenkler early Friday morning; is that right?

18 A Right, right after he came in Thursday evening, that's
19 correct.

20 Q Then Friday evening he came back from court and started
21 speaking with him; is that right?

22 A Yes.

23 Q Is it fair to say that during the course of a weekend
24 certain inmates would recognize Mr. Trenkler and tell him to
25 read the newspapers which the guards have supplied to the

1 unit?

2 A Yes.

3 Q And that in one of the conversations Mr. Trenkler wanted
4 to know how you knew where he was from and you said you had
5 read about it in the newspapers?

6 A Yes, and I --

7 Q All right. I take it his arrest was the subject of
8 intense newspaper coverage those days; is that right?

9 A It was in the newspaper.

10 Q And did you recall -- did you read the papers about the
11 case?

12 A I read one paper while I was there, the Herald.

13 Q Down in Plymouth?

14 A Yes.

15 Q Did you read any up on the 17th while you were up here?

16 A No.

17 Q What date did you come in and meet with the U.S.
18 Attorneys, was that December 17th?

19 A Yes.

20 Q Let me show you the Boston Herald article of December
21 17th, 1992, which is Defendant's Exhibit 98 for ID. Is that
22 the Herald article you read down in Plymouth over the weekend
23 about this case?

24 A No, I don't believe it is.

25 Q Do you recall reading that particular article I showed

1 you?

2 A No, I don't.

3 Q Let me show you the Herald article of Friday, December
4 18th, 1992, Defendant's Exhibit 92. Do you recall reading
5 that particular article?

6 THE CLERK: Excuse me, Mr. Segal. The defense
7 already has a 92.

8 MR. SEGAL: I'm sorry, I apologize. 99. I
9 misspoke.

10 A I don't recall reading this article either.

11 Q Let me show you the Herald article of December 19th,
12 1992, Defendant's Exhibit 100 for identification.

13 Do you recall reading that particular Herald article
14 over the weekend while at Plymouth?

15 A I believe I read -- I might have read this article. Yes,
16 I think I did read this article in Plymouth.

17 Q Showing you the Globe article of February 18th of 1992,
18 Exhibit 108 A for identification.

19 MR. KELLY: What's the date of that? Excuse me.

20 MR. SEGAL: December 18th, 1992.

21 Q Do you recall reading that article while at Plymouth,
22 sir?

23 A No, I don't.

24 Q Let me show you the Globe article of December 20th, 1992,
25 Defendant's Exhibit 96 for identification.

1 Do you recall receiving -- reading that article at
2 Plymouth over the weekend?

3 A No, I don't. The only newspaper that was in Plymouth at
4 the time was the Herald.

5 Q I take it there was much discussion among the inmates
6 about the -- Mr. Trenkler and these articles that were in the
7 paper; is that right?

8 A No, it was not.

9 Q Do you recall the guards telling Mr. Trenkler that the
10 papers had stories about him in the case?

11 A Yes.

12 Q Mr. Lindholm, from 1972 to 1992, didn't you live at 174
13 Brush Hill Road in Milton?

14 A No, I did not. That was my legal address. I was a
15 registered voter in Milton and my mother resided at that
16 address. I lived in Cohasset and on Beacon Street in Back
17 Bay.

18 MR. SEGAL: Can I have just a minute, your Honor?

19 (Pause.)

20 Q The house you lived on -- you said from 1961 to 1962 you
21 lived on White Lawn Avenue; isn't that correct?

22 A Yes, with my mother.

23 Q And that was at No. 22 White Lawn?

24 A I was 11 years old at the time. I can't exactly remember
25 the numerical address. It could have been. The house is

1 owned by the Dunn family.

2 Q Let me show you the town records of Milton, the official
3 residents list for those years. And would you tell us, look
4 at those and tell us where you're listed for those years on
5 White Lawn Avenue?

6 THE COURT: Is this a residents list?

7 MR. SEGAL: Yes.

8 THE COURT: They don't list 11-year olds; do they?

9 MR. KELLY: And I would object. I mean, he said the
10 house was owned --

11 THE COURT: To the extent that it's designed to help
12 him refresh his recollection, he can use it for that purpose.

13 MR. KELLY: Can we ask yes or no, whether it helps to
14 refresh his recollection?

15 THE COURT: Yes. Does it help you to remember the
16 number on White Lawn Avenue?

17 Q Do you see the --

18 A Well, the --

19 Q Let me ask you this. Do you see either you or your
20 mother listed on that residence list for --

21 THE COURT: You may answer that yes or no.

22 A No, I don't.

23 Q And is this the voting registration list of Milton for
24 1972 to '92 that lists you at Brush Hill Road, Defendant's
25 Exhibit 108 D?

1 A Yes.

2 Q But, in fact, you didn't live at that address during all
3 those years; isn't that fair to say?

4 A Not during all those years.

5 Q But it's your testimony here today that you did, in fact,
6 live on White Lawn Avenue for one year, from '61 to '62?

7 A It probably was, yes, it was under one year in time. It
8 was approximately ten months to the best of my recollection.
9 They have an apartment in their house.

10 MR. SEGAL: As to the article he's identified
11 reading, your Honor, the newspaper article, I move the
12 admission of that particular article under 801(c), not for the
13 hearsay purpose but I'd like to heard on that.

14 MR. KELLY: Objection.

15 THE COURT: He's acknowledged he read it.

16 MR. SEGAL: Well, I think based on that I'm entitled
17 to admit it. I would like to be heard on that issue.

18 THE COURT: Well, we can deal with that later. We'll
19 mark it for identification and then we can argue about whether
20 it comes into evidence or not.

21 Which number is it, 99? 96?

22 MR. SEGAL: I'll check.

23 (Pause.)

24 MR. SEGAL: I believe it's 99.

25 THE COURT: So 99 --

1 **[Defendant's Exhibit 99 marked for identification.]**

2 Q Is this the article you recall reading, Mr. Lindholm?

3 You said there was one that you recall reading.

4 A I believe it was the Saturday Herald.

5 Q The Saturday Herald.

6 (Pause.).

7 MR. SEGAL: Well, we'll get to Saturday.

8 THE COURT: Do you have any other questions?

9 MR. SEGAL: Yes.

10 THE COURT: Well, let's keep asking them.

11 MR. SEGAL: I have the Saturday article, your Honor.

12 We'll have it marked, your Honor.

13 Q Didn't you tell, Mr. Trenkler over that weekend that you
14 had offered to help any inmate incarcerated on federal
15 charges?

16 A In terms of advice, yes.

17 Q Let me ask you this, didn't you state that you always
18 disliked the federal government, being a product of the 60s,
19 and that you would offer help to any inmate who was
20 incarcerated on federal charges?

21 A I stated that I had had an adversarial relationship with
22 the federal government due to the business of selling
23 marijuana for all those years. I was, I would say I would
24 characterize it as an adversarial relationship.

25 Q Well, would you look at page 3 of the written statement

1 which is exhibit --

2 MR. KELLY: I would object.

3 THE COURT: The objection is sustained unless you
4 tell me what you're going to do with this.

5 MR. SEGAL: I would ask if that refreshes his
6 recollection.

7 THE COURT: Well, he hasn't exhausted his
8 recollection. He's told us what he said.

9 Q Mr. Lindholm, isn't it fair to say you're familiar with
10 the federal criminal process?

11 A Yes.

12 Q And that you were offering Mr. Trenkler help based upon
13 your familiarity with the process?

14 A Yes.

15 Q And you had been through a drug trial; is that right?

16 A Yes.

17 Q Investigation?

18 A Yes.

19 Q Appeal?

20 A Yes.

21 Q Didn't you drop, dismiss the appeal of your criminal
22 conviction on December 5th -- strike that.

23 Don't you recall dismissing your federal criminal
24 appeal on December 15th, 1992?

25 A Yes, I did.

1 Q Okay. And that's two days before you came down to Boston
2 here? Let me get the sequence.

3 You were serving up in Northampton, am I right?

4 A Yes.

5 Q All right. Did you have a court-appointed lawyer for
6 that appeal?

7 A Yes, I did.

8 Q You dismissed that appeal on December 15th, 1992; is that
9 correct?

10 A Yes, I did.

11 Q You came -- you were here in the building on December
12 17th, 1992; is that correct?

13 A Yes.

14 Q All right. You were here meeting with the U.S. attorneys
15 on an unrelated matter to this case, right?

16 A Yes.

17 Q And weren't you relating on a matter relating to
18 cooperating with them in a drug investigation?

19 A Umm --

20 Q I'm sorry. I couldn't hear you, sir.

21 A Could you repeat the question, please.

22 Q Weren't you here in the building December 17th, 1992 to
23 meet with the U.S. Attorneys in connection with cooperating
24 with them on a drug investigation?

25 A I would characterize it as a debriefing of my past

1 (Pause.)

2 THE COURT: All right. Proceed.

3 Q You understood, sir, from your familiarity with the
4 criminal justice system you had been sentenced to that
5 97-month term in August of 1991; isn't that fair to say?

6 A Yes.

7 Q You understood that after one year goes by in that
8 sentence, the only way your sentence could be reduced is if
9 you supply new information to the Government; is that correct?

10 A Yes.

11 Q Now, you understood that on December 17th when you were
12 meeting here with the U.S. Attorney's Office; am I right?

13 A Yes.

14 Q And you understood that when you were down in Plymouth
15 over the weekend, the 18th, 19th and 20th; isn't that fair to
16 say?

17 A Yes.

18 Q All right.

19 Didn't you tell Mr. Trenkler over that weekend that
20 his case could set a precedent?

21 MR. KELLY: Your Honor, I would object to this line
22 of questioning.

23 THE COURT: What's the objection?

24 MR. KELLY: I need to show the Court something in
25 order to point it out.

1 THE COURT: Time to stretch.

2 [Conference at the bench, as follows:

3 MR. KELLY: Mr. Segal wants to ask about the topic of
4 the first paragraph which discusses the death penalty, and
5 since the subject of punishment is not a matter for the jury
6 and I think the reference to death penalty which is not in
7 this case would be unduly unfair and prejudicial.

8 MR. SEGAL: Here's my point. What I'm trying to do
9 also is to show that at the time this man is meeting with him,
10 all these subjects that are listed, such as this one, are in
11 the public domain in the newspaper.

12 THE COURT: The penalty wasn't.

13 MR. SEGAL: In those articles. It's right in those
14 articles.

15 MR. KELLY: She acknowledged reading one.

16 THE COURT: If you get into this I'm going to tell
17 the jury this is not a death penalty case, and there's no
18 possibility of a death penalty in this case.

19 MR. SEGAL: I understand that.

20 MR. KELLY: That was my concern.

21 ... end of conference at the bench.]

22 THE COURT: You may proceed.

23 Q Do you recall stating to Mr. Trenkler over that weekend
24 that his case could set a precedent in the First Circuit?

25 A Yes.

1 Q And that you told Mr. Trenkler there were only two other
2 death penalty cases in which he was familiar?

3 A That I was familiar with.

4 Q Right.

5 THE COURT: Members of the jury, this is not a death
6 penalty case. There is no possibility of the death penalty in
7 this case. So you needn't be concerned about that.

8 Q Didn't you also tell Mr. Trenkler, sir, over that
9 weekend, that it's possible to win a case but still lose it?

10 A That's a little oversimplified, but, yes.

11 Q Well, let me be more direct.

12 I direct your attention to page 4 of the statement --

13 THE COURT: Well, no, if you don't direct attention
14 to the statement, you may have the question.

15 MR. KELLY: Objection.

16 Q And didn't you mean by that you had won a couple of
17 counts at the trial and yet the judge took all that conduct
18 into consideration at sentencing and gave you 97 months; is
19 that fair to say?

20 A What I talked to Mr. Trenkler about was upward
21 departures, sentencing issues.

22 Q Tell us what you meant by-- tell us what you explained to
23 him about upward departures.

24 MR. KELLY: I would object, your Honor.

25 MR. SEGAL: I think his knowledge --

1 THE COURT: How is it relevant?

2 MR. SEGAL: I submit his knowledge of the legal
3 system is very relevant in this case, your Honor.

4 THE COURT: We have established that he has some
5 knowledge of the legal system but the arcane and intricate
6 businesses of the sentencing guidelines I don't believe are
7 going to get into it.

8 Q I think your testimony was on December 20th, when you --
9 strike that.

10 On December 20th, he professed his innocence; do you
11 recall that?

12 A Yes.

13 Q You told him his biggest problem was the '86 incident, do
14 you recall telling him that?

15 A I recall telling him that that was a serious problem that
16 he had, that it could be viewed as a prior bad act.

17 Q And that it would taint him in the eyes of the jury, do
18 you remember saying that?

19 A Yes.

20 Q Didn't he tell you that he had a Cousin over at Fidelity
21 that was going to refer you to a high tech company for work?

22 A He stated to me that he had a Cousin that from time to
23 time gave him referrals for his skills with electronics.

24 Q And that this person was over at Fidelity?

25 A Yes.

1 Q And did he mention the name of the person?

2 A No.

3 Q And that Mr. Trenkler said he had a bright future; is
4 that fair to say?

5 A He was very optimistic about his monetary future.

6 Q And that over the weekend he said he was innocent and he
7 lamented the fact, he lamented over why Shay was doing this to
8 him. Did he say this to you?

9 A Yes, during some of the weekend he did.

10 Q Okay. Now, you were with Mr. Shay, Jr. on the 17th in
11 the lockup here; is that right?

12 A Yes.

13 Q You were both in the same cell?

14 A Yes, with six or seven other people.

15 Q And you had some discussion with him?

16 A No.

17 Q You didn't learn anything about this case from the time
18 you were in the cell with Mr. Shay?

19 A No.

20 Q I'm sorry, I couldn't hear you?

21 A No.

22 Q You never discussed C 4 explosives?

23 MR. KELLY: Objection to anything he said. He said
24 he didn't talk about any of that.

25 THE COURT: He said he didn't talk about it, although

1 the question is not otherwise improper except for the fact
2 that the witness had already answered it.

3 Q Now, in the 20 years that you were involved in selling
4 drugs, sir, isn't it fair to say you didn't file any tax
5 returns?

6 A That's correct.

7 Q And it's fair to say that you had income in those 20
8 years for drug activity, am I right?

9 A Yes.

10 Q And you also had income from your work as an art dealer;
11 is that fair to say?

12 A Yes.

13 Q You bought and sold artwork?

14 A Yes.

15 Q But didn't there come a time, sir, when you had some tax
16 returns prepared for you?

17 A Yes.

18 Q And the purpose of having the returns prepared wasn't to
19 file them, was it?

20 A No.

21 Q It was to go to a bank or some banks and get loans; isn't
22 that correct?

23 A I was purchasing real estate at the time, and the loans
24 to my best understanding were given to me on the equity I had
25 and not based on my tax returns. They were necessary to

1 complete the package.

2 Q All right. Aren't these two tax returns for '83 and '84
3 the returns that you had prepared to complete the package in
4 connection with the loans you were getting?

5 A Yes.

6 Q So you took those tax returns for 1983 and 1984 and went
7 to some lending agency to get loans; isn't that fair to say?

8 A To banks, yes.

9 Q How many banks did you go to to get loans?

10 A In what year?

11 Q Well, let's take, in connection with the 1983 return, how
12 many times did you use the 1983 return to get a loan from a
13 bank, sir?

14 A Would you like me to name the instances specifically or
15 just --

16 Q Well, give us numbers first?

17 A Five or six.

18 Q Do you remember the name of those institutions you went
19 to with the 1983 tax return?

20 A Yes.

21 Q All right. What are those, please?

22 A Equitable Mortgage, Nantucket Savings Bank, East Weymouth
23 Savings Bank, U.S. Trust, Beacon Hill Mortgage.

24 Q Now, on each of those occasions, sir, you submitted a
25 false statement to a bank, didn't you?

1 MR. KELLY: Your Honor, I think he's answered that
2 question three or four times.

3 MR. SEGAL: I don't think so.

4 THE COURT: He told us on the record he had done it.

5 MR. SEGAL: I don't think he said specifically that
6 he took a tax return that he hadn't filed and went to a bank,
7 and now I'm going to go through these banks.

8 MR. KELLY: He can ask the question --

9 THE COURT: We're not going to go through a bunch of
10 banks. Did you do that?

11 THE WITNESS: Yes.

12 Q And you knew each time you took that tax return which
13 hadn't been filed and submitted to a bank that was a false
14 statement. You knew that, sir?

15 A Yes.

16 Q You knew it was a crime to do that, isn't that fair to
17 say?

18 A Yes.

19 Q And the same thing for the '84 tax return, you had it
20 prepared so you could convince some bank you had prepared it,
21 you had filed it, right?

22 A Yes.

23 Q In fact, you never filed the '84 return, right?

24 A Correct.

25 Q But you went to five lending institutions and said here's

1 my tax return, I need the loan, give me the loan, right?

2 A Yes.

3 Q And on five different occasions, on ten occasions, you
4 committed a crime in connection with applications to banks;
5 isn't that correct, sir?

6 A Well, the mortgage companies are banks, but yes, sir.

7 Q On ten different occasions you misrepresented to
8 different lending institutions whether they were banks or
9 mortgage companies that you had filed a tax return when in
10 fact you hadn't filed it; isn't that correct, sir?

11 A That's correct.

12 Q From your observations of Mr. Trenkler, didn't he appear
13 to be a very intelligent person?

14 A Yes, he's -- I believe him to be an intelligent person.

15 Q Do you recall being known by the nickname of --

16 MR. KELLY: Objection, your Honor. Objection to
17 nicknames.

18 THE COURT: Objection sustained.

19 MR. SEGAL: If I may have just a moment, your Honor.

20 (Pause.)

21 Q In connection with those, you were in the drug business,
22 how long 20 years?

23 A From 1969 to 1988.

24 Q You had to bring in a lot of drugs without getting caught
25 in those years; isn't that right, sir?

1 A Marijuana, yes.

2 Q And you devised ways to bring it in in a surreptitious
3 manner so that the authorities couldn't catch you?

4 A Yes.

5 Q You figured out how to fly below the radar --

6 THE COURT: Whatever, he's agreed that he was
7 surreptitious and a drug dealer.

8 (Mr. Kelly stands.)

9 Q And for 20 years you were pretty successful in bringing
10 in that marijuana without getting caught; isn't that fair to
11 say?

12 A Yes.

13 Q And how much in terms of tonnage do you think you brought
14 in during those years?

15 MR. KELLY: Objection, your Honor.

16 THE COURT: Sustained.

17 Q You were convicted of bringing in 50 pounds, am I right,
18 on one instance?

19 A Substantive count, 50 pounds.

20 Q Now, you told us you have no cooperation agreement with
21 the United States; is that correct?

22 A None whatsoever.

23 Q You've been involved in other matters with them in
24 connection with that December 17th interview; isn't that
25 correct? You said they debriefed you down here?

1 A Right.

2 Q You were in the courthouse, right?

3 A Yes.

4 Q And you were debriefed in connection with drug activity,
5 isn't that correct?

6 MR. KELLY: Objection, we've gone through this.

7 THE COURT: The objection is sustained. That's
8 repetitive.

9 MR. SEGAL: All right.

10 Q Mr. Lindholm, you have about what, 50 months on the
11 sentence. I can't hear you?

12 A Yes, 50 months.

13 Q And don't you hope somehow that your testimony here will
14 be taken into account in connection with that sentence?

15 A No.

16 Q Don't you hope your debriefing, the debriefing you've
17 been having -- by the way, how many other times did you meet
18 at the U.S. Attorney's office on debriefing?

19 MR. KELLY: Objection, your Honor. It has no
20 relevance.

21 THE COURT: I think it does.

22 Before or since?

23 Q Since December 17th, 1992, was that the first time you
24 were in the office for a debriefing on your drug activities?

25 MR. KELLY: Your Honor, the Government will stipulate

1 that that was the last time since December 17th, 1992 that
2 he's been debriefed on a drug activity.

3 MR. SEGAL: My question was: Was it the first time?

4 Q Were you brought up here prior --

5 THE COURT: Let him answer the question.

6 Q Do you understand my question, sir?

7 A Would you repeat it, please.

8 Q Yeah. Was December 17th, 1992, the first time that you
9 were debriefed on your drug activities by the U.S. Attorney's
10 Office or some agency of the federal government?

11 A No.

12 Q Weren't you debriefed up in Springfield a couple of
13 times?

14 A Twice.

15 Q What were the dates of those times?

16 THE COURT: What is the relevance of that,
17 Mr. Segal?

18 MR. SEGAL: To show that there is an incentive to
19 testify here to help there.

20 MR. KELLY: Your Honor --

21 THE COURT: No, the objection is sustained.

22 Q Do you feel you've been rehabilitated by now, sir?

23 A I feel I'm in the recovery process. Yes, I feel that I
24 know the difference between right and wrong.

25 Q And that the -- you don't want any benefit for the

1 testimony you're giving here today; is that fair to say?

2 A I'll go on the record to say that I'm not going to ask
3 for any benefit, rewards, inducements any time in the future.

4 Q If I gave you a piece of paper right now, would you say I
5 won't seek any benefit for the testimony?

6 MR. KELLY: Objection, your Honor.

7 THE COURT: It is on the record.

8 MR. SEGAL: Thank you. I don't have anything else.

9 MR. KELLY: I just have one question.

10 Redirect examination by Mr. Kelly

11 Q Mr. Segal asked you the question: Over the weekend the
12 defendant told you that he was innocent, and you said during
13 some of the weekend, and you didn't get a chance to finish
14 your answer, would you finish your answer, please?

15 A Yes, later on Sunday evening, he, Mr. Trenkler did admit
16 to me that he built the bomb that fatally killed the police
17 officer and injured the other police officer.

18 MR. KELLY: I have nothing further.

19 Recross Examination by Mr. Segal

20 Q And your testimony is that you were only with him for
21 three days and then you left, Friday, Saturday and Sunday?

22 A Friday, Saturday and Sunday, and part of Monday.

23 Q And in that period of time you said all these things,
24 correct?

25 A Yes.

1 Q And you agree you never met him before that weekend,
2 isn't that fair to say?

3 A Never.

4 MR. SEGAL: Thank you, sir.

5 THE COURT: Thank you, Mr. Lindholm, you are
6 excused. Who is next?

7 MR. KELLY: Your Honor, the Government has -- well, I
8 won't state that. Given the time that's left, the Government
9 would request the opportunity to play a six-minute video tape
10 for the jury at this time.

11 THE COURT: Go ahead.

12 MR. KELLY: And the Government will rest its case in
13 the first 45 minutes of Friday morning.

14 Your Honor, we have one, one other short witness, no
15 more than two.

16 THE COURT: Why don't you call the witnesses you told
17 me you had.

18 MR. KELLY: We would call Officer Foley. And then
19 the only issue, your Honor, that remains open has to do with
20 Agent Leahy other than that. We thought we would get through
21 it. We didn't realize it was going to take quite so long.

22 MR. KELLY: Your Honor, does this require any
23 introduction from the Court'.

24 THE COURT: Are you telling me?

25 MR. KELLY: It might be helpful to try to explain to