

SPECIAL REPORT:
OKLAHOMA CITY UPDATE

Waiting for Justice

by William F. Jasper

Two years after America's "deadliest terrorist attack"

The trial of Timothy McVeigh, scheduled to begin March 31st in Denver, may not match in duration or spectacle the interminable O.J. Simpson trials, but it is certain to cost a great deal more and cast a much larger and more ominous shadow. A trial date has not yet been set for Terry Nichols, McVeigh's accused accomplice in the Oklahoma City bombing, though it is expected to follow shortly after the McVeigh jury reaches its verdict. While much of the blame for the outrageous courtroom theatrics of the O.J. criminal trial has rightfully been attributed to Judge Lance Ito's decision to allow television cameras into the courtroom, no such excuse exists for the multitude of much greater outrages already associated with the investigation of, and trial preparation for, "the deadliest terrorist attack ever on American soil."

In the nearly two years since the terrible explosion at the Alfred P. Murrah Federal Building that took 168 lives and injured more than 500 others, an unending chain of blunders that defy belief has threatened to turn the bombing trial into a travesty that far outdoes the Simpson farce. But for those who have been attentively following developments in this case, it is unmistakably clear that something more serious than bungling ineptitude is at work. It has become painfully obvious that criminal obstruction of justice and cover-up by officials charged with investigating and prosecuting this crime may allow mass-murderers to go free.

Throwing the Case?

A host of glaring problems concerning the direction of the investigation and the official version of the who, what, and how of the bombing began surfacing almost immediately after the explosion and has multiplied steadily since. Each week seems to offer new troubling evidence and disturbing questions concerning:

- **Other perpetrators:** Why is the prosecution so insistent on its patently ludicrous "lone bomber" scenario, and why is it trying so hard to make John Doe No. 2 and other John Does seen by witnesses disappear?

- **Other bombs:** Why is the prosecution so intent on discrediting the compelling forensic and seismic evidence and the experts in those fields who point toward explosive charges inside the building?
- **Prior knowledge:** How can one explain the numerous "coincidences" regarding forewarning, except that some agency of the government had operatives inside the bombing conspiracy?
- **Official misconduct:** Why would federal investigators and prosecutors engage in witness intimidation, destruction of evidence, intimidation of grand jurors, and flagrant violation of the Constitution, except to cover up a very serious wrong?

"Three months ago I thought this thing would really be an open-and-shut case and that McVeigh wouldn't have even a 'shot in the dark,'" says Glenn Wilburn, whose two young grandsons were killed in the Murrah Building's day-care center. "But now, as I've watched the last three months unfold and have seen how the government has rejected its own best witnesses and has reduced the credibility of its remaining witnesses to absolute zero, it appears the case could even be a real horse race now. It's a travesty -- a crime, really -- that the prosecution is going to go into this trial without a valid eyewitness placing McVeigh downtown [in Oklahoma City] when we have eight to ten solid witnesses who put him and four or five others downtown in the hour before the bombing."

Wilburn and his wife Cathy are understandably outraged. Since early in the official bombing investigation, when they became alarmed at disturbing anomalies in the case, they have been involved full-time in their own effort to bring the murderers of their grandchildren to justice. The Wilburns have amassed extensive files on all aspects of the bombing. They have networked with other investigators and reporters, and have taped hundreds of hours of interviews with witnesses. They know that the FBI has also interviewed many of the same witnesses who saw Timothy McVeigh with one or more John Does and the Ryder truck immediately before the bombing. However, the federal prosecutors are not only refusing to use any witness who saw McVeigh with John Does in Oklahoma City, but they also have inexplicably rejected quality eyewitnesses who connect McVeigh with John Doe suspects in Kansas. Moreover, the prosecution has chosen some of the weakest witnesses and appears to be systematically undermining the credibility of its remaining star testifiers.

Credibility Problems

On February 23rd, following a three-day pre-trial hearing in Denver during which witness information was released, the *Denver Post* reported that "three of the top seven witnesses for the prosecution in the Oklahoma City bombing case have prior felony convictions," and a fourth witness "has a long history of blurred vision, documented by workman's compensation records."

Witness Tom Kessinger, a former auto mechanic at the Ryder truck rental agency in Junction City, Kansas where McVeigh is alleged to have rented the bombing vehicle, was sentenced to a four-year prison term in 1987 after pleading guilty to conspiracy to manufacture PCP and methamphetamine. Adding to this sterling "credibility factor" is the embarrassing fact that on the day he appeared to testify in Denver, Kessinger was scheduled to appear in a Kansas courtroom to answer another felony charge. All of which was old hat to the 46-year-old witness, who has had repeated run-ins with the law -- for drugs, assault, theft, wife-beating -- since his teenage years. Equally damaging to his credibility are reports that he bragged to others that his participation in the bombing case would make him rich, and the fact that he has changed his testimony to conform with the prosecution's desire to make the missing John Doe No. 2 disappear.

One of the prosecution's key witnesses is Michael Fortier, who has agreed to testify against his old Army buddies McVeigh and Nichols in exchange for a reduced sentence for himself and immunity from prosecution for his wife. Fortier, a resident of Kingman, Arizona, has pleaded guilty to four felony counts involving transportation of stolen firearms, making false statements to authorities, and knowing about the bomb plot and failing to warn authorities. Defense lawyers for McVeigh will certainly challenge Fortier's credibility, claiming that he has very strong and obvious motives to "perform" for the prosecution, not the least of which involves sparing himself from the death penalty, which is being sought for McVeigh and Nichols.

McVeigh's "Confession"

On March 1st, the *Dallas Morning News* published a sensational story by staff reporter Pete Slover alleging that McVeigh had confessed to the bombing and to having tried for a high "body count." In an effort to avoid a court injunction against publishing the highly prejudicial piece, the newspaper had rushed to post the story on the Internet the previous day. The "confession" grabbed top headlines coast-to-coast on Friday and Saturday.

The statements attributed to McVeigh purportedly were culled from summaries of several 1995 interviews conducted with McVeigh by members of his defense team. According to Slover, these summaries "appear to validate key elements of the prosecution's case." Indeed, they do *appear* to do that. In fact, so neatly and conveniently does the McVeigh "confession" provide point-by-point assistance to all of the government's most troublesome discrepancies and deficiencies that it is difficult to suppress suspicion that the prosecution may have had a hand in leaking it. McVeigh's lead attorney, Stephen Jones, at first denied the authenticity of the confession document, claiming that the reports quoted by the *News* "do not resemble anything that's in our office." Subsequently, however, he stated that the confession was a fake document that had been cooked up by a defense team investigator to persuade a witness to talk to him.

According to the ***Dallas Morning News***, in a July 1995 interview with a defense staff member, McVeigh had stated that bombing the Murrah Building at night when fewer people would have been killed was not considered an option because "that would not have gotten the point across. We needed a body count to make our point."

Although the supposed confession does not purport to explicitly deny the existence of the elusive John Doe No. 2, it clearly has passages aimed at debunking those witnesses who testify they saw another man besides McVeigh driving the Ryder truck. "McVeigh again insisted that he was the one who drove the Ryder truck," the defense team member allegedly wrote.

An important portion of the confession appears to be particularly tailored to attempt to address the major problem with the truck bomb scenario championed by the prosecution. As Brigadier General Benton K. Partin (USAF, Ret.) and other noted explosives experts have repeatedly emphasized, a truck bomb parked outside of the Murrah Building -- even if it contained significantly more explosives than the 4,800 pounds of ANFO attributed to the bomb -- could not effect the catastrophic failure of the massive, reinforced concrete structure with air blast alone (see the article on page 29). According to the ***Dallas Morning News***, "McVeigh told the defense interviewer the device was built with 5,400 pounds of ammonium nitrate fertilizer -- purchased for \$540 -- blended with about \$3,000 worth of high-powered racing fuel." But even if that were true, say the explosives experts consulted by THE NEW AMERICAN, the air-blast pressures would still be completely inadequate to cause the magnitude of damage seen in Oklahoma City. And just as important, the larger bomb would still not address the major problem of the asymmetrical pattern of damage at the Murrah Building which blast experts contend is additional proof of internal charges.

The so-called confession also takes aim at a witness who may prove to be one of the key informants in the case. The ***Dallas Morning News*** story states: "In one report, the staffer described McVeigh's reaction to a witness who claimed knowledge and provided diagrams of a bombing plot involving, among others, Middle Eastern terrorists and Black Muslims.... Mr. McVeigh states that (the source) appeared to be a 'bull s*** artist' and that there would probably be more theories by many other people as the days continued." The "source" referred to here is Cary Gagan, a federal informant who had received immunity from the U.S. Justice Department when he provided them with specific information regarding plans to blow up a federal building in April 1995 -- months before the bombing actually took place. The government has since belittled Gagan's information and has attempted to portray him as unstable and unreliable. However, after meeting with Gagan and reviewing his information and documentation, THE NEW AMERICAN is persuaded that the major media have been altogether too hasty in accepting the government's decree on Gagan's reliability.

On September 14, 1994, United States Attorney for the District of Colorado Henry L. Solano and Assistant United States Attorney James R. Allison for the same district provided a letter of immunity for Gagan, who is from Denver. The letter, signed by Allison and Gagan, is an agreement regarding "information concerning a conspiracy and/or attempt to destroy United States court facilities in Denver and possibly other cities." Under the terms of the letter, Gagan was told, "the United States agrees that no evidence derived from the information or statements provided by you will be used in any way against you."

Gagan claimed to have been recruited by Arabs or Iranians operating through Mexico to deliver explosives for a series of planned bombings of federal buildings in Denver, Phoenix, and Oklahoma City. At various meetings in Las Vegas, Denver, and Kingman, Arizona, he allegedly met with "Omar," "Ah mad," and other representatives of the Hizbollah terrorist organization, as well as male Caucasian American citizens.

In a civil suit filed in the U.S. District Court in Denver against Solano, Allison, and others, for violation of the immunity agreement, Gagan writes:

On March 17, 1995, in this meeting at the Hilton Inn South in Greenwood Village, Colorado where Plaintiff was present with three members of this terrorist organization, displayed on the table were the construction plans of the Alfred Murrah Federal Building bearing the name J.W. Bateson Company of Dallas, Texas, with one of these terrorists allegedly traveling to Denver for this meeting from Oklahoma City, Oklahoma.

On March 27, 1995, and again on April 6, 1995, Gagan delivered urgent written warnings to federal authorities in Denver alerting them to an imminent bombing attack. He insists that he followed these up with repeated telephone calls, all of which were ignored. In his handwritten warning of April 6th to U.S. Marshall Tina Rowe, Gagan said: "I have specific information that within two weeks a federal building(s) is to be bombed in this area or nearby.... I would not ignore this specific request for you personally to contact me immediately regarding a plot to blow up a federal building...."

After interviewing Gagan and examining his documents in light of other known facts in this case, THE NEW AMERICAN finds that his claims have far more credibility than do those of the officials who have been attempting to debunk them over the past two years.

In a February 1, 1996 letter to Gagan, Solano and Allison wrote: "Attempts by federal law enforcement officers to meaningfully corroborate information you have alleged to be true have been unsuccessful.... Therefore, the immunity granted by the letter of September 14, 1994 is hereby revoked." Moreover, wrote the pair, "You are warned that any statement you make which would incriminate

you in illegal conduct, past, present or future can be used against you. You are no longer protected by the immunity granted by letter on September 14, 1994."

Strassmeir Link

Perhaps one of the most transparent debunking attempts in the confession report was one aimed at an important line of investigation pursued by THE NEW AMERICAN over the past year: The involvement of Timothy McVeigh with the mysterious German national Andreas Strassmeir. The ***Dallas Morning News*** reported: "McVeigh undermined a popular conspiracy theory involving a German ex-soldier, Andreas Strassmeir. He confirmed the story told by Strassmeir, who insisted his only meeting with McVeigh was at a Tulsa gun show where they swapped some Army surplus goods." THE NEW AMERICAN's investigation, to the contrary, indicates that Strassmeir's connection to McVeigh and the bombing is very important. Strassmeir, Dennis Mahon, Michael Brescia, Mark Thomas, and other neo-Nazi habitues of a white supremacist commune in rural Oklahoma known as Elohim City are directly tied to McVeigh, the bombing, and a string of armed robberies throughout the Midwest. The recent information released by the ATF's undercover informant in Elohim City, Carol Howe, confirms our earlier reports of the Strassmeir/Elohim connection to the bombing, yet federal authorities continue to insist there is nothing there. In a February 23, 1997 story, Associated Press reporter Paul Queary quoted an unnamed "law enforcement official in Washington" as saying that "Elohim City is not a current subject of interest" in the ongoing investigation. That "unnamed official" was stating the obvious; for whatever reasons, federal authorities are obstinately ignoring what is clearly one of the most important leads they have in the case (see page 21).

Clearly Unconstitutional

The fact that the bombing trial was transferred out of Oklahoma in flagrant violation of the U.S. Constitution in the first place is itself an alarming indication of the official lawlessness which has typified this case. The Constitution is quite emphatic on this issue, insisting (Article III, Section 2), "The trial of all crimes, except in cases of impeachment, shall be by jury; *and such trial shall be held in the State where the said crimes shall have been committed.*" (Emphasis added.) There can be little doubt as to the clear meaning of those words.

"The Founding Fathers did not believe that the prosecution should be able to move a defendant to another community in hope of finding a jury more amenable to its case," wrote University of Oklahoma law professor Drew L. Kershen in a ***Houston Chronicle*** column of February 29, 1996 protesting the bombing trial move. "And they did not believe that another community should be allowed to substitute its judgement for that of the community affected by the crime."

Although the federal prosecutors feigned opposition to the change of venue to Colorado, they did not put up a convincing fight and certainly did not argue on constitutional grounds. In fact, the venue change probably suited them just fine; the more remote the venue, the less likely that snoopy reporters and grieving family members of victims will show up to remind television viewers and the reading public of embarrassing and inconvenient facts in this case. Moving the trial out of state is a telling measure of the extreme, extra-legal actions the Clinton Justice Department is willing to employ to "win" this case.

And winning this case, for the prosecution, means convicting *only* McVeigh and Nichols -- or convicting no one at all. No other accomplices can be allowed to come into the picture. This message has come through loud and clear in the numerous utterances from the prosecution team and other federal spokesmen over the past year and a half. John Doe No. 2, the mysterious fugitive identified by various witnesses as an accomplice to McVeigh, was declared by federal investigators to be a "mistake" in June 1995, just a few weeks after the global manhunt for him had begun. On April 9, 1996, U.S. Attorney Beth Wilkinson stated: "As of today, we have no information that anyone other than Mr. McVeigh and Mr. Nichols were the masterminds of this bombing." That position has hardened to an even more unbelievable and indefensible posture, with Justice Department spokesman Leesa Brown recently declaring, "We have no reason to believe that anyone other than Nichols and McVeigh committed the bombing."

Government Cover-up

Even the *Washington Post* felt constrained to remark on February 18th of this year, "Federal prosecutors in the Oklahoma City bombing are having more trouble than they would like getting rid of John Doe No. 2." For once the *Post* was correct. But why should the federal prosecutors want to "get rid of John Doe No. 2?" Why, indeed, unless arresting and exposing John Doe No. 2 -- and other John Does who were involved -- might also reveal definitively that federal agencies had undercover operatives inside the bombing conspiracy and could have prevented the attack, but failed to do so? It was this blatant attempt to get rid of obvious prime suspects that caused federal grand juror Hoppy Heidelberg to call foul and attempt to blow the whistle. "John Doe No. 2 is the \$64,000 question all the way around," he declared. "The families of the victims deserve to know who all was involved in the bombing, and there appears to be an attempt to protect the identity of certain suspects, namely John Doe No. 2."

It was a recognition of this flagrant attempt at cover-up and obstruction of justice that led Oklahoma State Representative Charles Key to initiate a call for a county grand jury to hear the witnesses and examine the evidence which had been conspicuously excluded from the federal grand jury. That courageous effort was denounced and attacked by federal authorities, Oklahoma Governor Frank Keating, Oklahoma Attorney General Drew Edmondson, and virtually all of the

Establishment media, who charged that it would interfere with, and gravely harm, the outcome of the federal trial.

For nearly two years, Representative Key has fought the legal delaying tactics, political ambushes, and media brickbats with resolve and aplomb. He was rewarded on February 18th, when the Oklahoma Supreme Court ruled unanimously in his favor, denying the appeal of District Attorney Robert Macy to halt the effort to empanel a county grand jury. In March Key launched the petition process to empanel the grand jury. He intends for it to call witnesses and look into much of the evidence that has so far been excluded. Key explained to THE NEW AMERICAN, "We want to be sure to get these important eyewitness accounts and pieces of evidence into the official record before memories fade, witnesses die, move away, or lose interest, and before documents get lost or destroyed."