

Still Looking for Answers

By JO THOMAS | New York Times | June 14th, 1997

DENVER, June 14— In the jury selection for the Oklahoma City bombing trial, prosecutors often asked potential jurors some version of this question: Would you be bothered by the fact that you might have some unanswered questions about the case?

A teacher's assistant chosen for the jury answered with a question of her own: "Like if something isn't clear, we can ask the judge?" and Judge Richard P. Matsch replied, "The answer to that is: No. You can't ask questions."

But the questions remain, even amid all the talk that the conviction and death sentence of Timothy J. McVeigh have achieved some measure of relief for the victims, their traumatized families and an outraged American public. They linger even after seven weeks of trial, dozens of witnesses and hundreds of pounds of physical evidence, all of which added up to an overwhelming case against Mr. McVeigh.

Did anyone help him assemble the materials for the huge bomb that took 168 lives? Did anyone help him build it, and, if so, where did they do it? If there was an even broader conspiracy, who was involved?

In deciding on Friday that Mr. McVeigh should die, the Federal District Court jury did not heed the warning of his lawyer, Stephen Jones, that the execution of Mr. McVeigh might somehow prevent the full truth about the tragedy in Oklahoma City from ever being known.

In veiled language, Mr. Jones hinted at a broader plot that Mr. McVeigh would not disclose and, because he is Mr. McVeigh's lawyer, he himself could not disclose. "You may well consider," he told the jury, "that two people share a terrible secret. One of them will not tell you and the other one cannot by his oath of office, but the one that can, may.

"The chapter -- the book of the Oklahoma City bombing -- is not closed. Do not close it. Do not permit others to close it. Let there be a full accounting, not a partial accounting."

Mr. Jones, who was effectively barred from building his defense around what many regarded as wide-ranging worldwide conspiracy theories, had an opportunity to advance this notion after the jury gave his client the death penalty, saying of those conspirators in one television interview that "there is a growing amount of evidence that they, like the Government, would want Mr. McVeigh executed."

Such comments by Mr. Jones are likely to fuel the most extreme conspiracy theories, already making their way on the Internet and right-wing talk shows on short-wave radio. One theory says the Government itself was involved and used Mr. McVeigh as a fall guy.

In the sentencing phase of the case, Joseph H. Hartzler, the lead prosecutor, responded to Mr. Jones's pleas by urging the jurors not to base their decision on what Mr. McVeigh might decide to say someday. "All indications from what you've seen through this process is we're never going to hear from him," Mr. Hartzler said. "Forget about that."

But investigators have never officially ruled out the possibility that others were involved. Almost from the beginning, there has been a deep debate within the Justice Department over whether Mr. McVeigh acted alone, driven by his hatred of the Government, or had co-conspirators in the shadowy underworld of the extreme right. Indeed, the original indictment against Mr. McVeigh and his co-defendant, Terry L. Nichols, charged that they had conspired with "others unknown."

Still, there is no active investigation of the bombing, though Justice Department officials have said they have

increased their ability to examine the far-right-wing groups and are willing to pursue any new leads.

The upcoming trial of Mr. Nichols may shed light on some of these issues, particularly if his lawyers are given wide latitude in presenting evidence. That trial is expected to begin this summer or early in the fall.

In the trial of Mr. McVeigh, Mr. Hartzler, the lead prosecutor, confronted the possibility that there might be others involved.

Someone may have accompanied Mr. McVeigh to the rental outlet in Junction City, Kan., where Mr. McVeigh used the name "Robert Kling" to lease the large Ryder truck that carried the bomb, Mr. Hartzler said. All three employees who were working in the rental office that day remembered that there had been two men.

But Tom Kessinger, the mechanic who had the most detailed recollection of the men, was not called as a prosecution witness in the trial of Mr. McVeigh because the Government did not want to muddy the waters. The defense did not call him because he positively identified Mr. McVeigh.

Mr. Kessinger's original description to an F.B.I. sketch artist of the square-jawed man who came to be known as John Doe No. 2 turned out to be a description of a man who had come into the shop the next day and had nothing to do with the bombing.

A man who called himself "Mr. Kling" ordered Chinese food delivered to Mr. McVeigh's room at the Dreamland Motel, also in Junction City, late in the afternoon of April 15, the Saturday before the bombing. But Jeff Davis, the man who delivered the food to Room 25, swore that he had given it to someone who was not Mr. McVeigh.

"This other person -- this other possible person with McVeigh -- has come to be known as John Doe 2," Mr. Hartzler told the jury as the trial began, "but we don't bear the burden in this trial of proving whether there is or is not another person with McVeigh.

"We don't bear any burden of proving who else is guilty. So we'll keep our focus on the burden we bear. We will maintain our focus on the evidence against McVeigh."

Were there others involved in the bombing, in addition to Mr. McVeigh and Mr. Nichols?

In a letter written from Arizona two months before the bombing and introduced at the trial, Mr. McVeigh seemed to be telling a Michigan woman that he was not alone, either in his ideas or in his acts.

"Most of the people sent my way these days are of the direct-action type," he wrote, "and my whole mindset has shifted, from intellectual to animal."

In pretrial hearings, one witness said he recalled two men who purchased the fertilizer used to make the bomb. Although one might have been Mr. Nichols, he said, the other man was not Mr. McVeigh.

That testimony came from Frederick A. Schlender Jr., who works at the farmers' cooperative in McPherson, Kan., where the fertilizer was purchased; he was not called as a witness at the trial. Instead, a senior cooperative official attested to the authenticity of a receipt, found in the home of Mr. Nichols, that bore the fingerprints of Mr. McVeigh.

Mr. Schlender recalled that he himself had loaded the bags of fertilizer onto a trailer pulled by a pickup truck driven by the men. The pickup truck he described was larger than Mr. Nichols's truck. And at the time, neither Mr. McVeigh nor Mr. Nichols owned such a trailer, nor could the Federal Bureau of Investigation find any evidence that they had borrowed or rented one.

The original indictment by the Oklahoma City grand jury charged that Mr. Nichols and Mr. McVeigh had built the bomb that destroyed the Alfred P. Murrah Federal Building in the Ryder truck when it was parked at Geary Lake State Park north of Mr. Nichols's home in Herington, Kan., on the day before the bombing.

But several people said, in interviews before the trial, that they had seen a large Ryder truck parked at the same spot the week before, leaving open the possibility that truck parked at the lake at that time had nothing to do with the bombing, or the possibility that two trucks had been used in the conspiracy.

At the trial, the prosecution presented no witnesses who had seen the Ryder truck at the lake, and there was no mention of Geary Lake State Park or the actual construction of the bomb in the final version of the indictment given to the jury.

In their testimony as Government witnesses at the trial, Mr. McVeigh's close friends, Lori and Michael Fortier, who knew of Mr. McVeigh's plans for the bombing, spoke only of Mr. McVeigh and Mr. Nichols, mentioning no other conspirator. As the date set for the bombing drew near, Mr. Fortier said, even Mr. Nichols wanted to drop out of the plot.

But their testimony did not answer the question: Did Mr. McVeigh mix the bomb alone? Most of those who have said in interviews, with journalists and the F.B.I., that they saw someone else with Mr. McVeigh in the days just before the bombing, usually a person who resembled the sketch of John Doe No. 2, were not called to testify at the trial. These included at least three people at the Dreamland Motel and several residents of Herington.

One who did testify at the trial was Nancy Jean Kindle, a waitress called by the defense. She said she had seen Mr. McVeigh and two other men come into the Denny's restaurant in Junction City on Easter Sunday, the day before Mr. McVeigh rented the truck that carried the bomb. Ms. Kindle said the men had arrived between 12:30 P.M. and 1 P.M.

One of the others was "a scraggly looking man, about 5 feet 7 inches," she testified, adding, "That's all I really remember." She recalled nothing about the other man. If these men exist, no one has found them, and no one knows what, if anything, they had to do with the bombing. She said she had seen Mr. McVeigh later that day, about 4:30 P.M., at a gas station in Junction City.

If she is correct, there is a significant problem with the story that Mr. Nichols told the F.B.I. about his activities and those of Mr. McVeigh that day. Mr. Nichols, whose statements were not admitted at the trial of Mr. McVeigh, said that Mr. McVeigh had called him at about 3 P.M. on Easter Sunday from Oklahoma City and asked him to drive there to pick him up. Mr. McVeigh told him, he said, that his car had broken down.

Prosecutors said that Mr. McVeigh had gone to Oklahoma City to leave his car in an alley near the Federal Building so he could make a fast getaway on the day of the bombing. Mr. Fortier testified at the trial that Mr. McVeigh had told him that he would park his car in that alley, and it was in the alley that the F.B.I. found a key to the Ryder truck that had carried the bomb. But the call described by Mr. Nichols, telephone records introduced at the trial showed, did not come from Oklahoma City. It came from a telephone booth in Herington, a few blocks from Mr. Nichols's home. If Mr. McVeigh was in Oklahoma City, who placed that call? If Mr. McVeigh was in Herington, why did Mr. Nichols make up such an incriminating lie?

Among ordinary citizens, there seems to be a belief that Mr. McVeigh and Mr. Nichols did not act alone. An April 1996 poll by USA Today and CNN indicated that 68 percent of all Americans believe that the Federal authorities had not captured everyone directly involved in the bombing. And many law-enforcement officials and representatives of human rights groups that monitor violent far right groups agree.

"We don't want a Lee Harvey Oswald here," Mr. Jones said. "We don't want an Oliver Stone movie. We don't want a Warren Commission report."

Government officials have said for a long time that they have done all they can. But they also say that there may be questions they cannot answer and that there may be conspirators who remain unknown.