

## **Bombing Charges Prepared - Oklahoma City DA Completing His Review**

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As Timothy McVeigh and Terry Nichols appeal their federal convictions in the Oklahoma City bombing, the chief local prosecutor is poised to file 160 state murder charges against both men.

District Attorney Bob Macy said last week that he hopes to complete his review of the evidence and levy the homicide counts as soon as possible, perhaps within 60 days.

But, he said, he does not expect any trial before next year.

"We're working very diligently right now to try to get the charges prepared and ready to file," Mr. Macy said. "I don't know exactly how long that will take . . . [but] as soon as we get that done, we will file them."

Mr. Macy's comments came one week after he was urged to prosecute Mr. McVeigh and Mr. Nichols by a county grand jury that spent 18 months investigating the April 19, 1995, truck bombing - America's worst act of domestic terrorism.

The grand jury said it was unable to find sufficient evidence to indict anyone else in the attack, which killed 168 people and injured more than 500.

It also debunked several conspiracy theories, including one that alleged federal agents had prior knowledge that the Alfred P. Murrah Federal Building was targeted, yet failed to warn those inside.

Mr. McVeigh, 30, was convicted in federal court in June 1997 of conspiracy and murder and sentenced to death. His lawyers last week asked the U.S. Supreme Court to overturn the conviction, saying pretrial publicity and jury misconduct kept him from getting a fair trial.

His former Army buddy, Mr. Nichols, 43, was found guilty of conspiracy and manslaughter and sentenced early

last year to life in prison. A hearing on his appeal is scheduled Feb. 1 before the 10th U.S. Circuit Court of Appeals in Denver.

Proponents of pursuing a state case against Mr. McVeigh argue that the effort could ensure an execution in the event he prevails in federal appeals.

A state conviction of Mr. Nichols could yield the death sentence that eluded prosecutors in the federal case, proponents say.

Others around Oklahoma contend that a state case would waste time and taxpayers' money and drag out the healing process.

Another former Army pal, Michael Fortier, 30, pleaded guilty to several charges, including failure to alert authorities of the bomb plot and lying to federal agents. He testified against both Mr. McVeigh and Mr. Nichols and was sentenced to 12 years in prison.

He appealed the punishment last week, telling the 10th Circuit that he wasn't given the credit he deserved for cooperating with federal agents and prosecutors and that he was punished for acts he did not commit.

In the federal trials, Mr. McVeigh and Mr. Nichols were charged with killing eight federal law enforcement officers.

Mr. Macy said the state murder counts would involve the other 160 people who died in the blast, including 19 children.

Mr. Macy added, however, that the sheer magnitude of the case convinced him not to pursue additional criminal complaints against Mr. McVeigh and Mr. Nichols for those who were injured by the fertilizer and fuel bomb.

The state prosecutions were delayed until after the federal trials that were moved to Denver because of extensive pretrial publicity. Late last year, a U.S. appeals court finally ordered release of the evidence used in the federal trials, setting in motion Mr. Macy's plan to file the state murder counts.

Earlier, the state Legislature approved a special \$800,000 appropriation for the prosecution and another \$1 million to defend those charged.

Mr. Macy said Oklahoma County already is renovating office space where the prosecution team will be located.

"We're going to try to do it within the budget that was allocated to us," Mr. Macy said. "I think we can. It may require me to use some of the resources of my office without being repaid for it."

Once state charges are filed, a judge will be assigned the case. Then, defense attorneys will be appointed formally.

The Oklahoma Indigent Defender System already has selected Oklahoma City attorney Gary James, 36, to represent Mr. McVeigh and Ponca City lawyer Brian T. Hermanson, 46, to defend Mr. Nichols.

Mr. Macy said he has not decided whether he will seek to prosecute the men together or separately.

But if they are tried at the same time, he said, it might be possible to "seat two juries at the same time in the same courtroom," each rendering a separate decision on a separate defendant.

The veteran prosecutor, known for his Western string ties and attire, also said he wants the case to remain in Oklahoma County, arguing it would be preferable to bring in a jury from another part of the state rather than move the proceedings elsewhere.

Although victims and survivors of the bombing are divided over the state prosecutions, Mr. Macy said he was heartened by the grand jury's call that state murder charges be filed.

"I appreciated that very much [because] . . . it was someone besides Bob Macy saying it," he said.

"In the past, I've kind of had to be the person who said that we need to have the trial, we need to prosecute them statewide, and it was very encouraging to me to have this grand jury, after hearing all the evidence, come out and say we need prosecute them in state court."

Caption: PHOTO(S): Bob Macy . . . Oklahoma City district attorney does not expect a trial until 2000.