



## **Transcript: FBI And McVeigh Ex-Agents Slam Bureau**

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In the next few days Timothy McVeigh will decide whether to fight his death sentence. If he does it will be based in part on what a former Oklahoma FBI agent says about missing documents in the McVeigh case.

Tonight, you will hear from that man... As well as three other agents who worked the case.... The case known at the FBI as "okbomb." They believe in their investigation, but have doubts about the FBI's explanation for not turning over thousands of documents before trial. What you are about to hear is a portrait of the office where the bombing case was developed...from some key men who worked it...and believe what they have to say.... The American people need to know.

Vogel: They wanna know if the FBI is operating the way it should be, according to the guidelines set forth in our Constitution.

Dan: And based on your experience, is it?

Vogel: No, it is not.

Narrator: For years, Dan Vogel was the public face of the FBI in Oklahoma City. Now retired, he and these other current and former FBI men have been shaken by what's happened in the bombing case.

Ashcroft: I have made a decision to postpone the execution of Timothy McVeigh for one month from this day."

Narrator: six days before McVeigh's scheduled execution, the attorney general announced a delay because the FBI had failed to turn over more than 3000 documents before trial.

For Dan Vogel, it was the last straw. He decided to speak out.

Vogel: They'e admitted they've known about the documents since January and didn't say anything. Publicly anyway. That's the greatest concern to me is that you wait until a week before the execution to say 'Oh, by the way we have your documents'

The documents he's talking about are internal forms the FBI calls '302s.' 302s are the lifeblood of any FBI investigation... Documenting everything from interviews to witness statements, sightings or tips. The most significant question about those documents comes from former FBI agent Rick Ojeda. He is worried about what happened to his 302s from the bombing investigation. He felt that evidence he developed that might have helped the defense was ignored or not documented.

Ojeda: I started thinking... And I started going back and checking to see if some of the information that I had provided had ever been mentioned at trial. And I talked to a couple of agents that worked the case and asked them about leads that I had done, whether they were ever brought up. And I even asked them to check to see if some of the 302s that I had mentioned had ever been turned over. And they couldn't find them. And so I started to wonder if the stuff had been withheld... Or just lost... Which was common... Or what happened to it.

Dan: Do you know to this day what happened to it?

Sot/ojeda: No, sir. I don't.

In March of last year, he sent this letter to senator Charles Grassley. Ojeda wrote he was aware of cases, including the Oklahoma City bombing, where exculpatory evidence.... Evidence that would have helped the defense... was ignored and not documented. Including exculpatory information he personally gathered from leads assigned him in the case.

Rather: Can you tell me in brief what those leads were? Were they leads involving Mr. McVeigh? Mr. Nichols?

Ojeda: I've been told that - there's been a gag order as far as what I can discuss and what I can't discuss - concerning (unintel) leads.

Dan: Were those leads that should have been registered as at least information possibly affecting the case?

Ojeda: In my opinion, I thought they were leads that should have been investigated... And they may have been and I just don't know about it. have to preface that. I felt they were leads that should have been followed up on.

Narrator: By the time we talked to him, Rick Ojeda had already met with defense attorneys for Terry Nichols, the other man convicted in the bombing case. They say they are taking Ojeda's concerns very seriously.

Narrator: We went to McVeigh attorney Rob Nigh for a reaction to what Ojeda had told us.

Nigh: That information should, at a minimum... Change the course of this case in the near future. An FBI agent who worked on the bombing prosecution has

indicated by these words... That information beneficial to the defense was withheld. That would be in violation of the agreement. That would be in violation of Judge Masch's order and it would be in violation of due process of law. If those statements are accurate, the verdict has no integrity and we cannot possibly proceed with an execution until we know.

Dan: Were you surprised to hear about this?

Nigh: I was absolutely overwhelmed.

Narrator: The FBI told us today that "records of interviews" or 302 documents by former agent Ojeda were in fact turned over to McVeigh's attorney's. McVeigh's attorney's strongly disagree... and say they can prove it... in court.

Narrator: These Oklahoma FBI men talked to us, they say... out of frustration with what's happened in the bombing case... And what's gone on inside the FBI. All say they've seen the FBI play fast and loose with the facts in internal investigations.... And be far too casual about evidence.

Here's an example.

Narrator: This is a 1999 internal audit of the Oklahoma City FBI evidence room... the report found 'evidence strewn about... On the floor' 'incorrect or missing' documentation...concluding there was 'no excuse for maintaining an evidence program in such a fashion.'

Narrator: The bombing investigation had a separate evidence handling system... these men were all part of it.... Working the biggest murder case in the country... From the moment it began.

Narrator: Cameras caught FBI agent Jeff Jenkins as he ran toward the building minutes after the blast. He won an FI shield of bravery for what he did that day.

Sot/jeff: We pulled out an African American female, whose clothes were just torn apart. She was a pregnant female. She was alive and we pulled her out and took her to the street.

Narrator: Also at the bomb site.... Trying to help the hundreds of injured... Was 27-year veteran FBI agent Jim Volz. Volz became a key player in the bombing case, reviewing thousands of FBI investigation sheets.

Volz: It's extremely surprising to me that these documents all of a sudden show up. There's no reason for it unless there is negligence.

Narrator: One of the agents racing to the scene from an FBI office outside Oklahoma City was Rick Ojeda... like the others who worked the case... He won a

commendation from FBI director Louis Freeh. He calls his participation his proudest moment with the FBI.

Ojeda: You walked around the whole time with a lump in your throat because of the reaction of people and the way they reacted to the work we were doing.

Narrator: But a few years later... After a decade with the FBI, Ojeda's career evaporated. He was fired.... In what he says was an act of retaliation... for following up on discrimination complaints against his FBI bosses.

That matters in the bombing case because of what Rick Ojeda did next... he wrote to people he thought could help him get his job back... Including that letter to Senator Grassley.

Attorney General John Ashcroft knew none of this last week ... When he talked about the McVeigh case and other new documents.

Ashcroft: June the 11th is the date which has been specified, and it is the date upon which the execution will be carried out.

Narrator: Like the attorney general... none of these FBI men believes McVeigh is innocent. Nor do they believe anyone other than McVeigh and Nichols were involved. But defense attorneys say some of the newly surfaced documents are significant.

Nigh: I can tell you without going into the specifics that there are contained within the documents witness statements.... Of witnesses that we were interested in prior to the time of trial. And lines of investigation that we were pursuing prior to trial that were not turned over to me until now.

Narrator: Rick Ojeda says he is not interested in helping the defendants... He wants to help fix the system.

Ojeda: The main problem is who does the FBI answer to? When somebody in the FBI screws up, when the FBI screws up, who do they answer to? Nobody.

Narrator: Behind the scenes at the Oklahoma City bombing investigation... These men say they saw turmoil. That some agents and some managers were at each other's throats... Trading charges of racism... and retaliation.

Jenkins: There were numerous problems in terms of race. Issues where a certain supervisor made racist statements to me.

Narrator: Jim Volz tried to mediate Jenkins' complaint... asking the supervisor to apologize.

Dan: To this day, did you ever get your apology?

Jenkins: No, not to this day... All I got was more retaliation.

Narrator: For working to help Jenkins... Jim Volz says he was targeted by the man in charge of the bombing investigation.... Danny Defenbaugh.

Volz: He threatened me with retirement if I didn't back off.

Dan: Did you back off?

Volz: No.

Narrator: Volz says he was eventually forced out... by Danny Defenbaugh.... The man who ran the Oklahoma City bombing case. He recently told a Dallas TV station his investigation was rock solid.

Defenbaugh: It was done correct and properly. Every time you hear criticism of the FBI, you never hear about the Oklahoma City bombing case.

Narrator: Just a few days after this interview, the FBI announced the serious foulup in the bombing case. A week later... In a meeting with Congress... Defenbaugh acknowledged that he had known for months some documents hadn't been turned over... The FBI didn't want him to talk to us for this story.

Volz: I think it would be fair to look at Mr. Defenbaugh and then proceed down the line. He's got the ultimate responsibility to ensure everything was done properly and apparently it was not.

Narrator: Volz claim that Danny Defenbaugh had retaliated against him was heard by a judge. In a scorching ruling she found in Volz' favor writing that the man in charge of the Oklahoma City bombing investigation, Defenbaugh was "not credible" and "cannot be believed." Defenbaugh is appealing.

Narrator: Jim Volz admits he is bitter about the way his FBI career ended, Rick Ojeda is still appealing his firing and ironically Jeff Jenkins faces firing for some of the same things the FBI has been accused of doing in the Oklahoma bombing investigation, mishandling evidence and not being honest about it in court. Jenkins denies he did that.

Dan: Each of these three gentlemen, they one way or the other, have had problems with the bureau....anybody who listens to what they say has to keep in mind that they've got a beef.

Dan: Any blemish on your record at all?

Vogel: I can't think of what it would be.

These men all say what the FBI has done with the Oklahoma City bombing evidence is outrageous.

Dan: You just can't imagine it happening the way it happened or..

Vogel: No. I know that if I would have done something like that when I was working criminal cases that I would have been disciplined for it and you know it would have been very severe... Possibly criminal conduct because at that point, the defense should have it and if you're not turning them over, you're obstructing justice.

Dan: If anybody at the FBI knew there were those documents that the defense should have and didn't do so... Would or would not be a prima facie case of obstruction of justice?

Vogel: In my opinion, it would be. It would be something that needs to be presented to a federal grand jury as a criminal case.

Narrator: At the Oklahoma City bombing memorial, the criminal case that people care about most is the one that left these empty chairs... And changed lives.. here, amid revelations about FBI fumbles... And legal fights... Many have said they feel victimized again.

Dan: And to those families of people who have died and to those victims who live but are maimed who say god can't this just be over with? You say what?

Nigh: I say forgive me. It is not my intention to cause them any further pain. I do not know the pain that they feel because no one can who has not been in their position. I do not have the right to ask them for anything, but if I did. I would ask them to understand that the system and integrity of the process is what I am trying to defend.

Dan: A basic constitutional right?

Nigh: The most basic...

Dan: Which is?

Nigh: The right to a fair trial.

These men told us they're speaking out not because they want to hurt the FBI but because despite all they still believe in it. Dan Vogel says he still feels allegiance to his FBI oath.

Vogel: To protect and defend the constitution of the United States. And as I have been reflecting over my past bureau career. I had come to the conclusion that there was a serious problem in the FBI.

Dan: A cultural problem?

Vogel: There was a cultural problem in the FBI that needs to be addressed. If it isn't, it's going to destroy itself. The FBI is made up of a lot of very fine dedicated people like Jim Volz, Rick Ojeda, and Jeff Jenkins. These people deserve better than this. The American people deserve better than this.

Dan: This is not to say you have any sympathy for Mr. McVeigh or Mr. Nichols..?

Vogel: No, I'm not being sympathetic, but I feel that if we don't protect the Constitutional rights of everyone, then we won't have much of a country.