

Why Defenbaugh Did It

by Nolan Clay, The Oklahoman | 3/20/02

A top FBI agent says he kept quiet for months about the mishandling of files in the Oklahoma City bombing case because he wasn't sure at first there was a real problem and didn't want to "cry wolf." The document blunder last year led to a delay in bomber Timothy McVeigh's execution.

Agent Danny Defenbaugh is criticized in an internal report for not notifying prosecutors and FBI headquarters of the problem sooner.

In the 192-page report — released Tuesday — the U.S. Justice Department's inspector general recommends Defenbaugh be disciplined.

"Yeah, I should have sped it up, no question about it," Defenbaugh said in interviews for the report.

"However, I wasn't gonna let him get executed, either. ... I wanted to make sure that we were right. If I was gonna blow the whistle and stop the juice from flowing, I was gonna make sure that we were right and we were thorough."

McVeigh was executed June 11 by lethal injection at a federal prison in Terre Haute, Ind.

He had been set to die May 16.

His execution was delayed after the FBI admitted finding hundreds of documents that should have been turned over to defense attorneys years before.

Defenbaugh was first told of mistakes in January 2001 but waited until May 7 to notify prosecutors and FBI headquarters.

"We believe the failure of senior FBI managers to take timely action to resolve or report the problem of the belated documents was a significant neglect of their duties," the inspector general said.

Defenbaugh spearheaded the bombing investigation and now is in charge of the FBI field office in Dallas.

He told investigators he thought researchers would eventually find that questioned documents had been given to defense attorneys.

Defenbaugh also argued "that supervision of the project was Oklahoma City's responsibility," according to the report.

The inspector general disagreed, saying, “As a former head of the FBI team, Defenbaugh had an obligation to ensure that a problem of that magnitude was being resolved timely and adequately.”

In a statement Tuesday, Defenbaugh said he accepts the criticism of his actions, but he made decisions “based on my honest evaluation of the situation.”

Discipline also was recommended against agent Mark White, an FBI supervisor in Dallas, and, to a lesser extent, against agent William Teater, an FBI supervisor in Oklahoma City.

The inspector general said Teater “in many ways ... performed appropriately” but should have done more “to ensure that someone was making the necessary decisions.” Teater declined comment Tuesday.

The inspector general also questioned whether administrative action was warranted against FBI agent Richard Marquise, who took over the field office in Oklahoma City in 1999.

“We had difficulty determining whether or how much criticism should be directed at Marquise,” the inspector general wrote.

Marquise was faulted for not asking questions after reading e-mails about the problem. Marquise told investigators he thought the e-mails dealt with documents being sent to state prosecutors.

FBI Director Robert Mueller said Tuesday, “We are reviewing these criticisms and will quickly move to take any appropriate disciplinary actions.”

The director also said major changes in the management of records are already under way.

The inspector general found human error — not the computer system — was to blame for the mistake.

“The FBI has not spent enough time, money and attention on document management,” Inspector General Glenn Fine said. “It is not the glamorous part of the agency’s mission.”

An FBI critic, U.S. Sen. Charles Grassley, R-Iowa, said the FBI can no longer use the excuse that “the computer ate my homework.”

“Instead, the McVeigh case reveals a management meltdown,” Grassley said.

Two FBI employees in Oklahoma City, Peggy Richmond and Linda Vernon, were praised by the inspector general for helping to uncover the problem.

“We believe the FBI would do well to use this as an opportunity to help remedy a long-standing FBI problem — the belief among FBI employees that bringing problems to management’s attention only results in problems for the employee,” the inspector general wrote.

The inspector general’s report reveals the FBI destroyed some bombing documents, but defense attorneys were never told.

The inspector general also found a significant number of the documents concerned “utterly useless information.”

One example, according to the report, was an interview of someone who suggested that a sketch of a bombing suspect resembled singer Garth Brooks.